



Uniform Civil Code (UCC): Evolution and Challenges in India

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Abstract

The Uniform Civil Code (UCC) is one of the most debated constitutional and socio-legal issues in India. It proposes a common framework of civil laws governing matters such as marriage, divorce, maintenance, adoption, guardianship, inheritance and succession, irrespective of the religious identity of citizens. Article 44 of the Constitution directs the State to endeavour to secure a uniform civil code throughout India. However, as a Directive Principle of State Policy, it is not directly enforceable by courts. The UCC debate therefore involves a complex interaction between constitutional equality, gender justice, religious freedom, cultural autonomy, minority rights and national integration.

The evolution of the UCC debate can be traced from colonial classifications of personal laws to the Constituent Assembly debates, post-independence codification of Hindu law, judicial interventions, Law Commission consultations and recent state-level legislation in Uttarakhand. Supporters regard the UCC as an instrument for equal citizenship, gender justice and legal certainty, while critics fear that an inadequately designed code may impose majoritarian cultural norms and weaken India's pluralistic constitutional structure. This paper examines the historical development, constitutional foundations, judicial approach, contemporary developments and principal challenges associated with implementing a UCC in India. It argues that uniformity must not mean mechanical sameness. Any future code must be based on equality, dignity, individual autonomy, extensive public consultation and protection of legitimate cultural diversity.

Keywords: Uniform Civil Code, Article 44, personal laws, gender justice, religious freedom, constitutional morality, legal pluralism.

1. Introduction

India is characterised by extraordinary religious, cultural, linguistic and customary diversity. This diversity is also reflected in its family-law system. Matters relating to marriage, divorce,



maintenance, adoption, guardianship and succession are governed by a combination of religion-specific personal laws, secular statutes, customary practices and judicial decisions.

The Uniform Civil Code seeks to replace or harmonise these different legal systems through a common civil framework applicable to citizens irrespective of religion. Article 44 of the Constitution states that the State shall endeavour to secure a uniform civil code for citizens throughout the territory of India. However, Article 37 declares that Directive Principles are not enforceable by courts, although they remain fundamental to governance and must guide legislative action. Thus, Article 44 creates a constitutional objective rather than an immediately enforceable individual right.

The UCC debate is frequently presented as a conflict between religious freedom and gender equality. In reality, it is more complex. It raises questions regarding the relationship between the individual and the community, the limits of State intervention in family life, the distinction between religious belief and secular activity, the rights of women and children, tribal autonomy, federal legislative powers and the meaning of secularism in a multicultural democracy.

A constitutionally valid UCC cannot be evaluated merely by the degree of formal uniformity it produces. Its legitimacy would depend upon whether it promotes substantive equality, protects individual dignity, respects freedom of conscience and accommodates diversity that is not discriminatory.

2. Objectives of the Study

The principal objectives of the study are:

1. To examine the meaning and constitutional basis of the Uniform Civil Code.
2. To trace the historical evolution of personal-law reform in India.
3. To analyse the role of the judiciary and the Law Commission in the UCC debate.
4. To identify arguments supporting and opposing a common civil code.
5. To evaluate the constitutional, social, political and administrative challenges to its implementation.
6. To suggest a balanced and rights-based framework for future family-law reform.

3. Research Methodology

The study follows a doctrinal, descriptive and analytical research methodology. It is based primarily on constitutional provisions, statutory materials, judgments of the Supreme Court, consultation documents of the Law Commission of India and official materials relating to the Uniform Civil Code in Uttarakhand.

The study does not treat UCC merely as a political issue. It examines the subject through the principles of equality, dignity, religious freedom, gender justice, multiculturalism and constitutional governance.

4. Meaning and Scope of the Uniform Civil Code

A Uniform Civil Code refers to a common body of civil rules applicable to citizens in specified areas of private and family law. It ordinarily concerns:

- marriage and its registration;



- conditions for a valid marriage;
- divorce and matrimonial remedies;
- maintenance and alimony;
- guardianship and custody;
- adoption;
- intestate and testamentary succession;
- inheritance and partition; and
- rights of spouses and children.

The term “uniform” does not necessarily require the elimination of every cultural or ceremonial difference. A common law may prescribe uniform legal consequences while permitting communities to retain distinct ceremonies and social customs, provided those customs do not violate equality, dignity or public policy.

For example, communities may continue to solemnise marriages through different religious ceremonies, while the legal conditions of marriage—such as free consent, monogamy, minimum age and compulsory registration—may be made common. Thus, legal uniformity and cultural diversity are not always mutually exclusive.

5. Historical Evolution of the UCC in India

5.1 Colonial Development of Personal Laws

The modern classification of Indians into separate systems of religious personal law developed significantly during colonial administration. British authorities generally avoided extensive interference in religious and family matters and administered Hindu and Muslim laws through religious texts, customary practices and interpretations supplied by legal experts.

Over time, however, colonial legislation intervened in particular areas, especially where social reform was considered necessary. Such interventions demonstrated that personal laws were neither completely static nor beyond legislative reform.

The Law Commission has observed that the modern category of personal law was shaped during the colonial period and was subsequently reinforced and reorganised after independence. It also noted that the diversity of personal laws has often created uncertainty regarding the relationship between constitutional rights and religiously based family rules.

5.2 Constituent Assembly Debates

The question of a common civil code generated intense debate in the Constituent Assembly. Some members argued that a common code was necessary for national integration and equal citizenship. Others feared that it might interfere with religious freedom and minority identity.

Dr. B. R. Ambedkar supported the constitutional inclusion of a UCC but suggested that Parliament could initially adopt a voluntary approach, allowing citizens to choose to be governed by a common code. The absence of consensus regarding the scope and compulsory character of the proposed code contributed to its placement among the Directive Principles rather than Fundamental Rights.



The constitutional compromise was therefore deliberate. Article 44 preserved the aspiration of common civil laws, while Articles 25 and 26 protected religious freedom. Article 25, however, makes religious freedom subject to public order, morality, health and the other Fundamental Rights. It also permits the State to regulate secular activities associated with religion and to enact laws for social welfare and reform.

5.3 Post-Independence Codification of Hindu Law

After independence, Parliament introduced major reforms in Hindu family law. The Hindu Marriage Act, 1955; Hindu Succession Act, 1956; Hindu Minority and Guardianship Act, 1956; and Hindu Adoptions and Maintenance Act, 1956 substantially reorganised matters relating to marriage, divorce, succession, guardianship and adoption.

These enactments did not create a nationwide UCC. They represented community-specific codification and reform. Furthermore, reforms within Hindu law did not eliminate all inequalities immediately; amendments and judicial decisions continued to reshape the law, particularly in relation to the property rights of women.

The post-independence experience demonstrates that family-law reform in India has usually occurred incrementally rather than through one comprehensive national enactment.

5.4 Secular Civil-Law Alternatives

The Special Marriage Act, 1954 provides a civil form of marriage that is not dependent upon the religious personal law of the parties. It allows individuals belonging to the same or different religions to marry under a secular statutory framework.

Such legislation illustrates that common civil institutions can coexist with personal laws. However, the Law Commission has cautioned that religion-neutral laws are not automatically free from procedural or substantive defects. Even secular statutes require continuous review from the perspective of privacy, equality and access to justice.

5.5 The Goa Experience

Goa has long operated under a civil-law system originating in the Portuguese Civil Code and subsequent local legislation. In *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, the Supreme Court described Goa as an example of a state where a broadly common civil framework applied irrespective of religion, while also recognising the presence of certain limited exceptions.

The Goa model is important but cannot simply be reproduced nationally without analysis. Its historical origin, local institutions, statutory exceptions and social context differ from those of other states. It is therefore better understood as an example of legal experimentation rather than a ready-made national model.

6. Constitutional Framework

6.1 Article 44 and Directive Principles

Article 44 directs the State to endeavour to secure a uniform civil code. Since it appears in Part IV of the Constitution, it must be read with Article 37, which makes Directive Principles non-justiciable but fundamental to governance.



Accordingly, courts cannot ordinarily compel Parliament to enact a UCC merely on the basis of Article 44. The timing, content and form of such legislation remain matters of legislative policy.

6.2 Equality and Non-Discrimination

Articles 14 and 15 guarantee equality before the law and prohibit discrimination, including discrimination on the ground of religion or sex. Article 21 protects life and personal liberty and has been interpreted to include dignity, privacy and individual autonomy.

Any personal law that produces unequal civil consequences may therefore raise concerns regarding constitutional equality. Similarly, a proposed UCC that disproportionately burdens women, minorities, tribal groups or unmarried partners may itself be challenged as arbitrary or discriminatory.

The Constitution also provides that laws inconsistent with Fundamental Rights may be declared void. Article 13 includes within the concept of law certain customs and usages having the force of law, although the precise constitutional status of uncodified personal law has remained legally contested.

6.3 Religious Freedom

Article 25 guarantees freedom of conscience and the right to profess, practise and propagate religion. This right is not absolute. It is subject to public order, morality, health and other Fundamental Rights. It also does not prevent the State from regulating secular activities connected with religion or undertaking social reform.

The crucial issue is whether marriage, divorce and succession are entirely religious matters or predominantly secular legal relationships. Religious ceremonies may be matters of faith, but the civil consequences of marriage, property distribution, maintenance and guardianship directly affect legal rights and may legitimately be regulated by the State.

6.4 Legislative Competence

Entry 5 of the Concurrent List covers marriage, divorce, infants and minors, adoption, wills, intestacy, succession, joint family, partition and matters traditionally governed by personal law. Both Parliament and state legislatures therefore possess legislative competence in this field, subject to constitutional rules governing inconsistency between central and state laws.

This concurrent jurisdiction permits state-level experimentation but may also generate differences between states and questions regarding repugnancy, assent and inter-state recognition.

7. Judicial Approach towards the UCC

7.1 Mohd. Ahmed Khan v. Shah Bano Begum

The Shah Bano decision became a major point in the UCC debate. The Supreme Court upheld the right of a divorced Muslim woman who was unable to maintain herself to claim maintenance under the secular criminal-procedure provision then in force.

The Court observed that Article 44 had not been adequately implemented and expressed the view that common civil laws could assist national integration. The controversy following the judgment demonstrated, however, that family-law reform without wider social consensus may become



politically polarising. The Law Commission's 2018 paper identifies Shah Bano as one of the principal judicial interventions associated with the UCC debate.

7.2 Sarla Mudgal v. Union of India

In *Sarla Mudgal*, the Supreme Court considered whether a Hindu husband could convert to Islam and contract a second marriage without legally dissolving the first marriage. The Court held that conversion could not be used to defeat the obligations arising from the first marriage.

The judgment again emphasised the importance of Article 44. Its central concern was the misuse of differences between personal-law systems to evade legal obligations, rather than the validity of religious conversion itself.

7.3 John Vallamattom v. Union of India

In *John Vallamattom*, the Supreme Court invalidated a discriminatory provision of the Indian Succession Act that placed restrictions on charitable bequests by Christians. The case illustrates that family and succession laws may be tested against the constitutional guarantee of equality.

7.4 Shayara Bano v. Union of India

In *Shayara Bano*, the Supreme Court invalidated the practice of instant triple talaq. The decision represented an important intervention against a practice considered arbitrary and discriminatory.

The Law Commission noted, however, that the judgment did not conclusively resolve every constitutional question concerning the relationship between uncoded personal law and Fundamental Rights.

7.5 Limits of Judicial Intervention

Judicial decisions can eliminate specific discriminatory practices and interpret existing statutes, but courts cannot design an entire civil code. A comprehensive UCC requires detailed legislative choices concerning rights, procedures, exceptions, jurisdiction, transition and enforcement. Such matters require public consultation, empirical study and democratic deliberation.

8. Law Commission's Approach

The 21st Law Commission examined the UCC after receiving a reference from the Ministry of Law and Justice in 2016. Following consultations and more than 75,000 responses, it published the *Consultation Paper on Reform of Family Law* in August 2018.

The Commission did not recommend immediate, absolute uniformity. It concluded that a UCC was neither necessary nor desirable at that stage and instead proposed reforming discriminatory provisions within different family-law systems. It emphasised equality within communities, particularly between men and women, rather than imposing identical rules across all communities.

This approach distinguished “difference” from “discrimination.” Cultural differences may be constitutionally acceptable, but practices that deny dignity, autonomy or equal rights cannot be protected merely because they are presented as traditional or religious.



In June 2023, the 22nd Law Commission reopened public consultation on the UCC, noting the passage of time, the continuing importance of the issue and relevant judicial developments. It invited submissions from members of the public and recognised religious organisations.

9. Uttarakhand and the Contemporary Development of UCC

The Uniform Civil Code, Uttarakhand, 2024 was followed by the Uniform Civil Code Rules, Uttarakhand, 2025. The Code was brought into operation on 27 January 2025. Official state materials provide procedures relating to marriage, divorce, inheritance, succession and registration-based services under the Code. The Uttarakhand framework is significant because it transforms the UCC debate from a largely constitutional and theoretical question into a matter of practical administration. Its implementation offers an opportunity to study:

- registration procedures;
- treatment of existing marriages and divorces;
- succession and inheritance disputes;
- digital administration;
- protection of personal data;
- inter-state recognition;
- treatment of customs and exceptions; and
- the burden imposed on citizens and public officials.

The Uttarakhand experience must be evaluated on the basis of actual outcomes rather than political claims alone. Particular attention is required where compulsory registration, disclosure of intimate relationships or penalties may affect privacy and individual autonomy. The State's objective of legal certainty must be balanced against the constitutional protection of personal liberty and dignity.

10. Arguments in Favour of a Uniform Civil Code

10.1 Equal Citizenship

Supporters argue that citizens similarly situated in family matters should possess similar civil rights irrespective of religion. A common code may strengthen the idea that legal rights arise from citizenship rather than membership of a religious community.

10.2 Gender Justice

Several personal and customary laws have historically disadvantaged women in matters of divorce, guardianship, maintenance and inheritance. A rights-based UCC could establish equal property rights, common grounds for divorce, fair maintenance obligations and equal parental status. However, gender justice cannot be assumed merely because a law is labelled uniform. The content of the code must be examined carefully. A formally identical rule may still have unequal social consequences for women who lack property, income or access to courts.

10.3 Legal Certainty

Multiple personal laws may create difficulties in inter-faith marriages, conversion, succession and determination of applicable law. A common legal framework could reduce forum shopping, conflicting claims and uncertainty.



10.4 Protection against Misuse of Personal Laws

Differences between legal regimes may sometimes be used to evade marital or financial obligations. Uniform rules relating to monogamy, marriage registration, divorce, maintenance and succession may prevent strategic manipulation of religious identity.

10.5 Simplification of Administration

A well-drafted common framework may simplify judicial training, public administration and legal awareness. Citizens could more easily understand their rights if basic family-law principles were accessible and consistent.

11. Major Challenges to the Implementation of UCC

11.1 Religious and Cultural Diversity

India does not have one uniform personal-law tradition within each religion. Practices often vary according to region, sect, caste, tribe and local custom. Drafting a common code would therefore involve more than reconciling Hindu, Muslim, Christian and Parsi laws.

A code that treats one community's practice as the neutral national standard would not achieve genuine uniformity. It would merely transform the dominant practice into general law.

11.2 Minority Confidence and Majoritarianism

Minority communities may fear that the UCC could be used to weaken their religious or cultural identity. This concern cannot be dismissed merely as opposition to reform. In a democracy, the legitimacy of family-law reform depends heavily upon consultation, transparency and public trust. The government must clearly demonstrate that a proposed code is based on constitutional rights and not on selective criticism of one community.

11.3 Gender Justice versus Gender Neutrality

A gender-neutral law is not always a gender-just law. Women may face structural disadvantages in access to property, employment, legal representation and family resources. For example, identical maintenance obligations imposed on both spouses may appear equal but could disadvantage women who have performed unpaid domestic labour or sacrificed employment opportunities. A UCC must therefore recognise substantive inequality and provide protection for economically vulnerable spouses.

11.4 Tribal and Customary Autonomy

The Sixth Schedule and special constitutional provisions protect the customary and social practices of several tribal and northeastern communities. The Law Commission has cautioned that imposing external family-law rules without examining protected customary institutions may create constitutional difficulties and social resistance. Some tribal systems contain progressive features, including matrilineal inheritance, while others may disadvantage women. Reform must therefore be based on community-specific study rather than a simplistic assumption that all customary law is either beneficial or discriminatory.

11.5 Federalism

Because family-law subjects fall within the Concurrent List, both Parliament and state legislatures may legislate. State-level codes may encourage experimentation, but they may also



produce conflict when individuals marry, migrate, own property or obtain divorce decrees in different states. A clear framework would be required for inter-state recognition, choice of law and resolution of inconsistencies between central and state legislation.

11.6 Defining the Content of the Code

The greatest challenge is not deciding whether a UCC is desirable in principle, but determining what it would contain. Questions include:

- Should the code permit community-specific ceremonies?
- What should be the common grounds for divorce?
- How should matrimonial property be divided?
- Should spouses acquire equal rights in property accumulated during marriage?
- What rules should govern adoption and guardianship?
- How should customary and tribal laws be treated?
- Should the code apply retrospectively?
- How should existing marriages, wills and inheritance rights be protected?

Without a publicly available draft, debate over the UCC often remains abstract and politically charged.

11.7 Privacy and State Surveillance

Family law regulates intimate aspects of life. Compulsory registration systems may improve legal certainty but can also require the disclosure of sensitive personal information.

Digital registration portals must therefore follow principles of data minimisation, confidentiality, cybersecurity and restricted access. Information about marriages, divorces, succession and personal relationships should not become a tool for harassment, social control or unauthorised surveillance.

11.8 Administrative Capacity

Implementation would require trained registrars, family courts, legal-aid services, digital infrastructure and public-awareness programmes. Rural residents, economically weaker citizens and people without digital access may face serious barriers.

Uniform legislation without uniform access to legal remedies would deepen rather than reduce inequality.

11.9 Political Polarisation

The UCC has frequently been discussed through electoral and communal narratives. Such polarisation makes reasoned reform difficult. A complex family-law project cannot be successfully implemented through slogans or by presenting one religious community as the principal obstacle.

11.10 Transition and Retrospective Application

A new code would need transitional provisions specifying its effect on existing marriages, pending divorce cases, inheritance that has already opened, wills, adoptions and property arrangements. Retrospective alteration of vested rights could generate constitutional challenges and widespread litigation. Prospective implementation with carefully defined exceptions may be more legally stable.



12. Towards a Balanced and Rights-Based UCC

A workable UCC should not begin with the objective of eliminating diversity. It should begin with the identification of constitutional minimum standards applicable to all family-law systems.

These minimum standards may include:

1. free and informed consent to marriage;
2. a common minimum age of marriage;
3. compulsory and accessible registration;
4. prohibition of bigamy, subject to constitutionally sustainable legislative policy;
5. equal grounds for divorce;
6. fair maintenance and matrimonial-property rights;
7. equal guardianship and custody standards based on the welfare of the child;
8. equal inheritance rights;
9. recognition of adopted children without religious discrimination;
10. protection of privacy, dignity and personal autonomy.

Reform may proceed in stages. The first stage may involve removing discrimination from all existing family laws. The second may establish common procedural rules, including registration and family-court procedures. A later stage may consolidate rights into a common code after evaluating the impact of earlier reforms.

The Law Commission's distinction between diversity and discrimination provides a useful guiding principle. The objective should be to eliminate unequal legal treatment without unnecessarily suppressing ceremonies, traditions and cultural practices that do not violate Fundamental Rights.

13. Suggestions

A constitutionally legitimate UCC should be developed through the following process:

13.1 Publication of a Draft Code

Public debate should be based on the actual text of a proposed law rather than general political claims. The government should publish a detailed draft with explanatory notes.

13.2 Extensive Consultation

Consultation should include women's organisations, religious communities, tribal councils, family-law experts, judges, lawyers, sociologists, state governments and representatives of marginalised groups.

13.3 Equality and Privacy Impact Assessments

Each provision should be assessed for its impact on women, children, minorities, tribal communities, persons with disabilities and economically weaker citizens. A separate privacy assessment should examine registration and digital-data requirements.

13.4 Recognition of Matrimonial Property

A future code should address the economic value of unpaid domestic and care work. Fair distribution of property acquired during marriage may provide more meaningful gender justice than maintenance alone.



13.5 Protection of Legitimate Customs

Customary ceremonies and non-discriminatory cultural practices may be retained. Customs that violate dignity, consent, equality or child welfare should not receive legal protection.

13.6 Gradual Implementation

Phased implementation would allow legislators to identify administrative problems and unintended consequences. Existing rights should be protected through clear savings and transitional clauses.

13.7 Legal Aid and Accessible Family Courts

Rights under a UCC would remain ineffective without affordable legal assistance, speedy family-court proceedings and services available in regional languages.

13.8 Independent Review

An independent statutory body should periodically review the operation of the code and recommend amendments based on judicial decisions, social changes and implementation data.

14. Conclusion

The Uniform Civil Code represents both a constitutional aspiration and a significant challenge to Indian democracy. Its objective cannot be reduced to legal sameness. The deeper constitutional purpose is to ensure that every citizen enjoys equality, dignity and justice in family relations.

Article 44 must be harmonised with Articles 14, 15, 21 and 25. Religious freedom cannot legitimise practices that deny basic rights, but equality should not become a justification for unnecessary cultural homogenisation. The State must distinguish between legitimate diversity and unlawful discrimination.

India's experience shows that family-law reform has generally occurred through gradual codification, judicial intervention and targeted legislation. The Law Commission's 2018 approach favoured reforming discriminatory provisions while preserving meaningful diversity, whereas the 2023 consultation and Uttarakhand legislation have reopened the possibility of broader codification.

A successful UCC must emerge from democratic consultation rather than political confrontation. It should be gender-just rather than merely gender-neutral, uniform in fundamental rights rather than ceremonies, and sensitive to tribal and minority protections. The real measure of such a code would not be the number of personal laws it replaces, but the extent to which it protects the dignity, autonomy and equal citizenship of every individual.

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