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DECODING MARRIAGE PERSONAL LAWS: A CRITICAL EXAMINATION OF THE PATH TO A UNIFORM CIVIL CODE

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ABSTRACT

This research delves into the multifaceted marriage laws in India, examining their alignment with constitutional principles and the potential ramifications of implementing a Uniform Civil Code (UCC). The Indian legal landscape is characterized by a diverse array of personal laws governing marriage, including the Hindu Marriage Act, the Special Marriage Act, and the Muslim Marriage Act. These laws reflect the country's rich tapestry of religious and cultural practices but also lead to inconsistencies and legal conflicts, particularly in the context of interfaith marriages and gender equality.

The study highlights the challenges posed by the multiplicity of personal laws, such as legal ambiguities and unequal treatment of different groups. It critically evaluates how these laws intersect with constitutional values, focusing on issues like gender bias and the legal recognition of interfaith marriages. The research aims to assess whether the UCC could serve as a cohesive framework that harmonizes these diverse laws while upholding constitutional principles of equality, justice, and secularism.

The analysis includes a review of the existing legal framework, identifying areas where personal laws diverge from constitutional mandates and exploring how the UCC might address these discrepancies. By examining the potential benefits and challenges of adopting a UCC, the study seeks to provide insights into its impact on gender equality, the recognition of interfaith unions, and the broader goal of creating a more equitable legal system in India.

In conclusion, this research contributes to the ongoing discourse on legal reform, advocating for a more unified and inclusive approach to marriage laws that aligns with the constitutional ideals of justice and equality.

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Keywords: Marriage Laws, Uniform Civil Code, Constitutional Principles, Gender Equality, Interfaith Marriages, Legal Reform, India.

1. INTRODUCTION

Marriage in India is deeply rooted in cultural, social, and familial traditions, serving as a sacred union not only between individuals but also between families and communities. It plays a crucial role in maintaining social cohesion, ensuring lineage continuity, and providing economic stability. The Indian legal framework governing marriage reflects the country's multi-religious society, with laws tailored to various religious communities. The Hindu Marriage Act, 1955, the Indian Christian Marriage Act, 1872, the Parsi Marriage and Divorce Act, 1936, and the Special Marriage Act, 1954, address specific needs and allow for interfaith unions and legal registration irrespective of religious background.³

The Indian Constitution acknowledges this diversity while mandating that personal laws align with fundamental rights. Articles 25 to 28 ensure religious freedom, while Article 14 calls for a Uniform Civil Code (UCC) to harmonize personal laws. Despite ongoing debates and the absence of a UCC, the Constitution's principles of equality and secularism guide the application of personal laws.⁴

Literature Review

This review examines scholarly works and reports on the UCC debate. Notable sources include Christophe Jaffrelot's analysis of the historical and political dimensions of the UCC, Upendra Baxi's comparative study of personal laws, and B.K. Shukla's exploration of marriage law complexities. Key contributions from the Law Commission of India and landmark judgments such as "Shayara Bano vs. Union of India"⁵ highlight issues of gender discrimination. Additional perspectives from PRS Legislative Research, Centre for Social Justice, and various scholars provide a comprehensive understanding of the UCC debate.

³Narayan, C., Narayan, M., Shikha, D., & Shekhar, S. (2015). Indian marriage laws and mental disorders: Is it necessary to amend the legal provisions?. *Indian Journal of Psychiatry*, 57, 341 - 344. <https://doi.org/10.4103/0019-5545.171836>.

⁴Kumari, D. (2019). IS INDIA READY FOR UNIFORM CIVIL CODE. *Journal of emerging technologies and innovative research*.

⁵AIR20179SCC1(SC)

Research Objective

The objective of this research is to analyze the alignment between India's marriage laws and the Constitution, exploring the complexities of personal laws and the implications of a Uniform Civil Code. The goal is to offer insights into potential legal reforms, addressing disparities and conflicts within existing frameworks to contribute to a more equitable legal system.

Research Hypothesis

1. What are the differences in marriage laws under various personal laws in India?
2. Is a Uniform Civil Code necessary, and if adopted, will it function as a secular law in personal matters?

Research Methodology

This research employs a doctrinal method to analyze personal laws, constitutional provisions, and case law. Primary data sources include statutes and judicial precedents, while secondary sources consist of commentaries, books, and research papers. The methodology also includes comparative legal studies and empirical research to enrich doctrinal analysis. Quantitative analysis could complement the research by examining statistical data on legal reforms.

Analysis of Personal Laws

An examination of Indian marriage laws reveals significant variations among different personal laws. The Hindu Marriage Act outlines provisions for eligibility, ceremonies, and divorce, while Islamic personal law addresses aspects like polygamy and maintenance. The Indian Christian Marriage Act and the Parsi Marriage and Divorce Act cater to their respective communities, and the Special Marriage Act facilitates interfaith marriages, offering a secular alternative.

Interfaith Marriages and the Special Marriage Act

The Special Marriage Act, 1954, plays a critical role in enabling interfaith marriages. It provides procedural requirements and legal recognition, addressing societal and legal challenges faced by interfaith couples. Ongoing debates and key judicial interpretations of the Act highlight its significance and potential areas for reform.

Constitutional Framework

The constitutional framework underpinning marriage laws in India includes Articles 14, 15, 21, and 25, which ensure equality, freedom, and religious rights. Landmark judgments, such as "Shayara Bano vs. Union of India," emphasize the need for personal laws to align with constitutional principles. The discussion includes balancing individual rights with community interests and the debate over uniformity versus diversity in personal laws.

Uniform Civil Code Debate

The debate over the Uniform Civil Code involves arguments for and against its implementation, considering national unity, gender equality, and legal uniformity versus concerns about religious freedom and cultural identity. International models of UCC offer insights into its applicability to India, and the potential impact on different religious communities and their marriage practices is analyzed.

Judicial Pronouncements

Judicial decisions play a crucial role in shaping marriage laws. Analysis of key judgments reveals themes such as gender equality and religious freedom, highlighting their impact on the interpretation and application of personal laws.

Primary Data Study

Primary data collected via Google Forms provides firsthand insights into marriage laws and the UCC debate. The survey design, distribution, and data collection process enhance the study's rigor, offering real-world perspectives to complement doctrinal analysis.

Summary and Suggestions

The study synthesizes key findings and insights on marriage laws and the UCC debate, proposing recommendations for legal reforms or UCC implementation. Future research and policy interventions are identified to advance a more equitable legal framework.

2. PERSONAL LAWS RELATED TO MARRIAGE IN INDIA

India's legal framework for marriage is characterized by its diversity, governed by personal laws that vary according to religious affiliations. This pluralistic approach reflects the country's cultural and religious tapestry. The Hindu Marriage Act, 1955, governs marriages among Hindus, Buddhists, Jains, and Sikhs, stipulating guidelines for solemnization,

registration, and dissolution. In contrast, the Muslim Personal Law (Shariat Application) Act, 1937, regulates marriages among Muslims, codifying Islamic principles related to marriage, divorce, maintenance, and inheritance. The Indian Christian Marriage Act, 1872, oversees Christian marriages, detailing procedures for solemnization, registration, and validity. The Special Marriage Act, 1954, provides a secular framework facilitating interfaith marriages and non-religious ceremonies, thus catering to a broader spectrum of personal choices beyond religious confines.⁶

The Muslim Personal Law (Shariat Application) Act⁷ encompasses core concepts such as polygamy, allowing Muslim men to have up to four wives under the condition of equal and just treatment. This practice, while grounded in Islamic law, faces criticism for potential gender inequality. The Act also addresses maintenance, ensuring financial support during marriage, after divorce, and for children, though the adequacy and fairness of these provisions are debated. Guardianship provisions in the Act reflect traditional norms, particularly regarding the marriage of minor girls and custody of children, which have been critiqued for potential gender bias.⁸

The Hindu Marriage Act, 1955, sets out key provisions for marriage eligibility, including age requirements (18 for brides, 21 for grooms), mental capacity, and prohibitions against marrying close relatives. The Act mandates adherence to traditional ceremonies or court registration. It outlines grounds for divorce, including adultery, cruelty, and irretrievable breakdown of marriage, while also ensuring inheritance rights for Hindu women with clear rules of succession. Landmark judgments under this Act, such as *Lily Thomas v. Union of India* (2006)⁹ and *Amarjeet Singh v. Union of India* (2022)¹⁰, have reinforced principles like monogamy and gender equality in divorce proceedings.¹¹

⁶Raguparan, M. (2014). Gopika Solanki: Adjudication in Religious Family Laws: Cultural Accommodation, Legal Pluralism, and Gender Equality in India. *Feminist Legal Studies*, 22, 209-211. <https://doi.org/10.1007/S10691-013-9234-0>.

⁷[the Muslim Personal Law \(Shariat\) Application Act, 1937, Legislative Department, Ministry of Law and Justice, GoI](#) visited on 24th march 2024 at 8.00

⁸Islam, M. (2020). Muslim Personal Law and the Constitution of India: Women's Rights Perspective. *Anthropology of Religion eJournal*.

⁹*Lily Thomas, Etc. vs Union of India & Ors.* (2000) 6 SCC 224

¹⁰*Amarjeet Singh Dagar vs Union of India* W.P.(C)6311/2020 & CMs 22412/2020, 23078/2020

¹¹Hussain, D. (2022). A Content Analysis of the Hindu Marriage Act - 2017. *Progressive Research Journal of Arts & Humanities (PRJAH)*. <https://doi.org/10.51872/prjah.vol4.iss1.185>.

The Special Marriage Act plays a significant role in facilitating interfaith marriages by allowing civil ceremonies and providing legal recognition without religious rituals. However, it does not entirely eliminate religious constraints, and interfaith marriages may still encounter social resistance despite legal provisions. Overall, India's personal laws on marriage aim to balance religious traditions with modern legal standards, reflecting the nation's commitment to both cultural diversity and individual rights.

3. THE SPECIAL MARRIAGE ACT, 1954

Introduction: Importance of Interfaith Marriages and Challenges Faced

Interfaith marriages, involving individuals from different religious backgrounds, are pivotal in fostering social cohesion, understanding, and diversity within societies. They challenge traditional boundaries, bridge cultural divides, and contribute to the richness of pluralistic communities. These unions symbolize unity and tolerance, provide opportunities for cultural exchange and understanding, and help break down stereotypes associated with different religious groups. By promoting dialogue and collaboration across religious lines, interfaith marriages build bridges between communities and offer personal growth and spiritual enrichment for those involved. However, they also face significant challenges, including familial opposition, religious differences, social stigma, legal hurdles, and child-rearing difficulties. Overcoming these challenges requires open communication, mutual respect, and a willingness to navigate differences with empathy.¹²

Special Marriage Act in Detail: Explain Procedures, Requirements, and Legal Consequences

The Special Marriage Act of 1954 is a key piece of legislation in India that provides a secular legal framework for individuals to marry irrespective of their religion. It enables couples from different religious backgrounds or those wishing to marry without religious ceremonies to solemnize and register their marriage. The procedure begins with giving a notice of intention to marry to the Marriage Officer of the relevant district, followed by a 30-day display period for public objections. If no valid objections arise, the marriage can be solemnized either by the Marriage Officer or another authorized person, and then registered in the Marriage Certificate Book. The Act stipulates that the minimum age for marriage is 21 years for males and 18 years for females, and both parties must be of sound mind, unmarried, divorced, or widowed.

¹²Crespin-Boucaud, J. (2020). Interethnic and interfaith marriages in sub-Saharan Africa. *World Development*. <https://doi.org/10.1016/J.WORLDDEV.2019.104668>.

Marriages under this Act are legally recognized both in India and abroad, granting the parties all associated legal rights and benefits, including inheritance, maintenance, and property rights. The Act also provides for dissolution through divorce, annulment, or judicial separation.¹³

Prohibition of Interference with Freedom of Marriage Bill: Discuss Its Potential Impact and Ongoing Debates

The "Prohibition of Interference with Freedom of Marriage Bill" aims to safeguard individuals' rights to choose their partners freely, free from familial, societal, or coercive interference. This proposed legislation seeks to address issues like forced marriages and honor killings by criminalizing such practices and imposing strict penalties on offenders. The bill could significantly impact by protecting individual rights, preventing forced marriages, deterring honor killings, and empowering marginalized groups. It could also promote gender equality by challenging traditional patriarchal norms. However, ongoing debates surround balancing individual rights with family and societal expectations, addressing religious and cultural sensitivities, and ensuring effective legal enforcement and support for vulnerable individuals. Critics also call for education and awareness campaigns to inform individuals about their rights and challenge harmful cultural practices.

Judicial Pronouncements: Analyze Key Judgments Interpreting the Special Marriage Act and Addressing Interfaith Marriage Issues

Indian courts have made several key judgments interpreting the Special Marriage Act (SMA) in the context of interfaith marriages. Notable cases include *Narayan Ganesh Dastane v. Sucheta Narayan Dastane* (1975)¹⁴, where the Bombay High Court emphasized strict compliance with procedural requirements for marriage registration. In *Nafeesa Beevi v. State of Kerala* (1979)¹⁵, the Kerala High Court upheld the validity of marriages under the SMA regardless of religious beliefs, highlighting its secular nature. The Supreme Court's judgments in *Sarla Mudgal v. Union of India* (1995)¹⁶ and *Lily Thomas v. Union of India* (2000) reinforced the SMA's role as a secular legal framework and individual autonomy in marriage

¹³Gupta, D. (2016). LAW OF SPECIAL MARRIAGE ACT "1954" IN INDIA. International Journal of Innovation in Engineering Research and Management, 3, 1-3.

¹⁴NarayanGaneshDastanevs.SuchetaNarayanDastane,AIR19751534

¹⁵NAFEESABEEVI.V.THECHIEFEXECUTIVEOFFICER(1992)103CTR203:(1993)199ITR200

¹⁶SarlaMudgalv.UnionofIndia1995AIR1531SCC(3) 635

choices. The *Shafin Jahan v. Asokan K.M.* (2018)¹⁷ case reaffirmed the right of individuals to marry according to their choice, while *Abdul Kuddus v. Union of India* (2019)¹⁸ underscored the importance of free consent in conversions and marriages. *Priyanshi Devi v. State of Uttar Pradesh* (2019)¹⁹ reaffirmed the legality and protection of interfaith marriages under the SMA. These judgments collectively underscore the SMA's secular nature, individual autonomy, and the importance of legal protection in interfaith marriages.²⁰

Social and Legal Challenges: Discuss Societal Acceptance, Legal Hurdles, and Lived Experiences of Interfaith Couples

Interfaith couples in India face numerous social and legal challenges arising from societal norms, religious traditions, and legal frameworks. Socially, they often encounter familial opposition, community stigma, and cultural norms that prioritize religious homogeneity. These factors can lead to emotional distress and societal resistance. Legally, challenges include complex marriage registration processes, issues with inheritance and property rights, and difficulties in child custody and guardianship. Lived experiences of interfaith couples include identity struggles, navigating conflicting religious practices, and concerns for safety due to potential harassment or violence. Addressing these challenges requires efforts to promote acceptance, reform legal frameworks, provide support services, and encourage socio-cultural shifts towards greater inclusivity and respect for diversity.²¹

4. RELEVANT PROVISIONS OF THE CONSTITUTION OF INDIA IN RELATION TO MARRIAGE UNDER PERSONAL LAWS

Introduction: Constitutional Framework and Its Relevance to Marriage Laws²²

The Indian Constitution provides the foundational principles that shape the country's legal system, including marriage laws. It ensures adherence to justice, equality, and secularism in legal matters. Here's how the constitutional framework influences marriage laws in India:

¹⁷ShafinJahanv.AsokanK.M.(2018)16SCC368,AIR2018SC1933

¹⁸AbdulKuddusv.UnionofIndiaandOthers2019(6)SCC604,

¹⁹RupaliDeviv/sStateofUP(2019)5SCC 384

²⁰Sonkar, S. (2022). Policing Interfaith Marriages: Constitutional Infidelity of the Love Jihad Ordinance. *Journal of Law and Religion*, 37, 432 - 445. <https://doi.org/10.1017/jlr.2022.37>.

²¹Verma, S., & Sukhramani, N. (2018). Interfaith Marriages and Negotiated Spaces. *Society and Culture in South Asia*, 4, 16 - 43. <https://doi.org/10.1177/2393861717730620>.

²²ConstitutionofIndia|LegislativeDepartment|Indiavisitedon25thmarch2024at9.00pm

- a) **Preamble:** The Preamble promotes justice, liberty, equality, and fraternity, forming the basis for marriage laws to ensure equal rights and opportunities regardless of religious or social backgrounds.
- b) **Fundamental Rights:** Part III guarantees rights such as equality, freedom of religion, and the right to marry of one's choice, which are essential for developing and interpreting marriage laws.
- c) **Directive Principles of State Policy (DPSP):** Found in Part IV, these principles guide the creation of laws that promote social justice, equality, and citizen welfare, influencing marriage laws to foster social harmony and gender equality.
- d) **Judicial Review:** The judiciary, empowered by the Constitution, interprets laws and safeguards fundamental rights, ensuring that marriage laws adhere to constitutional principles.²³

Relevance to Marriage Laws

- a) **Secularism:** The Constitution mandates a neutral legal framework for marriage, as seen in laws like the Special Marriage Act, which allows interfaith marriages.
- b) **Equality:** Constitutional equality principles require that marriage laws provide equal rights and opportunities without discrimination based on religion, caste, sex, or gender.
- c) **Freedom of Religion:** The Constitution allows individuals to marry according to their religious customs while respecting their freedom of religion.
- d) **Social Justice:** The DPSP emphasizes promoting gender equality and addressing issues like child marriage, dowry, and domestic violence, guiding marriage laws to ensure legal remedies and support for vulnerable groups.

Articles 14, 15, 21, and 25: Their Significance in Ensuring Equality, Freedom, and Religious Rights in Marriage

- a) **Article 14:** Guarantees equality before the law and equal protection, ensuring personal laws do not discriminate unjustly. The Supreme Court's decision in *Shayara Bano v. Union of India* (2017) upheld this principle by invalidating triple talaq, which was deemed discriminatory.

²³Amir, S. (2022). Article 14 of indian constitution. International journal of health sciences. <https://doi.org/10.53730/ijhs.v6ns2.8952>.

- b) **Article 15:** Prohibits discrimination based on religion, race, caste, sex, or place of birth. The Supreme Court's ruling in *John Vallamattom v. Union of India* (2003)²⁴ affirmed that personal laws must align with Article 15's equality principles.
- c) **Article 21:** Protects the right to life and personal liberty, including the right to marry and choose one's partner. The Supreme Court in *Lily Thomas v. Union of India* (2000) emphasized this right, underscoring protection against arbitrary interference.
- d) **Article 25:** Ensures freedom of religion, allowing individuals to marry according to their religious customs. However, this freedom is subject to public order and other constitutional values. *Sarla Mudgal v. Union of India* (1995)²⁵ upheld the importance of respecting personal laws while ensuring justice and equality.

Article 44: The Uniform Civil Code (UCC)

Article 44 suggests enacting a Uniform Civil Code to replace diverse personal laws with a common set of laws. This aims to promote equality and secularism but remains unimplemented due to complex socio-political factors. The Supreme Court, in cases like *Mohd. Ahmed Khan v. Shah Bano Begum* (1985)²⁶, highlighted the need for a UCC to address gender justice issues, though its enactment continues to be debated.

Landmark Judgment: Shayara Bano and Its Impact

The case of *Shayara Bano v. Union of India* (2017) was pivotal in interpreting personal laws and constitutional rights. Shayara Bano challenged the practice of instant triple talaq, which was declared unconstitutional by the Supreme Court. The ruling affirmed the supremacy of fundamental rights over discriminatory personal laws and led to the enactment of the Muslim Women (Protection of Rights on Marriage) Act, 2019, criminalizing instant triple talaq and providing protection for women.

Uniformity vs. Diversity Debate

For Harmonizing Personal Laws with the Constitution:

- a) **Ensuring Constitutional Rights:** Guarantees fundamental rights like equality and liberty for all citizens.

²⁴(2003)6SCC611

²⁵AIR1995SC 1531

²⁶AIR1985SC945

- b) **Promoting Gender Equality:** Helps eliminate discriminatory practices in personal laws.
- c) **Safeguarding Individual Autonomy:** Ensures freedom of choice in marriage and personal matters.
- d) **Fostering Social Cohesion:** Creates a unified legal framework that promotes social unity.²⁷

Against Harmonizing Personal Laws with the Constitution:

- a) **Respecting Religious Pluralism:** Acknowledges the diversity of religious customs and traditions.
- b) **Preserving Cultural Identity:** Protects cultural and religious practices from external imposition.
- c) **Protecting Minority Rights:** Ensures minority communities can preserve their legal and cultural identity.
- d) **Ensuring Legal Pluralism:** Maintains the rich diversity of legal practices across different communities.²⁸

Essential Religious Practices: Concept and Limitations

Concept:

- a) **Protection of Religious Freedom:** Essential religious practices are safeguarded under Article 25, preserving core religious rituals and customs.
- b) **Cultural and Social Significance:** These practices maintain religious identity and heritage.
- c) **Judicial Interpretation:** The Supreme Court defines ERP, ensuring only central practices receive constitutional protection.

Limitations:

- a) **Conflict with Constitutional Values:** Essential practices must align with constitutional values like equality and non-discrimination.
- b) **Gender Equality Concerns:** Some traditional practices may perpetuate gender inequality and are subject to constitutional scrutiny.

²⁷Satyam, K. (2023). The Uniform Civil Code: Paving the Way for Gender Justice in India?. BSSS Journal of Social Work. <https://doi.org/10.51767/jsw1509>.

²⁸Thio, L. (2017). Rule of Law, Religious Liberty, and Harmony: Multiculturalism, Legal Pluralism, and the Singapore Model of Accommodative Secularism. *The journal of law and religion*, 5, 254-291. <https://doi.org/10.1163/22124810-00503004>.

- c) **Evolution of Religious Practices:** Practices are dynamic and may evolve, requiring ongoing judicial and legislative review to balance religious freedom with constitutional principles.²⁹

5. CRITICAL ANALYSIS OF UCC IN RELATION TO MARRIAGE LAWS IN INDIA

- a) The Uniform Civil Code (UCC) in India proposes a unified set of laws governing personal matters such as marriage and inheritance, irrespective of religion. Enshrined in Article 44 of the Directive Principles of State Policy, the UCC aims to foster social cohesion and gender equality by harmonizing personal laws that currently vary by religion. These laws, rooted in religious traditions, often lead to disparities and discrimination, particularly against women. The UCC is intended to address these issues, ensuring equal rights and legal clarity for all citizens.³⁰
- b) Historically, the UCC's roots trace back to the colonial period, where personal laws were codified under British rule. Post-independence, leaders like Mahatma Gandhi and B.R. Ambedkar championed social reforms, with Article 44 reflecting the aspiration for a unified legal framework. Despite this, political and religious sensitivities have stalled its implementation. Reforms such as the Hindu Marriage Act and similar legislation for other communities have made strides, but a comprehensive UCC remains elusive due to complex legal, cultural, and political challenges.³¹
- c) The potential benefits of implementing the UCC include advancing gender equality by eliminating discriminatory practices, providing legal consistency, and promoting national integration. Landmark cases like *Shah Bano v. Union of India* and *Sarla Mudgal v. Union of India* highlight the UCC's promise of uniformity and fairness. However, challenges such as religious sensitivities, cultural diversity, political opposition, and legal complexities present significant hurdles. Effective enforcement and the potential persistence of patriarchal norms also pose concerns.³²

²⁹Stamarski, C., & Hing, L. (2015). Gender inequalities in the workplace: the effects of organizational structures, processes, practices, and decision makers' sexism. *Frontiers in Psychology*, 6. <https://doi.org/10.3389/fpsyg.2015.01400>.

³⁰Satyam, K. (2023). The Uniform Civil Code: Paving the Way for Gender Justice in India?. *BSSS Journal of Social Work*. <https://doi.org/10.51767/jsw1509>.

³¹DARI, A. (2023). UNDERSTANDING UNIFORM CIVIL CODE: ITS NEED AND CHALLENGES. *Russian Law Journal*. <https://doi.org/10.52783/rj.v11i1s.358>.

³²Satyam, K. (2023). The Uniform Civil Code: Paving the Way for Gender Justice in India?. *BSSS Journal of Social Work*. <https://doi.org/10.51767/jsw1509>.

- d) Goa exemplifies a successful implementation of the UCC, having retained the Portuguese Civil Code after its integration into India. This code promotes gender equality and legal uniformity, demonstrating how a common civil code can enhance social harmony and justice. Notable cases from Goa, like *Maria Margarida Sequeira Fernandes v. Erasmo Jack de Sequeira*, affirm its progressive provisions and effectiveness.³³
- e) In conclusion, the debate on the UCC in India reflects the tension between individual rights, cultural diversity, and national unity. While the UCC promises benefits such as gender equality and legal consistency, its implementation must carefully balance respect for diverse traditions with the pursuit of justice and equality.³⁴

6. ANALYSIS OF JUDICIAL PRONOUNCEMENTS

The Uniform Civil Code (UCC) in India aims to create a unified set of personal laws for all citizens, transcending religious affiliations. This topic is critical for India's secularism and legal uniformity. Personal laws, which cover marriage, divorce, inheritance, and adoption, are currently governed by diverse religious codes. While Articles 25-28 of the Indian Constitution protect religious freedoms, Article 44 calls for a common civil code.

- a) **Sarla Mudgal v. Union of India**³⁵: The Supreme Court urged the government to address Article 44, highlighting its importance for marginalized groups and national unity. The case involved a Hindu man converting to Islam and remarrying without dissolving his first marriage, leading to the court ruling that such a second marriage is illegal under Section 494 of the IPC.
- b) **John Vallamattom v. Union of India**³⁶: The Court criticized the absence of a UCC while ruling Section 118 of the Indian Succession Act unconstitutional. This section, which imposed restrictions on bequests for religious or charitable purposes, was found to violate Article 14. The case reinforced the need for a UCC to resolve such discriminatory practices.

³³Dewan, R. (2023). Patriarchy and Property: Goa's Uniform Civil Code. *The Indian Economic Journal*, 71, 247 - 255. <https://doi.org/10.1177/00194662221146655>.

³⁴R., P., R., D., & V, S. (2022). Comparison of Hindu and Muslim Personal Laws with Goa's Portuguese Civil Code: Special Reference to Rights of Women. *CARDIOMETRY*. <https://doi.org/10.18137/cardiometry.2022.24.517526>.

³⁵1995AIR1531

³⁶W.P.(Civil)of242

- c) **Danial Latifi v. Union of India**³⁷: The Supreme Court upheld the Muslim Women (Protection of Rights in Divorce) Act, affirming that divorced Muslim women are entitled to maintenance beyond the iddat period. The Court emphasized the husband's duty to provide fair provisions and the state's responsibility to ensure maintenance if relatives fail to do so.
- d) **Pragati Varghesh v. Cyril George Varghesh**³⁸: The Bombay High Court invalidated section 10 of the Indian Divorce Act, which required a Christian wife to prove adultery, cruelty, or desertion to seek divorce. This was deemed a violation of the woman's right to dignity under Article 21.
- e) **Noor Saba Khatoon v. Mohd. Quasim**³⁹: The Supreme Court ruled that a divorced Muslim woman has the right to maintenance for her children until they reach adulthood, emphasizing the father's obligation under both Muslim Personal Law and Section 125 of the Criminal Procedure Code.

These cases underscore the ongoing debate about the UCC, highlighting issues of religious freedom, gender equality, and legal consistency in India's personal laws.

7. A STUDY BASED ON PRIMARY SOURCES COLLECTED BY THE AUTHOR

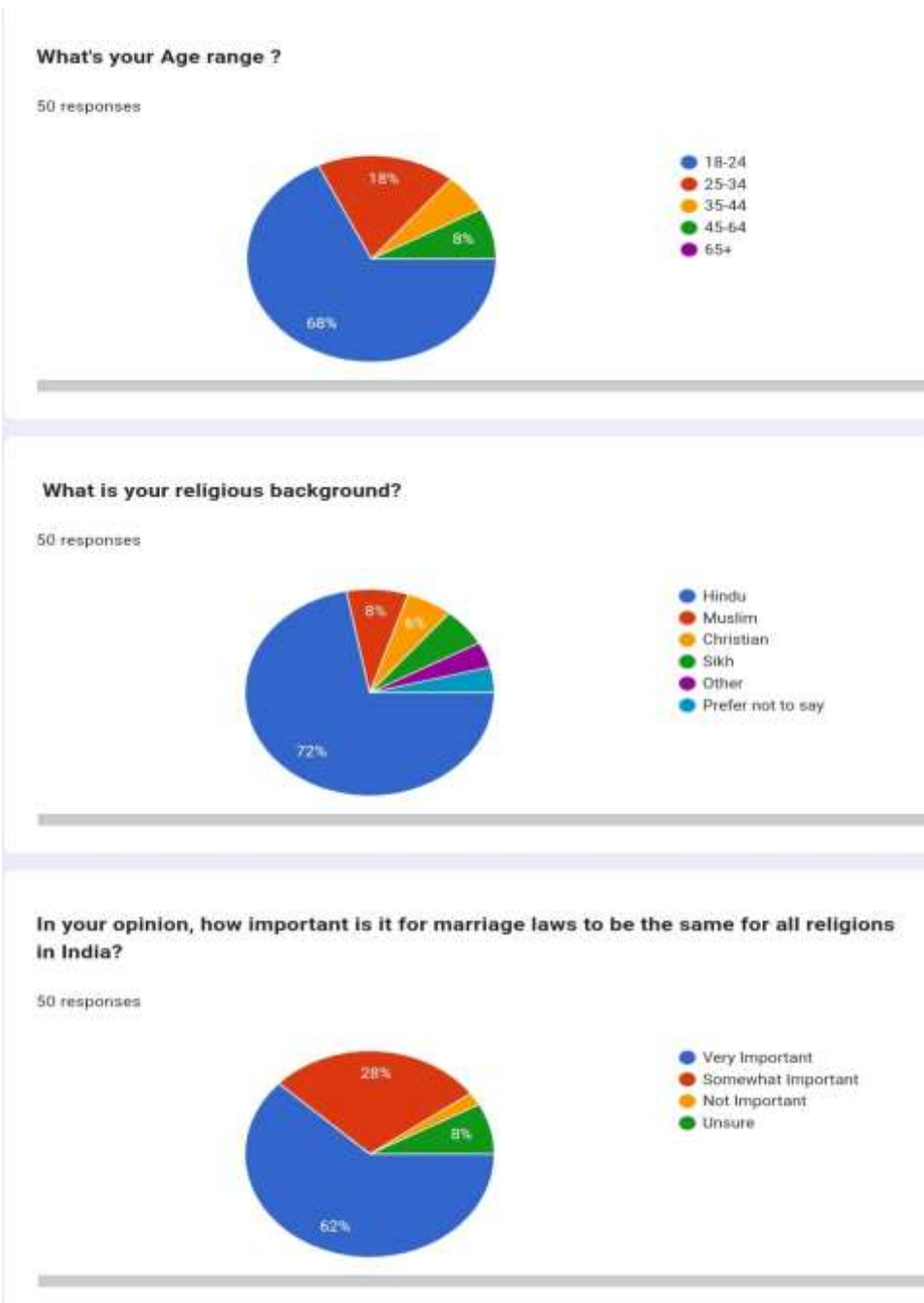
This chapter examines the intricacies of marriage laws in India, contrasting existing personal laws with the proposed Uniform Civil Code (UCC). The study uses a Google Form survey with 50 responses to capture diverse perspectives on marriage laws and potential legal reforms. The survey explores respondents' knowledge, opinions, and experiences regarding personal laws and the UCC, aiming to identify common themes and insights. Conducted through social media and online platforms, this research seeks to contribute valuable findings to the ongoing debate on legal uniformity and reform in India.

³⁷2001SCSCC740

³⁸AIR1997BOM349

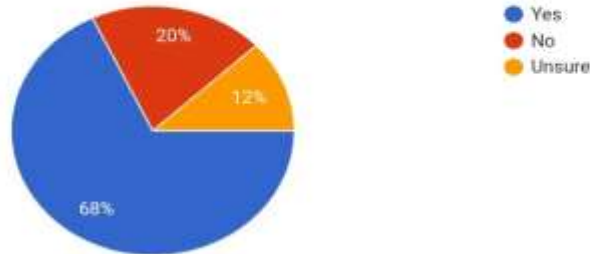
³⁹AIR1997SC 3280

FOLLOWING ARE THE PICTURES OF THERE SPONSES OF GOOGLE FOR MSURVEY CONDUCTED BY THE AUTHOR:



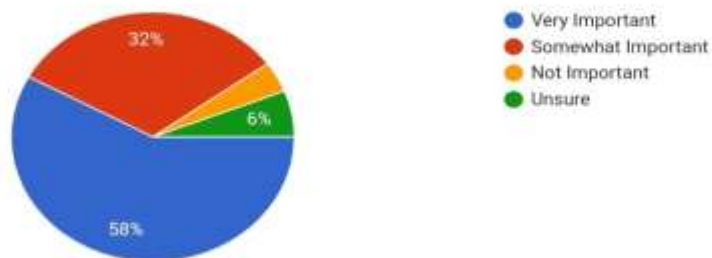
Have you felt that differences in marriage laws based on religion have caused problems for you or someone you know?

50 responses



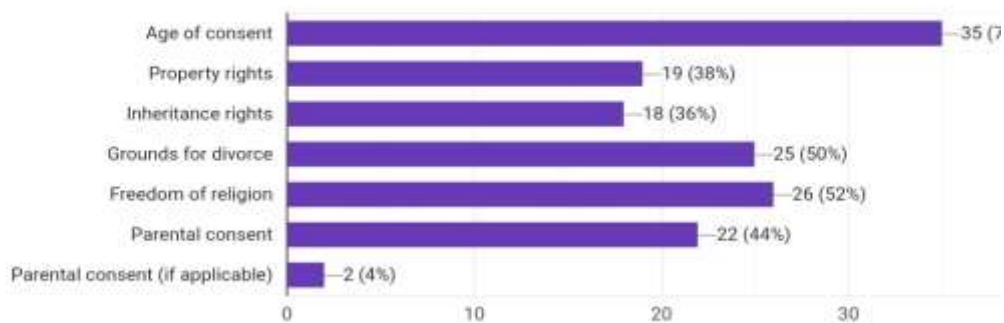
How important is it to respect religious traditions when it comes to marriage laws?

50 responses



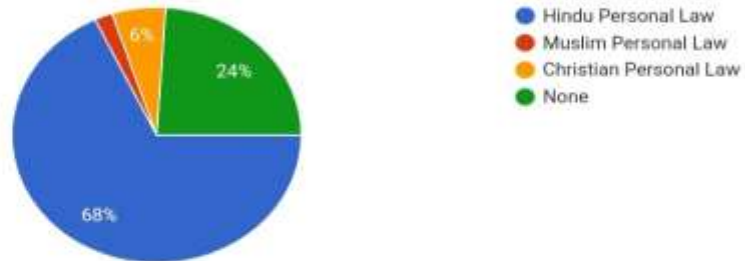
In your view, what are the most important aspects of a marriage law (select all that apply):

50 responses



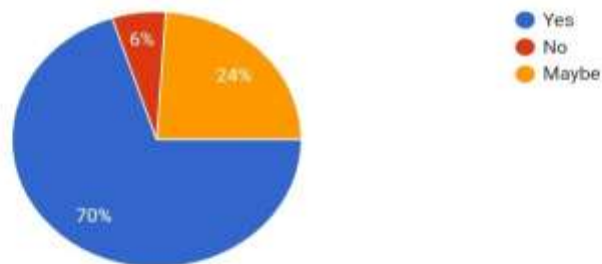
Which option best reflects your opinion on the current personal laws governing marriage in India?

50 responses



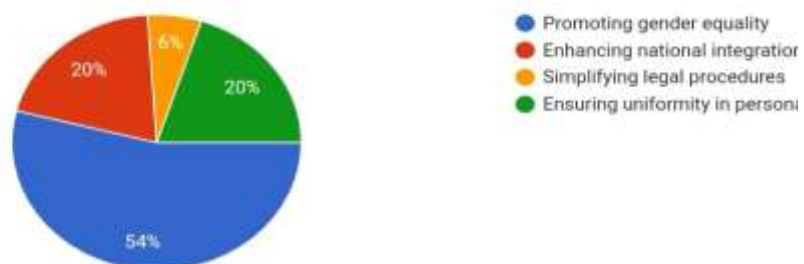
Do you believe that there is a current necessity for a uniform civil code in India?

50 responses



Which of the following do you consider as potential benefits of implementing a Universal Civil Code (UCC)?

50 responses



In your opinion, what are the main advantages of implementing a Uniform Civil Code for marriage laws?

50 responses



In your opinion, what should be the top priority when drafting a Universal Civil Code (UCC) in India?

50 responses



How confident are you in the ability of the Indian legal system to effectively implement and enforce a Universal Civil Code (UCC)?

50 responses



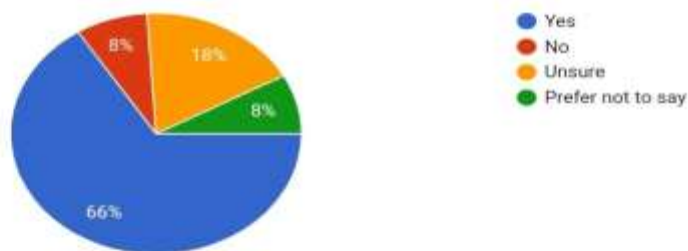
Do you think a Uniform Civil Code would respect the religious traditions of different communities?

50 responses



Do you think the implementation of a Uniform Civil Code for marriage laws would contribute to the modernization of Indian society?

50 responses



What concerns do you have, if any, about implementing a Uniform Civil Code for marriage laws?

50 responses



Insights from the Survey:

The survey revealed strong support for implementing a Universal Civil Code (UCC) for marriage laws in India, with over 85% of respondents advocating for it to promote gender equality, legal consistency, and individual freedoms. Despite the diverse religious backgrounds and concerns about potential impacts on religious freedom and cultural traditions, the majority recognized the benefits of uniform laws and expressed confidence in the Indian legal system's ability to enforce them. The younger demographic, predominantly aged 18-24, showed significant interest, emphasizing the need for comprehensive reform. While challenges like religious sensitivities and cultural resistance must be managed, the consensus indicates a widespread belief in the necessity and feasibility of a UCC to address issues arising from the current diverse marriage laws.

8. SUMMARY AND SUGGESTIONS

India's current legal system is fragmented by personal laws governing marriage, divorce, and inheritance across different religious communities. A Uniform Civil Code (UCC) aims to replace these diverse laws with a single, cohesive framework applicable to all citizens, promoting equality⁴⁰ and secularism as envisioned in Article 44 of the Indian Constitution. Implementing the UCC involves addressing concerns about religious freedom and cultural diversity.⁴¹ To facilitate this, a gradual approach could be adopted, allowing a transitional period for adaptation, or a parallel system where personal laws coexist with the UCC. Incremental reforms could also be introduced to progressively align existing laws with the UCC. Ultimately, a UCC would enhance social cohesion, national integration, and align India's legal framework with its democratic and secular principles, ensuring fairness and justice for all citizens.⁴²

9. CONCLUSION

The implementation of a Uniform Civil Code (UCC) in India is a crucial step toward achieving legal uniformity and fostering a truly secular nation. Despite ongoing debates, as highlighted by Justice Kuldeep Singh and the successful example of Goa, the need for a UCC remains pressing. The UCC promises to uphold constitutional principles of equality by eliminating the

⁴⁰Statement of Mohd. Ismail, CONSTITUENT ASSEMBLY DEBATES 549 (23rd November, 1948).

⁴¹Kumari, D. (2019). IS INDIA READY FOR UNIFORM CIVIL CODE. Journal of emerging technologies and innovative research.

⁴²Question by KMMunshi, CONSTITUENT ASSEMBLY DEBATES 547 (23rd November, 1948)

disparities entrenched in the current fragmented personal laws, which often conflict with fundamental rights guaranteed by Articles 14, 15, and 21 of the Indian Constitution. By standardizing laws across religious communities, a UCC would promote national integration, simplify the legal system, and enhance social cohesion, thus reflecting India's commitment to modernity and global standards of justice. Embracing a UCC would not only address systemic inequalities but also advance the vision of a united, progressive, and inclusive society where all citizens are treated equally under the law.

