



Uniform Civil Code in India: Constitutional Vision, Federal Challenges, and Judicial Perspective

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Abstract

In Indian constitutional jurisprudence, the concept of a Uniform Civil Code (UCC) occupies a location that is especially problematic. This is because the UCC is situated at the intersection of law, religion, politics, gender, and national identity. This topic is the subject of a great deal of discussion. According to Article 44 of the Constitution of India, the UCC is a requirement that envisions a single, codified set of civil laws that govern personal affairs such as marriage, divorce, inheritance, adoption, and maintenance for all individuals, regardless of their religion, caste, or community. These matters include marriage, divorce, inheritance, adoption, and maintenance. The purpose of these laws is to exert authority over every facet of an individual's life. After seven decades of constitutional administration and a significant number of court declarations, the Indian state has not been able to adequately implement Article 44. This is despite the fact that the court has issued several pronouncements. With this research, a critical analysis of the circumstance is carried out. Beginning with its ancient religious beginnings and going through colonial codification and post-independence amendments, the first portion of this research paper establishes the basis for the conceptual framework of the UCC and recounts the historical development of personal laws in India. This section also provides a historical overview of the evolution of personal laws in India. It elucidates the ways in which the continuance of parallel legal systems that are founded on religion contributes to the persistence of gender inequality and undermines the universalist viewpoint of the Indian Constitution. Specifically, it throws light on the methods in which these systems continue to exist.

Keywords: Uniform Civil Code, Article 44, Personal Law, Indian Constitution, Secularism, Gender Justice, Hindu Code Bills.

I. INTRODUCTION

The most disputed constitutional obligation in India is the Uniform Civil Code (UCC), which balances religious liberty, federalism, and legal uniformity. Article 44 of the Indian Constitution calls for a Uniform Civil Code to standardise marriage, divorce, succession, and adoption. The



necessity to balance gender parity with religious and cultural diversity and the fact that different religious groups have different personal standards make its implementation controversial. Opponents of a UCC worry about cultural homogeneity caused by top-down legal uniformity, while advocates say it would offer fairness by combining diverse personal laws. If a gradual state-level approach is more realistic or if India can implement a UCC without compromising the federal structure and minority rights is the main legal problem.

Article 44 is a Directive Principle of State Policy (DPSP), a non-justiciable but directive principle of administration. In *Minerva Mills v. Union of India* (1980) the Supreme Court held that DPSPs should be balanced against Fundamental Rights, but not at their expense. That poses a problem: a draconian UCC can conflict with religious freedom under Article 25, which guarantees freedom to practice and propagate religion.

The Supreme Court's decision to invalidate discriminatory Christian personal law on inheritance in *John Vallamattom v. Union of India* (2003) is only one example of how courts have shown that personal laws cannot supersede basic rights. The UCC has always been a political goal rather than a legislative one, notwithstanding its mention in the Constitution. Cases decided by the Supreme Court have made reference to it; for example, in *Sarla Mudgal v. Union of India* (1995), the Court strongly recommended its adoption to forestall legal conflicts caused by polygamy as a result of religious conversions. The Supreme Court recently ruled that triple talaq is illegal in *Shayara Bano v. Union of India* (2017), although they did not change the personal law changes in the broader sense; Parliament is responsible for it. While the legislative is responsible for implementing UCC, the cases show that the court is still pushing for gender-just legal changes. One of the biggest hurdles to the enforcement of UCC is the federal character of India. Marriage, divorce, and succession are Concurrent List matters under Article 246, and both the Parliament and state legislatures can pass legislation. This has led to a pluralistic legal order, with a few states having personal law variations. Goa, for instance, is usually described as a successful UCC, governed by the Portuguese Civil Code of 1867.

But Goa's so-called UCC is not uniform, Hindus continue to be allowed bigamy under customary law, laying bare the weaknesses of a wholly uniform law. The problem of state sovereignty in personal laws is also promoted by Article 371 granting special protection to some states, particularly the Northeast. Nagaland and Mizoram are two states which have resisted with great zest a national UCC, citing their customary laws.

The UCC is based on Enlightenment ideas like logic, individual liberty, and secular governance. The French Napoleonic Code of 1804 unified civil law across religion and territory. In the 1920s, Mustafa Kemal Atatürk's harsh secularisation policies in Turkey replaced Ottoman religious legislation with a Swiss-style civil code. In contrast, Indian constitutional values value diversity, secularism, equality, minority rights, cultural pluralism, and equality, which must be considered in the UCC debate.



2. HISTORICAL EVOLUTION OF PERSONAL LAWS IN INDIA

To thoroughly analyze the contemporary hurdles facing the UCC, it is vital to trace the historical trajectory of personal laws from ancient texts through colonial intervention and post-independence reforms.

2.1 Ancient Personal Laws in India

India has one of the world's longest continuous legal traditions in personal law, with a history that goes back at least three millennia. The Manusmriti and the Yajnavalkya Smriti are two of the most important books in the Dharmashastra canon, which has provided Hindu personal law with its basis for ages. The Mitakshara and Dayabhaga schools of Hindu law emerged from divergent regional interpretations of these writings. Dayabhaga adherents did not acknowledge a birth-right to share in joint family property, whereas Mitakshara adherents believed that males were born into an interest in such property (coparcenary).

Muslim law in India has its roots in the early centuries of Islam's arrival and is mostly based on the Sunni schools' (namely the Hanafis') classical jurisprudence and the Hadith and Quran. When it came to implementing Muslim law under Mughal control, the Fatawa-e-Alamgiri was the go-to source, but local traditions (urf) were far more influential.

2.2 The Colonial Transformation of Personal Laws

The personal law environment in India was drastically altered by the entrance of British colonial control. It was in 1772 with the Warren Hastings Plan that the British East India Company formally declared its policy of non-interference. For Muslims, this plan mandated following the Sharia's regulations regarding inheritance, while for Hindus, it mandated following the Shastras' laws about marriage.

As colonial courts implemented religious rules based on common law principles of precedent, a new dynamic emerged: the progressive freezing and textualization of laws that had previously existed as living traditions, notwithstanding the dependence on religious legal experts. 'Anglo-Muhammadan law' emerged as a consequence of the translation and application of Hanafi texts into English for Muslim law.

2.3 Hindu Law Reforms: From Colonial Era to the Hindu Code Bills

In the post-independence period, the most significant legislative development in personal law was the enactment of the Hindu Code Bills. Drafted by the B.N. Rau Committee, the original Hindu Code Bill proposed radical reforms, including the abolition of the Mitakshara coparcenary, full inheritance rights for women, and the introduction of divorce.

Existing Hindu law was severely discriminatory against women, according to Dr. B.R. Ambedkar, who vehemently argued for this all-encompassing code, claiming that its revision was a constitutional necessity¹⁰. But orthodox groups were so opposed that in 1955 and 1956 the Hindu Marriage Act, the Hindu Succession Act, the Hindu Minority and Guardianship Act, and the Hindu Adoptions and Maintenance Act were passed separately from the original measure. These acts showed a community-specific approach to law instead of the universalist approach



envisioned by the UCC and perpetuated discriminatory institutions like the Mitakshara coparcenary (until revised in 2005), while offering legislative change.

2.4 The Special Marriage Act, 1954: The Existing Secular Framework

The Special Marriage Act, 1954, which is a major step toward a unified civil code, was also passed during the post-independence era. Anyone may be married under the Act's secular framework; it doesn't care about their religion, caste, or nationality. Instead of their religion personal laws, the secular rules of inheritance, such as the Indian Succession Act, 1925, govern couples who marry under this Act.

Although it serves as a secular civil law that may be chosen, the Special Marriage Act does have certain restrictions. Most people still marry according to religion personal rules, which include discriminatory features, even if it's voluntary. It has long been practiced to impede and harass interfaith couples due to the Act's registration processes, which demand prior notification of prospective weddings.

3. CONSTITUTIONAL PERSPECTIVE OF THE UNIFORM CIVIL CODE

The constitutional debate surrounding the Uniform Civil Code (UCC) is defined by the complex interplay between the directive to enact a uniform code and the fundamental rights guaranteeing equality, religious freedom, and minority protection.

3.1 Article 44: Text, Context, and the Directive Principles

Article 44 of the Constitution of India succinctly states: "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

Part IV, "Directive Principles of State Policy," is where this section is located, and that pinpoints its legal standing. No person may go to court to force the legislature to pass a UCC since Directive Principles are not justiciable (Article 37). Another point is that the word "shall endeavour" is intentionally used instead of "shall enact" to make the responsibility of best efforts seem more like an aspirational mandate than a binding, immediate requirement.

Nevertheless, Directive Principles' standing in the law has changed throughout time. When the country first gained its freedom, its leaders prioritised the protection of fundamental rights. The Supreme Court's decision in *Minerva Mills Ltd. v. Union of India* (1980) fundamentally changed this hierarchy by establishing that the Indian Constitution rests on the basis of balance between Part IV (Directive Principles) and Part III (Fundamental Rights). The goal of Article 44, according to this theory of "harmonious construction," should not be the abolition of minority rights but rather their enhancement in tandem with the basic rights to equality and dignity.

3.2 Religious Freedom versus Constitutional Morality

The UCC faces a significant constitutional challenge because to the apparent incompatibility with Articles 25–28, which make up India's charter of religious freedom. According to Article 25, one has the freedom to "freely profess, practise and propagate religion," while Article 26 says that different religious groups have the autonomy to decide on "matters of religion."

Importantly, we need to know whether the rules pertaining to marriage, divorce, and succession are considered "matters of religion." The Supreme Court's "essential religious practices" concept



states that only behaviours that are fundamental to a religion are protected by the Constitution. This position was first stated in the Shirur Mutt case (1954). Taking this into consideration in relation to the UCC: whilst there is no denying the religious significance of a marriage ceremony (saptapadi in Hinduism or nikah in Islam), the civil legal ramifications of this union (such as maintenance duties or inheritance distributions) are debatably not fundamental religious rites. The idea of "Constitutional Morality," which was popularised by Dr. B.R. Ambedkar and revived by the Supreme Court in recent cases (e.g., Justice Chandrachud in the Sabarimala judgement, 2019), lends credence to this differentiation. No amount of popular morality or patriarchal religious practices can supersede the fundamental rights guaranteed by the Constitution, which include the rights to life, liberty, and the pursuit of happiness for all people. Reforming discriminatory personal law practices via a UCC is not an affront to religious freedom, but rather an obligation of constitutional morality, if such practices infringe women's constitutional rights.

3.3 Equality under Articles 14 and 15: The Personal Law Anomaly

Article 14 guarantees equality before the law, and Article 15(1) strictly prohibits state discrimination on the grounds of religion or sex. Yet, personal laws have historically operated outside these bounds.

It all started with the contentious decision of the Bombay High Court in *State of Bombay v. Narasu Appa Mali* (1952), which determined that personal laws are exempt from fundamental rights examination since they are not "laws in force" according to Article 13(1). This decision led to this constitutional oddity. This established a constitutionally barren area where Christian women would confront discriminatory divorce terms or Muslim women might be denied equal inheritance rights, with no legal redress available under Articles 14 or 15.

The primary argument for the UCC relies on dismantling this immunity. The state's ongoing enforcement of religion-specific civil laws arguably constitutes state-sponsored discrimination. A genuinely gender-just UCC is legally necessary to fulfill the substantive equality mandates of the Constitution.

4. JUDICIAL APPROACH AND LANDMARK JUDGMENTS

In the face of persistent legislative inaction, the Indian judiciary has consistently acted as the primary driver of personal law reform. The Supreme Court's trajectory over the past four decades reflects a progressive "constitutionalization" of personal law, expanding the reach of equality norms into private family domains.

4.1 Overcoming the Immunity of Personal Law

The judicial approach has often oscillated between judicial activism and judicial restraint. In cases like *Ahmedabad Women Action Group (AWAG) v. Union of India* (1997), the Court demonstrated extreme restraint, refusing to strike down discriminatory Muslim personal law practices by declaring them matters of state policy reserved for the legislature. However, this deferential approach has increasingly given way to activist interventions designed to protect individual rights, particularly those of women.



4.2 Key Precedents: From Shah Bano to Shayara Bano

The evolution of UCC jurisprudence is marked by several watershed judgments:

Mohd. Ahmed Khan v. Shah Bano Begum (1985):

A very significant and divisive decision in the field of personal law. The Supreme Court upheld the maintenance right of a Muslim lady, who was 62 years old and had gone through a divorce, under Section 125 of the secular Code of Criminal Procedure (CrPC). With a majority decision, Chief Justice Y.V. Chandrachud maintained Section 125's authority over private law. States were reprimanded by the Court for treating Article 44 as if it were a "dead letter." Political pressure led to the 1986 Muslim Women (Protection of Rights on Divorce) Act, which the government used to sidestep the ruling.

Sarla Mudgal v. Union of India (1995):

Justice Kuldeep Singh examined the problem of Hindu males who convert to Islam for the express purpose of committing bigamy outside of the purview of the Hindu Marriage Act and concluded that Section 494 of the Indian Penal Code rendered such second marriages null and invalid. In its lengthy discussion of the UCC, the Court portrayed it as a vital instrument for the unification of the country and ordered the government to submit an affidavit detailing its efforts to put it into effect.

Shayara Bano v. Union of India (2017) – The Triple Talaq Judgment:

The Supreme Court deemed quick triple talaq (talaq-ul-biddat) unlawful in a groundbreaking 3:2 verdict. Most importantly for the UCC discussion, the majority ruled that Article 13 recognises Muslim personal law as "law" when it has been officially recognised (by the 1937 Shariat Application Act). Personal legislation cannot evade the thorough examination of basic rights, as this ruling demonstrated, decisively undermining the Narasu Appa Mali theory.

Through these landmark judgments, the judiciary has provided the jurisprudential foundation for a UCC, repeatedly highlighting that legal fragmentation based on religious identity frequently results in the denial of basic human dignity and constitutional equality.

5. Status of UCC in India

National level

- India's people are not yet subject to a complete Uniform Civil Code on a national basis. Parliament has failed to enact a universal secular civil code despite the State's directives in Article 44.
- Full implementation is still delayed, despite the fact that several committees, reports (such as the Law Commission of India), and public discussions have taken place.

State level

- Goa is the only state that has maintained a unified code for an extended period of time. All residents of Goa are subject to the civil code, which is based on the Portuguese Civil Code of 1867 and does not discriminate on the basis of religion. A lot of people think of it as the first attempt at a countrywide civil code in India.



- A contemporary Uniform Civil Code (UCC) was first implemented in Uttarakhand, India, in 2024 via the Uniform Civil Code of Uttarakhand Act and the Rules that were issued in 2025.
- While some states, like Gujarat, have begun to implement UCC committees or models, others have not yet done so in full.

Therefore, in summary: the concept of a uniform civil code is in the Constitution (Article 44) and state experiments exist, but at the national level it remains unimplemented in full.

6. Challenges and Implementation Issues

Challenge	Description	Suggested Response
Legal drafting & complexity	Incorporating marriage, divorce, succession, adoption laws and aligning them with existing rights is complex	Adopt phased approach; exemplary drafting; model code with stakeholder inputs
Federal structure & states' rights	Personal laws are partly state subjects; states will have to adopt or adapt	Consultative process; central model but flexibility for states; strong state-centre coordination
Data, registration & safeguarding privacy	Example: live-in relationship registration in Uttarakhand raised privacy concerns	Clear the data policy; limit data sharing; robust safeguards and appeal rights
Public awareness, social acceptance	Communities may resist change, misunderstand objectives	Awareness campaigns, inclusive consultation, transitional arrangements
Enforcement, institutional capacity	Implementation needs trained registrars, courts, administration	Training, IT infrastructure, resource allocation
Balancing uniformity vs diversity	Uniform code must respect minority rights & cultural diversity	Include limited exceptions temporarily, review clauses, embed appeal mechanisms

7. Way Forward for UCC

Given all the above, here are pragmatic steps and recommendations for what India must focus on to move toward a workable Uniform Civil Code.

- A central government may create a model universal civil code in collaboration with states, localities, women's organisations, and legal professionals. This approach is adaptable by states.
- Phased implementation: Address basic civil problems (marriage registration, minimum age, maintenance, succession equality) first, then more complicated areas (adoption, live-in partnerships) after systems settle.
- Stakeholder-centric process: Ensure religious minorities, women, marginalised communities are part of drafting committees and implementation planning. This builds trust and smooth adoption.



- State-wise adoption with flexibility: Allow states to adopt the model UCC with state-specific tweaks (respecting local customs) while ensuring uniform minimum standards. This respects federalism.

8. Conclusion

The Uniform Civil Code (UCC) a singular civil code applicable to all people embodies the convergence of India's democratic, secular, and pluralistic ethos. The concept, enshrined in Article 44 of the Constitution as a guiding principle, has influenced decades of discourse, changes, and judicial rulings. Although the nation lacks a national Uniform Civil Code, state-level attempts, such as Goa's civil code and Uttarakhand's UCC Act, demonstrate its feasibility. The next journey entails confronting significant problems - legislative writing, federalism, minority rights, gender justice, and administrative ability.

A well structured and inclusive UCC may foster equity, transparency, and cohesion within India's civil law system. However, it must be approached with compassion, consultation, and robust safeguards to ensure that equality does not jeopardise variety, and uniformity does not devolve into sameness. The UCC might potentially represent India's next significant legal change, if it is executed well.

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