
UNIFORM CIVIL CODE: HISTORICAL DEBATE AND CURRENT DEBATE

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ABSTRACT

The implementation of a Uniform Civil Code (UCC) in India presents complex legal, social, and political challenges. The Constitution establishes a common civil law system as a legal requirement yet the system faces operational challenges because of India's diverse social fabric and institutional framework. The primary challenge arises from India's intricate personal law system which operates according to complex legal frameworks. Personal laws that govern marriage and divorce and inheritance and adoption rights emerge from a legal framework which combines statutory law with customary traditions and judicial rulings. The laws establish different regulations which apply to distinct religious groups and their respective regional and sub-regional divisions. The process of unifying multiple legal systems into one integrated system demands extensive legislative work which requires designers to find solutions that will satisfy opposing legal frameworks. The existence of religious sensitivity creates a major obstacle to progress. Personal laws exist as religious laws which people believe define their cultural identity. People view any attempts to change or eliminate these laws as violations of their constitutional right to practice their religion freely according to Article 25 of the Indian Constitution. Communities that want to maintain their religious independence tend to oppose any proposed changes to this area of law. The implementation process of the UCC faces additional challenges because of political factors. Political groups have maintained different ideological viewpoints which they use to engage in electoral battles throughout the history of the issue. The lack of political agreement together with the possibility of social unrest makes it difficult to execute legislative work in this sector.

Keywords: Personal laws, religion, marriage, divorce, freedom

1. INTRODUCTION.

India is a country known for its vast cultural, religious, and social diversity. This diversity is reflected not only in traditions and customs but also in the legal system, particularly in the area of personal laws. India follows a system where different religious communities have their own personal laws.¹ The Uniform Civil Code is a proposal in India to formulate and implement personal laws of citizens which apply equally to all citizens, regardless of their religion. At present, matters such as marriage, divorce, inheritance, adoption, and maintenance are regulated by distinct personal laws that are based on the religious traditions and scriptures of different communities. These laws are not uniform across the country; instead, they differ based on religion. For example, Hindus, Muslims, Christians, and Parsis are governed by their own separate personal laws. These laws have evolved over time and are deeply connected to religious beliefs and practices. While they help preserve cultural identity, they also create differences in how individuals are treated under the law depending on their religion.²

In this context, the idea of a Uniform Civil Code has gained importance. A Uniform Civil Code refers to a common set of civil laws that would apply equally to all citizens of India, irrespective of their religion. The main objective of such a code is to bring uniformity in personal laws and ensure that every citizen is treated equally in matters of family and personal relationships. It seeks to remove legal differences that arise due to religious diversity and promote national integration. More importantly, it aims to uphold the principle of equality before the law, which is a fundamental value of the Indian Constitution. The need for a Uniform Civil Code is often discussed in relation to issues of gender justice and social reform. In some personal laws, especially those that have not been updated or reformed, there are provisions that may discriminate against women. For instance, differences in divorce rights, inheritance, or maintenance can lead to unequal treatment. A Uniform Civil Code is seen by many as a way to eliminate such inequalities and ensure that all citizens, especially women, enjoy the same legal rights and protections.³ At the same time, the idea is also controversial because it raises concerns about interference with religious freedom and cultural practices.

The Constitution of India recognizes this vision in Article 44, which encourages the State to

¹ Utkarsh Anand, Has the Supreme Court Set the Ball Rolling for a Uniform Civil Code, HINDUSTAN TIMES, Mar. 15, 2021.

² Uniform Civil Code: A Practical Panorama or Illusion of Law Makers, LEGAL SERVICE INDIA, <http://www.legalserviceindia.com>

³ Jeff Atkinson, *ABA Family Legal Guide*, AMERICAN BAR ASSOCIATION, <https://www.americanbar.org>

work towards a Uniform Civil Code for all citizens.⁴ The constitutional basis for the Uniform Civil Code can be found in the Constitution of India, which lays down both enforceable rights and guiding principles for governance. While the Constitution guarantees fundamental rights such as equality, freedom of religion, and protection of life and liberty, it also includes Directive Principles of State Policy. These principles are not legally enforceable in courts, but they serve as important guidelines for the State in making laws and policies. They reflect the vision of the framers of the Constitution for building a just and progressive society. This means that although the implementation of such a code is not mandatory, the State is expected to work towards achieving this goal over time.⁵ The Concurrent List under Entry 5 of the Seventh Schedule provides the legislative basis for both Parliament and State Legislatures to enact laws relating to personal matters such as marriage, divorce, adoption, succession, and family law. This means that states have the constitutional authority to introduce reforms, including a state-level Uniform Civil Code, which has led to discussions about whether UCC can be implemented gradually at the state level before becoming a nationwide law. The inclusion of Article 44 shows that the framers of the Constitution recognized the importance of having a uniform set of civil laws, but they also understood the challenges involved in implementing it in a diverse country like India. Therefore, they placed it under the Directive Principles rather than making it an immediate legal requirement.⁶ The debate surrounding the Uniform Civil Code continues to be a significant issue in India. On one hand, it is supported as a step towards equality, modernization, and national unity. On the other hand, it is opposed by those who believe that it may threaten religious freedom and undermine cultural diversity. This continuing debate reflects the difficulty of maintaining a balance between individual rights and the shared cultural identities of communities in a diverse society.

The purpose of this paper is to examine how the idea of the Uniform Civil Code has developed over time and to understand the ongoing debates around it. It will look at historical developments, constitutional intentions, judicial interpretations, and current discussions to provide a balanced understanding of the topic.

⁴ D.D. BASU, *THE CONSTITUTION OF INDIA* art. 44 (26th ed. LexisNexis).

⁵ MINISTRY OF EXTERNAL AFFAIRS, *THE CONSTITUTION OF INDIA: PART IV – DIRECTIVE PRINCIPLES OF STATE POLICY*, <https://www.mea.gov.in/images/pdf1/part4.pdf>

⁶ MINISTRY OF EXTERNAL AFFAIRS, *THE CONSTITUTION OF INDIA: SEVENTH SCHEDULE*, <https://www.mea.gov.in/images/pdf1/S7.pdf>

2. HISTORICAL BACKGROUND OF PERSONAL LAWS IN INDIA.

The system of personal laws in India has developed through a long historical process shaped by religion, customs, colonial policies, and constitutional developments. Understanding this historical background is essential to analyse the present debate on the Uniform Civil Code.

2.1 Personal Law System during Pre-Colonial India.

During the British colonial period, the legal system in India underwent significant transformation. The British aimed to introduce uniformity and certainty in the administration of law, especially in areas that affected governance and commerce.⁷ As a result, they focused on codifying criminal law, contract law, and procedural laws, which were considered part of the public sphere and applicable to all citizens irrespective of religion. A major development in this regard was the **Lex Loci Report of 1840**, which emphasized the need for a uniform legal system in matters such as crimes, evidence, and contracts. However, the report clearly recommended that personal laws relating to family matters such as marriage, inheritance, and succession should remain outside the scope of such codification.⁸

This approach created a clear distinction between the public and private spheres of law. While the public domain was governed by uniform laws introduced by the British, the private domain continued to be regulated by religious personal laws. Hindus were governed by Hindu personal law which was derived from ancient texts such as the Dharmashastras and Smritis, along with commentaries like Mitakshara and Dayabhaga, Muslims by personal law was based on Sharia, derived from sources such as the Quran and Hadith.⁹ During the Delhi Sultanate and Mughal period, Muslims were governed by Islamic law, and other communities by their respective religious norms. The British justified this policy as a way of respecting religious freedom and avoiding social unrest, but it also resulted in the institutionalization of legal pluralism in India.

Over time, however, the British did intervene selectively in personal laws, particularly in response to social reform movements. They enacted laws to abolish practices such as Sati and to permit widow remarriage. These reforms were limited and cautious, as the colonial

⁷ P. DIWAN, FAMILY LAW 54 (11th ed. Allahabad Law Agency 2018).

⁸ UNIVERSITY OF KASHMIR, LAW OF CONTRACT – UNIT IV, <https://law.uok.edu.in/Files/5ce6c765-c013-446c-b6ac-b9de496f8751/Custom/UNIT%20-%204.pdf>

⁹ BNW JOURNAL, FAMILY LAW – MODULE I, <https://bnwjournals.com/wp-content/uploads/2020/03/fam-law-m1.pdf>

government feared opposition from conservative sections of society. A significant development towards the end of the colonial period was the appointment of the **B. N. Rau Committee**,¹⁰ set up in 1941 by the British colonial government. It was led by B. N. Rau, an Indian civil servant, jurist, and constitutional expert. This committee was tasked with examining the need for reform and codification of Hindu personal laws. It recommended the modernization and codification of these laws to make them more consistent and aligned with contemporary social values, especially with regard to women's rights. These recommendations later formed the basis for the Hindu Code Bills enacted in the 1950s.

Thus, the colonial period laid the foundation for a dual legal system in India, where uniformity was achieved in public laws, while personal laws remained diverse and religion-based.

2.2 Constituent Assembly Debates (1946–1949)

During the framing of the Indian Constitution, the idea of a Uniform Civil Code (UCC) became one of the most debated and sensitive issues before the Constituent Assembly of India.¹¹ The Constituent Assembly witnessed intense debates on whether India should adopt a common set of civil laws governing matters like marriage, divorce, inheritance, and family relations for all citizens for all citizens.

Dr. B.R. Ambedkar, the Chairman of the Drafting Committee, strongly supported the idea of a Uniform Civil Code. He believed that a common civil law was essential for achieving social reform, gender equality, and national integration. According to him, personal laws should not be beyond the scope of state intervention, especially when they conflicted with principles of justice and equality. Ambedkar emphasized that a Uniform Civil Code was necessary to promote gender justice, particularly in communities where women faced legal disadvantages. He also viewed it as an instrument for national integration, reducing divisions based on religion. Importantly, Ambedkar clarified that the UCC would not be imposed immediately or forcibly. He suggested that it could initially be made optional, allowing citizens to voluntarily adopt it, thereby reducing resistance and building gradual acceptance. Supporting this view, members like K. M. Munshi argued that religion should be confined to faith and belief, and not extend to secular legal matters. He stressed that a modern democratic state must ensure

¹⁰ B.N. Rau, *Outline of a New Constitution (1946)*, CONSTITUTION OF INDIA, <https://www.constitutionofindia.net/historical-constitution/outline-of-a-new-constitution-b-n-rau-1946/>

¹¹ CONSTITUENT ASSEMBLY DEBATES, CONSTITUTION OF INDIA, <https://www.constitutionofindia.net/constitution-assembly-debates/>

uniformity in civil laws to uphold the principle of equality before law.¹²

However, several members of the Assembly opposed the immediate implementation of a Uniform Civil Code. They argued that India was a deeply diverse country with multiple religions and cultural practices, and imposing a uniform law could infringe upon the fundamental right to freedom of religion. Minority communities, in particular, feared that code UCC might lead to the domination of majority practices over their own traditions and force them to give up their own traditions. There were strong arguments both in favour of and against the Uniform Civil Code, the Assembly chose a middle path that was practical and balanced. Instead of making it a legally enforceable right, they placed it under Article 44 of the Constitution of India as a Directive Principle of State Policy. This decision shows that the framers accepted the importance of having a Uniform Civil Code, but they did not want to force it immediately. It also helped in avoiding conflict and resistance from people who were not ready for such changes. Overall, these debates make it clear that the framers were not against the idea of a Uniform Civil Code. However, they were careful about when and how it should be introduced. They tried to maintain a balance between ensuring equality and protecting religious freedom, while also keeping in mind India's diverse social and cultural background. As a result of these conflicting views, a compromise was reached. Instead of making the Uniform Civil Code a fundamental right enforceable by courts, it was included as a Directive Principle of State Policy under Article 44 of the Constitution states that *"the State shall endeavour to secure for citizens a uniform civil code throughout the territory of India."*¹³

2.3 Post-Independence Developments (1950s)

After independence, the Indian government took steps towards reforming personal laws, particularly within the Hindu community. Post-independence reforms such as the Hindu Code Bills and the Special Marriage Act, 1954¹⁴ demonstrate India's gradual movement towards uniformity in personal laws, although a complete Uniform Civil Code has not yet been implemented. The Hindu Code Bill¹⁵ was introduced in the 1950s by B. R. Ambedkar and was strongly supported by Jawaharlal Nehru. It was a major legal reform that aimed to organize

¹² Yash Ghai, The Role of Constituent Assemblies in Constitution Making, https://constitutionnet.org/sites/default/files/2017-08/the_role_of_constituent_assemblies_-_final_yg_-_200606.pdf

¹³ GOVERNMENT OF INDIA, THE CONSTITUTION OF INDIA, <https://web.archive.org/web/20140621134720/http://lawmin.nic.in/coi/coiason29july08.pdf>

¹⁴ The Special Marriage Act, 1954, INDIA KANOON, <https://indiankanon.org>

¹⁵ J.D.M. DERRETT, HINDU LAW PAST AND PRESENT 1–80 (1957).

and modernize Hindu personal laws. The main objective was to bring uniformity and make these laws consistent with the principles of equality in the Constitution. Before these reforms, Hindu personal laws were not uniform and were based on different customs and court decisions. One of the most important goals of the reform was to promote gender equality. The new laws removed many discriminatory practices against women. Women were given equal rights in matters of property and inheritance.¹⁶ Due to strong opposition, the original Hindu Code Bill was not passed as a single law. Instead, it was divided into separate Acts. These included the Hindu Marriage Act, 1955¹⁷ which deals with marriage and divorce, the Hindu Succession Act, 1956¹⁸ which deals with inheritance and property rights, the Hindu Minority and Guardianship Act, 1956¹⁹ which defines rules about guardianship, and the Hindu Adoptions and Maintenance Act, 1956²⁰ which regulates adoption and maintenance. The Uniform Civil Code under Article 44 of the Constitution of India remains a constitutional objective, but it has not yet been implemented as a law. Overall, the Hindu Code Bill was an important step towards modernizing Hindu law and ensuring greater equality, especially for women, in personal legal matters. Goa is the only state in India that follows a uniform civil law through the Goa Civil Code. This is mainly because Goa was under Portugal until 1961, and the civil code introduced by the Portuguese in 1867 continued even after it became part of India.²¹ It is not applied across India because the country has a wide diversity of religions and personal laws, and introducing a single law for everyone raises concerns about religious freedom and cultural identity.

Although the Constitution mentions the idea of a Uniform Civil Code under Article 44, it is not legally binding, and there is no complete political agreement to implement it nationwide. As a result, the broader constitutional vision under Article 44 remained unfulfilled and largely dormant during this period. Nevertheless, these reforms laid the foundation for future debates by demonstrating both the possibility of legal reform and the challenges involved in balancing equality with religious and cultural diversity.

¹⁶ Gender Equality, UNITED NATIONS, <https://www.un.org/sustainabledevelopment/gender-equality/>

¹⁷ The Hindu Marriage Act, 1955, No. 25

¹⁸ The Hindu Succession Act, 1956, No. 30

¹⁹ The Hindu Minority and Guardianship Act, 1956, No. 32

²⁰ The Hindu Adoptions and Maintenance Act, 1956, No. 78

²¹ R. Dewan, Patriarchy and Property: Goa's Uniform Civil Code, 65 J. INDIAN L. INST. (2023), <https://journals.sagepub.com/doi/10.1177/00194662221146655>

3, CONSTITUTIONAL FRAMEWORK OF THE UNIFORM CIVIL CODE.

The idea of a Uniform Civil Code is deeply rooted in the vision of the Constitution of India. It is not just a legal concept, but a vision of creating a fair and equal society. To understand this vision clearly, it is important to examine the relationship between three key constitutional provisions, namely Article 44,²² Article 25,²³ and Article 14²⁴. Article 44 is a part of the Directive Principles of State Policy. It directs the State to make efforts to secure a Uniform Civil Code for all citizens. This means that the Constitution encourages the government to create a common set of civil laws that apply equally to everyone, regardless of religion. These laws would cover matters such as marriage, divorce, inheritance, and adoption. The main objective behind this provision is to promote national unity and ensure that all citizens are treated equally in civil matters.²⁵

However, Article 44 is not enforceable by courts. It is only a guiding principle for the State. This shows that the Constitution does not impose the Uniform Civil Code immediately but expects it to be achieved gradually, keeping in mind the diversity of Indian society. On the other hand, Article 25 guarantees the fundamental right to freedom of religion. It allows every individual to freely profess, practice, and propagate their religion. This includes the right to follow religious customs and traditions. In India, many personal laws are based on religion. For example, laws relating to marriage, divorce, and inheritance differ among Hindus, Muslims, Christians, and others.²⁶ These differences are protected under the freedom of religion. At first glance, Article 25 appears to stand in contrast to Article 44. While Article 44 promotes uniformity, Article 25 protects diversity. This creates a complex situation.²⁷ People may feel that implementing a Uniform Civil Code could interfere with their religious practices and identity. Therefore, the challenge lies in balancing these two important constitutional values.

²² Article 44 of Indian Constitution, Interpretation, Significance, VAJIRAM & RAVI, <https://vajiramandravi.com/current-affairs/article-44-of-indian-constitution/>

²³ Article 25 in Constitution of India, INDIA KANOON, <https://indiankanoon.org/doc/631708/>

²⁴ Article 14: Equality Before Law, CONSTITUTION OF INDIA, <https://www.constitutionofindia.net/articles/article-14-equality-before-law/>

²⁵ Shobhit Sachan, Uniform Civil Code in India: The Need of the Hour, 12 INT'L J. CREATIVE RES. THOUGHTS c774, c774–c781 (2024), <https://www.ijcr.org/papers/IJCRT2407327.pdf>

²⁶ C.K. Mathew, Uniform Civil Code: The Importance of an Inclusive and Voluntary Approach, THE HINDU CENTRE, Oct. 26, 2019, <https://www.thehinducentre.com/the-arena/uniform-civil-code-the-importance-of-an-inclusive-and-voluntary-approach/article64931357.ece>

²⁷ Shivani K. Sharma & Anjali Verma, Uniform Civil Code in India: A Socio-Legal Analysis, 11 HELIYON e000239 (2026), <https://www.sciencedirect.com/science/article/pii/S2590291126000239>

The judiciary has played an important role in addressing this tension. In *Lily Thomas v. Union of India*,²⁸ the Supreme Court emphasized that personal laws cannot be misused to defeat the purpose of justice. The case highlighted how religious practices should not be used as a means to bypass legal obligations, reinforcing the need for a more uniform and fairer legal framework. Similarly, in *Danial Latifi v. Union of India*,²⁹ the Court interpreted the Muslim Women (Protection of Rights on Divorce) Act in a manner that ensured reasonable and fair provision for divorced Muslim women. This judgment demonstrated how personal laws can be harmonized with constitutional values of equality and justice under Article 14. Further, in *Shabnam Hashmi v. Union of India*,³⁰ the Supreme Court upheld the right of individuals to adopt under secular law, regardless of religion, under the Juvenile Justice Act. The Court observed that a Uniform Civil Code would help achieve equality and reinforce the idea that civil rights should not be restricted by religious boundaries. This is where Article 14 plays a crucial role. Article 14 guarantees equality before the law and equal protection of the laws. It ensures that all individuals are treated equally and that no one is discriminated against. This principle becomes especially important when personal laws lead to unequal treatment, particularly in matters affecting women. For instance, certain personal laws have historically allowed practices that may be seen as discriminatory, such as unequal inheritance rights or unfair divorce provisions. In such cases, Article 14 requires that the law must ensure fairness, justice, and equality. It acts as a check on both State laws and personal laws.

The real challenge arises when these three provisions come into conflict. Article 44 encourages a common legal framework. Article 25 protects religious freedom. Article 14 demands equality and non-discrimination. The Constitution does not give absolute importance to any one of these provisions. Instead, it aims to harmonize them. Harmonization means finding a balance where all these rights and principles can coexist. The Constitution recognizes that religious freedom is important, but it is not unlimited. Practices that violate basic human rights, dignity, or equality can be reformed.³¹ This idea has also been supported by the judiciary in various cases. Courts have often stated that religion should not be used as a justification for practices that are unjust or discriminatory. At the same time, the Constitution respects the cultural and religious diversity of India. It does not seek to impose uniformity in a way that ignores traditions and

²⁸ (2000) 6 SCC 224

²⁹ (2001) 7 SCC 740

³⁰ (2014) 4 SCC 1

³¹ UNITED NATIONS DEVELOPMENT PROGRAMME, PROTECTING HUMAN RIGHTS IN CONSTITUTIONS (2023), <https://www.undp.org/sites/g/files/zskgke326/files/2023-10/undp-protecting-human-rights-in-constitutions.pdf>

beliefs. Instead, it encourages gradual reform through dialogue, awareness, and consensus. Therefore, the constitutional vision of the Uniform Civil Code is not about erasing religious identities or imposing a single culture. It is about ensuring that all citizens, regardless of their religion, are treated equally and fairly under the law. It aims to remove inequalities while still respecting diversity.³²

The relationship between Article 44, Article 25, and Article 14 reflects the careful balance that the Constitution seeks to achieve. The Uniform Civil Code represents an aspiration for equality and unity, while the right to freedom of religion ensures respect for diversity. Article 14 acts as the guiding principle that ensures justice and fairness. Together, these provisions form the constitutional framework of the Uniform Civil Code, highlighting the need for a balanced and inclusive approach in shaping India's legal system.

4. JUDICIAL APPROACH TO UNIFORM CIVIL CODE.

After the Hindu Code Bills, the progress towards a Uniform Civil Code slowed down significantly. The focus shifted to reforming individual personal laws rather than creating a common civil framework. For a long period, the issue remained largely dormant in legislative terms, but it continued to exist as a constitutional goal and was later revived through judicial interventions and public debate.

The landmark judgment in *S.R. Bommai v. Union of India*³³ established that secularism is a part of the basic structure of the Constitution. The Supreme Court emphasized that the State must maintain neutrality in matters of religion, which strengthens the argument for a Uniform Civil Code as a means to ensure equal treatment of all citizens regardless of their religious affiliations. And in *Justice K.S. Puttaswamy v. Union of India*,³⁴ the Supreme Court recognized the right to privacy as a fundamental right under Article 21. This judgment has relevance in contemporary debates on UCC, particularly in issues such as mandatory registration of marriages or live-in relationships, where concerns arise about balancing state regulation with individual autonomy and privacy. The debate on the Uniform Civil Code (UCC) in India has not been driven only by the legislature or political discussions. In the

³² K. Radhamani, Uniform Civil Code's Constitutional Validity: Secularism vs. Religious Freedom, 7 INT'L J. LEGAL SCI. & INNOVATION 153 (2025), <https://ijlsi.com/wp-content/uploads/Uniform-Civil-Codes-Constitutional-Validity.pdf>

³³ (1994) 3 SCC 1

³⁴ (2017) 10 SCC 1

absence of comprehensive legislative reform, the judiciary has played an active role in addressing issues related to personal laws and advocating for a Uniform Civil Code. A landmark moment in the debate surrounding the Uniform Civil Code was the decision in the case of *Mohd. Ahmed Khan v. Shah Bano Begum*³⁵. This case brought national attention to the conflict between personal laws and the principles of equality and justice embodied in the Constitution. In the Shah Bano case, a sixty-two-year-old Muslim woman who was divorced and denied maintenance approached the court under Section 125 of the Criminal Procedure Code.³⁶ The Supreme Court held that she was entitled to maintenance, stating that Section 125 is a secular provision applicable to all citizens regardless of religion. The Court further emphasized that the husband's duty to maintain his divorced wife cannot be overridden by personal law, as the provision is meant to ensure social justice and prevent destitution.

Beyond the immediate issue, the Court made significant observations about the Uniform Civil Code. It noted that the existence of different personal laws for different communities creates inequality and legal inconsistency. The Court expressed the view that a Uniform Civil Code would help in promoting national integration by bringing citizens under a common legal framework. However, the judgment triggered intense political and social reactions. Many members of the Muslim community viewed the decision as interference in their religious personal laws. In response to the controversy, the government enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986. This law limited the husband's liability to provide maintenance only during the iddat period, thereby diluting the effect of the Supreme Court's ruling. Despite this legislative response, the Shah Bano case remains a turning point, as it brought the issue of the Uniform Civil Code into the center of public and legal discourse.³⁷

The debate continued to evolve with the judgment in *Sarla Mudgal v. Union of India*.³⁸ In this case, the Supreme Court addressed the issue of Hindu men converting to Islam for the sole purpose of entering into a second marriage without dissolving their first marriage. Under Hindu law, bigamy is prohibited, but Islamic law permits polygamy under certain conditions. Some individuals exploited this difference by converting to Islam to bypass the restrictions of Hindu law. The Court strongly condemned this practice and held that such conversions, when done

³⁵ (1985) 2 SCC 556

³⁶ Section 125 in The Code of Criminal Procedure, 1973, INDIA KANOON, <https://indiankanoon.org/doc/1056396/>

³⁷ Chhyal Singh, Revisiting the Uniform Civil Code: Issues, Challenges, and the Way Forward for Modern India, 7 INT'L J. FAM. & MGMT. RES. 61472 (2025), <https://www.ijfmr.com/papers/2025/6/61472.pdf>

³⁸ (1995) 3 SCC 635.

only to contract a second marriage, were not genuine and amounted to misuse of religion. It ruled that the second marriage would be invalid and that the husband could be prosecuted for the offence of bigamy. Importantly, the Court once again highlighted the need for a Uniform Civil Code. It observed that the absence of a common civil law allows individuals to manipulate personal laws for their own benefit, leading to injustice and inequality. The judgment stressed that a Uniform Civil Code would eliminate such loopholes and ensure that the law is applied uniformly to all citizens, regardless of religion.

A more recent and significant development occurred in the case of *Shayara Bano v. Union of India*,³⁹ which dealt with the controversial practice of instant triple talaq, also known as talaq e biddat. This practice allowed a Muslim husband to divorce his wife instantly by pronouncing the word 'talaq' three times. Shayara Bano challenged this practice on the grounds that it violated her fundamental rights, including the right to equality and dignity. The Supreme Court, in a majority decision, declared instant triple talaq unconstitutional. The Court held that the practice was arbitrary and did not conform to the principles of justice, fairness, and equality guaranteed by the Constitution. This judgment marked a significant step towards protecting the rights of Muslim women and reaffirmed the supremacy of constitutional values over discriminatory personal laws. It also demonstrated the willingness of the judiciary to intervene in personal law matters when they conflict with fundamental rights. Further strengthening this judicial trend, the Supreme Court in *John Vallamattom v. Union of India*⁴⁰ and *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*⁴¹ continued to emphasize the importance of reforming personal laws and moving towards greater uniformity in civil matters. In the John Vallamattom case, the Court examined a provision under the Indian Succession Act, 1925, that imposed restrictions specifically on Christians in matters of property disposition. The Court found this provision to be discriminatory and held that it violated Article 14 of the Constitution, which guarantees equality before the law. In doing so, the Court made it clear that personal laws cannot escape constitutional scrutiny and must align with the principles of equality and fairness. In the Jose Paulo Coutinho case, the Supreme Court adopted a more forward-looking approach by referring to the Goa Civil Code as a successful example of a uniform legal system that applies equally to all communities irrespective of religion. The Court observed that even though Article 44 of the Constitution envisions the implementation of a Uniform Civil Code,

³⁹ (2017) 9 SCC 1.

⁴⁰ (2003) 6 SCC 611.

⁴¹ (2019) 20 SCC 85

there has been a lack of serious effort in that direction. It therefore suggested that the legislature should consider adopting a similar model at the national level, thereby highlighting that a uniform system is not only desirable but also practically achievable.

Taken together, these judgments clearly show that the judiciary has played a dual and evolving role in the Uniform Civil Code debate. On one hand, it has acted as a protector of fundamental rights by striking down discriminatory provisions within personal laws. On the other hand, it has actively encouraged the State to move towards a more uniform and equitable legal framework, thereby keeping the constitutional vision of the Uniform Civil Code alive. In the absence of comprehensive legislative action, the courts have often acted as a catalyst for change. Through progressive interpretations and strong observations, they have sought to align personal laws with constitutional principles such as equality, dignity, and justice. These decisions have not only provided relief in individual cases but have also kept the debate on the Uniform Civil Code alive in public and political discourse.

5. ARGUMENTS IN FAVOUR OF UNIFORM CIVIL CODE.

The proposal for a Uniform Civil Code (UCC) has gained strong support from scholars, jurists, and policymakers. They see it as a crucial move towards realizing the constitutional values of equality, secularism, and social justice. The main arguments for the UCC focus on:

a. EQUALITY BEFORE THE LAW: BREAKING DOWN RELIGIOUS BARRIERS.

The principle of equality before the law, which upholds **Article 14 of the Indian Constitution of 1950** and satisfies constitutional mandates by replacing diverse religious personal laws with a single, impartial legal framework, is one of the most eminent arguments in favor of the implementation of a Uniform Civil Code. It also aims to improve gender justice and foster national integration by standardizing rights related to marriage, divorce, and inheritance while treating all citizens equally, regardless of their religious beliefs.

⁴²The Uniform Civil Code, **Uttarakhand Bill, 2024**, established a fundamental

⁴² Asmita Shukla, "Towards a Uniform Civil Code in India: A Comparative Analysis of the Uttarakhand UCC Bill and its Potential for Nationwide Implementation", INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION, Vol 7, Issue 3, PP 244-256, ISSN 2581-9453, 2025

turning point in Indian legal history because it represents the first time that an Indian state after independence has tried to create a complete set of standard personal laws which will apply to all citizens without regard to their religious or caste or creed identity. The Bill represents a bold legislative step toward the realization of Article 44 of the Indian Constitution and has reignited national conversations around the feasibility of implementing a UCC at the national level.

b. GENDER JUSTICE AND WOMEN'S RIGHTS: CHALLENGING PATRIARCHAL NORMS

The idea of a Uniform Civil Code is very important because it can help achieve equality between men and women in laws. These laws are related to Marriage, Divorce, Inheritance and Maintenance. For a time, the laws of many religious communities have not been fair to women.

The court case of *Mohammed Ahmed Khan vs Shah Bano Begum (1985)*⁴³ is an example. The Supreme Court, led by Chief Justice Y.V. Chandrachud said that India needs a set of laws for all citizens. This would ensure that Muslim women are treated fairly when they seek maintenance after a divorce.

Another important case is *Shayara Bano vs Union of India (2017)*⁴⁴, in this case the court ruled that the practice of triple talaq is against the constitution and does not support gender equality.

⁴⁵In the contemporary context, the findings of the **National Family Health Survey-5 (2019–21)** present a contrasting picture of women's empowerment in India. Significant disparities still exist despite notable progress, such as more extensive bank account ownership (79%), increased access to mobile phones (54%), and high married women's participation in household decision-making (89%). Just 43% of women say they own a home or piece of land, many do not have complete control over their own income, and about 29% say they have been victims of domestic abuse. Furthermore,

<https://doj.org/10.1000/IJLSI.112595>.

⁴³ AIR 1985 SC 945.

⁴⁴ AIR 2017 SC 4609.

⁴⁵ Eom YJ, Subramanian SV, Kim R. "Geographic variation in women's empowerment: a multilevel analysis of India's National Family Health Survey 2021". JOURNAL OF GLOBAL HEALTH. June 2025 <https://jogh.org/2025/jogh-15-04159/>

30% of women between the ages of 20 and 24 still get married as children. These results are often mentioned in discussions about the UCC because supporters contend that a consistent and gender-just legal framework could strengthen legal protections for women, standardize marriage and divorce laws, and advance equal inheritance rights. In this regard, the adoption of a Uniform Civil Code is frequently seen as a step toward strengthening the constitutional commitment to social justice and gender equality.

c. SIMPLIFYING THE LEGAL SYSTEM: STREAMLINING PERSONAL LAWS

India maintains multiple personal law systems which determine marriage and divorce and inheritance and adoption rights through different legal systems that apply to each religious community. Hindus follow specific legal requirements because the **Hindu Marriage Act 1955 and the Hindu Succession Act 1956** which received an **amendment in 2005** to provide daughters with equal coparcenary rights serve as their governing laws. Muslims follow Sharia principles which remain uncodified while they use the **Dissolution of Muslim Marriages Act 1939** as their legal framework. Christians are governed by the **Indian Christian Marriage Act 1872 and the Indian Divorce Act 1869** which received updates through the **Divorce Amendment Act 2001** while Parsis have to follow the Parsi Marriage and Divorce Act 1936.

Multiple legal systems create multiple problems because they establish different judicial processes and create different levels of legal protection, which specifically impacts how women access their rights. The implementation of a Uniform Civil Code which exists under Article 44 of the Constitution of India serves as a solution to unify personal laws and create legal simplicity while it provides citizens with equal rights and responsibilities which maintain constitutional standards of equality and justice and legal certainty.⁴⁶

d. NATIONAL INTEGRATION AND SOCIAL REFORM

Proponents of the Uniform Civil Code argue that it could contribute significantly to

⁴⁶ Vedang Kapoor, Dr. Rajeev Kumar Singh, "Uniform Civil Code & Its Importance", LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH, Vol 2, Issue 1, ISSN: 2583-7753, PP 11-20, 2024, https://lijdlr.com/wp-content/uploads/2024/05/LIJDLR_PAPER-2-Vol-II-Issue-II.pdf.

national integration by emphasizing a common civic identity over religious divisions in civil matters. By applying uniform legal standards to all citizens, a UCC would reinforce the idea that individuals are equal members of a shared constitutional community rather than members of legally segregated religious groups.

This perspective resonates with the concept of “**constitutional patriotism**,” associated with the political philosopher Jürgen Habermas, which emphasizes citizens’ loyalty to constitutional values rather than to religious or cultural identities. From this viewpoint, a Uniform Civil Code would strengthen public identification with the constitutional framework and promote a unified civic identity.

The successful operation of the Indian Penal Code, which applies uniformly to all citizens regardless of religion, is often cited as evidence that a common legal framework can function effectively within a diverse and pluralistic society.

In addition to promoting national unity, a Uniform Civil Code is also viewed as an instrument of social reform and legal modernization. Personal law systems in India have evolved over long historical periods and may contain practices that no longer reflect contemporary constitutional values such as equality, dignity, and individual autonomy.

The changing decisions of the Supreme Court show how adaptable constitutional reform is in India. For instance, in *Navtej Singh Johar v. Union of India*,⁴⁷ the Court acknowledged the rights of people in same-sex relationships. It stressed the importance of dignity, autonomy, and equality under the Constitution. These changes point to the need for family law systems that fit modern constitutional ideas.

A new Uniform Civil Code could be a chance to update old personal law rules and tackle new issues like LGBTQ+ rights in marriage, adoption, and inheritance. By bringing family law in line with current constitutional values, the UCC could help drive social change and strengthen India’s democratic legal system.

⁴⁷ *Navtej Singh Johar v. Union of India* 2018 INSC 790

6. ARGUMENTS AGAINST UNIFORM CIVIL CODE.

The Uniform Civil Code (UCC) has perceived advantages but scholars and minority groups and civil society organizations all oppose it. The opponents state that enforcing a uniform code on a culturally diverse country like India would threaten religious freedom, would violate the rights of minorities, and would create obstacles both practically and constitutionally. The principal criticisms of the UCC revolve around concerns regarding cultural and religious diversity, protection of minority rights, practical difficulties in implementation, and potential tensions with India's federal structure.

a. CULTURAL DIVERSITY AND RELIGIOUS FREEDOM

The social structure of India exists as a pluralistic system which contains various religious traditions and community customs. The laws which govern personal matters of marriage and divorce as well as inheritance and family matters have developed through time because they remain closely tied to both religious beliefs and cultural traditions.

The critics believe the Uniform Civil Code will decrease social diversity because it will establish one legal system that applies to all communities which possess different social norms. The indigenous communities maintain their own distinct family and inheritance systems according to their traditional practices.

The Khasi Tribe maintains a matrilineal system of inheritance which allows women to pass down both their family lineage and property rights, thus demonstrating India's diverse legal customs.⁴⁸

The opponents of this movement argue that the establishment of a standard civil law system which replaces religious personal laws will create a conflict with the religious freedom rights which **Article 25 of the Constitution of India 1950** provides. The state enforcement of a standardized code establishes itself as a violation of religious rights because many communities consider personal laws to be essential parts of their

⁴⁸ Aayat Ali Khan & Dr. Reshma Umair, "Uniform Civil Code in India: Legal Reform or Cultural Intrusion", INTERNATIONAL JOURNAL OF RESEARCH PUBLICATION AND REVIEWS, Vol 5, no 11, pp 4094-4097 November 2024, <https://ijrpr.com/uploads/V5ISSUE11/IJRPR35187.pdf>.

religious practices.

b. MINORITY RIGHTS AND CONCERNS OF MAJORITARIAN INFLUENCE

⁴⁹The Uniform Civil Code faces its most serious opposition from its predicted effects on minority groups according to its detractors. Minority groups in plural societies consider personal laws to be essential protection which enables them to maintain their cultural and religious traditions.

The critics contend that a uniform civil code establishes the social standards of the dominant community as its only legal framework which results in the exclusion of minority group traditions from the system. The legal reforms under discussion in various states have faced similar issues to those which arose in Uttarakhand when certain minority groups expressed their concerns about missing cultural elements from the proposed legislation.

Critics stress that personal law reforms need to start with thorough consultations with minority groups because religious minorities make up a major part of India's demographic makeup.

c. FEDERALISM AND INSTITUTIONAL CONCERNS

The announcement of a Uniform Civil Code (UCC) for nationwide implementation brings essential federal and institutional issues which India must address according to its constitutional framework. The Concurrent List contains marriage, divorce, adoption, and succession because these matters belong to **Entry 5 of List III in the Seventh Schedule of the Constitution of India**. This arrangement allows Union and State legislatures to create laws, but it results in conflicts when a national code supersedes state-specific personal law alterations.

The Law Commission of India has influenced institutional discussions because it found that current requirements do not need a uniform civil code, which should maintain existing personal laws while limiting discriminatory provisions. The Uttarakhand

⁴⁹ Aditya Negi, "Arguments for and against Uniform Civil Code", INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS, Volume 13, Issue 4 , pp 283-285 April 2025, <https://www.ijcrt.org/papers/IJCRT25A4319.pdf>

Uniform Civil Code 2024 shows that regional exemptions create difficulties for achieving complete uniformity in a federal system which allows cultural diversity.⁵⁰

Scholars maintain that the implementation of a UCC requires national legal uniformity to be balanced with respect for India's federal system and regional differences and state legislative rights.

d. PRACTICAL AND LEGAL CHALLENGES IN IMPLEMENTATION

The implementation of a Uniform Civil Code in India encounters major practical and legal obstacles because the country contains numerous social and cultural differences. The development of a unified legal system becomes highly challenging because personal laws differ between religious groups and various geographic areas and educational backgrounds and traditional ways of life. The law commission of India in its 2018 family law reform consultation paper declared that a uniform civil code should not be established at this point in time and proposed that existing personal laws should receive incremental changes to eliminate discriminatory elements.⁵¹

The situation becomes more complicated because different tribal customs and laws exist and minority groups fear losing their religious identity and freedom and there is no agreement among politicians about what should be included in the code. The evolution of previous reforms which included the 1950s codification of Hindu laws shows that customary differences remain in existence despite legal codification. Scholarly perspectives indicate that a UCC implementation demands comprehensive legal system changes which should involve equitable treatment of gender rights and cultural practices and ongoing political and social interactions.

7. CONTEMPORARY DEVELOPMENTS AND CURRENT DEBATES.

The discussion about the Uniform Civil Code UCC has become more intense during the last few years because legal and political and constitutional matters remain under examination in India. **Law Commission of India 21st Commission** published its 2018 consultation paper

⁵⁰ *Supra* (Note 8).

⁵¹ Dr. Widonlule Newme, UNIFORM CIVIL CODE: A ROAD TOWARDS UNIFORM JUSTICE, *Journal of Emerging Technologies and Innovative Research (JETIR)*, Volume 13, Issue 1, January 2026, pp 142-148, <https://www.jetir.org/papers/JETIR2601215.pdf>

which identified comprehensive UCC implementation as unnecessary and unneeded because the commission recommended gradual personal law reforms that would achieve gender equity and eliminate discriminatory practices.

The ongoing consultations that subsequent commissions conducted have worked to find the right balance between protecting cultural diversity and tribal rights and the needs of marginalized groups through its focus on gender equality. The Government of India has shown political backing for Uniform Civil Code implementation because it believes that UCC implementation meets the constitutional requirements established by **Article 44 of the Constitution of India**. The proposal has also gained momentum through state-level initiatives. Pushkar Singh Dhami leadership in Uttarakhand led to the establishment of Uttarakhand Uniform Civil Code 2024 which represents a major drive to enforce common personal law through state regulations. Goa maintains its use of **Goa Civil Code** which originated from Portuguese legal traditions and serves as the only working example of uniform civil law in India.

Despite these developments, the proposal remains contentious. Critics argue that the UCC could potentially infringe upon religious freedoms and minority rights which others see as essential for national integration and gender equality. The current situation presents multiple problems because tribal communities receive special treatment and there are no specific rules to handle new issues about LGBTQ+ rights and marital rape while political and social agreement remains elusive. Judicial interventions through cases like *Mohd. Ahmed Khan v. Shah Bano Begum* (1985) and *Shayara Bano v. Union of India* (2017) have shown how personal laws conflict with constitutional equality protections. The United States Constitution will determine future UCC development through a process which involves public discussions and solves conflicts between constitutional principles and religious freedoms and India's diverse social traditions.

8. COMPARATIVE PERSPECTIVES.

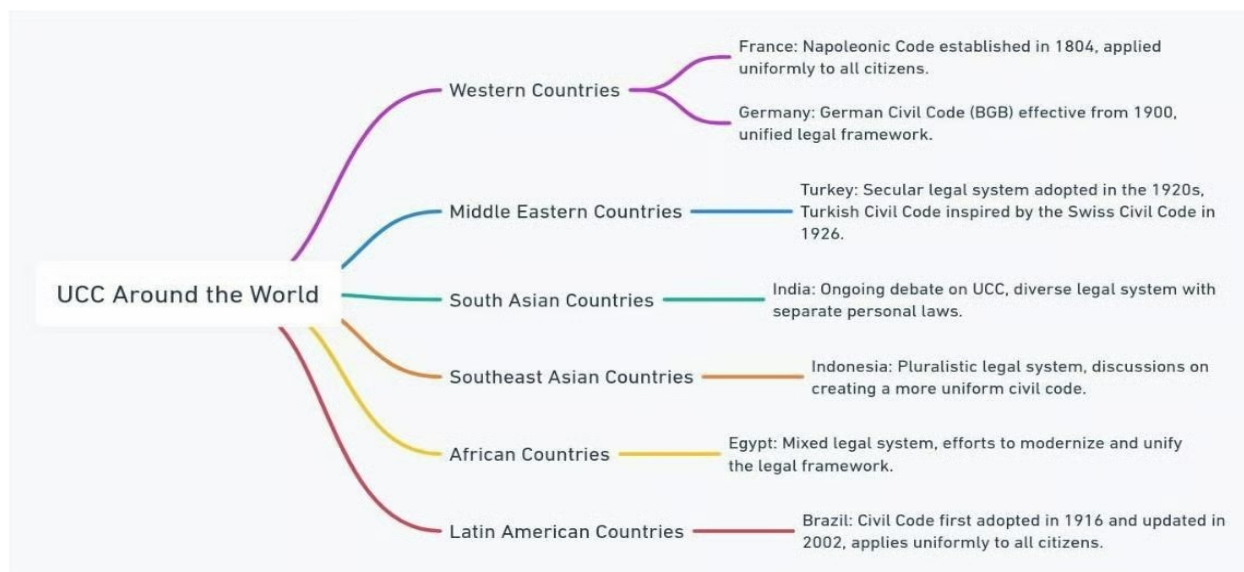


Fig.1 Countries where a Uniform Civil Code has been adopted.

The study of legal systems between nations permits researchers to discover which methods different countries use to execute their constitutional procedures concerning personal law and family law. Although no country has implemented a Uniform Civil Code that governs all aspects of personal law without any variation, several states have adopted civil codes that apply uniformly to citizens irrespective of religion.

Countries such as France and Germany and Turkey maintain complete civil law systems which use non-religious legal frameworks to control their family law matters. In contrast, Countries like Indonesia and Egypt preserve their legal pluralism system through which religious regulations govern some aspects of personal relations. The existing comparative frameworks serve as valuable resources for researchers who want to study the current discussion about implementing a Uniform Civil Code in India.

S.NO	COUNTRY	LEGAL SYSTEM / CIVIL CODE	REGULATION OF FAMILY LAW	ROLE OF RELIGION IN PERSONAL LAW	KEY FEATURES OF THE SYSTEM	LESSONS FOR INDIA
1	FRANCE	Based on the Napoleonic Code	Marriage, divorce, adoption, and inheritance governed by a uniform civil law	Religion has no role in determining civil rights	Strong secular legal framework; uniform application of civil law to all citizens	Demonstrates how legal uniformity can coexist with cultural diversity
2	GERMANY	Governed by the German Civil Code (Bürgerliches Gesetzbuch)	Family law regulated under a comprehensive civil code	Religion does not determine personal law rights	Highly structured codified system regulating marriage, guardianship, and inheritance	Illustrates effective codification of private law in a modern constitutional democracy
3	TURKEY	Secular civil code adopted in 1926 inspired by the Swiss Civil Code	Uniform civil law governs marriage, divorce, and inheritance	Religious family law abolished in civil matters	Major legal reforms introduced during the leadership of Mustafa Kemal Atatürk	Shows how secular legal reform can modernize personal law systems
4	INDONESIA	Mixed legal system combining civil law, customary law, and Islamic law	Muslim family law regulated by Islamic courts; civil law applies in other areas	Religion influences family law for Muslims	Legal pluralism exists with recognition of religious courts	Reflects challenges of balancing religious diversity with legal uniformity
5	EGYPT	Civil law system influenced by French legal traditions	Personal status laws differ based on religious affiliation	Religious law plays a role in family matters	Separate personal laws for Muslims and Christians	Demonstrates a hybrid system balancing civil law with religious traditions
6	BRAZIL	Comprehensive civil code	Family law governed by a	Religion has no legal authority	Secular constitutional	Example of a diverse society

		governing private law	unified civil code	over law	personal	framework ensuring equal civil rights	operating under a uniform civil law system
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Table 1 - Comparative Perspectives

The comparative analysis demonstrates that contemporary legal systems use comprehensive civil laws to control family matters instead of religious personal laws. The three countries of France, Germany, and Brazil use their secular civil codes to create laws that apply equally to all citizens without considering their religious beliefs. The legal systems of Indonesia and Egypt maintain multiple legal systems that permit religious laws to shape their family law regulations.

India's legal system follows the same pattern as the latter system because it permits different religious groups to practice their own personal laws. The study of these different legal systems shows that uniform civil laws create legal equality and better administrative processes but their application needs to consider both the cultural diversity and constitutional values of each nation.

9. CONCLUSION

The Uniform Civil Code (UCC) debate in India shows how constitutional equality requirements and cultural-religious diversity protection create complex conflicts. The UCC which Article 44 of the Constitution of India establishes aims to create a standard civil rights system which needs to protect both religious freedom rights under Article 25 and equal treatment rights under Article 14 of the Constitution of India. The historical development of personal laws together with judicial advancements shows how personal law systems operate in a slow process that leads toward constitutional values through their civil rights and gender equality advancements. The UCC arguments against it and for it both present key issues which deal with the preservation of cultural traditions and the protection of minority rights and the assessment of its practical implementation. The implementation of a Uniform Civil Code should not be viewed as a legal reform because it represents a comprehensive transformation of social and constitutional systems. The enforcement of a uniform system should not take place through strict methods because it creates dangers that threaten to damage both social unity and the legal recognition of diverse beliefs. A combination of stakeholder engagement with community stakeholders through a step-by-step process provides an effective solution for

sustainable development.

Ultimately, the objective of the UCC should extend beyond formal legal uniformity to the realization of substantive equality, dignity, and justice for all citizens. The process of reform must therefore be guided by constitutional principles that respect diversity while promoting inclusivity. India needs to establish a legal system that unites its multiple cultural traditions with the basic principles of its Constitution. The project needs input from various community stakeholders to create a solution that achieves equal advantages and long-term environmental value.