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"UNIFORM CIVIL CODE IN INDIA: FEASIBILITY, CONSTITUTIONAL CHALLENGES, AND SOCIAL REALITIES"

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Abstract:

"The Uniform Civil Code (UCC) is still one of the most talked-about issues in India's discussions about the Constitution and social law. The idea comes from Article 44 of the Directive Principles of State Policy." Moreover, it also includes components such as "contracts, compensation, and such other laws that do not provide penal provisions". It wants to replace the many personal laws that govern marriage, divorce, inheritance, and adoption with a single set of civil rules that apply to everyone, regardless of their faith or community. This research paper looks at the UCC's constitutional basis, how it has changed over time, and how it fits into India's many different legal systems. It also talks about how courts have interpreted the law, what lawmakers have tried to do, and how trying to make personal laws work in a community with a lot of different cultures can change people's lives. The research investigates the congruence of a "Uniform Civil Code (UCC)" with India's commitment to cultural and religious liberty through a critical evaluation of constitutional provisions and seminal rulings. The report concludes that while the UCC guarantees legal equality and gender justice, it must be put into action in a way that carefully balances uniformity with protecting India's cultural diversity.

KEYWORDS: "Uniform, Civil, Code, Common, Art. 44 of the Constitution, Personal Laws, Secularism, Gender Justice and Indian Constitution,."

INTRODUCTION

"India is a country that is diverse in many ways, including its languages, landscapes, and the laws that govern the private lives of its citizens." For a long time, religiously based personal laws have been in charge of things like "marriage, divorce, inheritance, and adoption". Each of these laws has its own history, logic, and moral code. These laws are based on the beliefs of Christians, Muslims, and Hindus. Many people say that this legal plurality is a cause of widespread inequality, especially for women and marginalised groups within those religious groups. Others say that it shows India's rich cultural diversity.

Recently, there has been a lot of discussion in India about "personal laws". As a result, there has been discussion on the necessity of common laws. After multiple discussions on the subject in the past, this topic has reopened the Uniform Civil Code chapter of the UCC. The primary goal of "UCC in India" is to replace the "personal laws" found in the scriptures and conventions with laws that are specific to each individual. It aims to advance national integration, justice, gender equality, and the dignity of all genders. It states that regardless of one's religious beliefs, all private laws, including those pertaining to "divorce, marriage, maintenance, and adoptions,

should be the same”.¹⁰⁷⁶

Because it defies easy categorization by a single ideological viewpoint, the UCC debate is difficult. It makes people think about secularism, though different people have different ideas about what secularism means. It brings up issues related to equality, including how and by whom it is defined. “The UCC has been the focal point of a divisive debate due to the inherent conflict between the requirement for uniformity and the fundamental right to religious freedom.”¹⁰⁷⁷ It discusses religious freedom, state authority, minority rights, and the everyday lives of millions of ordinary people whose traditions and rituals play a significant role in who they are. These are not just theoretical intellectual problems; they have an impact on real people.

Over the years, “the Supreme Court has repeatedly examined the matter, sometimes with evident disappointment.” “The government of the time passed the Muslim Women (Protection of Rights on Divorce) Act, 1986, rather than utilizing the Court’s ruling as an opportunity to make improvements.” This law was heavily criticized for essentially overturning the Shah Bano ruling and prioritizing political concerns over the rights of women who are vulnerable. It remains one of the most awkward incidents in “India’s secular democracy’s history”. Ten years later, the Court revisited the matter in “Sarla Mudgal v. Union of India (1995)”, stating that it was concerned about males converting to Islam in order to circumvent Hindu marriage law and remarry. Because separate towns had distinct civil laws, there was a loophole. The Court has repeatedly ordered Parliament to take action, but it has never taken any

national action.

At at a minimum, the discussion surrounding the “Uniform Civil Code” is not just focused on the legislation. It is a discussion about what sort of nation India aspires to be and, more precisely, what kind of nation it can be given everything it possesses, including its paradoxes, variety, histories, and wounds. In this sense, law simply serves as a forum for discussing more significant topics since it is the intersection of philosophy and reality, making the abstract tangible. A guy who used a legal loophole to leave one family and start another, a lady who has been waiting years for a just divorce settlement, and a daughter who has been denied her portion of ancestral property are not unimportant details in a constitutional discussion. They are being discussed. Any meaningful discussion of the Uniform Civil Code must begin with the human reality that underlies the legal argument, not from the comfort of ideological opinions that have already determined the solution. This essay continues in that spirit— not with the confidence of someone who has figured out what more intelligent minds have struggled with for years, but with the conviction that the battle itself is worthwhile to engage in honestly, carefully, and without the certainty that obscures rather than explains.

CONCEPT, NATURE AND SCOPE OF THE “UNIFORM CIVIL CODE”:

“The Uniform Civil Code (UCC) is an important part of the Indian legal system. It is based on the idea that there should be one set of civil laws that apply to everyone, no matter what caste, religion, or community they belong to.” “It says that marriage, divorce, maintenance, inheritance, adoption, and succession should all be the same. Basically, we can say that a common law that governs all religious communities in areas of marriage, inheritance, divorce, adoption, and other private affairs is known as a Uniform Civil Code (UCC).” It seeks to replace the various

¹⁰⁷⁶ *Shruti Gupta*, Uniform Civil Code (UCC): A Critical Review in Current Scenario, Indian Journal of Law and Legal Research, Vol. V, Issue III (Nov. 2024) https://www.researchgate.net/publication/385749612_Indian_Journal_of_Law_and_Legal_Research_UNI_FORM_CIVIL_CODE_UCC_A_CRITICAL_REVIEW_IN_CURRENT_S_CENARIO (last visited March 23, 2026).

¹⁰⁷⁷ *Social Sciences & Humanities Open*, ScienceDirect (Elsevier), available at www.sciencedirect.com/journal/social-sciences-and-humanities-open (last visited March 23, 2026).

“personal laws” that currently regulate private affairs in various religious communities.¹⁰⁷⁸ Criminal law is the same all over India, but civil laws are still based on many personal law systems that are based on religious traditions. The goal of a UCC is to keep constitutional values like equality, decency, and secularism alive while also making sure that people get along with each other. But it is clear from its inclusion in the “Directive Principles of State Policy” that it is a goal to strive for rather than a right that can be enforced.

The Uniform Civil Code's character and scope are greatly affected by India's heterogeneous socioeconomic structure. There are many religions and sects in India, and each one has its own set of personal norms that have changed over time because of religious texts, common customs, and colonial rule. UCC's purpose is not only to replace existing laws, but also to reform them so that they are in line with constitutional morality. It seeks to make things better, not worse, and it wants to stop unjust practices, especially those that hurt women and other groups that aren't properly represented. The UCC debate, on the other hand, is about “religious freedom” and “cultural autonomy”, which makes it a legally and socially delicate matter. In India, personal law systems are the main way that the civil government works for individuals of different religions. Hindu personal law, which comprises “the Hindu Marriage Act, the Hindu Succession Act, and the Hindu Adoption and Maintenance Act”, is a huge step in making sure that “men and women” are treated equally and fairly in Hindu society.

Muslim personal law, which is basically the same as it has always been and is based on Shariat principles, deals with marriage, divorce, inheritance, and maintenance. But laws and courts have transformed it. “The

Indian Christian Marriage Act and the Parsi Marriage and Divorce Act are two instances of laws that are different from each other that govern Christian and Parsi personal laws.” UCC aspires to fix the legal difference that these different systems present without taking away people's religious identity.

The debate over the “Uniform Civil Code”, particularly Article 44, has been greatly influenced by judicial interpretation. The UCC is crucial for uniting the nation and ensuring that everyone is treated equally under the law, as the “Supreme Court of India” has repeatedly stated. Because they are aware of how delicate these matters are, the courts have also taken care to avoid creating the same personal laws for everyone. This methodical approach demonstrates that the courts are aware of both the Constitution and current events.

Recent court trends show that personal laws are slowly becoming constitutional, with fundamental rights as the standard for legitimacy. Courts have progressively amended unjust practices and construed personal laws in alignment with constitutional principles, rather than enforcing a singular Uniform Civil Code. While formal uniformity in legislation remains a long-term objective, this evolving viewpoint suggests that the Indian legal system is progressing towards substantive consistency in principles such as equality and dignity.

PERSONAL LAW SYSTEMS IN INDIA: HINDU, MUSLIM, CHRISTIAN AND PARSİ LAWS

In India, personal law systems are a unique sort of law that controls family and personal interactions for people of different religions. India's diverse population and long-standing commitment to safeguarding religious and cultural autonomy are evident in the existence of numerous personal laws. This diversity has also led to differing ideas about rights and duties, which often produce unfairness and legal problems for people.

¹⁰⁷⁸ *Uniform Civil Code (UCC): Meaning, Debates, Judgments & More*, NEXT IAS, available at Uniform Civil Code (UCC) article <https://www.nextias.com/blog/uniform-civil-code-ucc/> (last visited Mar 24, 2026).

The most detailed system of personal laws in India is “Hindu personal law”. It changed a lot in the 1950s when important legislation about marriage, inheritance, adoption, and maintenance were passed. These reforms were made to make Hindu law more modern and in line with constitutional standards, especially those about gender equality. The codification process moved away from stringent traditional traditions and led to progressive changes including monogamy, divorce by mutual consent, and better property rights for women.

Hindu personal law has kept changing, though, thanks to court decisions and modifications to the law. Courts have played a key role in interpreting laws in a way that is fair and just for everyone. But there are still challenges, especially when it comes to making sure that women’s rights are really protected. Hindu law demonstrates the potential for modifications within a religious context, however it also illustrates that rules applicable just to a single society cannot fully realize equality. “Hindu Personal Laws are mostly governed by the Hindu Marriage Act 1955, the Hindu Succession Act 1956, the Hindu Minority and Guardianship Act 1956, and the Hindu Adoptions and Maintenance Act 1956. These laws apply to Hindus, Buddhists, Jains, and Sikhs. They cover marriage, divorce, maintenance, adoption, inheritance, and guardianship.”¹⁰⁷⁹

“Indian Muslim personal law is primarily based on Islamic principles and hasn’t altered much, except for a few amendments that were imposed by law. It talks about matters like marriage, divorce, inheritance, and maintenance, and it has always depended on how religious scriptures are understood.” Because Muslim law is not edited, there might be numerous interpretations. This has led to uncertainty and unequal results, especially when it comes to women’s rights. There has been a lot of discussion about constitutional

values when it comes to things like unilateral divorce and uneven inheritance. Over time, the courts and the legislature have worked to make Muslim personal law fairer. More and more, courts have said that personal laws must be fair, respectful, and equal. Recent developments suggest that more and more individuals are coming to understand that religious freedom does not mean doing things that violate basic rights. The religious base of the law is still there, but these measures suggest that reform is progressively happening.

The Shariat is the main source of personal law for Muslims in India. “It comes from the Quran (the holy book), Hadith (the traditions of the Prophet), Ijma (scholarly consensus), and Qiyas (analogical reasoning). Most Sunni Muslims in India follow the Hanafi school of law.” “The Emperor Aurangzeb made this school even more famous by writing down its ideas in the Fatawa-e-Alamgiri, which became the legal code. Before the British developed a unified criminal law based on the idea of *lex loci* (law of the land), Shariat law was used to run criminal justice in several parts of India.”¹⁰⁸⁰

Christian personal law in India is based on laws of marriage, divorce, and inheritance. In the past, people thought that Christian divorce laws were unfair and inflexible, especially for women. Changes to the legislation and court rulings over the years have made things more fair and flexible. For example, they now allow divorce on more equal terms and recognize that marriages change over time. These changes highlight how constitutional principles affect laws that only apply to some populations. “Christian Personal Laws are Governed by the Indian Christian Marriage Act 1872 and the Indian Divorce Act 1869.”

“Parsi personal law” only applies to a small group of people and contains severe rules for marriage, divorce, and inheritance. Some

¹⁰⁷⁹ Swathi Satish, Personal Laws in India, ClearIAS (Nov. 10, 2024) (last visited March 26, 2026).

¹⁰⁸⁰ Social Sciences & Humanities Open, SCIEDIRECT (Elsevier), (last visited March 26, 2026).

people say that Parsi law is too old-fashioned and has too many rules that are too rigid. Judicial interventions have helped fix unfair parts of the law and make sure that it is applied in a way that is in line with modern social reality. This shows that even little systems of personal law need to be changed. "Parsi Personal Laws are Governed by the Parsi Marriage and Divorce Act 1936."

People have often been treated unfairly just because of their religion because there are different personal laws. Different personal laws could mean different rights and ways to fix things in the same scenario. This fragmentation goes against the idea of equality before the law and makes people wonder about justice in a constitutional democracy. The difference is much bigger when it comes to interfaith partnerships and conversions.

In certain cases, people have abused personal law systems by using legal diversity to get out of their responsibilities or get unjust advantages. These kinds of things hurt the integrity of the legal system and show how hard it is to keep more than one personal law in a modern state. In short, India's personal law systems show how strong and complex legal diversity can be. They protect differences in religion and culture, but they also make it harder to get equal rights, gender justice, and the same laws for everyone. There are laws for Hindus, Muslims, Christians, and Parsis, which shows that traditional values and constitutional principles are still not in sync with each other.

UNIFORM CIVIL CODE & THE INDIAN JUDICIARY:

"The Uniform Civil Code (UCC) is not part of the Fundamental Rights in India. However, in contemporary India, there has been a strategic effort to create a harmonized personal law system that reflects the objectives of the UCC." The core idea behind the demand for a Uniform Civil Code is to unify the various personal laws that govern

different communities, establishing a single set of secular laws applicable to all citizens regardless of their community. While the precise framework for such a code has not been clearly defined, it is expected to integrate the most modern and progressive elements from existing personal laws, while eliminating outdated or regressive provisions.

"The judiciary serves as the guardian of justice, tasked with delivering justice to every individual whenever it is violated, thereby rectifying any wrongdoing. Impartiality and neutrality are fundamental principles of the judicial system." However, as the following discussion illustrates, judicial decisions often reflect the individual judge's perspectives and the prevailing social environment. This is particularly evident in matters concerning the uniform civil code, which have evolved with various interpretations and observations over time. The observations made by the Supreme Court and different High Courts on these issues are examined here. As we know, "marriage is the very foundation of civilized society. Once the relation is formed, the law steps in and binds the parties to various liabilities thereunder." Till the time we achieve the goal—"Uniform Civil Code" for all citizens of India – there is an open inducement to the Hindu husband who wants to enter into a second marriage while the first marriage is subsisting, to become a Muslim. Since monogamy is the law in Hindu & Muslims law permits as many as four wives in India, a Hindu husband will be in a position by embracing Islam to circumvent the provisions of Hindu law and to escape from penal consequences, and it is necessary to stop this practice in the interests of justice. The need for a uniform civil code is desirable.¹⁰⁸¹ Even the doctrine of indissolubility of marriage under the traditional Hindu Law did not recognize that the conversion would have the effect of dissolving a Hindu marriage. Conversion to another religion by one or both

¹⁰⁸¹ *Smt. Sarla Mudgal, President v. Union of India and Others*, AIR 1995 SC 1531.
3. *Nandi Zainab v. The Crown*, ILR 1920 Lahore.

of the Hindu spouses did not dissolve the marriage.¹⁰⁸² In the case of “A. M. Obadiah v. Obadiah”¹⁰⁸³, Justice Blagden held in his words that: “Considering the sensitivity of the issue and magnitude of the problem, both on desirability of the Uniform or Common Civil Code and its feasibility, it appears necessary to recognize it from the angle of Social Necessity.” “Logical probability appears to be that the code would cause dissatisfaction and disintegration, then serve as a common umbrella to promote homogeneity and national solidarity.⁶ No doubt our constitution is framed with secularism as its ideal goal with various religious freedom enshrined in “Article 25 to 28 of the constitution” but the crucial problem of conversion and some of the practices by member of a particular religion appears to be excessive and even violative of human rights of the member of another community and thus maintain checks and balances and to overcome this malpractice and in the interest of justice there is a need for establishing a Uniform and Common Civil Code, throughout Territory of India. Who continues to be Hindu? This position is further clarified in “Hindu Marriage Act 1956”; where also it is laid down that till time a Hindu marriage is dissolved under the act none of the spouse can contract the second marriage and second marriage if held would be void terms of section 494 IPC, Looking from the another angle also, second marriage of an apostate-husband would violate rules of natural justice¹⁰⁸⁴.

Implementation of the Uniform Civil Code Through Cases :

In India, the Supreme Court first directed the Parliament to frame a uniform civil code in the year 1985 in the case of “Mohammad Ahmed Khan v. Shah Bano Begum”, popularly known as the Shah Bano case. In this case, a penurious Muslim woman claimed maintenance from her husband under

Section 125 of the Code of Criminal Procedure after she was given triple talaq by him. The Supreme Court held that the Muslim woman has a right to get maintenance from her husband under Section 125. The Court also held that Article 44 of the Constitution has remained a dead letter. The then Chief Justice of India, Y.V. Chandrachud, observed that “A common civil code will help the cause of national integration by removing disparate loyalties to law which have conflicting ideologies”.¹⁰⁸⁵

It must follow from this discussion, unavoidably a little too long, that the judgments of this court in Bai Tahir,²⁶ and Fazlunbi,²⁷re correct Justice Cases, relied greatly on the theological and schematic method of interpretation to advance the purpose of the law. These constructional techniques have their own importance in the interpretation of states meant to ameliorate the conditions of suffering sections of society. We have attempted to show that, taking the language of the status as one finds it there is no escape from the conclusion that a divorced Muslim wife is entitled to apply for maintenance under section 125, and Mahr is not a sum which, under the Muslim Personal Law, is payable on divorce. Though the Bai Tahira case was correctly decided, we would like to draw attention to an error which has crept into the judgment that, in the context of section 127 (3)(b), “payment of Mahr money, as a customary discharge, is within the cognizance of that provision”.¹⁰⁸⁶ In view of this Mahr, not being payable on divorce does not fall within the meaning of that provision.¹⁰⁸⁷

“Lily Thomas v. Union of India (2000)” : “The decision in Lily Thomas v. Union of India is a significant new regulation for India’s personal laws, religious conversion, and the Uniform Civil Code.” The case, which was determined in 2000, looked at what the law says about people who change religions in order to get

¹⁰⁸² *Gul Mohammed v. Emperor*, (1922) 45 Madras 986.

¹⁰⁸³ ILR 1923 Lahore

¹⁰⁸⁴ AIR 1985 SC 945.

¹⁰⁸⁵ *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635 (S.C. India).

¹⁰⁸⁶ AIR 1980 SC 1730.

¹⁰⁸⁷ AIR 1979 SC 362.

married again. The Supreme Court looked into whether a Hindu marriage that was legally recognized under Hindu law ends automatically when one spouse changes religions. The lawsuit was filed because of petitions that showed how Hindu husbands changed their faith to Islam so they could get married again without breaking their first marriage. People who signed the petition argued that these actions were not authentic expressions of religious belief, but rather calculated ways to get around the Hindu prohibition against bigamy. These activities put first spouses in a weak position, which made people very worried about gender justice and the law. “The Supreme Court declared that if you change religions, your legal marriage under the Hindu Marriage Act does not expire.” The Court made it plain that the law only allows for certain ways to end a marriage. If someone who has converted gets married again without acquiring a legal divorce from their previous spouse, such marriage would be invalid and against the law.¹⁰⁸⁸

In “John Vallamattom v. Union of India, 2003”; “The ruling in this case is a significant judicial involvement in the modification of personal laws, especially regarding Christian inheritance customs in India. The decision, which was decided in 2003, looked at whether particular rules about how Christians might inherit property were in line with the constitutional values of equality and non-discrimination. The ruling was a big step toward making personal laws open to constitutional review.”¹⁰⁸⁹

Petitioner challenged a law that made it tougher for Christians to give money to charity in their wills, which led to the lawsuit. The person who filed the petition said that the clause in question was unfairly discriminatory against Christians and put unfair limits on them that didn't apply to people of other

faiths. This raised a wider constitutional issue: is it okay for personal laws to treat people differently in a secular society?

Father John Vallamattom, a Roman Catholic priest from Kerala, disagreed with Section 118. He said that Christians were being treated unfairly because other groups could give away property without having to meet certain standards. The petition was filed under Article 32 of the Constitution to protect basic rights. The Supreme Court unanimously threw out Section 118 of the Indian Succession Act of 1925. It said that Section 118 was against the Constitution since it was against Article 14. The restriction was unfair, irrational, and had no good reason for being there. The Court granted the writ petition and ruled that the clause was invalid.¹⁰⁹⁰

Challenges in uniform civil code:

The problem of a civil code has been a recurring problem throughout the history of the states. The newly emerging states have always been trying to acquire a civil code based on the successful civil codes of the other states, e.g. Japan formulated a civil code based on the German code. Sometimes, new states which got independence from colonial power faced the same problem. India, being a composite state, has been trying for a Uniform Civil Code so as to tie over the major problems caused by the diversity of different personal law systems invoked in the country for the last few centuries. Tension With the Constitutional Right to Religious Freedom : “Articles 25 and 26 of the Constitution protect the right to practise religion and manage religious affairs.” For many communities, personal law is not separate from religious practice – it is an expression of it. The line between civil regulation and religious interference is genuinely contested, and any UCC will have to navigate that line with far more care than political debate typically allows for.

¹⁰⁸⁸ *Lily Thomas v. Union of India*, (2000) 6 SCC 224 (S.C. India).

¹⁰⁸⁹ *John Vallamattom v. Union of India*, (2003) 6 SCC 611 (S.C. India).

¹⁰⁹⁰ Aishwarya Agrawal, *John Vallamattom v. Union of India*, LAW BHOOMI (Sept. 8, 2025).

The issue of framing a Uniform Civil Code has been a subject of continuing debate since 1950. Article 44 of the Constitution, which is a directive principle, lays an obligation on the state to secure for the citizens a Uniform Civil Code throughout the territory of India. The bare reading of the Article makes it clear that it is an imperative duty of the state to make an effort in this regard. The Directive Principles of State Policy lay down certain economic and social goals to be achieved by the various governments, i.e. the Central Government and the State Government. These directives impose certain obligations on the state to take positive action in a certain direction in order to promote the welfare of the people. Though these principles are "non-justifiable," they are Constitutional directions which the state is supposed to abide by. Justice Mathew has aptly observed that the moral right embodied in part IV of the Constitution are equally an essential feature of it, the only difference being that the moral rights embodied in part IV of the Constitution are not specifically enforceable as against the state by the citizen in a court of law in case the state fails to implement its duty, but they are fundamental in the government of the country and all the organs of the state including the judiciary are bound to enforce these directives".

Conclusion:

"The Uniform Civil Code isn't merely a legal issue. At its core, this is a debate about people— about fairness, identity, and what it really means to be an equal citizen in a country as big and diverse as India." After looking at its idea, its past, its location in the Constitution, and the disputes that surround it, one thing is clear: India has been avoiding this conversation for far too long, and the people who could least afford to pay for it have paid the price. It is not hard to see why the UCC is a good idea. When two women who live in the same city, do the same job, and pay the same taxes, have different legal rights when it comes to divorce or inheritance just because they

follow different religions, something is wrong. The law should treat everyone the same. It doesn't do that here. There is a real divide, and it has been documented. It has caused real pain, especially for women in all communities who have found themselves unprotected or neglected by the personal law institutions that were designed to protect them. The criticisms of the UCC are not without merit, however. It's fair for minority groups to wonder if this change is really meant to help them or if it's just a way for politicians to get what they want. Tribal communities that see their traditional laws being talked about as an afterthought deserve better. Anyone who has been paying attention to how the UCC has been talked about in politics lately would be correct to wonder if the intent fits the language of equality being used to defend it. The truth is that the premise behind the UCC is a good one. A democracy cannot morally uphold a system when one's religion dictates civil rights. Just because an idea is good doesn't mean that doing it is smart, fair, or at the right moment. India doesn't just need a Uniform Civil Code; it needs the proper one. It should be made through real consultation, carefully written, and made with the needs of the most vulnerable people in mind, not the loudest voices in the room. Seventy years have passed since the Constitution put this goal in Article 44. For seven decades, judges have told people to act, commissions have thought about it, and Parliament has been unsure. That pause has had serious effects on people. It's time to stop talking about whether India should have a "Uniform Civil Code" and start talking about how it should be made. It should be made honestly, with everyone included, and with the bravery to hold every community, both Integrity majority and minority, to the same level of equality. That is what the Constitution was always meant to do. The question is whether the country is finally ready to mean it.



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