
UNIFORM CIVIL CODE IN INDIA

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ABSTRACT

The Uniform Civil Code (UCC) has been a subject of debate in India for a long time, as it brings together issues of constitutional law, personal laws, and gender justice. It is envisaged under Article 44 of the Indian Constitution, with the objective of creating a common legal framework for all citizens regardless of religion. However, its implementation raises important concerns, particularly regarding the balance between the freedom of religion under Article 25 of the Indian Constitution and the right to equality under Article 14 of the Indian Constitution.

This paper examines the applicability and implications of introducing a UCC in India, with a focus on judicial decisions such as *Mohd. Ahmed Khan v. Shah Bano Begum*, *Sarla Mudgal v. Union of India*, and *Shayara Bano v. Union of India*. It considers whether a uniform legal system would contribute to the progress of Indian society or affect its diverse social structure.

The study adopts a comparative approach by looking at legal developments in countries such as Turkey and France. It argues that while the UCC has the potential to promote equality and unity, its success depends on a gradual and carefully planned implementation that respects diversity.

Keywords: Uniform Civil Code; Fundamental Rights; Gender Justice; Personal Laws; Secularism; Judicial Interpretation

1. Introduction

The idea of a Uniform Civil Code (UCC) has been debated in India for decades, yet it continues to remain both relevant and controversial. At its core, the UCC is about whether personal laws governing matters like marriage, divorce, and inheritance should be the same for all citizens, regardless of religion. While the Constitution, under Article 44 of the Indian Constitution, encourages the State to move towards such a uniform framework, the reality on the ground is far more complex.

India is a country marked by deep religious and cultural diversity, and personal laws are often closely tied to these identities. Because of this, any discussion around the UCC is not just legal but also social and political. On one hand, there is a strong argument that a uniform code would promote equality, especially in light of Article 14 of the Indian Constitution, and help address long standing issues of gender injustice within certain personal laws. On the other hand, concerns are often raised that such a move might interfere with the freedom of religion guaranteed under Article 25 of the Indian Constitution.

Over time, the judiciary has also played an important role in keeping this debate alive. In cases like *Mohd. Ahmed Khan v. Shah Bano Begum* and *Sarla Mudgal v. Union of India*, the Supreme Court has pointed out the need for reform and, at times, expressing support for the idea of a UCC. However, despite such observations, there has been no concrete move towards its full implementation. This raises an important question: Is India ready for a Uniform Civil Code, or does its diversity require a more cautious approach?

This paper attempts to examine this question by looking at both the legal framework and the social realities surrounding the UCC. It focuses on how the idea of uniformity interacts with constitutional rights and whether it can truly serve the goal of justice without disrupting the delicate balance of India's pluralistic society

2. Constitutional Framework

The Uniform Civil Code (UCC) is rooted in the Constitution of India, specifically under Article 44 of the Indian Constitution. Article 44 directs the State to “endeavour to secure for the citizens a uniform civil code throughout the territory of India.”¹ However, it is important to

¹ INDIA CONST. art. 44.

note that this provision is part of the Directive Principles of State Policy (DPSPs), which are not enforceable by any court, unlike Fundamental Rights.²

The push for a UCC, therefore, exists in a delicate balance with **Fundamental Rights**, particularly:

2.1. Freedom of Religion (Article 25) – guarantees every individual the right to freely practice, profess, and propagate their religion.³ This has often been cited as a potential obstacle to implementing a UCC, as personal laws are closely tied to religious identity.

2.2. Right to Equality (Article 14) – mandates equality before the law and equal protection of the laws for all citizens.⁴ Advocates of the UCC argue that uniformity in personal laws would promote gender justice and eliminate discriminatory practices that exist in some religious personal laws.

2.3. Right against Discrimination (Article 15) – prohibits discrimination on the basis of religion, sex, caste, or place of birth.⁵ In the context of UCC, Article 15 supports the argument for a legal framework that treats all citizens equally, regardless of their religious affiliation.

The tension between DPSPs and Fundamental Rights has been highlighted in several judicial pronouncements. In *Mohd. Ahmed Khan v. Shah Bano Begum*, the Supreme Court held that while Article 44 is not enforceable, it provides a constitutional directive to guide the State in framing laws that balance personal law with social justice⁶. Similarly, in *Sarla Mudgal v. Union of India*, the Court stressed that the existence of conflicting personal laws makes a strong case for moving towards uniformity.

Thus, the constitutional framework of the UCC reflects a delicate equilibrium: it aims to harmonize the Directive Principles' vision of equality and national integration with the Fundamental Rights that protect religious freedom. Any legislative attempt to implement the UCC must navigate this constitutional balance carefully, ensuring that social justice does not come at the cost of violating individual rights.

² INDIA CONST. art. 37.

³ INDIA CONST. art. 25.

⁴ INDIA CONST. art. 14

⁵ INDIA CONST. art. 15.

⁶ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556 (India).

3. Landmark Judgments on the Uniform Civil Code

The debate surrounding the Uniform Civil Code (UCC) has been significantly shaped by judicial pronouncements over the years. While the legislature has been cautious in moving forward, the judiciary has often highlighted the need for reform and uniformity in personal laws.

One of the most frequently cited cases in this context is *Sarla Mudgal v. Union of India*. In this case, the Supreme Court emphasized the need for a UCC, pointing out that personal laws should not be misused. The Court dealt with the issue of Hindu men converting to Islam solely to contract a second marriage without dissolving the first, thereby exposing loopholes in the existing system. It observed that a uniform law governing marriage and succession could prevent such misuse.⁷

Similarly, in *Mohd. Ahmed Khan v. Shah Bano Begum*, the Court underscored the importance of ensuring maintenance rights for divorced Muslim women. The judgment highlighted that personal laws should not come in the way of achieving social justice and indirectly reinforced the idea that a UCC could help in protecting vulnerable sections of society, especially women.⁸

In *Shayara Bano v. Union of India*, the Supreme Court declared the practice of instant triple talaq (talaq-e-biddat) unconstitutional. This decision was widely seen as a step towards gender justice and brought renewed attention to the broader issue of reforming personal laws, including the possibility of a UCC.⁹

Another important case is *Ms. Jordan Diengdeh v. S.S. Chopra*, where the Court pointed out the lack of uniformity in laws relating to marriage and divorce across different religions. It noted that such differences often lead to confusion and inequality and stressed the need for a common legal framework.¹⁰

In *ABC v. State (NCT of Delhi)*, while dealing with the rights of an unwed mother, the Court observed that the absence of a UCC continues to be an unresolved constitutional issue. The

⁷ *Sarla Mudgal v. Union of India*, (1995) 3 S.C.C. 635 (India).

⁸ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556 (India).

⁹ *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1 (India).

¹⁰ *Ms. Jordan Diengdeh v. S.S. Chopra*, (1985) 2 S.C.C. 321 (India).

judgment reflected the idea that certain aspects of personal law reform are long overdue.¹¹

Further, in *Shabnam Hashmi v. Union of India*, the Supreme Court upheld the right of individuals to adopt under the Juvenile Justice Act, irrespective of their religion. The Court viewed this as a progressive step towards uniformity in personal laws, even if indirectly.¹²

Taken together, these judgments show a consistent pattern, while the judiciary has not mandated the implementation of a UCC, it has repeatedly encouraged movement in that direction. At the same time, the courts have also been mindful of India's social diversity, suggesting that any such reform must be approached carefully.

4. Legal Implications of the Uniform Civil Code

The introduction of a Uniform Civil Code (UCC) in India carries significant legal consequences, both in terms of constitutional interpretation and the practical enforcement of personal laws. At the core, the UCC seeks to standardize laws relating to marriage, divorce, succession, and adoption across all religions. This would directly impact how courts interpret Fundamental Rights and the Directive Principles of State Policy.

4.1. Advancement of Equality and Gender Justice

A key legal argument in favor of the UCC is that it would strengthen gender equality. Certain personal laws, particularly in matters of marriage and inheritance, have historically disadvantaged women. For example, in *Mohd. Ahmed Khan v. Shah Bano Begum*, the Supreme Court upheld the maintenance rights of a divorced Muslim woman under general law, even when her personal law did not provide for it.¹³ Similarly, *Shayara Bano v. Union of India* declared instant triple talaq unconstitutional, demonstrating that discriminatory practices in personal laws can be challenged on the basis of fundamental rights.¹⁴

A uniform code would eliminate such inconsistencies, ensuring that all citizens enjoy equal protection under *Article 14 of the Indian Constitution* and non-discrimination under *Article 15 of the Indian Constitution*. This would give courts a clearer legal framework to adjudicate

¹¹ *ABC v. State (NCT of Delhi)*, (2011) 12 S.C.C. 459 (India).

¹² *Shabnam Hashmi v. Union of India*, (2014) 7 S.C.C. 715 (India).

¹³ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556 (India).

¹⁴ *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1 (India).

disputes without constantly balancing conflicting personal laws.

4.2. Conflict with Freedom of Religion

The main legal challenge lies in reconciling the UCC with *Article 25 of the Indian Constitution*. Personal laws are deeply rooted in religious doctrines, and any attempt to standardize them could be perceived as an infringement on religious freedoms. The Supreme Court has repeatedly acknowledged this tension. In *Sarla Mudgal v. Union of India*, the Court recognized that while the state has a duty to promote equality and justice, it must also respect the pluralistic fabric of Indian society.¹⁵

4.3. Need for Legislative Clarity

Judicial pronouncements have often highlighted the absence of a legislative framework for UCC. In cases like *ABC v. State (NCT of Delhi)*, the Court pointed out that despite repeated calls, the constitutional expectation of a UCC has remained largely unfulfilled.¹⁶ The lack of clarity leads to inconsistent rulings across courts and uncertainty for citizens navigating personal law disputes.

4.4. Progressive Steps under Existing Law

Some legal reforms, although limited, have moved toward uniformity. In *Shabnam Hashmi v. Union of India*, the Court upheld the right of all citizens to adopt under the Juvenile Justice Act, irrespective of religion.¹⁷ Such steps indicate that incremental reform, rather than sudden imposition of uniformity, may be a more legally feasible approach.

Legally, the UCC promises consistency, equality, and clarity in civil matters, particularly benefiting women and marginalized groups. However, its implementation must carefully navigate constitutional protections for religious freedom, requiring both judicial sensitivity and legislative precision.

5. Social Implications of the Uniform Civil Code

In my view, the debate around the Uniform Civil Code (UCC) extends far beyond legal reform;

¹⁵ *Sarla Mudgal v. Union of India*, (1995) 3 S.C.C. 635 (India).

¹⁶ *ABC v. State (NCT of Delhi)*, (2011) 12 S.C.C. 459 (India).

¹⁷ *Shabnam Hashmi v. Union of India*, (2014) 7 S.C.C. 715 (India).

it touches the everyday social realities of a deeply diverse society like India. While the constitutional promise of equality makes a strong case for the UCC, its social implications require careful consideration.

One of the strongest arguments in its favor is its potential to advance gender justice. Practices challenged in cases like *Shayara Bano v. Union of India* reveal how personal laws have, at times, disadvantaged women. A uniform framework could help ensure that rights are not determined by religious identity.

At the same time, it is to be understood that the personal laws are not merely legal rules but are closely tied to cultural and religious identity. As noted in *Sarla Mudgal v. Union of India*, reform must be gradual to avoid alienating communities. Without social acceptance, even well-intentioned laws may create resistance.

People often resist what they do not fully understand, example of which could be seen during British rule when Abolition of Sati act came into picture. Developments like *Shabnam Hashmi v. Union of India* show that incremental changes can build trust over time.

Ultimately, while the UCC can reduce legal complexity and promote equality, I feel its success depends on dialogue, sensitivity, and a phased approach that respects India's social fabric.

6.Comparative Perspective on the Uniform Civil Code

A comparative analysis of the Uniform Civil Code (UCC) benefits from examining jurisdictions that have addressed similar tensions between legal uniformity, religious freedom, and social diversity. The experiences of Turkey and France are particularly instructive in this regard.

6.1. Turkey: Secularism and Legal Uniformity

Turkey adopted a civil code in 1926 based on the Swiss model, replacing religious personal laws with a unified legal framework governing marriage, divorce, and inheritance.¹⁸This model demonstrates that legal uniformity can enhance gender equality and reduce ambiguity in personal law. However, Turkey's relatively homogeneous social structure and its top-down

¹⁸ Turkish Civil Code, 1926 (adapted from the Swiss Civil Code)

reform process distinguish it significantly from India. In the Indian context, where personal laws are closely linked to religious identity, a similar approach may risk social resistance if not accompanied by broad-based consultation.

6.2. France: *Laïcité* and State Neutrality

In France, the principle of *laïcité* ensures a strict separation between religion and the state, with civil laws uniformly applicable to all citizens.¹⁹ Religious practices are largely confined to the private sphere. This model illustrates how legal equality can coexist with religious freedom, provided that the state maintains neutrality. For India, it suggests the possibility of preserving cultural practices while ensuring that fundamental civil rights—particularly in areas such as marriage and inheritance—remain uniformly protected.

6.3. Lessons for India

Three key lessons emerge from this comparative perspective. First, legal uniformity can play a significant role in promoting equality and reducing gender-based discrimination. Second, unlike Turkey's approach, India's pluralistic society necessitates gradual and consultative reform, supported by public awareness and dialogue. Incremental developments, such as those recognized in *Shabnam Hashmi v. Union of India*,²⁰ indicate that such a transition is feasible. Third, the balance between secular legal principles and religious freedom must be carefully maintained to ensure both legitimacy and acceptance.

7. Conclusion

The Uniform Civil Code (UCC) represents not merely a legal reform but a complex social transformation that must reconcile the constitutional commitment to equality with India's cultural and religious diversity. While experiences from Turkey and France demonstrate the benefits of legal uniformity, they also underscore the importance of context-sensitive implementation.

In the Indian framework, the success of the UCC depends on a gradual, consultative, and inclusive approach. Legal uniformity, if pursued without social acceptance, risks undermining its own objectives. Conversely, phased reform supported by dialogue and awareness can

¹⁹ Principle of *laïcité* under the French constitutional framework; see French Civil Code, 1804 (as amended)

²⁰ *Shabnam Hashmi v. Union of India*, (2014) 4 SCC 1

strengthen both legitimacy and effectiveness.

Therefore, the UCC should be understood as an evolving process aimed at advancing equality, ensuring justice, and fostering social cohesion, while remaining responsive to the pluralistic character of Indian society.