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## UNIFORM CIVIL CODE IN INDIA: A CRITICAL ANALYSIS

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### ABSTRACT

The Uniform Civil Code (UCC)<sup>1</sup> remains one of India's most debated constitutional and socio-legal questions. It refers to the possibility of creating a common framework for civil matters such as marriage, divorce, adoption, maintenance, guardianship, succession and inheritance, irrespective of a citizen's religious identity. The constitutional foundation of the idea is found in Article 44 of the Constitution of India, which places the goal within the Directive Principles of State Policy (Constitution of India, 1950).<sup>2</sup>

The debate is not merely technical. It involves competing constitutional values, including equality before law, freedom of religion, secularism, dignity, gender justice, legal certainty and cultural pluralism. Supporters argue that a common civil law can reduce discrimination and promote equal citizenship. Critics caution that uniformity should not become a mechanism for erasing religious and cultural diversity. This study evaluates the UCC as a constitutional aspiration that requires careful, consultative and rights-based implementation rather than abrupt legal standardization.

**Keywords:** Uniform Civil Code, Article 44, personal laws, gender justice, secularism, minority rights, family law.

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<sup>1</sup> Article 44 of the Constitution of India places the Uniform Civil Code among the Directive Principles of State Policy.

<sup>2</sup> Constitution of India, 1950, art. 44; see also arts. 14, 15, 25 and 26 for related equality and religious freedom principles.

## INTRODUCTION

India's legal system reflects the country's deep cultural and religious diversity. While criminal law, procedural law and many areas of commercial law apply uniformly, family-related matters continue to be governed by community-specific personal laws. As a result, rules relating to marriage, divorce, maintenance, adoption and inheritance may differ depending on religious affiliation. This has made the UCC a recurring subject of legal, political and academic debate (Jain, 2023).<sup>3</sup>

Article 44 provides that the State shall endeavour to secure a Uniform Civil Code for citizens throughout India. Because it appears in Part IV of the Constitution, the provision is not directly enforceable in court. Even so, the Directive Principles guide governance and express constitutional goals that the State is expected to pursue over time. The UCC therefore represents a long-term constitutional objective rather than an immediately enforceable mandate.

The difficulty lies in reconciling equality with diversity. A common law may advance equal citizenship, particularly for women who face unequal treatment under some personal law rules. At the same time, personal laws are often seen by communities as part of cultural identity and religious autonomy. The central question is whether India can design a civil code that protects individual rights without undermining legitimate pluralism.

## HISTORICAL BACKGROUND OF THE UNIFORM CIVIL CODE

The origins of the UCC debate can be traced to the colonial period. The British administration gradually codified criminal and procedural law, but it generally avoided complete intervention in personal laws because such matters were closely linked to religion, custom and community practices. This created a dual structure in which public law moved toward uniformity while family law remained fragmented (Bhat, 2012).<sup>4</sup>

Nineteenth-century social reform movements placed family law reform at the centre of debates on justice and social transformation. Reformers such as Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar challenged practices that harmed women and argued for legislative reform

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<sup>3</sup> M. P. Jain, *Indian Constitutional Law*, 9th ed. (LexisNexis, 2023).

<sup>4</sup> P. Ishwara Bhat, *Law and Social Transformation* (Eastern Book Company, 2012); Constituent Assembly Debates, Vols. VII and IX.

in areas such as widow remarriage, education and inheritance. These reform efforts showed that personal law was not static and could be reformed when it conflicted with dignity and justice.

Before independence, the B. N. Rau Committee examined the modernization of Hindu law. Its work later influenced post-independence statutes concerning Hindu marriage, succession, adoption and guardianship. During the Constituent Assembly debates, some members favoured an immediate UCC, while others warned that compulsory uniformity could disturb social harmony. The compromise was to include the UCC in the Directive Principles, leaving implementation to future democratic processes.

## **CONSTITUTIONAL FRAMEWORK AND RESEARCH METHODOLOGY**

The UCC must be understood alongside Articles 14, 15, 21, 25 and 26 of the Constitution. Article 14 protects equality before law and equal protection of laws; Article 15 prohibits discrimination on specified grounds; Article 21 protects life and personal liberty; and Articles 25 and 26 protect religious freedom and the right of religious denominations to manage their affairs. Article 44 must therefore be read in harmony with both equality rights and religious freedoms (Shukla, 2022).<sup>5</sup>

A rights-based approach suggests that personal laws should not be immune from reform merely because they are historically associated with religious communities. At the same time, reform must respect constitutional pluralism and avoid treating one community's practices as the national standard. A constitutionally sound UCC would need to be secular, gender-just, consultative and sensitive to customary diversity.

This study follows a doctrinal legal research method. It relies on constitutional provisions, case law, books, journal literature, Law Commission material and legal commentaries. The aim is to evaluate the arguments for and against the UCC and to assess whether a balanced model can advance equality without weakening India's plural democratic character.

## **NEED AND RATIONALE FOR A UNIFORM CIVIL CODE**

The strongest argument for a UCC is equality before law. When citizens are governed by

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<sup>5</sup> V. N. Shukla, *Constitution of India* (Eastern Book Company, 2022).

different family law standards solely because of religious affiliation, similarly placed individuals may receive different legal treatment. A common civil framework could reduce inconsistency and promote the idea that citizenship, rather than community identity, is the basis of civil rights (Seervai, 2012).<sup>6</sup>

Gender justice is another major rationale. Several personal law systems have historically been criticised for unequal rules relating to divorce, maintenance, guardianship and succession. A carefully designed UCC could provide equal rights and responsibilities to spouses, children and dependants across communities. It could also strengthen legal remedies for women who are disadvantaged by discriminatory customary or personal law practices.

A UCC may also simplify legal procedure. Multiple personal laws can create confusion, forum shopping and uncertainty, particularly in interfaith marriages and succession disputes. Uniform rules in core civil matters may improve accessibility and reduce litigation. However, uniformity must be distinguished from rigidity; a modern code can provide common rights while allowing limited cultural practices that do not violate equality, dignity or public order.

## **CONCERNS AND CRITICISMS**

Opposition to the UCC arises largely from concerns about religious freedom, cultural diversity and minority rights. Many communities view personal law as an expression of identity. A compulsory and poorly drafted code may therefore be perceived as State interference in religious life. This concern is especially serious in a society where minorities may fear that uniformity will reflect majoritarian cultural assumptions rather than neutral constitutional principles (Law Commission of India, 2018).<sup>7</sup>

The practical challenge is equally significant. India contains diverse customs across regions, tribes, sects and communities. A single statute cannot be effective if it ignores social realities. For example, communities may differ in marriage customs, property arrangements, adoption practices and kinship structures. The law must therefore identify which aspects require uniform rights and which aspects can remain culturally flexible.

Another criticism is that the UCC is sometimes discussed more as a political slogan than as a

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<sup>6</sup> H. M. Seervai, *Constitutional Law of India* (Universal Law Publishing); Constitution of India, 1950, art. 14.

<sup>7</sup> Law Commission of India, *Consultation Paper on Reform of Family Law* (2018).

detailed legal project. Without a draft, public consultation and impact assessment, the debate can become polarised. A meaningful reform process should begin with gender-just reform of all personal laws, broad consultations, comparative study of Goa's civil law experience and safeguards against discrimination.

## **JUDICIAL PRONOUNCEMENTS ON THE UCC**

In *Mohd. Ahmed Khan v. Shah Bano Begum*, the Supreme Court upheld a divorced Muslim woman's right to maintenance under Section 125 of the Code of Criminal Procedure. The Court also referred to Article 44 and observed that a UCC could help reduce legal conflict and strengthen national integration (*Mohd. Ahmed Khan v. Shah Bano Begum*, 1985).<sup>8</sup>

In *Sarla Mudgal v. Union of India*, the Court dealt with the problem of Hindu men converting to Islam to contract a second marriage without legally dissolving the first. The Court treated such conduct as an abuse of legal difference and again emphasised the desirability of a UCC (*Sarla Mudgal v. Union of India*, 1995). In *John Vallamattom v. Union of India*, a discriminatory provision affecting Christians under the Indian Succession Act was invalidated, and the Court noted the continuing relevance of legal uniformity (*John Vallamattom v. Union of India*, 2003).

However, judicial decisions have not always treated the UCC as a matter for immediate court-directed implementation. In *Ahmedabad Women's Action Group v. Union of India*, the Supreme Court recognised that reform of personal laws involves policy choices better handled through legislation and democratic consultation (*Ahmedabad Women's Action Group v. Union of India*, 1997).

## **IMPACT ON RELIGIOUS MINORITIES AND HARMONIZATION**

The impact of a UCC on religious minorities is one of the most sensitive aspects of the debate. If the code is drafted without inclusive consultation, it may be viewed as a threat to community identity. This risk is not imaginary, because personal laws often carry symbolic significance beyond their technical legal content. A successful code must therefore show that its purpose is

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<sup>8</sup> *Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *John Vallamattom v. Union of India*, (2003) 6 SCC 611; *Ahmedabad Women's Action Group v. Union of India*, (1997) 3 SCC 573.

not cultural assimilation but the protection of civil rights (Diwan, 2021).<sup>9</sup>

Supporters argue that equality and religious freedom can coexist. Religious ceremonies, rituals and beliefs may continue, while civil consequences such as marriage registration, divorce rights, maintenance and inheritance are governed by common constitutional standards. This distinction between religious practice and civil legal effect can help harmonise pluralism with equality.

A balanced UCC could promote gender equality, legal certainty, secular governance and national unity. Yet these outcomes depend on design. The code should be developed through public consultation, expert review, state-level dialogue and community participation. It should include anti-discrimination safeguards, equal property rights, gender-neutral remedies and clear procedures for registration, dissolution and succession.

## **RECOMMENDATIONS AND CONCLUSION**

The UCC should not be introduced as an abrupt replacement of all personal laws. A phased and consultative model is more suitable for India's constitutional democracy. The first step should be the identification of discriminatory provisions across all personal laws. The second step should be harmonisation around minimum constitutional guarantees: equal consent in marriage, equal divorce rights, fair maintenance, equal guardianship, equal inheritance and protection of children and dependants (Law Commission of India, 2018).<sup>10</sup>

The final code should be secular in drafting, gender-neutral in language and open to limited cultural practices that do not violate equality, dignity, public order or individual autonomy. It should also provide transitional arrangements so that existing rights and pending proceedings are not disrupted. Public education and legal aid will be essential for implementation.

The UCC debate ultimately reflects the challenge of balancing unity and diversity. Article 44 expresses a constitutional aspiration for legal uniformity, but the Constitution also protects pluralism and religious freedom. The most defensible path is not forced sameness, but principled reform. A just UCC can succeed only if it is inclusive, rights-based and designed to strengthen both individual dignity and India's democratic diversity.

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<sup>9</sup> Paras Diwan, *Modern Hindu Law* (Allahabad Law Agency, 2021); *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

<sup>10</sup> Law Commission of India, *Consultation Paper on Reform of Family Law* (2018); Constitution of India, 1950, arts. 14, 15 and 21.

## REFERENCES

Ahmedabad Women's Action Group v. Union of India, (1997) 3 SCC 573.

Bhat, P. I. (2012). *Law and Social Transformation*. Eastern Book Company.

Constituent Assembly Debates, Vols. VII and IX, discussions relating to Article 44 and Directive Principles of State Policy.

Constitution of India, 1950, arts. 14, 15, 21, 25, 26 and 44.

Diwan, P. (2021). *Modern Hindu Law*. Allahabad Law Agency.

Jain, M. P. (2023). *Indian Constitutional Law* (9th ed.). LexisNexis.

John Vallamattom v. Union of India, (2003) 6 SCC 611.

Law Commission of India. (2018). *Consultation Paper on Reform of Family Law*.

Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945.

Sarla Mudgal v. Union of India, (1995) 3 SCC 635.

Seervai, H. M. *Constitutional Law of India*. Universal Law Publishing.

Shayara Bano v. Union of India, (2017) 9 SCC 1.

Shukla, V. N. (2022). *Constitution of India*. Eastern Book Company.

State of Bombay v. Narasu Appa Mali, AIR 1952 Bom 84.

Supreme Court of India, official case law materials and judgments.