

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

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# UNIFORM CIVIL CODE IN INDIA: HISTORICAL EVOLUTION, DEBATES, AND COMPARATIVE PERSPECTIVES

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## **Abstract**

The paper discusses the study of Uniform Civil Code (UCC) has been a debated issue in India's legal system. Article 44 of the Constitution asks the State to ensure a UCC, showing the framers' vision for national unity and gender equality. However, discussions about secularism, religious freedom, and minority rights have made the UCC a divisive topic. This paper examines the UCC in India, looking at its historical background in colonial times and the debates of the Constituent Assembly. It also explores its role in the constitutional framework and the decisions made by the courts. The paper reviews political discussions, including current efforts in Goa and Uttarakhand as examples of uniform laws. It compares how other countries like France, Turkey, and the USA approach civil (personal) law. Supporters of the UCC argue for gender justice and equality, citing Article 14, by removing unfair personal law provisions. In contrast, opponents highlight pluralism and religious freedom, warning against the risks of majority rule. The paper discusses how the UCC relates to secularism, women's rights, and minority protection, using case law such as Shah Bano, Sarla Mudgal, and Shayara Bano, along with scholarly insights. Ultimately, it concludes that any effort toward a UCC must carefully balance the ideals of equality and secularism with India's diverse society.

**Keywords:** Marriage, divorce, maintenance, adoption, succession, Secularism, Equality before law (Article 14), Gender justice, Religious freedom (Articles 25–28), Personal laws, Legal uniformity, National integration.

## Introduction

India has a system that includes many different personal laws. These laws are for groups of people like Hindus, Muslims, Christians and Parsis. Each of these laws is in charge of things like family. What happens to peoples belongings when they die, for people in their own community. The Indian Constitution has something called Article 44. This article says that the government should try to make sure that all citizens in India have the civil code. This means that the government wants to make sure that everyone is treated equally no matter what their religion is. The people who wrote the Indian Constitution wanted India to be a country, where everyone is treated fairly and equally. They wanted to move from the way things were done during the time when India was ruled by another country, when different religions had their own separate laws. Indias legal system and the Indian Constitution are very important, for India and its people, including Hindus, Muslims, Christians and Parsis. The thing is, Article 44 is not something that can be taken to court and it exists at the time as Article 25 which says people are free to practice their own religion. This makes it really hard to implement the Uniform Civil Code. The debate about the Uniform Civil Code is really about balancing equality and diversity. People who want the Uniform Civil Code think it is necessary to make sure everyone is equal like it says in Article 14 and to make sure women are treated fairly. They say that the current laws are unfair, to women and cause problems. On the hand people who do not want the Uniform Civil Code say that the laws of their religion are a big part of who they are and that the government should not force everyone to follow the same rules. They think this could take away the freedom of religion that Article 25 promises and could also hurt the diversity of the country. This paper explores the contours of this debate. It first outlines historical and constitutional contexts, then examines political and judicial developments. It presents case studies of Goa's Portuguese-era code (a de facto UCC) and Uttarakhand's draft UCC. Comparative insights from France, Turkey, and the USA are introduced. The analysis then critically appraises arguments for and against UCC, particularly focusing on gender justice, secularism, and minority rights. Relevant case law, statutory norms, and scholarly commentary are integrated throughout.

## Historical Development and Constitutional Foundations

### ❖ Colonial Legacy

The idea of having the laws for everyone in India started a long time ago when India was a colony. Warren Hastings had a plan in 1772 that said the government should not get involved

in the laws of different religious groups. The British government usually let each community make its rules about things like marriage, divorce and what happens to someones property when they die. They did make some laws, like the Hindu Marriage Act in 1955 which happened after India became independent. It was based on the system the British had set up. In the century the government started making more laws like **the Indian Succession Act**<sup>1</sup> and the **Indian Christian Marriage Act**<sup>2</sup>1872 that tried to make things more standard. But with these laws the government mostly left the Islamic and Hindu traditions alone so they could keep being different, from each other.

#### ❖ **Constituent Assembly Debates**

From 1947 to 1949 the people who made Indias laws talked a lot about the Uniform Civil Code. Dr. B.R. Ambedkar and other people who wanted change thought the Uniform Civil Code was necessary for women to have rights and for the country to be united<sup>3</sup>. Some people, like Maulana Azad did not agree with the Uniform Civil Code because they believed in freedom and thought that the laws about personal things were part of their religion.

There were three ways of thinking about the Uniform Civil Code. One way was to separate religion and government which meant the Uniform Civil Code was necessary. Another way was to respect all religions which would eventually lead to the Uniform Civil Code being part of the Directive Principles of State Policy. The third way was to think that the government should not interfere with religion, which meant opposing the Uniform Civil Code. The Uniform Civil Code was an issue and the people who made Indias laws had different opinions, about it. So a compromise was. The Uniform Civil Code was put in Part IV of the constitution. This is not something that the courts can enforce. It is like a ground that tries to balance the idea of treating everyone equally with the fact that India is a country with many different groups of people. The Uniform Civil Code is what this is about. Dr. Ambedkar termed Article 44 **non-binding commitment**<sup>4</sup>, It is like a suggestion, for the people who make laws in the future. The Uniform Civil Code is still an idea.

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<sup>1</sup> 1865

<sup>2</sup> 1872

<sup>3</sup> Uniformly Oppressive: A Feminist Critique of the Uttarakhand UCC as a Project of Patriarchy  
BYLAW SCHOOL POLICY REVIEWON 24 NOV 2025 <https://lawschoolpolicyreview.com/>

<sup>4</sup> SUPRA TO FOOTNOTE 3

## Constitutional Provisions

The Indian government has to try to make a Uniform Civil Code, which means the laws for everyone in the country according to Article 44. This is so that all citizens have the legal rights. However this is something the government should do. It is not a law that can be enforced by the court. Article 25 says that people are free to choose their religion and practice it as long as they do not disturb the public or go against what is morally right. The Supreme Court has made it clear that things like marriage and what happens to a persons property after they die are not protected by Article 25 even if they are related to religion. The Supreme Court says these things are separate, from matters. The Court made an important point in the case of **John Vallamattom v. Union of India**<sup>5</sup> the Court observed that Articles 25 and 44 have distinct spheres: Article 25 ensures religious freedom, whereas Article 44 “divests religion from social relations and personal law.” The Court regretted that Article 44 remained unimplemented<sup>6</sup>. Article 37 makes it clear that the things mentioned in the Directive Principles of State Policy or DPSPs for short cannot be enforced by any court of law. So the Parliament has to make laws to make the Uniform Civil Code or UCC a reality. This means the Parliament has to take action to make the Uniform Civil Code or UCC a law that everyone has to follow.

The Uniform Civil Code or UCC is an important thing that the Court is talking about. The Fundamental Rights have some rules. These rules are in Article 14 which's about equality. Article 15 is about not discriminating against people including because of their gender. Then there are Articles 16 to 18 these are about things like people being treated badly because of their religion or because of who they are.. Article 21 is about people having the right to live their life and have freedom. These rules are supposed to stop people from being treated.. Some people think that the laws, about personal things are not fair and they do not follow these rules. The Fundamental Rights and these laws are supposed to work to stop discrimination.

## Political and Scholarly Discourse

### Contemporary Politics

The Uniform Civil Code or UCC for short has been a deal in Indian politics for a long time.. The Bharatiya Janata Party (BJP), which champions Hindu nationalist ideals, often advocates UCC as part of its platform. The BJP's 2024 manifesto explicitly stated that gender equality is

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<sup>5</sup> AIR (2003) 6 SCC 611,

<sup>6</sup> THE ECONOMIC TIMES :- SC support for legislation on UCC prompted by cases involving gender justice  
Jul 15, 2023, 10:41:00

unattainable without a UCC “which protects the rights of all women”<sup>7</sup>

The government led by Prime Minister Modi said they are committed to the Uniform Civil Code because it will make all the laws the same and it will give women more power and the Uniform Civil Code will really make a difference, for women. People who are against the ruling party and those from minority communities are not sure about the Uniform Civil Code. They think it might take away the rights that protect them and make the country less secular. Some people who study these things say that the BJP wants the Uniform Civil Code because it fits with their plan for Hindutva. The critics of the BJP think that this plan is not good for everyone it is only good, for the majority of people the Uniform Civil Code.

People have been talking about the Uniform Civil Code again and again. In 2016 the Union government asked the Law Commission to look into the Uniform Civil Code. The 21st Law Commission finally looked at the Uniform Civil Code in 2018. They were very careful. They wrote a paper that said the Uniform Civil Code is not an idea, for India because India has so many different cultures. They thought it would be better to make changes to all the laws that deal with personal issues so that women are treated more fairly. The Uniform Civil Code is still an issue and the Uniform Civil Code needs to be discussed more. The Law Commission reports Law Commission reports and public consultations reflect a scholarly divide: some legal academics and activists argue for UCC as an essential measure to protect women’s rights and national integration; others advocate reform within communities and warn against coercive uniformity that could provoke communal tensions.<sup>8</sup>

### **Goa’s Civil Code (Case Study)**

Goa is a place in India where everyone follows the same rules, which is called the Uniform Civil Code. The Goa Civil Code, which is also known as the Goa, Daman and Diu Family Law came from the Portuguese Civil Code of 1867. This law was kept after Goa became free in 1961.

The Goa Civil Code applies to all people from Goa no matter what their religion is or what community they belong to. Some important things, about this law are that people have to

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<sup>7</sup> NEWS Alja zeera Modi’s BJP promises jobs, common civil code in manifesto for India election 14 April 2024

<sup>8</sup> BSSS Journal of Social Work, Volume XV, Issue-I The Uniform Civil Code: Paving the Way for Gender Justice in India?Dr. Kumar Satyam

register their marriages a person can be married to one person at a time husbands and wives own things together and sons and daughters have the same right to inherit things from their parents. The law in Goa is very clear about this. Goas law does not allow parents to completely leave out their children from their property. The law says that children must get least half of the property and it must be divided equally among the children. This law also affects men in Goa who have registered their marriages. These Muslim men in Goa cannot have wives<sup>9</sup>. If a Catholic couple gets married in a church in Goa they still need to register their marriage, with the government or get a divorce if they want to separate. Goas law requires this for marriages that take place in a church. People who study this topic agree that the law in Goa has really helped make things more equal for men and women. S. Nivetha said in 2023 S. Nivetha (2023) notes that Goa's civil code "ensures legal uniformity, equality, and clarity in matters of marriage, inheritance, property rights, divorce, and adoption." It has "strengthened gender equality, ensured protection of women's rights, and simplified legal processes".<sup>10</sup>

The state of Goa has shown that a law about family matters that's fair for everyone can work well. This gives India an example of how to make a law that applies to everyone at least to some extent. Some people are worried that what works in Goa may not work in places because Goa has a unique history and is a small state. They are right that Goas law came from the time when other countries were in charge of India not, from what people want today.

### **Uttarakhand's Draft UCC (Case Study)**

In the year In 2022 Uttarakhand became the first Indian state to pass a bill aimed at implementing a UCC at the state level. A government-appointed nine-member committee (headed by Justice Ranjana Prakash Desai) prepared draft "rules and regulations" for Uttarakhand's Uniform Civil Code. The draft (submitted October 2024) proposes codifying marriage, divorce, inheritance, maintenance, and guardianship laws uniformly for all Uttarakhand residents<sup>11</sup>. The Uttarakhand government's move was politically controversial: some critics argue that personal law is a federal subject (under Entry 5, Concurrent List) and a state UCC might conflict with central laws. Opponents (including human rights activists and

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<sup>9</sup> Wikipedia goa civil code

<sup>10</sup> Indian Journal of Law and Legal Research Volume VII Issue IV | ISSN: 2582-8878  
COLONIAL LEGACY AND THE UNIFORM CIVIL CODE OF  
GOA

<sup>11</sup> Panel submits final draft on implementation of UCC in Uttarakhand to CM Dhama  
<https://www.deccanchronicle.com/nation/panel-submits-final-draft-on-implementation-of-ucc-in-uttarakhand-to-cm-dhama-1831034> 18 oct 2024

opposition parties) label the draft UCC as a divisive tool that could accelerate communal tensions. Feminist critiques like that of Dr. Shalu Nigam (2025) describe the Uttarakhand UCC as “coercive, top-down” and “patriarchal, anti-secular, anti-women, [and] anti-minority”. Supporters (mainly BJP-aligned legal experts) maintain that this initiative is in line with the directive principles and women’s rights. Uttarakhand’s UCC remains in draft form pending cabinet approval; its evolution illustrates the legal-political tensions of implementing UCC in a diverse polity.

### Judicial Interpretation of UCC

The Supreme Court of India has looked at issues related to the Uniform Civil Code times. It has always said that the Uniform Civil Code needs to be made into a law by the people who make laws not by the court. Some important cases, about the Uniform Civil Code include:

- 1) **Shah Bano Begum v. Mohammad Ahmed Khan**<sup>1213</sup> was an important case in 1985. The Court made a decision to give a divorced Muslim woman money to support herself even after the iddat period was over using the criminal procedure law, which is Section 125 of the CrPC. The Chief Justice of India Y.V. Chandrachud, used Article 44 to make a point. He said that having a civil code for everyone will really help our country come together because it will get rid of all the different laws that people follow. He told Parliament that they should make a Uniform Civil Code. The judges were clearly sad that Article 44 was not being used they said it was like a letter that was written but never sent, a letter. The Shah Bano Begum, v. Mohammad Ahmed Khan case was a deal and it showed that the Court really wanted a Uniform Civil Code. The problem was really big. The government had to do something. So Parliament made a law called the Muslim Women Act in 1986. This law was made to cancel out the decision in the Shah Bano case. It showed that the lawmakers did not want the judges to try to bring in a Uniform Civil Code. The lawmakers were, against the judges trying to make the Muslim Women law follow the Uniform Civil Code. The Muslim Women Act was a deal because it went against what the judges had decided in the Shah Bano case.
- 2) **Sarla Mudgal v. Union of India**<sup>14</sup> (1995): This case was about a man who converted to Islam so he could get married again. The Court said this second marriage was not valid because it went against the law. The Court also said that the rules that Hindus

<sup>12</sup> 1985 (1) SCALE 767; 1985 (3) SCR 844; 1985 (2) SCC 556; AIR 1985 SC 945

<sup>14</sup> AIR 1995 SC 1531

follow are not really about religion anymore they are more about being part of the country. The Court thought it was not right that people were changing their religion to get around the law. The Court wanted India to have a set of rules for everyone, which is called the Uniform Civil Code or UCC for short so that people like this Hindu man would not be able to get married again by just changing his religion to Islam and this is what the Sarla Mudgal v. Union of India case is really, about the Uniform Civil Code or UCC. The court asked the government to give a report, on what it has done far to bring in the Uniform Civil Code. It said that not having the Uniform Civil Code is a problem because it lets people take advantage of others easily. The Uniform Civil Code is very important. It is necessary to stop exploitation. The government needs to work on the Uniform Civil Code to prevent people from exploiting others.

- 3) **John Vallamattom versus Union of India (2003)**<sup>15</sup>. A pastor from Kerala took the Union of India to court because he did not like the rules about who gets to control charities. The Court said that Section 118 of the Indian Succession Act was not fair. The Court also said that the Indian government had not done a job of making sure everyone follows the same rules as it says in Article 44 of the Indian law. The Court said that the Indian government should make a set of rules for everyone to follow which is called a Common Civil Code. This Common Civil Code would really help the country come together because it would get rid of all the rules that say different things. The Court was talking about the John Vallamattom, versus Union of India case and the Common Civil Code. The fact that they are using Article 44 clearly shows that the courts are still behind the Uniform Civil Code as a good idea for the country even though they know that the lawmakers are, in charge. The Uniform Civil Code is what the courts are supporting here.

**Cases:** There are many other court decisions that talk about the Uniform Civil Code. For example in the case of **Jordan Diengdoh versus S.S. Chopra**<sup>16</sup> a Christian woman wanted to get a divorce under law. The Court said that the situation was very bad because India does not have a Uniform Civil Code. In another case **Shabnam Hashmi versus UOI**<sup>17</sup> the Court said that anyone can adopt a child no matter what their religion is, under the Juvenile Justice law, which's a secular law. This is important because the Uniform Civil Code is not, in place and

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<sup>15</sup> SUPRA TO 5

<sup>16</sup> 1985 AIR 935, 1985 SCR Supl. (1) 704, or 1985 SCC (3) 62,

<sup>17</sup> (2014) 4 SCC 1

Islamic law does not allow adoption. The Court is talking about the Uniform Civil Code in these cases. The court case of **ABC versus State (NCT of delhi)**<sup>18</sup> was about the rights of a Christian mother to take care of her child. The Court talked about Article 44 in a way when it said that the directives are thinking about having a Uniform Civil Code. But the Court did not make any rules, about it it just told the legislators to take care of it.

The **Shayara Bano v. Union of India**<sup>19</sup> case is also known as the Triple Talaq case is very important. In this case the Court made a decision about instant triple divorce. The Court said that instant triple divorce is not allowed. However the Court did not say that we need a Uniform Civil Code. The Court did talk about the arguments for and against a Uniform Civil Code. The judgment said that the Constitution of India says the state has to make a Uniform Civil Code. This code will help fix the problems that people talked about in the arguments. The **Shayara Bano v. Union of India** case and the Uniform Civil Code are still topics of discussion. The Court and the Constitution of India are very important in **the Shayara Bano, v. Union of India** case and the Uniform Civil Code. In the case of Jose Coutinho versus Pereira that happened in 2017 which is also known as the Goa succession case the Court made a decision. The Court said that for people who inherit things and live outside of Goa they can use the Portuguese Civil Code. The Court also said that even though Hindu laws are written down nobody has tried to make a Uniform Civil Code for everyone to follow. The Court made this remark in the Jose Coutinho, versus Pereira case.

The Supreme Court has made it very clear what they think about the Uniform Civil Code. They believe the Uniform Civil Code is a thing for the country but it is up to the people who make the laws to actually make it happen. The Supreme Court has asked the government times to do something about Article 44 which is about the Uniform Civil Code. At the time the Supreme Court knows that they cannot force the government to make the Uniform Civil Code into a law. This shows that the Uniform Civil Code is a sensitive topic, for the government and the people.

### **Comparative Perspectives: France, Turkey, and USA**

Learning about how other countries deal with law is really helpful. It gives us an idea of how things work. Personal law is something that affects people every day and seeing how other countries handle law can be very useful.

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<sup>18</sup> 2015 SCC OnLine SC 609

<sup>19</sup> (2017) 9 SCC 1, often cited as AIR 2017 SC 4609,

- ❖ **France** pioneered civil law codification. The Napoleonic Code (1804) established a uniform civil code covering family, property, succession, etc., applying equally to all citizens regardless of religion [٥٥]. It rests on “liberty, equality, fraternity”. Religious communities in France today have limited autonomy: for example, France recognizes Church marriages performed by clergy, but civil registration is mandatory. Divorce and inheritance follow the civil code; however, “good morals” and public order can limit religious practices. France’s strong secular tradition (laïcité) meant that by 1905 religion was separated from the state, and personal law fell squarely under civil statutes.
- ❖ **Turkey** secularized its legal system under Atatürk. In 1926, Turkey adopted a new Civil Code modeled on the Swiss code (reflecting secular European norms), replacing Ottoman-era Sharia-based law. The Turkish Civil Code abolished polygamy and established equality in marriage, divorce, and inheritance [٥٦]. It applies uniformly to all Turkish citizens regardless of faith. Despite this, some religious minority groups have criticized that the code’s secularist orientation can impinge on their traditional practices (for example, difficulties around Islamic divorce and marriage customs). Overall, Turkey’s reforms are often cited as a successful example of rapid secularization and gender-equal personal law.<sup>20</sup>
- ❖ **The United States** does not have a singular “civil code” analogous to India’s UCC. The U.S. is a common-law federal system where family law (marriage, divorce, child custody) is predominantly state-regulated. Each state has its own statutes and case law governing these matters; there is no national uniform law of family matters (aside from constitutional rights like due process). For example, marriage requirements and divorce grounds vary by state. The U.S. Uniform Law Commission has crafted model acts (e.g., Uniform Probate Code) to harmonize some laws, but adoption is voluntary. In contrast to India’s religious personal law pluralism, U.S. differences arise from federalism. Some cite that the decentralized U.S. model still achieves legal certainty within each state, but leads to “forum shopping” if parties live in different states.

This is different from India, where people have laws based on their religion. In the United States the differences in laws come from the fact that the country is divided into states with their governments. Some people think that even though the United States has a system where laws can be different from state to state it still works within each state. However the United States model can cause problems when people from states are involved in a legal issue because they might try to find a state where the laws are more favorable, to them which is called forum

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<sup>20</sup> A Comparative Analysis of the Uniform Civil Code and Personal Laws in India ISSN:2583-584X Volume No.4 Issue No.:2 April to June 2025

shopping with the Uniform Probate Code and other United States laws.

India has a problem. It needs to balance being a country with having many different religions that are officially recognized. Some countries like France and Turkey have been able to make laws that work for everyone and help with women's rights. These countries have mostly one type of people living there or they have had strong leaders who made big changes. The United States is an example of how hard it can be to make laws that work for everyone when you have a lot of different states with their own power.

So when we think about India having a Uniform Civil Code it is very important to think about the situation in India. As one person pointed out how well the Uniform Civil Code works and what happens because of it will depend a lot on the cultural and political situation, in India. It is not likely that we will just copy everything from France or Turkey. Instead we might use some of the ideas from these countries such as making sure men and women are treated equally and having clear laws. We have to make sure that we protect the rights of people who're different from the majority like minority groups. France and Turkey have some principles, like gender equality and legal clarity that we can learn from.

### **Legal and Socio-Political Arguments for UCC**

❖ **Equality and Gender Justice:** - Equality and Gender Justice: Proponents argue that multiple personal laws inherently produce inequality. Women's rights vary drastically by community: for instance, Hindu daughters now have equal inheritance by law, while under Muslim personal law they inherit half of a son's share. Polygamy and instant divorce (talaq-e-biddat) exist in Muslim law (though triple talaq is now outlawed) but not in Hindu law. These disparities seemingly conflict with Article 14 and 15 of the Constitution, which guarantee equality and prohibit gender discrimination. A UCC would unify marriage, divorce, inheritance, and succession laws, theoretically eliminating practices deemed discriminatory (child marriage, unilateral divorce, unequal inheritance). As Justice B.Y. Chandrachud stated in *Shah Bano*, a UCC could "remove disparate loyalties to law" and integrate modern values. The Law Commission and various women's groups echo that codified equal rights would empower women across communities. Supporters highlight that many Muslim-majority countries (e.g. Tunisia, Morocco) have reformed personal status laws to enhance women's rights while maintaining religious identity. They point to Goa's

code as evidence that a UCC can work to protect women's rights without causing communal discord<sup>21</sup>

- ❖ **Secularism and National Integration:** Some people think that the Uniform Civil Code is a way to make India a more secular country. They believe that if the government does not favor any one religion then it should not use religion to decide matters like marriage and property. The idea of having a Uniform Civil Code comes from the people who wrote the constitution like Ambedkar, who wanted India to have the same laws for everyone. They thought that this would be a way to make India a modern country. The Uniform Civil Code is seen as a way to separate laws from religious rules and to make sure that the way society is governed is in line, with what the constitution says is right. The Uniform Civil Code is a way to make personal laws more secular which means they are not based on any one religion. This is what the people who support the Uniform Civil Code want for India. The idea of one law for the nation would really help people feel like they belong to the same country. This is because when everyone has to follow the rules it can help reduce fights between different groups of people

The Economic Times says that judges often talk about how the Uniform Civil Code's connected to cases where women are not treated fairly. They think that when there are different laws it can be bad, for women and hurt the unity of the nation. <sup>22</sup>

- ❖ **Modernization and efficiency:-**India has a lot of laws. A single code could make things easier. This unified code would make laws about adoption. Taking care of children clearer. Now these laws are, in different places because they are connected to specific religions. If India had a code it would be better. The laws would make sense and people would not have to go to court as much to figure out which laws apply to them. It would also be easier to make changes to the laws to help people. Some people think that if India had a code it could get rid of old customs that are not good. For example some people use something called HUF to avoid paying taxes. A single code could help stop this from happening. A Uniform Civil Code might also make India look better, to the world as a country that is moving forward and really cares about rights.

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<sup>21</sup> Supra 10

<sup>22</sup> SC support for legislation on UCC prompted by cases involving gender justice SECTIONSSC support for legislation [https://economictimes.indiatimes.com/news/politics-and-nation/sc-support-for-legislation-on-ucc-prompted-by-cases-involving-gender-justice/articleshow/101787948.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/politics-and-nation/sc-support-for-legislation-on-ucc-prompted-by-cases-involving-gender-justice/articleshow/101787948.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

## Legal and Socio-Political Arguments against UCC

- ❖ **Religious Freedom and Pluralism:-** Religious Freedom and Pluralism is an issue. Some people think that the laws of a community are a part of their traditions and should be protected under Article 25. They are worried that the Uniform Civil Code will take away the freedom to practice their religion and will not let people be different. If the Uniform Civil Code is put into action it could be seen as the majority of people forcing their rules on everyone especially on groups that are already treated unfairly. For example even though India is a country many people think that the laws based on Sharia are a big part of being Muslim. So if a uniform code is forced on everyone it could be seen as an attack on the identity. The Uniform Civil Code could be a problem, for Religious Freedom and Pluralism. The AlJazeera report says that Muslims are worried that the Uniform Civil Code or UCC for short will interfere with the laws of their religion and with India's secular constitution. Some people think that the idea of secularism in India was to treat all religions the same not to make them all the same. The Uniform Civil Code is an issue, for Muslims because they believe it will affect their religious laws.
- ❖ **Political and social feasibility:** India is a diverse country with many languages, cultures and laws. This makes it really hard to get everyone to agree on things. Within the same community people have different opinions about changing the laws. For example some Muslims want changes while others, like the conservative ulema, do not. The Law Commission looked into this. Said that having a Uniform Code that applies to everyone is not a good idea and it is also not possible. They think it would be better to make changes that're specific, to each community. The problem is that people cannot agree on what the Uniform Civil Code should say so it is almost impossible to create rules that everyone will accept. Uniform Civil Code is an issue and Uniform Civil Code needs to be thought about carefully. People are also worried about problems in society: when they tried to bring in the Uniform Civil Code it caused a lot of arguments in the past like it did in 1986 after the Shah Bano case. This could also affect politics. Make elections about different communities, which is not good, for the country. The Uniform Civil Code is an issue and it can make people very upset so it is a risk to try to bring it in.
- ❖ **Federation and Federalism:** - The Federation and Federalism have a role in personal law. This law is on a list that both the Centre and states can make rules about. Some people who lead states think that each state should make its rules about the Uniform Civil Code or UCC for short. For example Uttarakhand tried to do this. People who study the constitution say that if many states make their own UCC it will not be uniform anymore. The Uniform Civil

Code is supposed to be the same. Critics, like experts who write for the Deccan Chronicle say that the Uniform Civil Code cannot be decided by individual states because it has to be uniform. They say that by definition the Uniform Civil Code has to be the same, for everyone so it cannot be a matter that each state decides on its own. We cannot have uniform civil codes. This is the reason why a state level Uniform Civil Code risks causing tensions between the government and the states. A Uniform Civil Code is what we are talking about here and having Uniform Civil Codes is not a good idea. So a state level Uniform Civil Code is not the way to go because it can lead to problems, with the government.

- ❖ **Minority Rights and Majoritarianism** When we talk about Minority Rights and Majoritarianism a lot of people think that advocating for the Uniform Civil Code is really about favoring the majority. Some Hindu reformists want to change laws but they do not look at their own laws. For example Hindu law still says that property belongs to the family. people who are not sure about the Uniform Civil Code point out that Hindus are very different, from each other. There are castes and local customs. So it is not possible to have one law that applies to all Hindus. This means that the idea of having a law is not complete. There is another point to consider. India is a country, which means it allows different communities to follow their own practices. The only condition is that these practices must respect the rights of all people. Minority Rights and Majoritarianism is an issue and the Uniform Civil Code is just one part of it. The fear of assimilation or homogeneity is a potent political argument against UCC.
- ❖ **Legal complexity:** The idea of a Uniform Civil Code is really complicated. To make this Uniform Civil Code happen we would have to change or get rid of laws, such as the Marriage Acts and the Succession Acts. Making a Uniform Civil Code that's fair and covers everything is a huge job. We might also see some problems, like in states where property is passed down through the mothers side. The Law Commission thinks it is better to make changes to the laws we already have to make sure everyone is treated fairly rather, than trying to put a whole new Uniform Civil Code in place that has not been tested.
- ❖ **Gender Concerns:** Some people who support womens rights think that a Uniform Civil Code that is not well written might actually hurt womens rights. The Uniform Civil Code in Uttarakhand got criticized for this reason. Dr. Nigam said in 2025 that it could make things worse for women by forcing a law on everyone that does not consider what women really need. The Uniform Civil Code could favor men and the majority than women. Other people believe that to really achieve fairness for women we need to make changes from the

ground up based on what women have experienced rather than just creating a law from the top down. The Uniform Civil Code should be, about what women need, not just a set of rules that applies to everyone. People who support this idea say that everyone should have the rights everywhere and that is the only way to make sure that happens. They think that making changes here and there does not work very well because some places get better treatment, than others. The supporters of rights believe that these rights can only be guaranteed if they are applied uniformly.<sup>23</sup>

### **Intersection with Gender Justice, Secularism, and Minority Rights**

The Uniform Civil Code debate is really about making sure everyone is treated fairly especially when it comes to women and minority groups. You see, the laws that govern things like marriage and inheritance are not always fair to women. For example women do not always have the rights as men when it comes to getting married or inheriting property. The people who fight for womens rights like the National Commission for Women have been saying for a time that we need a Uniform Civil Code to make things fair. The Supreme Court has also talked about the Uniform Civil Code when making decisions about cases, like the Shah Bano case and the Triple Talaq case because it wants to help empower women through the Uniform Civil Code. Womens rights groups are mostly for a Uniform Civil Code to get rid of fashioned practices that hold women back. Muslim women who fight for womens rights have different opinions on this. Some of them think the Uniform Civil Code is an idea and it should be changed. On the hand groups like the All India Muslim Personal Law Board do not want the government to force a Uniform Civil Code on them. They think that their community should be able to make its rules. So the problem is that some people want rights for all women while others want their community to be able to make its own decisions like the Muslim community and its rules. Womens rights and the Uniform Civil Code are, at the center of this debate. When we talk about secularism people have thoughts on it. Some smart people, like Asaf Fyzee and Amartya Sen say that everyone should have the rights and that is what secularism is all about. They think that a state should treat everyone equally and not favor one group over another. This means that the laws should be fair to everyone.

On the hand some people point out that secularism in India is about respecting all the different religions that people practice. They think that if we try to make everyone follow the rules it

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<sup>23</sup> Uniformly Oppressive: A Feminist Critique of the Uttarakhand UCC as a Project of Patriarchy  
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could actually be bad for people who are different. The people who wrote the constitution had a complicated idea of what secularism should be. They wanted to make sure that individuals were protected from groups that might try to control them and they also wanted to preserve the diversity of Indian society. Secularism is still an issue and people have different opinions, on what it means for India to be a secular country and what secularism should look like in India. As Dr. Nigam notes, the Uniform Civil Code or UCC is something that is being forced on people, from the top. This could go against what the people who made the rules the Framers wanted to happen with the Uniform Civil Code. The Uniform Civil Code is a deal and the way it is being imposed is not very thoughtful. The Framers of the Uniform Civil Code had some ideas but the way the Uniform Civil Code is being forced on people does not take those ideas into account. When it comes to minorities the big issue is that the Uniform Civil Code may water down the culture of minorities. For instance getting rid of personal law could be seen as taking away the importance of Islam in everyday life. People who support the Uniform Civil Code say that the state has to be fair to minorities but making things uniform does not have to be bad for minorities if it is done in a way that's fair to everyone.

The people who are against the Uniform Civil Code are not convinced they think it is often a way for politicians to get more votes from the majority, like what happened after the Shah Bano case when the state changed the law because of pressure. People really want to make sure that everyone is treated fairly so they think that real equality means protecting the choices of minority groups even if those choices are different from what most people do. This is what genuine secular equality is, about which means protecting the choices of minority groups.

The Uniform Civil Code is really important when we talk about gender justice and making sure everyone is treated fairly no matter what they believe in or where they come from. The Uniform Civil Code has to deal with all these issues at the same time. Not many people will say that women do not deserve rights but they do not agree on how to make this happen without hurting the idea of secular pluralism. The Uniform Civil Code is a part of this conversation, about gender justice and minority rights.

### **Conclusion**

The Uniform Civil Code in India is an idea that says everyone should be treated equally under the law. It is also about bringing the country.. Even after India has been free for over 75 years this idea has not become a reality. The Uniform Civil Code in India has an complicated history.

It started with the British not caring what people did and now it is a big issue in politics. This shows that India is still trying to figure out how to be one country with different types of people. This paper has looked at what the Uniform Civil Code in India's based on which is Article 44. It has also looked at what the people who wrote the constitution thought about the Uniform Civil Code in India and how people in the courts and in society think about the Uniform Civil Code, in India now. If we look at Goa and Uttarakhand we can see that India can have laws that're the same everywhere.. Even in these places we can find examples of people making deals and disagreeing with each other. When we compare these examples to others like France and Turkey we can learn that having written laws can really help make things more equal for men and women. The thing is, these laws need to be made to fit the people and places they're, for and everyone needs to agree on them. Goa and Uttarakhand are examples of this and so are France and Turkey where civil laws have been used to make things more equal.

Our study shows that a Uniform Civil Code could really help keep the promises made in the constitution to women and people who are not treated fairly by getting rid of practices that are allowed by personal laws. A Uniform Civil Code could also show that the government is serious about being secular and keeping religion out of life. Because India is a country with many different cultures forcing a Uniform Civil Code on everyone could lead to a lot of anger and make minorities feel left out. Maybe a better way to do things would be to make changes to the laws that apply to each community like the Law Commission suggested, to make things more fair, for women. The Supreme Court has said that everyone should have rights in all laws whether we have a Uniform Civil Code or not. The Supreme Court wants to make sure that equal rights are given to everyone in all laws. This is what the Supreme Court is trying to do. It is a big deal, for the Supreme Court to say this about equal rights and the Uniform Civil Code.

Future efforts on Uniform Civil Code should involve talking to everyone and really studying the legal aspects. What happened in Goa teaches us that we need to update laws and protect the real customs of minority groups not just try to make everything the same. The experiment in Uttarakhand shows that people are excited about change but that making policies from the top down without agreeing with everyone can be a problem. Ultimately as one person said, "any attempt to implement a Uniform Civil Code, in India must carefully think about the countrys cultural and religious differences" while making sure everyone is treated equally and fairly. We need to think about how to make Article 44 work in India. This is because India has

different communities. A simple solution will not work. We might need to introduce a code in stages or make it optional. This way we can balance the things that Article 44 wants to achieve with the real lives of people, in Indias many communities. Article 44 is an idea but we have to be practical when we try to make it work in India.

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