



# Personal Laws, Constitutional Morality, and the Road to a Uniform Civil Code

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## Abstract

The Uniform Civil Code (UCC) remains one of India's most debated constitutional aspirations. Situated at the intersection of fundamental rights, religious freedom, and social reform, the UCC engages complex questions of pluralism, gender justice, and national integration. Article 44 of the Indian Constitution directs the State to secure a uniform civil code for citizens across the country; however, the coexistence of diverse personal laws tied to religious traditions has rendered implementation intricate and contested. This research paper examines the constitutional mandate of the UCC, its historical evolution, contemporary political discourse, judicial pronouncements, comparative international perspectives, and the tension between uniformity and multicultural accommodation. The analysis argues that while the UCC represents an instrument of equality and social modernization, it must be conceptualized through a rights-based, gender-just, and consultative framework rather than as a homogenizing imposition. The paper concludes by recommending a phased, optional, and codification-based approach balancing constitutional ideals with India's socio-religious diversity.

India's legal landscape is characterized by a unique coexistence of religiously grounded personal laws governing marriage, divorce, maintenance, guardianship, adoption, and succession. These laws emerged from colonial legal pluralism and were retained in post-independence India to respect cultural autonomy. However, the framers of the Constitution envisioned the eventual establishment of a Uniform Civil Code (UCC), a common legal framework applicable to all citizens irrespective of religion.

The debate is far from merely legal; it is deeply socio-political. Questions arise regarding identity, minority rights, constitutional morality, gender equality, and secular governance. In recent years, renewed legislative and judicial discourse—including discussions of personal law reform, landmark court decisions, and several state-level initiatives—has repositioned the UCC at the center of national debate.

This paper seeks to present a holistic and balanced analysis of the UCC through doctrinal, theoretical, comparative, and socio-legal lenses.

## Introduction

India's legal structure is shaped by the coexistence of religion-based personal laws governing marriage, divorce, maintenance, guardianship, adoption, and succession. Their origins trace to colonial-era legal pluralism. Although the framers envisaged eventual unification, diverse identities necessitated caution. As BR Ambedkar

noted during the Constituent Assembly, the UCC was essential for national unity and women's rights, though socially sensitive.<sup>1</sup>

In recent years, cases such as *Shayara Bano*<sup>2</sup> and State-level experiments such as the Uttarakhand UCC (2024)<sup>3</sup> have revived national debate. This paper undertakes a doctrinal, comparative, and socio-legal analysis of the UCC.

Uniform Civil Code means that all sections of the society irrespective of their religion shall be treated equally according to a national civil code, which shall be applicable to all uniformly.

They cover areas like- Marriage, divorce, maintenance, inheritance, adoption and succession of the property. It is based on the premise that there is no connection between religion and law in modern civilization.

## What is Article 44?

Article 44 corresponds with [Directive Principles of State Policy](#) stating that State shall endeavour to provide for its citizens a uniform civil code (UCC) throughout the territory of India.

## Uniform Civil Code Debate

### Pre-colonial pluralism

Indian society historically followed pluralistic legal systems based on religion, caste, and custom. Hindu and Islamic jurisprudence existed in parallel, and many communities governed marital and succession issues autonomously.<sup>4</sup>



Historical perspective – The debate for a uniform civil code dates back to the colonial period in India.

### • Pre-Independence (colonial era)

- The Lex Loci Report of October 1840- It stressed the importance and necessity of uniformity in the codification of Indian law, relating to crimes, evidence and contract. But, it also recommended that personal laws of Hindus and Muslims should be kept outside such codification.
- The Queen's 1859 Proclamation- It promised absolute non-interference in religious matters.

So while criminal laws were codified and became common for the whole country, personal laws continue to be governed by separate codes for different communities.

### • Post-Colonial era (1947-1985)

- During the drafting of the constitution, prominent leaders like Jawaharlal Nehru and [Dr B.R Ambedkar](#) pushed for a uniform civil code. However, they included the UCC in the Directive Principles of State Policy (DPSP, Article 44) mainly due to opposition from religious fundamentalists and a lack of awareness among the masses during the time.

### • Colonial codification

The British formalised legal dualism—uniform criminal and commercial statutes, but religion-specific personal laws.<sup>5</sup>

This codification institutionalised identities later inherited by the Indian State

Some of the reforms of this period were:-

**The Hindu code bill** -The bill was drafted by Dr.B R Ambedkar to reform Hindu laws, which legalized divorce, opposed polygamy, gave rights of inheritance to daughters. Amidst intense opposition of the code, a diluted version was passed via four different laws.

**Succession Act**-The Hindu Succession Act, 1956, originally did not give daughters inheritance rights in ancestral property. They could only ask for a right to sustenance from a joint Hindu family. But this disparity was removed by an amendment to the Act on September 9, 2005

**The Hindu Marriage Act**

**Minority and Guardianship Act**

**Adoptions and Maintenance Act**

**Special Marriage Act:**

- It was enacted in 1954 which provided for civil marriages outside of any religious personal law.
- Judicial interventions:

**Constituent Assembly debates**

The UCC provoked fierce debate. Ambedkar argued that reform of personal laws was vital for women's empowerment.<sup>6</sup>

Opposition members, including Mohammed Ismail, feared loss of minority identity. The final compromise placed the UCC in the Directive Principles (Article 44) rather than as an enforceable right.

**Constitutional Dimensions of the UCC**

**Article 44** Article 44 directs the State to "endeavour" to secure a UCC.<sup>7</sup> Though non-justiciable, it is a guiding constitutional ideal.

**Interplay with Fundamental Rights**

Personal law intersects with:

- Article 14 (equality)
- Article 15 (non-discrimination)
- Article 21 (dignity)
- Article 25 (freedom of religion)

The courts have held that personal laws are not immune from constitutional scrutiny.<sup>8</sup>

**Secularism**

Indian secularism allows State intervention to reform social practices inconsistent with constitutional morality.<sup>9</sup> UCC supporters argue it strengthens secular citizenship; opponents fear majoritarian imposition.

## Judicial Pronouncements Shaping the UCC Debate

### *Shah Bano (1985)*

The Court upheld a divorced Muslim woman's right to maintenance under the Criminal Procedure Code and lamented the lack of a UCC.<sup>10</sup>

#### **Shah Bano case (1985):-**

A 73-year-old woman called Shah Bano was divorced by her husband using triple talaq (saying "I divorce thee" three times) and was denied maintenance. She approached the courts and the District Court and the High Court ruled in her favour. This led to her husband appealing to the Supreme Court saying that he had fulfilled all his obligations under Islamic law.

The [Supreme Court](#) ruled in her favour in 1985 under the "maintenance of wives, children and parents" provision (Section 125) of the All India Criminal Code, which applied to all citizens irrespective of religion. Further, It recommended that a uniform civil code be set up.

#### **Facts about the case:**

- Under Muslim personal law, maintenance was to be paid only till the period of iddat. (three lunar months-roughly 90 days ).
- Section 125 of CrPC (criminal procedure code) that applied to all citizens, provided for maintenance of the wife.

Impact – After this historic decision, nationwide discussions, meetings and agitations were held. The then government under pressure passed The Muslim Women's (Right to protection on divorce ) Act (MWA) in 1986, which made Section 125 of the Criminal Procedure Code inapplicable to Muslim women.

#### **Daniel Latifi Case:-**

Muslim Women's Act (MWA) was challenged on the grounds that it violated the right to equality under Articles 14& 15 as well as the right to life under Article 21. The Supreme Court while holding the law as constitutional, harmonised it with section 125 of CrPC and held that the amount received by a wife during iddat period should be large enough to maintain her during iddat as well as provide for her future. Thus under the law of the land, a divorced Muslim woman is entitled to the provision of maintenance for a lifetime or until she is remarried.

### *Sarla Mudgal (1995)*

The Court condemned misuse of conversion to solemnise second marriages and again urged for a UCC.<sup>11</sup>

#### **Sarla Mudgal Case:-**

In this case, the question was whether a Hindu husband married under the Hindu law, by embracing Islam, can solemnise a second marriage. The court held that the Hindu marriage solemnized under

Hindu law can only be dissolved on any of the grounds specified under the Hindu Marriage Act 1955. Conversion to Islam and marrying again, would not by itself dissolve the Hindu marriage under the act and thus, a second marriage solemnized after converting to Islam would be an offence under section 494 of the [Indian Penal Code](#)(IPC).

### ***John Vallamattom (2003)***

#### **John Vallamattom Case:-**

In this case, a priest from Kerala, John Vallamattom challenged the Constitutional validity of Section 118 of the Indian Succession Act, which is applicable for non-Hindus in India. Mr Vallamatton contended that Section 118 of the act was discriminatory against Christians as it imposes unreasonable restrictions on their donation of property for religious or charitable purposes by will. The bench struck down the section as unconstitutional.

### ***Shayara Bano (2017)***

Instant triple talaq was invalidated as unconstitutional.<sup>13</sup>  
The judgment revived debates on gender-just personal law reform.

### ***Jose Paulo Coutinho (2019)***

The Court praised Goa's civil code as a model of uniformity.<sup>14</sup>

#### **Gender Justice**

Personal laws have historically disadvantaged women. Examples include polygamy, unequal inheritance, and unilateral divorce.<sup>15</sup>  
A UCC could harmonise rights across communities.

#### **Equality and national integration**

Having parallel legal systems weakens equality before the law. Uniformity fosters shared citizenship.

#### **Modernisation of civil law**

Many existing laws are outdated or inconsistent. Codified uniformity simplifies processes and reduces litigation.

#### **The Constitution of India on the Uniform Civil Code**

Part IV, Article 44 of the Constitution states that "The State shall endeavour to secure the citizen a Uniform Civil Code throughout the territory of India".

However, Article 37 of the Constitution itself makes it clear the DPSP "shall not be enforceable by any court". Nevertheless, they are "fundamental in the governance of the country". This indicates that

although our constitution itself believes that a Uniform Civil Code should be implemented in some manner, it does not make this implementation mandatory.

## State-Level Experiments

### Goa Civil Code

Goa's code is often cited as an Indian example of legal uniformity.<sup>21</sup> However, remnants of Portuguese patriarchal norms remain.

#### Features-

- The Uniform Civil Code in Goa is a progressive law that allows equal division of income and property between husband and wife and also between children (regardless of gender).
- Every birth, marriage and death have to be compulsorily registered. For divorce, there are several provisions.
- Muslims who have their marriages registered in Goa cannot practice polygamy or divorce through triple talaq.
- During the course of a marriage, all the property and wealth owned or acquired by each spouse is commonly held by the couple.
- Each spouse in case of divorce is entitled to half of the property and in case of death, the ownership of the property is halved for the surviving member.
- The parents cannot disinherit their children entirely. At least half of their property has to be passed on to the children. This inherited property must be shared equally among the children.

However, the code has certain drawbacks and is not strictly a uniform code. For example, Hindu men have the right to bigamy under specific circumstances mentioned in Codes of Usages and Customs of Gentile Hindus of Goa (if the wife fails to deliver a child by the age of 25, or if she fails to deliver a male child by the age of 30). For other communities, the law prohibits polygamy.

### Uttarakhand UCC (2024)

The Uttarakhand UCC introduces uniform marriage, divorce, inheritance, and adoption rules.<sup>22</sup> Its reception will inform national policy.

Uttarakhand has become the first state in independent India to implement a Uniform Civil Code (UCC). On January 27, 2025, Chief Minister Pushkar Singh Dhami launched the UCC portal and issued a notification for its adoption. This code standardizes personal laws across religions, covering marriage, divorce, inheritance, and live-in relationships.

The Uttarakhand UCC aims to provide equal rights to all citizens by removing inconsistencies in personal laws. Key provisions include a uniform age of marriage, equal inheritance rights for men and women, and regulations on live-in relationships to ensure legal protections. The code also bans practices such as polygamy and addresses issues related to divorce and maintenance.

### Uttarakhand Uniform Civil Code Provisions

The Uniform Civil Code (UCC) implemented by Uttarakhand in January 2025 introduces several key provisions aimed at standardizing personal laws across the state. These provisions apply to all citizens, irrespective of religion, caste, or gender, with specific exemptions for Scheduled Tribes.

### *Marriage and Divorce*

- **Minimum Marriageable Age:** The UCC establishes a uniform minimum marriageable age of 18 for women and 21 for men, aligning with national legislation.
- **Registration of Marriages:** All marriages must be registered with designated authorities to ensure legal recognition and transparency.
- **Grounds for Divorce:** The code specifies uniform grounds for divorce applicable to all communities, addressing issues such as cruelty, adultery, desertion, and mental illness.
- **Alimony and Maintenance:** Provisions for spousal and child maintenance after divorce are included, ensuring financial support and promoting the welfare of dependents.

### *Inheritance and Succession*

- **Equal Rights:** The UCC grants equal inheritance rights to sons and daughters, eliminating distinctions between ancestral and self-acquired property.
- **Succession Rules:** A uniform set of rules for inheritance is established based on the relationship to the deceased, irrespective of religious affiliation.

### *Live-in Relationships*

- **Registration:** Live-in relationships must be registered, granting them legal recognition and protecting the rights of individuals in such partnerships.
- **Rights of Children:** The code ensures the rights of children born to partners in registered live-in relationships, including access to inheritance and maintenance.
- **Maintenance for Deserted Partners:** Provisions are included for maintenance to partners deserted in live-in relationships, ensuring their financial security.

### *Additional Provisions*

- **Prohibition of Polygamy:** The practice of polygamy is prohibited for all individuals, promoting monogamy and gender equality.
- **Child Marriage Ban:** The UCC reinforces the existing national ban on child marriage, protecting children from harmful traditional practices.
- **Jurisdiction of Courts:** The code specifies the jurisdiction of courts in matters related to marriage, divorce, inheritance, and maintenance under the Uniform Civil Code.

### *Exemptions*

- **Scheduled Tribes:** Members of Scheduled Tribes are exempt from the UCC's provisions, allowing them to continue following their customary laws in personal matters.

These provisions aim to promote equality, fairness, and streamlined governance in civil matters across Uttarakhand.

## **Uniform Civil Code and Arguments For & Against**

### **Arguments in favour of the Uniform Civil Code:**

- It will Integrate India- India is a country with many religions, customs and practices. A uniform civil code will help in integrating India more than it has ever been since independence. It will help in bringing every Indian, despite his caste, religion or tribe, under one national civil code of conduct.

- Will Help in Reducing Vote Bank Politics- A UCC will also help in reducing vote bank politics that most political parties indulge in during every election.
- Personal Laws Are a Loophole- By allowing personal laws we have constituted an alternate judicial system that still operates on thousands of years old values. A uniform civil code would change that.
- Sign of a modern progressive nation- It is a sign that the nation has moved away from caste and religious politics. While our economic growth has been significant, our social growth has lagged behind. A UCC will help society move forward and take India towards its goal of becoming a truly developed nation.
- It will Give More Rights to Women- Religious personal laws are misogynistic in nature and by allowing old religious rules to continue to govern the family life we are condemning all Indian women to subjugation and mistreatment. A uniform civil code will also help in improving the condition of women in India.
- All Indians Should be Treated the Same- All the laws related to marriage, inheritance, family, land etc. should be equal for all Indians. UCC is the only way to ensure that all Indians are treated the same.
- It Promotes Real Secularism- A uniform civil code doesn't mean that it will limit the freedom of people to follow their religion, it just means that every person will be treated the same and all citizens of India have to follow the same laws regardless of any religion.
- Change has been the law of nature-A minority of people should not be allowed to pick and choose the laws they want to be administered under. These personal laws were formulated in a specific spatiotemporal context and should not stand still in a changed time and context.
- Many provisions of specific personal laws are in violation of human rights.
- Article 25 and Article 26 guarantee the freedom of religion and UCC is not opposed to secularism.
- The codification and unification of the variegated personal laws will produce a more coherent legal system. This will reduce the existing confusion and enable easier and more efficient administration of laws by the judiciary.

## Uniform Civil Code – Challenges in its Implementation

### Fear of majoritarianism

Minority communities fear the UCC may be Hindu-centric.<sup>16</sup> However, Hindu law itself was reformed in the 1950s, while many Muslim, Christian, and tribal laws remain uncoded.

### Cultural autonomy

Personal laws are tied to identity; reform may be seen as intrusive.

### Diversity within religions

Practices differ across regions and cultures. A uniform code must accommodate this diversity.<sup>17</sup>

### Drafting challenges

Creating a code acceptable to all communities requires intensive consultation.

## Comparative International Perspectives

**Turkey** adopted the Swiss Civil Code in 1926 to modernise family law.<sup>18</sup> Though successful, critics argue that abrupt secularisation lacked democratic deliberation.

## France

Laïcité ensures uniform civil laws, but France is more culturally homogeneous than India.<sup>19</sup>

## Indonesia

Indonesia maintains a hybrid system—civil law for all but separate Islamic courts for Muslims.<sup>20</sup>

## Lessons for India

India needs a gradual, consultative approach rather than sudden imposition.

## Drafting a Practical UCC for India

### Guiding principles

- Gender neutrality
- Equality
- Non-discrimination

### Proposed structure

1. General principles
2. Marriage and registration
3. Divorce and mediation
4. Maintenance
5. Adoption and guardianship
6. Succession and inheritance

### Protecting cultural practices

Ceremonial rituals can continue; the civil consequences must be uniform.

### Stakeholder consultations

The code must be shaped by dialogue with minority groups, women's organisations, and legal experts.<sup>23</sup>

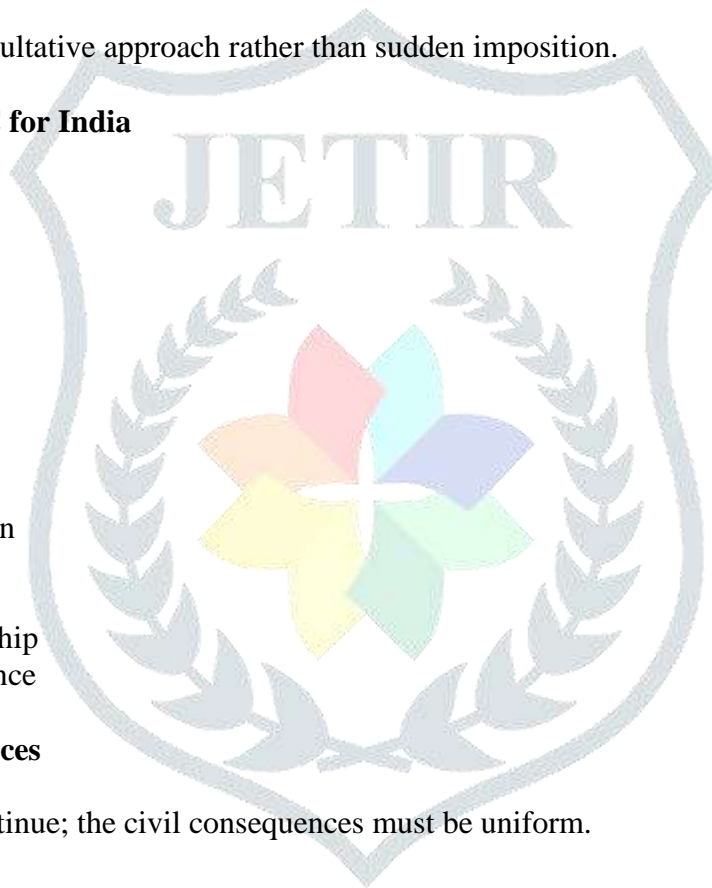
### Socio-Legal Implications

#### Women's empowerment

A UCC secures financial and legal equality for women.

#### Reduction in litigation

Uniformity will avoid conflicts between overlapping laws.



## Strengthening secular citizenship

The UCC reinforces equality as a national value.

## Counterarguments and Solutions

### “UCC threatens minority identity”

Solution: Ensure community participation and keep rituals intact.

### “Personal law is protected under Article 25”

Courts have repeatedly held that discriminatory civil practices are not essential religious practices.<sup>24</sup>

### “Too much diversity to unify”

Uniformity concerns rights and obligations, not cultural ceremonies.

### “Implementation is impractical”

A phased, optional, rights-based model is feasible.

## Conclusion

The Uniform Civil Code is both a constitutional aspiration and a socio-legal challenge. Its purpose is not homogenisation but the pursuit of gender justice, equality before law, and national integration. India has a unique blend of codified personal laws of Hindus, Muslims, Christians, Parsis. There exists no uniform family-related law in a single statute book for all Indians which is acceptable to all religious communities who co-exist in India. However, a majority of them believe that UCC is definitely desirable and would go a long way in strengthening and consolidating the Indian nationhood. The differences of opinion are on its timing and the manner in which it should be realized.

Instead of using it as an emotive issue to gain political advantage, political and intellectual leaders should try to evolve a consensus. The question is not of minority protection, or even of national unity, it is simply one of treating each human person with dignity, something which personal laws have so far failed to do.

A carefully drafted, democratically deliberated, and phased UCC can align pluralism with constitutional morality. India can achieve a uniform framework that upholds diversity while eliminating discrimination.

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## OSCOLA Footnotes

<sup>1</sup> BR Ambedkar, ‘Constituent Assembly Debates Vol VII’ (Lok Sabha Secretariat 2014).

<sup>2</sup> *Shayara Bano v Union of India* (2017) 9 SCC 1.

<sup>3</sup> Uttarakhand Uniform Civil Code 2024.

<sup>4</sup> JD M Derrett, *Religion, Law and the State in India* (Faber and Faber 1968).

<sup>5</sup> Werner Menski, ‘Hindu Law Beyond Tradition and Modernity’ (2003) JILS 23.

<sup>6</sup> Granville Austin, *Cornerstone of a Nation* (OUP 1966).

<sup>7</sup> Constitution of India 1950, art 44.

<sup>8</sup> *John Vallamattom v Union of India* (2003) 6 SCC 611.

<sup>9</sup> Flavia Agnes, *Family Law and Constitutional Claims* (OUP 2011).

<sup>10</sup> *Mohd Ahmed Khan v Shah Bano Begum* AIR 1985 SC 945.

<sup>11</sup> *Sarla Mudgal v Union of India* AIR 1995 SC 1531.

<sup>12</sup> *John Vallamattom v Union of India* (n 8).

<sup>13</sup> *Shayara Bano* (n 2).

<sup>14</sup> *Jose Paulo Coutinho v Maria Luiza Valentina Pereira* (2019) 9 SCC 477.

<sup>15</sup> Law Commission of India, *Consultation Paper on Reform of Family Law* (2018).

<sup>16</sup> Tahir Mahmood, 'Personal Law in Crisis' (1986) 28 JILI 123.

<sup>17</sup> Menski (n 5).

<sup>18</sup> Swiss Civil Code 1907 (as adopted in Turkey 1926).

<sup>19</sup> French Civil Code (updated 2022).

<sup>20</sup> Indonesian Marriage Law 1974.

<sup>21</sup> Goa Family Laws (Government of Goa 2019).

<sup>22</sup> Uttarakhand Uniform Civil Code 2024 (n 3).

<sup>23</sup> Ministry of Law and Justice, *Annual Report 2023–24*.

<sup>24</sup> *John Vallamattom* (n 8).

