



# UNIFORM CIVIL CODE: A ROAD TOWARDS UNIFORM JUSTICE

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**ABSTRACT:** Uniform Civil Code (UCC) also known as “One Nation-One Law” aims to formulate and implement a uniform personal law for all Indian citizens regardless of their religion, faith and gender. Personal laws are “law pertaining to family and culture from birth to death.” In India, an array of personal law exists and there is no uniformity between them, different faith different laws. This gave rise to a demand for Uniform Civil Code to have one set of secular laws. Unifying personal laws will simplify the Indian legal system and make the judicial system more efficient and reduce the burden of multiple laws. The concept of Uniform Civil Code finds its roots in Article 44 of the Indian Constitution. This Article though not legally enforceable but guide the State towards promoting national integration and uniformity. The Supreme Court of India has always been an ardent supporter of the Uniform Civil Code. However, the implementation of Uniform Civil Code remains a highly debated topic. The Uniform Civil Code is not an enigma to be resolved in isolation. The research paper is purely doctrinal and aims to provide an in-depth understand on the concept of Uniform Civil Code, its constitutional perspective, judicial approaches, challenges, and pros and cons of Uniform Civil Code.

**Keywords:** *Uniform Civil Code, India, Constitution, Judiciary, Challenges*

## INTRODUCTION:

*“All communal disputes will be end, when Uniform Civil Code becomes brand.”*

*.....Mehak Saini*

In India, Uniform Civil Code emerges as “a complex and multifaceted endeavor, deeply rooted in historical perspectives, contemporary dynamics and constitutional imperatives.” No country has fully implemented Uniform Civil Code that covers all personal matters for its citizens. However, some countries like France, Germany, Brazil and Turkey have aspects of uniformity in their civil codes that “apply to all citizens, regardless of their religion or beliefs.”<sup>1</sup> Uniform Civil Code aims to “formulate and implement a uniform personal law for all Indian citizens regardless of their religion, faith and gender.” Personal laws are “set of laws pertaining to family and culture from birth to death. In India, an array of personal law exists.” Different communities have different personal laws and there is no uniformity between them, different faith different laws. For instance - the Hindus are governed by Hindu law, Muslims by Muslim law, Jews by Jewish law, and Christians and Parsis by their own personal laws. This gave rise to a demand for Uniform Civil Code to have one set of secular laws. Unifying personal laws will simplify the Indian legal system and make the judicial system more efficient and reduce the burden of multiple laws. The concept of Uniform Civil Code finds its roots in Article 44 of the Indian Constitution.

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<sup>1</sup>What is the Uniform Civil Code? available at: <http://www.file:///C:/Users/HP/Desktop/New%20folder/Uniform%20Civil%20Code/uniform-civil-code-1723108889604.pdf> (last visited on October 10, 2025).

## UNDERSTANDING UNIFORM CIVIL CODE:

Uniform Civil Code is a proposed legislation aiming to “replace the existing personal laws followed by different communities with a common set of secular law governing all its citizens regardless of their religion, caste, language or tribe.” The expression “Uniform Civil Code” may be defined as a “*unitary common civil code for every citizen of India without any religious discrimination.*” In the word of Justice Krishna Iyer, “*A common civil code is no ideal, it is a goal we must hasten slowly but not practice that the fine art of standing still. Our jurists and judges, our statesman and leaders of communities must go to the good in every personal law and nationalize it.*”

The principle of Uniform Civil Code is “gender neutral-religious neutral and aims to safeguard vulnerable communities including women and religious minorities” as envisioned by Dr. B.R. Ambedkar. Uniform Civil Code accepts only the good dogma of all religious groups and may forms one uniform code, if put into effect, that will universally apply to all its citizens regardless of their religious affiliation fostering nationalistic fervor via unity. The significance of the Uniform Civil Code lies in its potential to “promote equality, justice, and social cohesion by replacing the existing system of personal laws, which are based on religious customs and traditions, with a unified legal framework.”<sup>2</sup>

The idea of uniformity in India was influenced by the 19<sup>th</sup> century European Codes, particularly the “French Civil Code (1804)” also known as “Napoleonic Code”. This Code had eradicated “all forms of customary or statutory laws prevailing at that time and replaced it with the Uniform Code.” Being influenced by this Code, the 1<sup>st</sup> Law Commission of British India in its “**Lex Loci Report**” (1840) emphasised “the importance and necessity for uniformity in codification of Indian law with regards to crimes, evidence and contracts but recommended that personal laws of the Hindus and Muslims, which derives their authority from respective religions, should be kept outside from codification as these laws were applied by the local panchayats. The State has no jurisdiction except in exceptional cases.” In 1858, by the Queen Victoria’s Proclamation, the British government promised for “absolute non-interference in religious matters.”<sup>3</sup>

Later, movements made by progressive sections of British-ruled India and Women’s organizations led to a spate of laws passed with respect to the Hindus which were beneficial to women such as “Hindu Widow Remarriage Act, 1856”, “Married Women’s Property Act, 1874”, “Hindu Inheritance (Removal of Disabilities) Act, 1928” and “Hindu Women’s Right to Property Act, 1937”. However, during “**The All India Women’s Conference (AIWC), 1933**,” Lakshmi Menon demanded “a uniform civil code which guaranteed gender equality.” In this way forward the British government was forced to “create the **B.N.Rau Committee in 1941** (first Hindu law committee 1941-1946) to codify Hindu Law due to an increase in legislation addressing personal concerns at the end of British rule.”<sup>4</sup>

In 1947, the “**Hindu Code**” as drafted by Roa Committee was introduced in the Legislative Assembly and was referred to “**Select Committee of the Constituent Assembly of India**” headed by Dr. B.R. Ambedkar on 9<sup>th</sup> April, 1948. The Select Committee submitted its report on 29<sup>th</sup> August, 1948 and the revised draft Bill based on the report of the Select Committee was discussed at considerable length by the Provisional Parliament but the Bill could not be passed before the dissolution of the Provisional Parliament and it lapsed. The earlier Bill was considerably revised and the “Hindu Marriage Bill” was re-introduced in the Parliament in 1952. The Bill was passed by both houses of Parliament and received the assent of the President on 18<sup>th</sup> May, 1955. The provisions of the Hindu Code were passed in separate parts, namely, “Hindu Marriage Act in 1955”, “Hindu Succession Act in 1956”, “Hindu Minority and Guardianship Act in 1956” and “Adoptions and Maintenance Act in 1956”. To this G.R. Rajagopal said that- “*It was felt that an attempt should be made to codify the Hindu Law and if this succeeded, and way of the measures produced thereby had in themselves intrinsic merits commending them for universal application, the time would not be far off when other communities might like to follow suit and ask for reconsideration of their own law in the light of the changed situations.*”

<sup>2</sup> Dr. Pardeep Inder Kaur, "Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives" 9 (3) *International Journal of Novel Research and Development* 804-805 (2024).

<sup>3</sup> Dr. Koneru Anuradha, “One Nation One Law: Need of Uniform Civil Code in India” 3 (4) *Indian Journal of Integrated Research in Law* 4-5 (2023).

<sup>4</sup> *Id.*, at 5.

Moreover in 1923, the “**Special Marriage (Amendment) Act**” had legalized “*inter-religious civil marriages between Hindus, Buddhists, Sikhs and Jains without renouncing their religion as well as retaining their succession rights.*” It can be said that “it is an indirect effort to a uniform civil law.” But due to pressure from the Muslim elite, the “Shariat Law, 1937” was passed which stipulated that “*all Indian Islamic people would be governed by Islamic laws on marriage, divorce, maintenance, adoption, succession and inheritance.*” Like above, there were several efforts made for uniformity in civil law before independence but they were not fruitful. Surprisingly after this, Uniform Civil Code has figured in political debates and electoral politics from time to time.<sup>5</sup>

In **2018**, the “21<sup>st</sup> Law Commission” has called for “the codification of all personal laws to make them gender just.” The commission stated that “*UCC is neither necessary nor desirable on this stage in the country because cultural diversity cannot be compromised to the extent that our urge for uniformity itself becomes a reason for threat to the territorial integrity of our nation.*” The Commission had suggested certain amendments in marriage and divorce for all religions like “fixing the marriageable age for boys and girls at 18 years so that they marry as equals, simplifying divorce procedures, making adultery a ground for divorce for men and women and so on.”

A Uniform Civil Code bill was proposed twice i.e., in November **2019** and March **2020** but was withdrawn both the times without introduction in the parliament. The bill was reported to be under discussion. In India, besides Goa and Pondicherry (Portuguese Civil Code, 1867), Uttarakhand has become the first State to implement Uniform Civil Code in 2024.

### UNIFORM CIVIL CODE IN INDIAN CONSTITUTION:

After independence, the Constitutional makers had debated vigorously on the issue of personal laws. The erstwhile provision under Article 35 of the Constitution, that finally became Article 44 in the Indian Constitution was taken up for discussion in the Constituent Assembly, and it reads as follows- “*The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.*”

The object behind this Article is to “effect an integration of India by bringing all communities on the common platform on matters which are at present governed by diverse personal laws but which do not form the essence of any religion.”<sup>6</sup> Article 44 of the Constitution is based on the concept that “there is no necessary connection between religion and personal law in a civilized society.”<sup>7</sup>

Article 44 requires “the State to take steps for establishing a Uniform Civil Code throughout the territory of India.” However, two objections were put forward in the Constituent Assembly against the making of a uniform civil code applying throughout India-

- a. Firstly, it would infringe the fundamental right to freedom of religion mentioned in Article 25; and
- b. Secondly, it would be a tyranny to the minority.<sup>8</sup>

The first objection is misconceived. The directive contained in Article 44 in no way infringes the freedom of religion guaranteed by Article 25. Clause (2) of that Article specifically saves “secular activities associated with religious practices from the guarantee of religious freedom contained in clause (1) of Article 25.”<sup>9</sup> As regards the second objection, the following speech of Shri. K.M.Munshi (Member of the Drafting Committee, in the Constituent Assembly) may well be quoted-

“A further argument has been advanced that the enactment of a civil code would be tyrannical to minorities. Is it tyrannical? Nowhere in advanced Muslim countries the personal law of each minority has been recognized as so sacrosanct as to prevent the enactment of a civil code. Take for instance Turkey or Egypt. No minority in these countries is permitted to have such rights. But I go further. When the Shariat Act was passed, or when certain laws were passed in the Central Legislature in the old regime, the Khojas and Cutchi Memons were highly dissatisfied.”<sup>10</sup>

<sup>5</sup> Ibid.

<sup>6</sup> Durga Das Basu, I *Shorter Constitution of India* 647 (Lexis Nexis, Butterworths Wadhwa, Nagpur, 14<sup>th</sup> edn., Reprint 2012).

<sup>7</sup> *Sarla Mudgal v. Union of India*, (1995) 3SCC 635 (para 33).

<sup>8</sup> V.N.Shukla, *Constitution of India* 353-354 (Eastern Book Company, Lucknow, 11<sup>th</sup> edn., reprinted 2012).

<sup>9</sup> *Id.*, at 354.

<sup>10</sup> Ibid.



## JUDICIARY ON UNIFORM CIVIL CODE:

The Indian Judiciary has continuously backed the concept of Uniform Civil Code in pursuance of Article 44 of the Constitution when basic rights and personal laws are in conflict. The Supreme Court has emphasized that “steps be initiated to enact a Uniform Civil Code as envisaged by Article 44.” Reviewing the various laws prevailing in the area of marriage in India, the court has said in *Ms. Jorden Diengdeh v. S.S. Chopra*<sup>11</sup> that “the law relating to judicial separation, divorce and nullity of marriage is far, far from the uniform. Surely the time has now come for a complete reform of the law of marriage and makes a uniform law applicable to all people irrespective of religion or caste. We suggest that the time has come for the intervention of the legislature in these matters to provide for a uniform code of marriage and divorce.”

In *Mohd. Ahmed Khan v. Shah Bano Begum*,<sup>12</sup> the Supreme Court has ruled that “a Muslim husband is liable to pay maintenance to the divorced wife beyond the iddat period.” The court has regretted that Article 44 has remained a “dead letter” as there is no evidence of any official activity for farming a common civil code for the country. The court has emphasized: “A common civil code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies.”<sup>13</sup>

In a historic judgment in *Sarla Mudgal v. Union of India*<sup>14</sup> the Supreme Court has directed “the Union Government headed by the Prime Minister Mr. Narsimha Rao through the Secretary to the Ministry of Law and Justice, for filing affidavit by August 1995 indicating the steps taken and efforts made, by the Government, towards securing a Uniform Civil Code for the citizens of India. The said direction was given by the Court while focusing on a question as to whether a Hindu husband married under Hindu Law can perform a second marriage after converting to Islam without getting the decree of divorce of the first marriage. Deciding the issue of validity of the second marriage the Court held that the second marriage was illegal and the husband was liable to be prosecuted for bigamy under Section 494 of the Indian Penal Code, 1860.”

Again, in *Lily Thomas v. Union of India*<sup>15</sup> it was held by the Supreme Court that “where a Hindu husband marries a second wife after converting to Islam during subsistence of first marriage and the first wife files a complaint for the offence of bigamy under Section 494 of the I.P.C. and Section 17 of the Hindu Marriage Act, 1955, the husband is guilty of the offence of bigamy under these provisions. Conversion of Hindu husband to another religion will have no effect of dissolving the Hindu marriage under the Hindu Marriage Act though the second marriage may be ground for judicial separation under S. 10 of the Hindu Marriage Act.” It is therefore, clear that “conversion of religion by a party to Hindu marriage does not ipso facto dissolve the Hindu marriage.”

In *John Vallamattom & Anr. v. Union of India*,<sup>16</sup> the constitutionality of “Section 118 of the Indian Succession Act, 1925” was challenged by a Catholic priest on the ground that “he was practically prevented from bequeathing the property for religious and charitable purpose.” While deciding the said issue, ultimately the Supreme Court struck down Section 118 as violative of Article 14 and observed as follows:

“Before I part with the case, I would like to state that Article 44 provides that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. The aforesaid provision is based on the premise that there is no necessary connection between religious and personal law in a civilized society. Article 25 of the Constitution confers freedom of conscience and free profession, practice and propagation of religion. The aforesaid two provisions viz. Articles 25 and 44 show that the former guarantees religious freedom whereas the latter divests religion from social relations and personal law. It is no matter of doubt that marriage, succession and the like matters of a secular character cannot be brought within the guarantee enshrined under Articles 25 and 26 of the Constitution. Any legislation which brings succession and the like matters of secular character within the ambit of Articles 25 and 26 is a suspect legislation, although it is doubtful whether the American doctrine of suspect legislation is followed in this

<sup>11</sup> AIR 1985 SC 934.

<sup>12</sup> AIR 1985 SC 945.

<sup>13</sup> M.P.Jain, *Indian Constitutional Law* 1511 (Lexis Nexis, Butterworths Wadhwa, Nagpur, 6<sup>th</sup> edn., Reprint 2013).

<sup>14</sup> AIR 1995 SC 1531

<sup>15</sup> AIR 2000 SC 1650.

<sup>16</sup> AIR 2003 SC 2902.

country. In *Sarla Mudgal v. Union of India* it was held that marriage, succession and like matters of secular character cannot be brought within the guarantee enshrined under Articles 25 and 26 of the Constitution. It is a matter of regret that Article 44 of the Constitution has not been given effect to. Parliament is still to step in for framing a common civil code in the country. A common civil code will help the cause of national integration by removing the contradictions based on ideologies.”

In *Seema v. Ashwani Kumar*,<sup>17</sup> the Supreme Court has held that “all marriages, irrespective of their religion, be compulsorily registered.” Moved by the plight of women fighting for their rights under marriage like maintenance and custody of their children, a two judge bench of the Supreme Court comprising Justices Arijit Pasayat and S.H. Kapadia directed “the Centre and State governments to amend the law or frame rules and notify them within three months.”

Application of Muslim Law especially with regard to triple talaq (talaq e-biddat) was restricted by the Supreme Court in the light of constitutional provisions and Quranic text. It so happened in *Shayara Bano v. Union of India*.<sup>18</sup> In this case the court has held that “triple talaq is arbitrary because it leaves no hope for reconciliation between the parties to save marriage tie. It is declared capricious, whimsical and violative of Article 14 of the Constitution. The Court further observed that Section 2 of the Shariat Act, 1937 is struck down to the extent it provides that triple talaq is valid.”

The abovementioned judgments of the Supreme Court are dynamic step towards enacting a Uniform Civil Code. It has made it amply clear that “unhealthy, unethical and unconstitutional practices, customs and laws cannot be allowed to exist no matter that they are coming down from the time immemorial.” The law of any community is required to be in consonance with the constitutional provisions and rules of natural justice so that it can suit to changing societal setup of the country.

### CHALLENGES IN IMPLEMENTATING UNIFORM CIVIL CODE:

Towards enacting the Uniform Civil Code, India has encounters multi facet challenges in the name of uniformity. Some major challenges are as under-

- a. Religious and cultural challenges- The interpretation and application of existing personal laws vary from religion to religion. Many religious communities feel that imposing Uniform Civil Code will erode their cultural and religious identities and could infringe religious freedom mentioned under Article 25 of the Indian Constitution. Moreover, minorities’ feels a sense of insecurity, complete loss of identity and fears that their traditions and religious freedom may be compromise and the culture of the majority will be imposed over them, if Uniform Civil Code comes into play.
- b. Plurality and diversity- It has been argued that Uniform Civil Code threatens the country pluralistic ethos. Implementing Uniform Civil Code would mean replacing different personal laws with a single set of laws for everyone which is a very complex and sensitive issue. Balancing diversity with equality and uniformity poses a big challenges in the implementation of Uniform Civil Code
- c. Political resistance- The issue of Uniform Civil Code is often use as a tool by the political parties to garner vote banks from specific voter particularly minorities communities making it difficult to build consensus on the issue.
- d. Balancing gender justice and tradition- Uniform Civil Code is often advocated for as a means to ensure gender justice but at some point this objective is at odds with traditional practices. Harmonizing the need for gender equality with the right to practice and preserve religious tradition is a significant challenge.
- e. Lack of consensus- Building a consensus that ensures social harmony and does not alienate any particular community while ensuring justice and equality remains a formidable challenge. Different groups have varying opinions on the content and scope of the Uniform Civil Code, leading to disagreements that stall its implementation.
- f. Issue in drafting Uniform Civil Code- Drafting Uniform Civil Code is another biggest challenge in the implementation of Uniform Civil Code. There is neither guideline nor a vision document as to whether

<sup>17</sup> AIR 2006 SC 1158.

<sup>18</sup> AIR 2017 SCC 4609.

Uniform Civil Code be a blend of all the personal laws or a new and common law adhering to the constitutional mandate.

- g. Awareness and misconceptions- The content of Uniform Civil Code has not been spelt out and that lead to misunderstanding that Uniform Civil Code destroys religious identity rather than modernizing family law. Thus to demystify the concept of Uniform Civil Code, there is a need to raise public awareness which itself is a greatest challenge.

## PROS AND CONS OF UNIFORM CIVIL CODE:

Uniform Civil Code has both pros and cons which are discuss as under-

### Pros of Uniform Civil Code-

- a. Uniformity in Law: Uniform Civil Code aimed for 'legal uniformity' or 'one nation, one law' not cultural conformity hence religion as enshrined under Articles 25 to 28 of the Indian Constitution is not going to be any hindrance in implementation of law rather ensure certainty of law with uniformity. Uniform Civil Code respects individual freedom to choose personal laws based on personal convictions rather than birth-based affiliations, fostering a more inclusive and secular society. It ascertains that there is little scope to distort the law by any person according to his whims and fancies.
- b. Secularism: India is a secular democratic republic hence it needs a common civil law for all its citizens irrespective of distinct religion rather than differentiated rules based on religious practices. Uniform Civil Code is completely a secular matter and upholds the principles of secularism by treating personal matters as civil matters governed by common laws rather than religious doctrines. Religious ideologies and right to religion would not come in the way of framing Uniform Civil Code as it stand on different footing.
- c. Promote gender parity: One of the primary advantages of the Uniform Civil Code is to promote equality and non-discrimination by eliminating the perception of preferential treatment based on personal laws and upholding a sense of fairness and justice. By enacting Uniform Civil Code, the concept of gender justice would be ensured. It is a fact that women rights are generally a neglected concept in almost all religions. Men are usually given privileged status in matters of succession and inheritance resulting to gender based discrimination. Thus, to bring both men and women at par and ensure equal gender rights, Uniform Civil Code is the need of the hour.
- d. National Integration: By unifying diverse personal laws, there will be no scope for politicization of issues relating to special privileges or discrimination by a particular community based on their religious personal laws as all citizens will share the same set of personal laws. Uniform Civil Code paves way for national integration and promotes a sense of unity and commonality among citizens.
- e. Legal simplicity: Implementing Uniform Civil Code will simplify the legal system and reduces the complexity and contradictions in personal laws ensuring legal certainty and clarity for citizens. Simplification in laws would improve access to justice and enhance the efficacy of the judicial system.
- f. Encourage social reform: Uniform Civil Code facilitates progressive changes in society by discouraging outdated customs and regressive practices. It promotes modernization and reforms by addressing social issues and allows for adapting the legal framework as per changing needs and values of the society.

### Cons of Uniform Civil Code-

- a. Diversity and Multiculturalism: India is a land with diversity in religion, race, caste, creed, culture, ethnicity etc., thus it is practically not feasible to come up with uniform set of rules for personal matters. Critics argue that "Uniform Civil Code could erode this diversity, leading to cultural homogenization."
- b. Threat to communal harmony: Due to lack of awareness, potential misunderstanding regarding Uniform Civil Code has created fear in losing religious identity among many communities, especially the minority. Many religious leaders view Uniform Civil Code as "an attack on their religious autonomy and feel that their cultural and religious freedom will be neglected by impose rules which will be mainly influenced by majority customs and values." Some argue that "Uniform Civil Code may lead to the dilution or loss of Indian unique cultural and religions identities."



- c. Sensitive task: To replace age old traditions with a new uniform law is a sensitive and hard task. It is expected that the government would be unbiased while dealing with the minority and majority communities or else it might lead to protest and social unrest.
- d. Practical implementation-overcoming logistical hurdles: Critics argue that “adopting Uniform Code that satisfies all communities is practically impossible in a diverse country like India.” Citing the country diversity, the Law Commission 2018 Report had also concluded that “Uniform Civil Code is neither necessary nor desirable at this stage.” The challenge is evident in the fact that even within Hindu Law, which was codified in 1950s, there are still regional variations.

## CONCLUSION:

Uniform Civil Code is an imperative in the Indian Constitution that emerges as a beacon of hope, promising to bridge the gaps between diverse communities and foster a culture of inclusivity. Uniform Civil Code is not merely a “legal proposition but a reflection of India's societal fabric, requiring a delicate balance between unity and diversity.” However, not much progress has so far been made towards achieving the ideal of a Uniform Civil Code which still remains a distant dream. The only tangible step taken in this direction has been “the codification and secularization of Hindu Law.” The codification of Muslim Law still remains a sensitive matter though enlightened Muslim opinion appears to favour such a step. It is necessary that “law be divorced from religion.” With the enactment of a Uniform Civil Code, “secularism will be strengthened, much of the present-day separation and divisiveness between the various religious groups in the country will disappear and India will emerge as a much more cohesive and integrated nation.”

Uniform Civil Code is a significant and progressively advanced step towards a proper judicial administration but it must not be implemented hastily rather delicately without causing any social unrest. It is a very sensitive in nature so a progressive and broadminded outlook is needed among the people to understand the spirit of such code. Uniform Civil Code can be successfully introduced once we achieve improved levels of literacy, awareness and increased social and religious mobility. In the end I would like to quote Justice Sahai, who had rightly stated that “while advocating the idea of UCC there is a need to calm the sentiments and emotions and also need to take measures and activities which would bridge the present status to a prospective future of Uniform Civil Code.”

