IMPLEMENTING UNIFORM CIVIL CODE IN PERSONAL LAWS THROUGH THE LENS OF SECULARISM: ISSUES AND PERSPECTIVES

by

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Abstract

The uniform civil code (UCC) as an agenda for legislation has surfaced again in the national discourse. The underlying idea driving this agenda is premised on the cause of gender equality, an important issue of concern that needs attention. India is not a homogenous society with everyone speaking the same language and practising the same religion, traditions and customs, as is the case of many European countries. Rather, the opposite is true, leading to differences among its people concerning their personal life.

The uniform civil code in personal laws can be seen essential or not by stressing on the issues underlined among the nation of cultural diversity and beliefs. There are many states which may implement UCC but it is very difficult to implement it nationwide due to personal clashes in religion, inequality and diversification of thoughts and beliefs. Before the independence till the current era, there have been many improvements and amendments that have been seen in UCC agenda but still the drive to achieve this agenda is going on. In this research paper, the researcher has discussed the evolution of the UCC, its implications, issues and solutions that had been affecting the nation. Through doctrinal research, an analysis of existing policies and suggestions for implementing UCC in respective states has been proposed.

Keywords: Uniform civil Code, Agenda, Religion, Diversification, Gender Equality, Personal Laws, Amendments.

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Introduction

The term UCC literally means the "*to codify the collection of civil laws by remaining them same in all cases*".[1] The controversial concept of a UCC aims to establish a uniform set of rules that apply to all individuals, regardless of their religious or cultural heritage, and regulate private affairs such as marriage, divorce, inheritance, and property rights. This idea aims to eliminate spiritually distinct rules that often result in inequalities and prejudice in order to advance equality, justice, and secularism.

The concept of UCC has been part of India's constitutional framework since independence, included as a directive principle of state policy under Article 44[2] of the Indian Constitution. However, it's important to note that this is not a legally enforceable right but a guiding principle for the state. The discussion around UCC touches on sensitive issues of religious freedom, minority rights, and the balance between uniform civil law and India's diverse cultural traditions.[3]

EVOLUTION OF CONCEPT OF UCC

Civil law majorly includes property laws, contract laws, business laws, and family laws. But specifically, the family laws include codification due to the diverse religions, culture and beliefs followed in India. It is challenging to implement a consistent code as it requires striking a balance between non-secular norms and fundamental rights in areas like marriage and divorce.[4]

During the British rule, East India company had to administer and introduce many laws like Code of civil procedure 1908[5], Indian penal code 1860 (replaced by Bharatiya Nyaya Sanhita 2023[6]), code of criminal procedure 1861 (replaced by Bharatiya Nagarik Suraksha Sanhita 2023[7]), Indian evidence Act 1872 (replaced by Bharatiya Sakshya Adhiniyam 2023[8]), Indian

[1] Adwaith, & Banerjee, A. (2023, July 08). Modi's One Nation One Law by 2024. Maharashtra, India.
[2] Article 44. **Uniform civil code for the citizens** —The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.
[3] Agrawal, S. (2022). Uniform civil code: an overview. *Issue 6 Indian JL & Legal Rsch.*, *4*, 1.
[4] Adwaith, & Banerjee, A. (2023, July 08). Modi's One Nation One Law by 2024. Maharashtra, India.
[5] https://www.indiacode.nic.in/indiacode/bitstream/123456789/2191/1/A190805.pdf
[6] https://prsindia.org/files/bills_acts/bills_parliament/2023/Bharatiya_Nyaya_Sanhita,_2023.pdf
[7] https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2115169&reg=3&lang=2
[8] https://thc.nic.in/Central%20Governmental%20Acts/Bharatiya%20Sakshya%20Adhiniyam,%202023.pdf

Contract Act 1872[9], etc. due to their influence on Indian nation and make more revenue and power politics.[10]

Dr. BR Ambedkar along with Jawahar Lal Nehru wanted a uniform civil code (uniform criminal code was already implemented during British rule). It was due to the presence of untouchability, non-existence of women rights and inequality among the nation states.[11]

In 1944, a Hindu Law Committee was made under the chairmanship of Sir Benegal Nursing Rau. The purpose of committee was to make a uniform code for Hindus and bring all Hindus under this code. Ultimately, due to the opposition of the orthodox section of the Hindus as they believe the Uniform Code will be an attack on their sacred law, the Hindu Code Bill was split-up and passed in the form of four major enactments:

1. Hindu Marriage Act, 1955[12]
2. Hindu Succession Act, 1956[13]
3. Hindu Minority and Guardianship Act, 1956[14]
4. Hindu Adoption and Maintenance Act, 1956[15]

In the definition of Hindu under Hindu Marriage Act, 1955, Jawahar Lal Nehru smartly added Hindu as a Hindu, Jain, Sikh or Buddhist by religion except the Muslim, Christian, Parsi or Jew which shows he had uniformed all the Hindu, Jain, Sikh and Buddhist by religion. Also, believed that the other exempted will also be included in the future amendments.[16]

JUDICIAL APPROACH AND LANDMARK DECISION

Due to diverse nature of religious beliefs and practices, the personal laws remain same according to the religions and it is believed that there is need of forced civil code to maintain peace and unity. But here comes the main point of view where the drafting committee itself had added the Article 25[17] in the Indian Constitution which states about the freedom of conscience and free profession, practice and propagation of religion which also includes some exception i.e., the state

[9] https://thc.nic.in/Central%20Governmental%20Acts/Contract%20Act,%201872.pdf
[10] Diwan, D. P., & Diwan, P. (2025). *MODERN HINDU LAW (CODIFIED AND UNCODIFIED).* Faridabad: Allahabad Law Agency.
[11] Diwan, D. P., & Diwan, P. (2025). *MODERN HINDU LAW (CODIFIED AND UNCODIFIED).* Faridabad: Allahabad Law Agency.
[12] https://www.highcourtchd.gov.in/hclscc/subpages/pdf_files/4.pdf
[13] https://dllromsd.org/LAW_WEB/act2.pdf
[14] https://dms.hp.gov.in/ViewPDF.aspx?fn=8wkn2U6MbXU4kheIOIdgc4FMEV3nRyHBsFllL%2Bb6jNawGSXAdY5VsUHtK7aG4Val&ot=2LiD6ggCMIp9mzvYCQJmrg%3D%3D
[15] https://plrs.org.in/pdfs/Hindu%20Adoptation%20And%20Maintainence%20Act.pdf
[16] Chauhan, A. (2023). *Mapping The Course: The past, present and the Future of the Unifrom Civil Code*
[17] https://hcmimphal.nic.in/documents/constitutionofindiaacts.pdf

may interfere in the practice of that religion if it harms the public policy. So, in this debate, it includes some questions regarding the practice and interference of the state in a religion which includes:

- Why the women have less rights than the men in property laws?
- Why the Muslim women doesn't have right of triple talaq?
- Why there is polygamy allowed for man or women in only certain religions, tribes and communities?
- How the government benefited by tax reduction due to civilization of Hindu Undivided Family (HUF)?
- Whether the formal adoption is recognised or not, how would a unified policy address adoptive family structure?[18]

We can discuss all this question by the landmark judgements, their impact and implementation as a promotion of uniform civil code under the personal laws.

The judiciary has repeatedly highlighted the importance of UCC while refraining from mandating its enactment.[19] In the case of **Mohd. Ahmed Khan V. Shah Bano Begam (1985)**[20], the petitioner left without financial support, she filed for monthly maintenance under divorced Muslim women to have a right to financial maintenance under secular criminal law, while also highlighting the state's failure to enact UCC.[21]

Later, the Muslim Women (Protection of Rights on Divorce) Act, 1986[22] was introduced that governed the maintenance and property rights of divorced Muslim women. Here, former husband must provide a fair and reasonable maintenance amount within the *iddat* period.[23]

In the landmark judgment of **Danial Latifi v. Union of India** (2001)[24] case, the Supreme Court ruled that this provision extends for a lifetime or until the woman remarries. In **Sarla Mudgal V. Union of India** (1995)[25], the Hindu husbands converted to Islam solely to solemnize a second marriage without dissolving their first Hindu marriage. The Supreme Court held that conversion

[18] Supra note 2
[19] Sir, P. (2026, September 22). UNIFORM CIVIL CODE EXPLAINED: From 1948 to 2026. Punajb, India.
[20] Mohd. Ahmed Khan v. Shah Bano Begum and Ors. (SUPREME COURT April 23, 1985).
[21] ibid
[22] https://indiacode.gov.in/act/d5200a55-74ad-4693-9e63-fb94c700c6d5/sections?f.identifier_collection=SECTION,equals&f.act_id=AC_CEN_3_20_00034_198625_1517807327331,equals&act-sections.sf=dc.identifier.order_number&act-sections.sd=ASC
[23] Supra note 17
[24] Danial Latifi & Anr. v. Union of India (supreme court september 28, 2001).
[25] Sarla Mudgal, President, Kalyani & Ors. v. Union of India & Ors. (supremem court may 10, 1995).

to Islam does not automatically dissolve a prior Hindu marriage. The second marriage constitutes bigamy under Section 494 of the Indian Penal Code (IPC). The Court reiterated the urgency of implementing Article 44, emphasizing that non-implementation keeps discriminatory practices alive and stalls true national unity.

In the case of **Shabnam Hashmi V. Union of India**[26], Shabnam Hashmi (the petitioner) had taken a young girl into her care. Under Muslim Personal Law (*Shariat*), full adoption (which grants a child inheritance and filiation rights) is not recognized; only guardianship (*Kafala*) is permitted. She approached the Supreme Court seeking a declaration that the right to adopt and be adopted is a fundamental right for all citizens, regardless of religion. The Court ruled that the **Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act)**[27] is an enabling, optional, and secular piece of legislation. It held that any person in India regardless of religion, caste, or creed is free to adopt a child under this secular framework. A Muslim is not barred by personal law from executing a valid, full adoption if they choose the JJ Act route.

"To us, the [JJ] Act is a small step in reaching the goal enshrined by Article 44 of the Constitution [Uniform Civil Code]." By ensuring a single, religion-neutral avenue for adoption, the judiciary successfully unified a critical aspect of family law under a single secular standard.

A challenge was brought against Section 18 [28] of The Hindu Succession Act, 1925 in the case of **John Vallamattom V. Union of India** (2003)[29], which placed unreasonable restrictions on Christians donating property for religious or charitable purposes by will. The Supreme Court struck down the provision as arbitrary and violative of Article 14 [30] (Right to Equality).

The bench lamented that Article 44 remains a dead letter and stressed that a uniform civil code is indispensable for ensuring equal protection of laws across religious communities.

The **Shayara Bano V. Union of India** (2017)[31] case was of the main challenging case where the constitutional validity of instant triple talaq (*talaq-e-biddat*) under Muslim personal law was challenged by affected women. A multi-faith bench of the Supreme Court declared the practice was unconstitutional and violative of fundamental rights.

[26] Shabnam Hashmi v. Union of India & Ors., INSC 111 (SUPREME COURT FEBRUARY 19, 2014).
[27] https://www.jhalsa.org/pdfs/juvenile/juv_just_act.pdf
[28] Section-18 **Full blood preferred to half blood** - Full blood preferred to half blood. Heirs related to an intestate by full blood shall be preferred to heirs related by half blood, if the nature of the relationship is the same in every other respect.
[29] John Vallamattom & Anr. v. Union of India , SCC 611 (SUPREME COURT JULY 21, 2003).
[30] Supra note 18
[31] Shayara Bano v. Union of India, SCC 1 (SUPREME COURT AUGUST 22, 2017).

While focusing primarily on gender equality within an existing personal law framework, the debate fueled broader judicial and legislative momentum toward unifying personal standards.[32]

THE 21st LAW COMMISSION 2018 REPORT:

In the report it was argued by the union government that they may bought the uniform code but the UCC law came under concurrent list that means this law may also be bought by the state also. That's why the union government said that the state bought itself its uniformity codes according to the need of their state. The Law Commission concluded that UCC is "neither necessary nor desirable at this stage," citing the country's diversity. Also, they added that, the country is not ready enough to implement the civil uniformity at this stage. So, the UCC agenda achievement target was set up till the year 2029.[33]

Moving past the national hesitation recommended in 2018, **Uttarakhand** became the first state in independent India to pass and implement a state-level Uniform Civil Code in early 2025, which aims to standardise personal laws previously governed by different religious codes and eliminate discrimination based on caste, gender, or religion. (excluding Scheduled Tribes).[34]

After Uttarakhand, **Assam** had presented the Uniform Code Bill on May 2026 for the uniformity in the civil codes in the state assembly. The giant law is not a giant code covering every possible civil issue but it focused mainly on:

- Minimum age of marriage
- Prohibition of polygamy
- Equal inheritance for daughters
- Live-in relationships (including registration-related issues)
- Religions are being out of this particular scope and scheduled Tribes of hills and plains are being exempted. [35]

Gujarat has become only the second state to receive the President's assent to its version of the Uniform Civil Code, a set of rules that will govern civil matters like marriage, divorce and inheritance. Gujarat UCC Bill 2026[36] was passed by the BJP-dominated state assembly in March. Published in the Gujarat Government Gazette, the legislation moves the state closer to establishing a singular legal framework for personal matters.

[32] Supra note 31
[33] Supra note 20
[34] Dimri, G., & Gupta, B. K. (2025, april 19). Economic and Political WEEKLY. *Uniform Civil Code in Uttrakhand*.
[35] ibid
[36] https://plrajiasacademy.com/current-affairs-details/upsc/english/gujarat-uniform-civil-code-ucc-act-2026-prelims

The landmark legislation replaces varied personal laws with a unified legal code governing marriage, divorce, succession, and live-in relationships for all citizens residing within the state. However, the provisions do not apply to Scheduled Tribes, preserving constitutional protections for their customary rights. The Act also extends its jurisdiction to Gujarat residents living outside the state.[37]

The Goa Civil Code[38] stands as the lone instance of UCC in India, adopting a common family law system. Established in the 19th century under Portuguese rule, it persists to this day following Goa's liberation. Some key features include:

- Equal division of income and property between spouses and among children, irrespective of gender.
- Mandatory registration of births, marriages, and deaths, with various provisions for divorce.
- Prohibition of polygamy and triple talaq for Muslims who register their marriages in Goa.
- Joint ownership of all property acquired during marriage, with each spouse entitled to half in case of divorce or death.
- Inheritance laws prevent parents from disinheriting their children entirely, with at least half of their property mandated to be passed down, equally distributed among the children.

Despite its progressive aspects, the Goa Civil Code also has limitations and is not strictly uniform. For instance, Hindu men may have the right to bigamy under specific circumstances outlined in the Codes of Usages and Customs of Gentile Hindus of Goa. In contrast, other communities are prohibited from practising polygamy.[39]

After witnessing all the above cases and report, it can be said that there are many arguments which can be written in favour and against this UCC Agenda, there are many advantages and disadvantages which can be included in the arguments in favour and against respectively.[40]

[37] Vaktania, S. (2026). *President Gives Assent, Gujarat Becomes 2nd State To Get Uniform Civil Code.* NDTV.
[38] The Goa Civil Code, available at https://elibrary.sansad.in/server/api/core/bitstreams/e4aaed01-9de9-4811-8ea4-54ba24343d37/content
[39] Yadav, S. (2024, may 14). *Decoding the Uniform Civil Code: A Critical Analysis of Uttrakhand's Landmark Legislation*. Retrieved from manupatra: articles.manupatra.com
[40] Supra note 1

WHAT ARE THE ARGUMENTS IN FAVOUR OF A UNIFORM CIVIL CODE?

1. **Promotes National Integration and progressiveness**: A UCC will foster greater unity and integration across India by unifying diverse religious, cultural, and tribal groups under a single national civil code. Also, it reflects a shift away from caste and religious politics, signalling India's commitment to social progress and development as a modern nation.[41]
2. **Addresses Legal Loopholes**: Existing personal laws create a parallel judicial system based on outdated values. A UCC would rectify this by establishing a uniform legal framework.[42]
3. **Empowers Women**: Religious personal laws often perpetuate gender discrimination and oppression. A UCC would enhance the rights and status of women in Indian society. Under the Muslim Personal Law (Shariat) Application Act, 1937 [43], a female heir generally receives half the share of a male heir of the same degree. A UCC can uphold Article 14 right to equality irrespective of religious identity.[44]
4. **Substantive Gender Justice and International Human Rights Compliance:** Personal laws across religions have historically reflected patriarchal structures, causing dual marginalisation based on gender and religious identity. It ensures Equality for All Indians by Equality under the law, including in matters of marriage, inheritance, and land rights. UCC is essential to guarantee equal treatment for all citizens.[45]
5. **Upholds True Secularism**: A UCC does not infringe upon religious freedom but ensures that all individuals are subject to the same legal standards, regardless of religious affiliation.[46]
6. **Compliant with Constitutional Provisions**: The principles of a UCC align with the freedom of religion guaranteed by Articles 25 and 26[47] of the Constitution, reinforcing India's commitment to secularism. A UCC treats marriage, divorce and inheritance as

[41] ibid
[42] ibid
[43] https://indiacode.gov.in/pdf-viewer/9c388017-67da-411c-8469-06695d3a260e/f90c1548-c945-48fd-bfaa-26c25862e8b4
[44] Supra note 39
[45] Supra note 2
[46] Ravi, G. C. (2026, AUGUST 27). Art 44 & Personal Laws. India .
[47] Supra note 18

secular civil contracts governed by the right to equality rather than theological mandates. [48]

7. **Enhances Legal System Efficiency**: Codifying and unifying personal laws will streamline the legal system by reducing confusion and facilitating more efficient administration of justice by the judiciary. Article 44 (Directive Principles of State Policy) was designed to be a tool for modernization, treating uniformity not as cultural homogenization, but as a prerequisite for equal citizenship. A UCC would operationalise this constitutional vision by harmonising civil rights with fundamental rights, ensuring that personal laws evolve in accordance with principles of equality, dignity and non-discrimination. [49]
8. **Economic Efficiency, Tax Harmonisation, and Wealth Distribution:** Around 60% of pending civil cases involve property and land disputes, often prolonged due to complex succession laws. A uniform inheritance framework can simplify asset transfer, reduce litigation costs and release locked capital into the formal economy. [50]
9. **Child Rights and the "Best Interests" Paradigm:** Existing personal laws contain gender-based guardianship hierarchies.

For instance, the Hindu Minority and Guardianship Act, 1956 designates the father as the “first natural guardian,” while Islamic concepts of Hizanat (custody) and Wilayat (guardianship) often prioritize male relatives. A UCC can establish a gender-neutral framework based on the ‘Best Interests of the Child’ principle.

Communities outside the Hindu Adoptions and Maintenance Act (HAMA), 1956 traditionally relied on the Guardians and Wards Act, 1890 [51], providing limited guardianship rather than full parenthood. A UCC can codify equal adoption rights for all citizens, including single parents and marginalised groups, without religious limitations.

WHAT ARE THE ARGUMENTS AGAINST UNIFORM CIVIL CODE?

1. **An attack on constitutional provisions:** The announcement of a UCC is a brazen attack on the protective provisions inherent in the Constitution for religious minorities and cultural groups such as tribes. Moreover, in addition to being linguistic minorities, tribes

[48] Supra note 39
[49] Supra note 39
[50] Supra note 37
[51] https://sclsc.gov.in/theme/front/pdf/ACTS%20FINAL/GUARDIANS%20AND%20WARDS%20ACT,%201890.pdf

also form religious minorities, both as Christians and practitioners of traditional religions. Furthermore, tribal customary law, the font of personal law for tribal communities, has no religious moorings. For example, much of the personal life among tribal Christians is governed more by local tribal customs than religion, except for sacramental issues.[52]

2. **Threat to Cultural Diversity**: India's unique social and cultural diversity means that different communities have distinct customs and traditions. A single code may overlook these differences, leading to social unrest.[53]
3. **Legal Challenges:** Implementing a UCC across India is likely to face substantial legal challenges, as different states may have varied views on such a law. Additionally, personal laws are listed in the concurrent lists, making it a potential subject for conflict in centre-state relations.[54]
4. **Created tension and stress:** The current implementation of the UCC on Uttarakhand and Gujarat states shows the exemption on the schedule tribe community or the minority groups which leads to non-uniformity. The exemption to schedule tribes creates challenge for them too face hatred by the majority or other groups because the only implementation of the UCC on majority group shows inequality among the people of the states. Also, it may also violate the Article 14 of Indian Constitution which tells about Right to Equality.[55]
5. **The non-diversification of the country-** India has known to be the diversified nation in the whole world which made it different from others but uniformity through UCC leads to destruction of heterogeneity of our country.[56]

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SUGGESTIONS FOR THE IMPLEMENTATION OF UNIFORM CIVIL CODE

To protect the diversity of India and remove gender discriminatory practices in every personal law, the following steps must be taken while adopting uniform civil code:

- The government should amend every personal law uniformly according to the rights of the human being and they must be in favour of gender equality and justice.
- The emphasis on the customs and traditions that are generally exempted by the legislation must not be considered in relation to any religion because most of the customs that are

[52] Supra note 2
[53] Supra note 45
[54] Supra note 45
[55] Supra note 39
[56] Supra note 1

being exempted are opposed to public policy. The line written in every personal law, "… if custom prevails and not opposed to public policy" must be removed because rather it is opposed to public policy, it may be protected by any other law due to diversification in the personal laws also.[57]

- The UCC may be implemented in consultation with both the state and union governments. Also, the exempted communities in every uniform code bill must not exempt certain minority communities by stating them as "minority group". Every group is equal and representative to the state whether SC, ST, GENERAL or any other community in current era. It was the ancient time where there was discrimination on the basis of caste, sex and community but there are many laws now which can protect them by giving equal rights i.e. article 14 and 21 in the Indian Constitution.

The majority groups are now becoming "minority groups" due to unequal distribution the rights. Government should recognise the need of the present situation and must not emphasis on the old laws and legislations.[58]

CONCLUSION

In conclusion, the implementation of UCC in personal laws represents an important constitutional and social debate in India. Its evolution, judicial pronouncements, and arguments both in favour of and against it demonstrate that the issue involves a delicate balance between equality, individual rights, religious freedom, and cultural diversity.[59] A UCC should therefore not be viewed merely as the uniformity of laws, but as an opportunity to ensure justice and equal protection for all citizens. Its implementation should be preceded by extensive consultation with communities, legal experts, women's organisations, and other stakeholders. The Code should be clear, non-discriminatory, gender-just, and consistent with constitutional values. A gradual, inclusive, and consensus-based approach can help reconcile personal freedoms with the broader objective of achieving equality and social justice.[60]

[57] Supra note 45
[58] Supra note 1
[59] Supra note 2
[60] Supra note 39