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## ONE NATION, ONE LAW? A CRITICAL EVALUATION OF THE ARGUMENTS FOR AND AGAINST THE UCC"

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### I. ABSTRACT

The most contentious legal and constitutional issue of India is the Unified Civil Code (UCC), which symbolizes the conflict between personal religious law and the necessity of a uniform legal foundation. Article 44 of the Indian Constitution envisages general civil law to establish equality and justice, but its implementation was met with resistance to cultural, religious and political hurdles. This research critically examines the requirements, feasibility and difficulties in adopting UCC in India. This research takes into account the development of personal law in India, judicial decisions and legislative initiatives towards UCC. He also stresses gender justice, secularism and national integration, and weighs the advantages and disadvantages of its implementation. Comparison of nations with an integrated civil law provides the impression of a model to be followed by India. Recent political and legal events, such as reports of state initiative and reports of law committees, have also been taken into consideration to monitor the current applicability of the UCC. This research concludes by suggesting recommendations on how India is to strike a balance of the demand for legal uniformity against cultural diversity. He suggests a progressive and integrated approach towards the adoption of the UCC, ensuring the rights of all communities and legal uniformity and social justice.

**Keywords:** Uniform civil law, personal law, secularism, gender justice, constitutional law, legal uniformity, India.

### II. INTRODUCTION

The Uniform Civil Code (UCC) has raised the intensity of Indian controversy because it attempts to replace different personal laws with a single civil code governing marriage, divorce, inheritance and adoption. Article 44 of the Indian Constitution makes it obligatory to enforce the UCC as part of the directive principles of the National Policy (DPSP) that aims to promote unity in civil matters irrespective of religion<sup>849</sup>. But for all his constitutional dictates, the UCC remains a secondary direction of political, religious and social affairs. India follows a plural legal system where religious communities follow their own

personal law, which gives rise to contradictions and inequalities in law, mainly in the areas of marriage, divorce, maintenance, and inheritance.<sup>850</sup>

Personal law in India was formed due to historical reasons influenced by religious usages and colonial law systems. Under British domination, criminal legislation was codified and uniformly enforced, but personal law was spared in order to ensure religious autonomy. After independence, an attempt was made to codify Hindu personal laws under the Hindu Code Bills, which found expression in the passage of the Hindu Marriage Act, 1955, the

<sup>849</sup> Constitution of India, art. 44.

<sup>850</sup> Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* 135 (Oxford University Press, 2001).

Hindu Succession Act, 1956, and consequential enactments. Muslim, Christian, and Parsi laws are still regulated by religious usages, continuing to create gender discrimination and legal fragmentation in a secular democracy.<sup>851</sup> The Supreme Court, in such seminal cases as *Mohd. Ahmed Khan v Shano Bano Begum* emphasized the necessity of the UCC to safeguard women's rights and promote equality in civil issues. Similarly, in *Shayara Bano c. Union of India*,<sup>852</sup> institution of Triple Talaq has been held to be unconstitutional, emphasizing the necessity of reforming personal laws. Call for the Unified Civil Code typically entails a clash between religious freedom and secularism. Whereas the proponents opine that the UCC will usher in gender justice, national integration and unity in law, the opponents think that this will violate religious and cultural rights of minority groups.<sup>853</sup> The India Law Commission, advisory document 2018, local UCC in regions around promoted further, some such as Goa, already they have introduced the general civil law implementing the Portuguese Civil Code of 1867, a possible model for use throughout the nation.

In Spite of Constitutional Support and Judicial Decisions, The Implementation of UCC REMAINS A COMPLEX PROPOSITION to Socio-Political Opposition, Religious Sentiments, Religious and the pluralism of India's cultural environment<sup>854</sup> this Paper Examines Critically The Historical Development, Legal Issues, and Possible Frameworks for the Implementation of UCC in India while Honoring Constitutional Obligations, Religious Freedoms, and Social Justice. With comparative evaluation by countries that have adopted single civil codes, this study attempts to give directions for a comprehensive and progressive strategy towards the adoption of the UCC.

<sup>851</sup> Tahir Mahmood, *Muslim Personal Law: Role of the State in the Subcontinent* 112 (Vikas Publishing, 1983).

<sup>852</sup> *Shayara Bano v. Union of India*, AIR 2017 SC 4609.

<sup>853</sup> Nivedita Menon, *Seeing Like a Feminist* 174 (Zubaan Books, 2012).

<sup>854</sup> Upendra Baxi, *The Crisis of the Indian Legal System* 221 (Vikas Publishing, 1982).

### III. ARGUMENTS FOR AND AGAINST THE ADOPTION OF THE UNIFORM CIVIL CODE (UCC)

The controversy regarding the Uniform Civil Code (UCC) in India is highly polarized, with incisive arguments for and against. While the supporters of the UCC invoke gender equality, national integration, and judicial uniformity, there are people who contend that it will violate religious freedom, cultural diversity, and minority rights.

#### A. Arguments in Favor of UCC

##### 1. Ensuring gender equality

Personal laws, especially those of marriage, divorce, inheritance, and maintenance, are gender-tilted in favor of women. For example:

Muslim women were deprived of immediate triple talaq, leaving them legally as well as economically insecure (*Shayara Bano case*, 2017).

Hindu women enjoyed discriminatory legislation over inheritance until the Hindu Succession (Amendment) Act, 2005.

A UCC would bring an end to gender disparities in private laws and confer equality under Article 14 (Right to Equality) and Article 15 (Non-Discrimination) of the Constitution.<sup>855</sup>

##### 2. National Integration and Secularism

India is a secular nation, but religious communities have various personal laws governing them. This shatters national cohesion and generates an impression of legal discrimination. A UCC would consolidate personal laws, maintaining the secular character of the Indian Constitution (Preamble and Article 25) and treating all citizens equally.

##### 3. Simplification of Laws

Now, India has separate personal laws for various communities, which lead to legal complexity and confusion. One UCC will give one legal code which will be uniform for all the citizens, cutting down litigation and bringing uniformity in family law.

<sup>855</sup> D.D. Basu, *Introduction to the Constitution of India*, 26th edn. (Gurgaon: LexisNexis, 2022) 387.

#### 4. Preventing Misuse of Religious Laws

Personal laws are sometimes misused by people for personal gains. For instance:

In *Sarla Mudgal v. Union of India* (1995), Hindu men converted to Islam just for the purpose of polygamy, at the expense of the rights of their first wives.

The Special Marriage Act, 1954 permits interfaith marriage but subjects couples to longer waiting periods, thereby promoting religious conversion for marriage.

A UCC would shut down such legal loopholes and subject all marriages to the same laws.

#### 5. International Precedents

France, Turkey, and the USA follow a uniform civil code under which all citizens are treated alike without any discrimination based on religion. India is a new democracy, and thus it should embrace the international trend to preserve human rights as well as gender justice.<sup>856</sup>

#### B. Arguments Against UCC

##### 1. Violation of religious freedom (Article 25)

India is a multireligious country with varied religious traditions. A UCC would violate religious freedoms under Article 25, which protects the freedom to practice and propagate religion.

Personal laws are considered by all religious communities as an integral part of their being.

The Muslim Personal Law Board was against UCC on the premise that it would encroach upon Sharia-based law.

##### 2. Threat to cultural diversity

India consists of numerous ethnic and religious groups with distinct customs. Having a one-code-fits-all might hurt cultural heritage and subject minorities to majority values.

The tribal groups in the Northeast enjoy distinct protection under Article 371A, exempting them from the law.

Goa also has the Portuguese Civil Code, which differs from the other states.

Perhaps there's no place for complexity in Indian society with a one-code-fits-all policy.<sup>857</sup>

#### 3. Political sensitivities and absence of consensus

Implementation of UCC has, in many instances, been a contentious issue and thus politically sensitive.

The 1985 *Shah Bano* case resulted in mass protests and the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, overturning the Supreme Court judgment.

The Law Commission of India (2018) believed that UCC is not required or even desirable now but recommended reforms in personal laws.

Successive governments have eschewed direct enforcement for fear of electoral retribution.

#### 4. Special provisions for particular communities

Certain communities enjoy special legal protection in the Constitution already:

Nagaland and Mizoram (Article 371A) – Protection of customary laws.

Goa has a special civil code, perhaps hard to implement across the country.

Parsis observe their own law through the Parsi Marriage and Divorce Act, 1936.

Such special custom laws can be overridden by a UCC, causing discontent.

#### 5. Risk of social unrest

Religious communities have protested intervention with individual laws with force, typically staging violent protests. The protests in opposition to the Citizenship Amendment Act (CAA) of 2019 put forth how religious identity matters are sensitive in nature. Social unrest

<sup>856</sup> Werner Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, 2nd edn. (Cambridge: Cambridge University Press, 2006) 312.

<sup>857</sup> Tahir Mahmood, *Muslim Personal Law: Role of the State in the Indian Subcontinent*, 2nd edn. (New Delhi: Vikas Publishing, 1983) 192.

and communal tensions could follow if UCC is implemented without consensus backing.<sup>858</sup>

#### IV. NEED FOR A UNIFORM LAW: GENDER JUSTICE, SECULARISM, AND NATIONAL INTEGRATION

The demand for a Uniform Civil Code (UCC) in India stems from the need to establish a just, secular, and unified legal system that treats all citizens equally. The existence of multiple personal laws—governing marriage, divorce, inheritance, and adoption—creates disparities and contradictions that affect social cohesion and gender justice. The implementation of a UCC would help eliminate gender discrimination, strengthen secularism, and promote national integration, aligning with the constitutional vision of equality and uniformity in civil laws.

##### A. Gender Justice and Elimination of Discriminatory Practices

One of the primary objectives of the Uniform Civil Code is to address gender-based discrimination present in religious personal laws. Various personal laws in India contain provisions that adversely affect women's rights, particularly in matters of marriage, divorce, maintenance, and inheritance.

###### 1. Marriage and divorce:

Under Muslim law, practices like instant triple talaq (declared unconstitutional in *Shayara Bano v. Union of India*, 2017) left women vulnerable to arbitrary divorce.

Hindu women historically had limited divorce rights under the Hindu Marriage Act, 1955, which required proving fault, while men could more easily initiate divorce.

###### 2. Inheritance and succession:

Before the Hindu Succession (Amendment) Act, 2005, daughters had inferior property rights compared to sons.

Muslim women continue to inherit half the share of their male counterparts, and Christian

women have historically faced lower inheritance rights (*Mary Roy v. State of Kerala*, 1986).

##### 3. Maintenance rights:

The *Shah Bano* case (1985) exposed the vulnerability of Muslim women post-divorce, leading to the controversial Muslim Women (Protection of Rights on Divorce) Act, 1986, which curtailed their right to alimony.

A UCC would ensure uniform legal rights for women, eliminating discriminatory practices and aligning personal laws with Article 14 (Right to Equality) and Article 15 (Prohibition of Discrimination) of the Indian Constitution.<sup>859</sup>

##### B. Secularism and a Uniform Legal Framework

India is a secular state, yet the coexistence of multiple personal laws contradicts the principle of legal uniformity. While Article 25 guarantees religious freedom, the State is expected to ensure uniform legal protection for all citizens.

The Supreme Court, in *S.R. Bommai v. Union of India* (1994), held that secularism is a part of the basic structure of the Constitution and should be reflected in civil laws.

In *John Vallamattom v. Union of India* (2003), the Court observed that discriminatory personal laws violate the principles of secular governance, making a common civil code desirable.

A UCC would create a common legal framework, ensuring that personal laws do not override constitutional principles of equality and secularism.

##### C. National Integration and Social Cohesion

A Uniform Civil Code would serve as a unifying force, promoting national integration by eliminating legal divisions based on religion. The presence of different personal laws fosters fragmentation, sometimes leading to legal inconsistencies and social tensions.

<sup>858</sup> Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic*, 1st edn. (Princeton: Princeton University Press, 2020) 267.

<sup>859</sup> D.D. Basu, *Introduction to the Constitution of India*, 26th edn. (Gurgaon: LexisNexis, 2022) 389.

In *Sarla Mudgal v. Union of India* (1995), the Supreme Court criticized the misuse of religious conversion for circumventing personal laws (e.g., Hindu men converting to Islam to practice polygamy).

The Law Commission of India (2018) recommended reforms in personal laws, recognizing that a UCC could help create a cohesive legal system.<sup>860</sup>

Countries like France, Turkey, and the United States follow a uniform civil law system, ensuring equal legal treatment for all citizens. Goa is a successful example of a UCC-based legal framework in India, proving that such laws can be effectively implemented without disrupting social harmony.

The implementation of a Uniform Civil Code is necessary to eliminate gender inequality, uphold secularism, and promote national unity. However, given the religious and cultural sensitivities surrounding the issue, the government must ensure a gradual and consultative approach to gain wider acceptance and strike a balance between constitutional rights and cultural traditions.

#### V. CHALLENGES AND OPPOSITION: RELIGIOUS FREEDOM, CULTURAL DIVERSITY, AND MINORITY RIGHTS

The implementation of a Uniform Civil Code (UCC) in India has been one of the most debated legal and socio-political issues, facing strong opposition from religious groups, cultural advocates, and minority communities. While proponents argue that a UCC would ensure gender justice, equality, and national integration, critics contend that it threatens religious freedom, disrupts cultural diversity, and infringes upon minority rights. The constitutional and sociological complexities surrounding this debate make its enforcement highly challenging.

This section examines the primary challenges and opposition to the UCC in detail.

#### A. Religious Freedom and Constitutional Protection

A Uniform Civil Code is often perceived as a threat to religious freedom, which is a fundamental right under Article 25 and Article 26 of the Indian Constitution. These provisions guarantee individuals and religious communities the right to freely profess, practice, and propagate their religion and manage their own religious affairs.

Article 25 provides that every individual has freedom of conscience and the right to freely practice and propagate their religion. However, this right is subject to public order, morality, and health.

Article 26 allows religious denominations to manage their own affairs in matters of religion, administration of institutions, and property.

Opponents of the UCC argue that personal laws are deeply embedded in religious doctrines and any attempt by the State to impose a uniform code would interfere with the religious autonomy of different communities.

#### Judicial Interpretations on Religious Freedom and Personal Laws

In *Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar* (1954), the Supreme Court held that religious practices are protected under Article 25, but only if they do not contravene public order, morality, or health. This means that not all religious practices are immune from State intervention.

In *Mohd. Hanif Qureshi v. State of Bihar* (1958), the Supreme Court ruled that only essential religious practices are protected under Article 25, and non-essential customs could be regulated.

In *Indian Young Lawyers Association v. State of Kerala* (2018) (Sabarimala Temple case), the Court reaffirmed that religious practices should not violate constitutional values like gender equality.<sup>861</sup>

<sup>860</sup> Law Commission of India, Consultation Paper on Reform of Family Law, 2018.

<sup>861</sup> P. Ishwara Bhat, *Law & Social Transformation in India*, 2nd edn. (New Delhi: Eastern Book Company, 2021) 462.

Despite these rulings, religious communities fear that UCC may interfere with their personal laws, arguing that faith-based legal traditions should not be overruled by a uniform statute.

### **B. Cultural Diversity and Societal Pluralism**

India is a multi-religious and multi-cultural society, with distinct customs, traditions, and practices governing personal matters like marriage, divorce, succession, and adoption. A UCC may be seen as an attempt to homogenize legal systems, disregarding India's pluralistic ethos.

The Hindu Marriage Act, 1955, accommodates various regional and caste-based rituals, allowing Hindus to retain their marriage customs.

The Muslim Personal Law (Shariat) Application Act, 1937, ensures that Muslim marriages, divorces, and inheritance matters adhere to Islamic principles rather than a common civil code.

Christian marriages and divorces are governed by the Indian Christian Marriage Act, 1872, and The Divorce Act, 1869, which align with Christian religious teachings.

Tribal communities in Northeast India, Jharkhand, Chhattisgarh, and Odisha follow their own customary laws, which are protected under the Sixth Schedule of the Constitution.

#### **Judicial View on Cultural Autonomy**

In *M. Nagaraj v. Union of India* (2006), the Supreme Court emphasized that constitutional provisions must be interpreted in a manner that respects India's social diversity.

In *Shayara Bano v. Union of India* (2017) (Triple Talaq case), while the Court ruled instant triple talaq unconstitutional, it also acknowledged that progressive reform in personal laws should be gradual and inclusive.<sup>862</sup>

Opponents argue that implementing a UCC without considering India's socio-cultural

diversity may create social unrest and resistance from various communities.

### **C. Minority Rights and Fear of Majoritarianism**

Minority groups, particularly Muslims, Christians, and Parsis, fear that a Uniform Civil Code might impose the dominant Hindu legal traditions, thereby eroding their religious identity. They argue that a UCC could lead to the cultural and legal marginalization of minority communities.

The Muslim community has historically opposed the UCC, fearing that their Shariat-based personal laws may be diluted or overridden.

Christian and Parsi communities, although smaller, have also raised concerns about the preservation of their religious identity and legal traditions.

#### **Judicial and Legal Perspectives on Minority Rights**

In *T.M.A. Pai Foundation v. State of Karnataka* (2002), the Supreme Court stressed that minority rights must be preserved to maintain India's pluralism.

The Law Commission of India (2018), in its Consultation Paper on Reform of Family Law, recommended gradual and community-driven reforms instead of a blanket UCC.

Minority communities argue that unless they are actively involved in drafting the UCC, it may be seen as an imposition rather than a consensual legal reform.

### **D. Political and Legislative Roadblocks**

The UCC has been a politically sensitive issue, with polarized views across political parties. While some advocate for its implementation to promote gender justice and legal uniformity, others argue that it is used for political mobilization rather than genuine legal reform.

The Law Commission of India (2018) concluded that a UCC is neither necessary nor desirable at

<sup>862</sup> *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

this stage and suggested reforms within existing personal laws as an alternative.<sup>863</sup>

Several political parties fear backlash from religious groups, leading to a lack of legislative consensus on the UCC.

The absence of a clear legislative framework and public distrust in government intentions further complicate efforts to implement a Uniform Civil Code.

While the Uniform Civil Code aims to eliminate legal inequalities and promote a common legal system, its implementation faces significant resistance due to concerns related to religious freedom, cultural diversity, and minority rights. The debate over UCC highlights the delicate balance between legal uniformity and religious pluralism in India.

Instead of an immediate, all-encompassing imposition, a gradual, consultative approach— involving religious communities, legal scholars, and policymakers—may offer a more practical pathway toward legal reforms while upholding India’s pluralistic identity.

## VI. PUBLIC AND POLITICAL DISCOURSE ON UCC

The debate on the Uniform Civil Code (UCC) has been a highly polarizing issue in India, triggering extensive public discussions and political debates. It has been at the forefront of legal and social reform discussions, with contrasting views from political parties, religious groups, women’s rights activists, and civil society organizations.

This section explores how the UCC has been framed in public discourse, its representation in political debates, and the broader implications of these discussions on legislative policymaking.

### A. Public Perception and Societal Debate

The Indian public remains deeply divided on the implementation of the Uniform Civil Code, primarily due to its intersection with religion,

tradition, and individual rights. Various sections of society have presented differing views on the matter:

Supporters of UCC

1. Gender Rights Activists – Advocate for UCC as a tool for gender justice, particularly in reforming personal laws that discriminate against women in matters of inheritance, marriage, and divorce.
2. Legal Experts and Judiciary – View UCC as a step towards legal uniformity, simplification of multiple personal laws, and reduction of legal ambiguities.
3. Secular and Progressive Groups – Believe a UCC would promote national integration by ensuring that laws are based on equality rather than religious identity.
4. Opponents of UCC
5. Religious and Minority Groups – Argue that UCC threatens religious freedom and is a majoritarian imposition on minority cultures.
6. Traditionalists and Conservatives – Fear that a common civil law may erase centuries-old customs and practices, leading to loss of cultural identity.
7. Certain Political Factions – View UCC as a politically motivated move, often used for electoral gains rather than genuine social reform.
8. Public discourse on UCC has been dominated by ideological battles between progressive reformers and conservative groups, making its implementation a contentious issue in India’s socio-legal landscape.

### B. Political Debates and Party Positions on UCC

The UCC has been a key issue in Indian politics, with major political parties adopting divergent stances based on their ideological positions and electoral strategies.

Political Parties Supporting UCC

<sup>863</sup> Law Commission of India, Report on UCC and Family Law Reforms, 2018.

1. Bharatiya Janata Party (BJP) – The ruling party has consistently supported the UCC, arguing that it is necessary for gender equality, national unity, and secularism. It has included the UCC in its election manifestos and taken steps toward legal reforms, such as the abolition of Triple Talaq.
2. Certain Regional and Centrist Parties – Some parties have supported gradual legal reforms, though they emphasize the need for wider consultation with religious communities before implementing the UCC.
3. Political Parties Opposing UCC
4. Indian National Congress (INC) – While historically supporting legal reforms, the INC has taken a cautious stance on UCC, citing the need for consensus and protection of religious minorities. It argues that UCC should not be forced but should evolve through societal acceptance.<sup>864</sup>
5. Regional Parties (AIADMK, TMC, AIMIM, etc.) – Many regional and minority-driven parties have strongly opposed UCC, claiming that it undermines India's cultural diversity and is an attempt to impose Hindu-majoritarian norms on minorities.

### C. Judicial and Legislative Stance on Political Debates

In Shah Bano Case (1985), the Supreme Court urged the government to implement the UCC, leading to intense political backlash, particularly from conservative Muslim groups. The Rajiv Gandhi government subsequently passed the Muslim Women (Protection of Rights on Divorce) Act, 1986, overriding the court's decision.

In Sarla Mudgal v. Union of India (1995), the Supreme Court again emphasized the need for

a UCC to prevent legal loopholes in personal laws, reigniting political debates on the issue.

The Law Commission of India (2018) concluded that a UCC is neither necessary nor desirable at this stage, urging incremental reforms within existing personal laws instead of a blanket uniform law.

Thus, the political discourse on UCC remains polarized, with parties using it as a tool for political mobilization rather than as a neutral legal reform initiative.

### D. Media and Civil Society Influence on UCC Debates

The media and civil society organizations have played a significant role in shaping public opinion on the UCC, particularly through:

News Debates and Opinion Pieces – Media houses often feature polarized discussions, with some advocating for the UCC as a necessary reform and others portraying it as a threat to religious freedom.

Legal and Policy Think Tanks – Organizations such as Vidhi Centre for Legal Policy, Centre for Policy Research, and Observer Research Foundation have conducted studies analyzing the legal feasibility and socio-political impact of UCC.<sup>865</sup>

Public Protests and Social Movements – Civil society groups, including women's rights organizations, religious institutions, and student groups, have organized protests and campaigns both supporting and opposing the UCC.

Public discourse on UCC is often shaped by sensationalized media narratives, ideological biases, and political interests, making objective legal analysis more challenging.

### E. Electoral Implications and the Future of UCC in India

The UCC remains a key electoral issue, with parties either rallying support for its implementation or mobilizing opposition

<sup>864</sup> Indian National Congress, Position Paper on Religious and Social Reforms, 2021.

<sup>865</sup> Vidhi Centre for Legal Policy, Report on Personal Law Reforms in India, 2022.

against it. The electoral consequences of UCC-related debates include:

**Polarization of Voter Base** – Certain political groups mobilize their electoral support by using UCC as a communal issue, either portraying it as a necessity for progress or as a threat to religious identity.

**Legal and Policy Challenges** – The absence of a clear legislative framework makes UCC implementation complex, requiring a well-drafted bill that balances fundamental rights with religious and cultural freedoms.

**Potential for Gradual Reform** – Given the challenges in enforcing a single codified civil law, legal scholars suggest gradual reforms within existing personal laws rather than immediate implementation of UCC.

Given the political volatility surrounding the UCC, its future remains uncertain, with the government facing the challenge of balancing constitutional principles with religious and cultural sensitivities.

The public and political discourse on UCC reflects India's deep-rooted tensions between legal uniformity and cultural diversity. While proponents argue that a common civil code is essential for legal equality and secularism, opponents fear its imposition may erode religious identity and violate constitutional freedoms. The issue remains one of the most complex socio-legal debates in modern India, requiring inclusive dialogue, legal expertise, and a gradual approach to reform.

Until a broad societal consensus is reached, the UCC will continue to be a politically sensitive and legally contentious issue in India's democratic landscape.

## VII. SOCIO-CULTURAL IMPACT OF UCC

The implementation of a Uniform Civil Code (UCC) in India is expected to have profound socio-cultural implications, given the country's diverse religious, ethnic, and linguistic composition. The UCC, aimed at harmonizing personal laws across different communities, has sparked debates on social transformation,

cultural identity, religious pluralism, and gender equality. This section examines the potential socio-cultural effects of the UCC, both positive and negative, on Indian society.

### A. Impact on Religious and Cultural Identity

One of the primary concerns surrounding the UCC is its effect on religious and cultural identity. India is home to multiple personal laws governing marriage, divorce, inheritance, and adoption for Hindus, Muslims, Christians, Parsis, and other religious groups. Many communities fear that a unified civil code might dilute their distinct cultural and religious practices.

#### 1. Arguments against UCC on cultural grounds

**Threat to Religious Freedom:** Critics argue that the UCC may infringe upon the right to freely practice and propagate religion under Article 25 of the Indian Constitution. Personal laws are often intertwined with religious beliefs, and uniformity could be perceived as an imposition of majoritarian values on minorities.<sup>866</sup>

**Loss of Traditional Practices:** Certain religious customs, such as triple talaq (already abolished), polygamy, and specific inheritance rights, are seen as intrinsic to some communities. The codification of uniform laws might result in the loss of such traditions, leading to cultural homogenization.

**Resistance from Indigenous and Tribal Communities:** Many tribal and indigenous groups follow customary laws, which are not necessarily codified but have legal recognition. The application of UCC to these groups could undermine their traditional governance systems and social norms.

Despite these concerns, supporters of UCC argue that cultural preservation should not come at the cost of gender justice and equality.

<sup>866</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (New Delhi: Oxford University Press, 2004) 321.

## B. Impact on Gender Equality and Women's Rights

A major social advantage of implementing the UCC is the potential to enhance gender justice, particularly in areas where personal laws discriminate against women. The existing religious-based personal laws have often been criticized for perpetuating gender inequality, especially in matters related to marriage, divorce, maintenance, and inheritance.

### 1. How UCC can strengthen women's rights

**Equality in Marriage and Divorce Laws:** Under some personal laws, men have greater rights in matters of divorce, while women often face financial insecurity post-separation. The UCC would ensure equal divorce rights for all women, irrespective of religion.

**Fair Inheritance Rights:** Hindu and Christian women have better inheritance rights compared to Muslim women, who, under Sharia law, receive a smaller share than their male counterparts. A UCC would promote uniform inheritance rights, ensuring economic empowerment of women.<sup>867</sup>

**Abolition of Discriminatory Practices:** Many discriminatory customs, such as polygamy, *nikah halala*, and unequal guardianship rights, would be eliminated under a UCC, placing all citizens under a common legal framework.<sup>6</sup>

While women's rights activists and legal experts largely favor the UCC for ensuring gender justice, conservative religious groups argue that reforms should come from within communities rather than being imposed through state legislation.

### C. Social Cohesion vs. Social Polarization

A key argument in favor of the UCC is that it could foster social cohesion and national integration by providing a common legal framework for all citizens, regardless of religious affiliation. However, critics warn that the UCC

could also lead to increased polarization, particularly if implemented without sufficient consensus among communities.

### 1. Potential positive impacts on social unity

**Fostering National Integration:** The UCC would help create a sense of equality among all citizens, strengthening the secular fabric of India by eliminating legal distinctions based on religion.

**Simplification of Laws:** A single set of civil laws would streamline legal proceedings, reducing conflicts arising from interfaith marriages, property disputes, and inheritance issues.

### 2. Risks of social polarization

- (i) **Religious Backlash and Protests:** Any attempt to implement the UCC without adequate dialogue with religious and cultural groups could result in mass protests, legal battles, and political unrest.
- (ii) **Potential Marginalization of Minorities:** If not drafted inclusively, the UCC might disproportionately reflect the majority's customs, alienating minority communities and eroding their confidence in the state.

Thus, the success of UCC would depend on a careful balance between social unification and respect for religious pluralism.

### D. UCC and Changing Social Norms

Over time, social attitudes towards marriage, family, and gender roles have evolved, particularly in urban and educated communities. However, rural India and conservative sections of society still adhere to traditional customs, making UCC implementation a challenge.

#### 1. Urban vs. Rural Perspectives on UCC

**Urban and Educated Communities:** More receptive to legal reforms, seeing UCC as a progressive step toward equality and legal clarity.

<sup>867</sup> Archana Parashar, *Women and Family Law Reform in India* (New Delhi: Sage Publications, 1992) 198.

Rural and Conservative Groups: More resistant to change, viewing UCC as an external imposition that disrupts age-old traditions.

Gradual social acceptance, rather than forced legislative change, may be the key to making UCC a widely accepted legal reform.

### E. Role of Education and Awareness in UCC Acceptance

A major factor in ensuring the success of UCC is public awareness and education. Many misconceptions about UCC stem from misinformation, religious sensitivities, and political rhetoric.

#### I. Key steps to promote UCC awareness

- (i) Legal Literacy Campaigns: Educating communities about how UCC ensures equal rights without undermining religious practices.
- (ii) Interfaith Dialogues: Encouraging open discussions among religious leaders, legal experts, and policymakers to address concerns without hostility.
- (iii) Government and NGO Initiatives: Conducting community outreach programs to explain the benefits of UCC in areas such as gender justice and economic equality.
- (iv) A well-informed society is more likely to accept reforms when they are based on legal principles rather than religious anxieties.

The socio-cultural impact of UCC is deeply complex, involving issues of religious identity, gender justice, and national integration. While a uniform law could bring legal clarity and promote equality, it also risks cultural alienation if implemented without broad consensus. The key to successful implementation lies in gradual, inclusive reform that balances constitutional values with India's rich cultural diversity.

Thus, the UCC should be approached not as an abrupt legal imposition but as an evolving framework, accommodating both legal uniformity and cultural pluralism.

### VIII. CONCLUSION AND RECOMMENDATIONS

The implementation of a Uniform Civil Code (UCC) in India remains one of the most debated legal reforms, balancing constitutional mandates, religious freedoms, and socio-cultural diversity. While Article 44 of the Directive Principles of State Policy (DPSP) envisions a common civil law for all citizens, its realization faces significant resistance due to deeply entrenched personal laws, religious sentiments, and political considerations. However, as seen in judicial pronouncements such as the Shah Bano and Shayara Bano cases, the need for a gender-just and secular legal framework has become imperative. The absence of uniformity in personal laws has led to legal inconsistencies, gender disparities, and conflicts between fundamental rights and religious practices. Although some states, such as Goa, have successfully implemented a common civil code, a nationwide UCC requires careful legislative drafting, social consensus, and phased implementation.

A well-structured UCC can strengthen gender justice by ensuring equal inheritance and matrimonial rights, uphold secularism by delinking religion from civil laws, and promote national integration by unifying diverse personal laws. However, opposition from religious communities, concerns over cultural erosion, and the fear of majoritarian imposition remain key challenges. The best approach would be gradual, state-led implementation, allowing different regions to adopt legal reforms in consultation with community leaders and legal experts. Further, a comprehensive legal framework based on lessons from global models like Turkey, France, and the USA can help India adapt a uniform law while respecting cultural and religious diversity. To ensure successful implementation, the government should prioritize gender-just reforms, such as equal inheritance rights across religions, while engaging in extensive public consultations to prevent backlash. Additionally, state-level experimentation, similar to Goa's Civil Code, can serve as a testing ground for nationwide

adoption. Ultimately, a balanced, inclusive, and phased approach to UCC will uphold constitutional values while preserving India's rich pluralism.

### **A. Balancing Uniformity with Diversity: A Way Forward**

The debate on the Uniform Civil Code (UCC) in India centers on striking a balance between legal uniformity and the protection of cultural and religious diversity. While the Constitution envisions a common civil code under Article 44 of the Directive Principles of State Policy (DPSP), India's vast socio-cultural fabric necessitates a gradual and inclusive approach to its implementation.

#### **1. Contextualizing uniformity:**

Instead of a one-size-fits-all approach, UCC should be framed to respect diversity while ensuring fundamental rights, particularly gender equality and secularism.

Uniformity should focus on core principles such as equal rights in marriage, divorce, inheritance, and adoption, while allowing space for cultural traditions that do not contradict constitutional values.

#### **2. Preserving cultural identity:**

Different communities have distinct customs and traditions that form an integral part of their identity. UCC must ensure that personal laws are reformed progressively, rather than being abruptly abolished.

Religious practices that do not violate constitutional morality (as interpreted in *Shayara Bano v. Union of India*, 2017) can be harmonized within a reformed legal framework.

#### **3. Learning from global models:**

Countries like France, Turkey, and the USA have successfully implemented a uniform civil code, but India's diversity requires a more flexible, multi-layered approach.

The Goa Civil Code, which already provides a common legal framework for civil matters, can serve as an example for phased implementation at the national level.

### **4. Ensuring pluralism through legal reforms:**

A harmonized legal framework can incorporate common principles while allowing for community-specific practices under certain conditions.

The objective should be legal inclusivity, ensuring that no community feels alienated or disadvantaged in the process of implementing UCC.

Balancing uniformity with diversity requires a deliberate, phased approach, ensuring that progressive legal reforms do not compromise cultural identities while upholding constitutional principles of equality and justice.

### **B. Policy Suggestions for Gradual Implementation**

Given the complexities surrounding UCC, its implementation must be incremental, inclusive, and legally sound. The following policy suggestions provide a roadmap for gradual adoption:

#### **1. State-Led implementation:**

A federal approach can be adopted where states take the lead in introducing UCC provisions, similar to Goa's Civil Code.

States can experiment with legal frameworks, ensuring region-specific adaptations before national rollout.

#### **2. Codification of personal laws with uniform principles:**

Instead of an immediate and complete overhaul, the government should focus on codifying personal laws in a manner that ensures uniformity in fundamental rights.

This would involve standardizing laws on marriage, divorce, inheritance, and adoption while allowing cultural flexibility where constitutionally permissible.

#### **3. Prioritizing gender-just reforms:**

The first step in UCC implementation should focus on eliminating discriminatory practices such as:

Triple Talaq (already banned)

Unequal inheritance laws

Polygamy and discriminatory divorce provisions

Ensuring equal rights for women across all religions can serve as a starting point for broader legal reforms.

#### 4. Consultative process with religious and community leaders:

A dialogue-based approach is essential to address concerns of religious communities.

Engagement with minority groups can help mitigate fears of cultural erasure and build trust in legal reforms.

#### 5. Comprehensive law commission review:

A new Law Commission Report should be commissioned to assess the feasibility and implementation strategy for UCC.

This should involve detailed research, case studies, and expert opinions to ensure that UCC is practical, enforceable, and widely accepted.

#### 6. Public awareness and legal literacy programs:

The government should launch educational campaigns to create awareness about the benefits of UCC, particularly in ensuring gender justice and legal clarity.

Workshops, public debates, and stakeholder consultations should be held to gather public opinion and dispel misconceptions.

#### 7. Phased implementation approach:

The first phase can focus on harmonizing laws on marriage, divorce, and inheritance.

The second phase can introduce comprehensive family laws, ensuring that all personal laws align with constitutional principles.

The final phase can implement a fully codified UCC with legal provisions that are adaptable and responsive to India's diverse communities.

#### C. Judicial Oversight and Periodic Review:

A special judicial committee should oversee the gradual adoption of UCC, ensuring that legal changes are in line with fundamental rights.

Periodic reviews should be conducted to assess the impact of legal reforms and address emerging challenges.

By adopting a phased, consultative, and rights-based approach, India can move toward a Uniform Civil Code that is equitable, inclusive, and culturally sensitive, ensuring that legal reforms strengthen national integration while respecting diversity.

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