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UNIFORM CIVIL CODE AND PERSONAL LAWS IN INDIA: CONSTITUTIONAL PROVISIONS AND A JUDICIAL PERSPECTIVE

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ABSTRACT

The Uniform Civil Code (UCC) is an important constitutional issue concerning equality, gender justice, religious freedom and individual rights in India. This article examines the historical development of personal laws, the Constituent Assembly debates and the constitutional basis of the UCC under Article 44. It also analyses important Supreme Court decisions, including Shah Bano, Sarla Mudgal, John Vallamattom, Shayara Bano and Shabnam Hashmi. The article further examines the Uniform Civil Code Bill, 2019 and recent developments in Uttarakhand and other States. It highlights the challenges of achieving uniformity while respecting India's religious and cultural diversity. The study concludes that UCC reform requires a careful balance between equality, individual rights, religious freedom and constitutional values.

Keywords: Uniform Civil Code; Personal Laws; Article 44; Constitutional Law; Gender Justice; Religious Freedom; Equality; Secularism; Personal Law Reform; Judicial Perspective.

INTRODUCTION

The Uniform Civil Code (UCC) refers to the idea of having common civil laws applicable to all citizens, irrespective of their religion or community. It mainly concerns personal and family matters such as marriage, divorce, adoption, maintenance, guardianship and succession. In India, these matters are governed by a combination of personal laws, customary practices and secular legislation. Personal laws are legal rules that regulate certain family and personal matters based on the religion, community or customs of individuals. Different communities, including Hindus, Muslims, Christians and Parsis, have historically been governed by different personal laws in matters such as marriage, divorce and succession. The concept of a UCC seeks

to establish common rules in such civil matters while addressing issues of equality and individual rights.

Personal laws in India have developed through religious traditions, customs, legislation and judicial decisions. While some laws are applicable to particular religious communities, several secular laws apply generally to citizens irrespective of religion. Therefore, the relationship between personal laws and the UCC is an important constitutional issue, particularly because it involves questions of equality, religious freedom, gender justice and individual liberty.

The constitutional basis of the UCC is found in Article 44 of the Constitution of India, which directs the State to endeavour to secure a Uniform Civil Code for citizens throughout India. Article 44 forms part of the Directive Principles of State Policy (Part IV of the Indian Constitution) and is not directly enforceable by courts. However, it remains an important constitutional provision in discussions concerning personal law reform and social justice.

History of Uniform Civil Code and Personal Laws in India

The origin of personal laws in India can be traced to the colonial period. Before British rule, different religious and customary laws were followed in different parts of India. Under the Mughal rulers, Islamic law was mainly applied in criminal matters, evidence and court procedures, while Hindu and other customary practices also governed civil and family matters. Thus, there was no single uniform legal system throughout India. The concept of “personal law” as a separate legal category developed more clearly during the colonial period with the establishment of the modern court and administrative system. The term began to be used during the late eighteenth century in the Presidencies of Calcutta, Bombay and Madras. After the East India Company gained control over Bengal following the Battle of Plassey (1757) and the Battle of Buxar (1764), it gradually established a more formal system of courts and legal administration. This colonial process contributed to the development and classification of religious and customary rules as distinct personal laws.

In 1772, Governor Warren Hastings introduced the Adalat system, which was influenced by the British legal system and followed the common-law and adversarial method of justice. However, the British soon understood that directly applying English law throughout India would be difficult because Indian society had different religions, customs and traditions.¹

British courts recognised religious and customary laws in matters such as marriage, inheritance

¹ RESURGENT INDIA, <https://resurgentindia.org/uniform-civil-code-history-and-present-significance> (last visited Sep. 20, 2026).

and caste. Hindu Pandits and Muslim Qazis assisted the courts in interpreting these laws. As personal laws were not yet fully codified, colonial courts relied on these experts while applying them.

The regulations introduced under Warren Hastings in 1772 and Lord Cornwallis in 1784 recognised the importance of personal laws. They provided that disputes concerning matters such as marriage, inheritance and caste among Hindus would be decided according to Hindu laws, while similar matters involving Muslims would be governed by Islamic law.

During British rule, scholars such as Warren Hastings and William Jones worked on translating and collecting Hindu and Muslim legal texts. Native legal officers continued to assist the courts until about 1860. Later, as the British introduced a more organised and uniform judicial system, these native law officers were gradually removed.

After 1860, the British began introducing more uniform and secular laws in areas such as crime, evidence and civil procedure. This led to important enactments including the Indian Penal Code, Code of Criminal Procedure, Indian Evidence Act and Code of Civil Procedure. These laws generally applied without distinction based on religion and replaced many earlier religious and customary rules in these fields.

However, the British did not create one common civil code for all personal matters. Hindu and Muslim personal laws continued to govern matters such as marriage, inheritance and family relations. These laws were increasingly interpreted by British-trained judges, leading to the development of Anglo-Hindu and Anglo-Muslim law. Judicial decisions and the doctrine of precedent also influenced the development of these personal laws, while the role of traditional religious scholars gradually declined.

Hindu personal law also underwent several social reforms during British rule. Important measures included the abolition of Sati in 1829, removal of caste disabilities in 1850, legal recognition of widow remarriage in 1856, and later reforms relating to women's property rights. Thus, British rule contributed both to the development of secular laws and to the gradual reform and judicial development of personal laws.²

Muslim personal laws, however, were subjected to fewer reform measures. British courts generally continued to recognise Islamic law and, in some cases, preferred it over local customs. Several laws relating to Muslim personal matters mainly preserved existing practices rather than introducing major reforms.

A significant change came with the Muslim Personal Law (Shariat) Application Act, 1937.

² *Id.*

Before this Act, Muslims in different regions sometimes followed a combination of Islamic law and local customs. Dr. B.R. Ambedkar also noted that, before 1937, Muslims in some parts of India followed Hindu law in matters of succession. The Shariat Act therefore helped establish Muslim personal law as the principal legal framework for Muslims in specified matters and strengthened its separate legal identity.

During the Constituent Assembly debates in 1948, the provision concerning the Uniform Civil Code was originally numbered Draft Article 35. When the Constitution was finally adopted, it was renumbered as **Article 44** and included among the Directive Principles of State Policy. Several important members, including B.R. Ambedkar and Jawaharlal Nehru, supported the idea of a Uniform Civil Code. A number of women members of the Constituent Assembly also expressed support for the provision. However, the debates also reflected different views and concerns regarding its implementation.

Constituent Assembly Debate on the Uniform Civil Code

The proposal for a Uniform Civil Code faced opposition from several Muslim members of the Constituent Assembly, including Mohammad Ismail, Naziruddin Ahmed, Mehboob Ali Baig, B. Pokar Saheb, Ahmed Ibrahim and Maulana Hasrat Mohani. Christian member Frank Anthony also opposed it. Naziruddin Ahmed suggested that the UCC could initially be introduced only with the approval of the religious communities.³ Opponents of the UCC raised three major concerns. First, they argued that people should have the choice to follow a common civil code, or that the consent of different communities should be obtained before introducing it. They also preferred a gradual approach to reform. Second, they argued that India's religious and cultural diversity made complete uniformity difficult.⁴ Third, they maintained that matters relating to family and personal laws were closely connected with religious practices, and therefore the State should exercise caution in interfering with them.

B.R. Ambedkar responded by pointing out that Muslim communities had not always followed Sharia law in every part of India. He referred to the North-West Frontier Province, where Hindu law had been followed by Muslims in matters such as succession before the Sharia was made applicable.

K.M. Munshi and other supporters argued that different personal laws could create legal differences and unequal treatment, particularly between men and women. Munshi also noted

³ *Id.*

⁴ Sughosh Joshi, *Uniform Civil Code: The History and the Present*, LAWANDOTHERTHINGS (Sep.20, 8 PM), <https://lawandotherthings.com/uniform-civil-code-the-history-and-the-present>.

that different Hindu communities followed different laws, showing that personal law was not necessarily an unchangeable part of religion. They argued that the State could regulate secular matters for social reform and equality.

Another issue was whether the UCC should replace personal laws or operate alongside them. Due to minority concerns, Dr. B. R. Ambedkar suggested that it could initially be voluntary, allowing individuals to adopt it by declaration.

The Constituent Assembly adopted the provision by majority and rejected the proposed amendments. It was placed in the Directive Principles of State Policy rather than made enforceable, considering the conditions after Partition and Independence. Originally Draft Article 35, it later became Article 44 of the Constitution.⁵

Constitution provisions and judicial perspectives

Article 44 directs the State to make efforts towards establishing a Uniform Civil Code applicable to all citizens throughout India.⁶ The Uniform Civil Code (UCC) is a constitutional concept that seeks to establish common civil laws for all citizens, instead of applying different personal laws based on religion. It mainly covers matters such as marriage, divorce, adoption and inheritance. The UCC aims to promote gender equality, secularism and the constitutional rights of individuals.⁷

The Constitution of India contains several provisions that are relevant to the Uniform Civil Code and personal laws. Article 14 guarantees equality before the law and equal protection of laws⁸, while Article 15 prohibits discrimination on grounds such as religion and sex.⁹ Article 21 protects life and personal liberty and is relevant to individual dignity and personal autonomy.¹⁰ Article 25 protects freedom of conscience and the right to profess, practise and propagate religion, subject to constitutional limitations.¹¹ Under Article 25(2), the State can regulate secular activities connected with religious practices and make laws for social welfare and reform.¹² Article 26 protects the right of religious denominations to manage their religious affairs.¹³ These provisions are important because the implementation or reform of personal laws may involve a balance between equality, individual rights and religious freedom.

⁵ *Id.*

⁶ INDIA CONST. art. 44.

⁷ NLUJA, <https://www.nluassam.ac.in/docs/events/NCW2013SEP2023> (last visited Sep. 22,2026).

⁸ INDIA CONST. art. 14.

⁹ INDIA CONST. art. 15.

¹⁰ INDIA CONST. art. 21.

¹¹ INDIA CONST. art.25.

¹² INDIA CONST. art.25(2).

¹³ INDIA CONST. art.26.

An important step towards a common civil law was the Special Marriage Act, 1954, which provided a legal framework for civil marriages between persons belonging to the same or different religions. This was followed by the codification of Hindu personal laws through four major laws enacted in 1955–56, dealing with marriage, succession, guardianship, adoption and maintenance.¹⁴

The issue of the UCC was later discussed in several important Supreme Court cases, particularly *Mohd. Ahmed Khan v. Shah Bano Begum*¹⁵. Shah Bano, a divorced Muslim woman, sought maintenance from her former husband under Section 125 of the Code of Criminal Procedure. Her husband argued that his liability was limited under Muslim personal law after payment of *mahr* and maintenance during the *iddat* period. The Supreme Court held that Section 125 applies irrespective of religion and recognised Shah Bano's right to claim maintenance. The Court also referred to Article 44 and observed that a Uniform Civil Code could help reduce differences arising from separate personal laws.

The judgment faced opposition from sections of the Muslim community. Subsequently, the Rajiv Gandhi government enacted the **Muslim Women (Protection of Rights on Divorce) Act, 1986**, changing the legal position on maintenance of divorced Muslim women. The Shah Bano case became significant in debates on personal laws, women's rights and Article 44.¹⁶

After *Shah Bano*, another important case concerning the UCC was *Sarla Mudgal v. Union of India*¹⁷, in this case, a Hindu man converted to Islam and married again without dissolving his first marriage. The Supreme Court held that the second marriage was invalid and that conversion to Islam could not be used to avoid the law against bigamy under Section 494 of the IPC. The Court also emphasised the need for a Uniform Civil Code and observed that the existence of different personal laws could create legal conflicts.

Another important case was *John Vallamattom v. Union of India*¹⁸, The case challenged Section 118 of the Indian Succession Act, 1925, which restricted certain charitable and religious bequests by Christians. The Supreme Court struck down the provision as violative of Article 14 and referred to Article 44, noting that a UCC could promote national integration by reducing religion-based differences in law.¹⁹

¹⁴ KANAKKUPILLAI, <https://www.kanakkupillai.com/learn/constitutional-provisions-dealing-with-uniform-civil-code-ucc> (last visited Sep. 22, 2026).

¹⁵ *Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

¹⁶ Reena Verma & Dr. Munesh Kumar, *Uniform Civil Code in India: A Constitutional Analysis of Article 44 and Minority Rights*, Int. J. Law.60, 61 (2026).

¹⁷ *Sarla Mudgal v. Union of India*, AIR 1995 SC 1531.

¹⁸ *John Vallamattom v. Union of India*, AIR 2003 SC 2902.

¹⁹ Esha Suraj Sanas, *Uniform Civil Code (UCC) and the Personal Laws*, Lawyered (2023).

Both cases are significant in the development of the UCC debate because the Supreme Court discussed the relationship between personal laws, equality and the need for greater uniformity in civil matters.

The *Shayara Bano v. Union of India*²⁰, Shayara Bano challenged the practice of instant triple talaq, claiming that it violated constitutional rights under Articles 14, 15, 21 and 25. The Supreme Court, by a majority, declared the practice invalid. The Court also referred to the broader issues of personal law and Article 44, but did not decide whether a Uniform Civil Code should be implemented. The judgment was followed by the **Muslim Women (Protection of Rights on Marriage) Act, 2019**, which made the pronouncement of instant triple talaq a punishable offence.

In *Lily Thomas v. Union of India*²¹, the Supreme Court held that a Hindu man cannot convert to Islam merely to contract a second marriage without dissolving his first marriage. Such conversion does not automatically terminate the existing marriage. Therefore, the second marriage can attract criminal liability under Section 494 of the Indian Penal Code, which dealt with the offence of bigamy.

In *Shabnam Hashmi v. Union of India*²², the petitioner sought recognition of adoption as a right available to persons irrespective of religion. The Supreme Court held that the Juvenile Justice Act, 2000 provides a secular and optional framework for adoption for people of all religions. However, the Court did not recognise adoption as a fundamental right under Article 21. The judgment also noted that the Act allows adoption without being restricted by personal laws and is consistent with the objective of Article 44.

Uniform Civil Code Bill, 2019

The Uniform Civil Code Bill, 2019 was introduced in the Lok Sabha on 25 October 2019. The Bill proposed the creation of a National Inspection and Investigation Committee to work towards the preparation and implementation of a Uniform Civil Code throughout India. Under Section 4, the Committee was given responsibility for taking necessary steps for the codification and implementation of the UCC.

The Bill proposed that the UCC should apply throughout India and provide common rules for matters such as marriage, divorce, succession, adoption, guardianship and partition of property for all citizens. It also aimed to promote equality under Article 14 and prevent discrimination

²⁰ *Shayara Bano v. Union of India*, AIR 2017 SC 4609.

²¹ *Lily Thomas v. Union of India*, AIR 2000 SC 1650.

²² *Shabnam Hashmi v. Union of India*, AIR 2014 SC 1281.

based on religion, caste and gender in accordance with Article 15. The Bill further proposed replacing existing religion-based personal laws with a common civil code.

The Uniform Civil Code Bill, 2019 seeks to establish common civil laws applicable to all citizens, which could support the principle of equality. Having common rules may also make the legal system easier to understand and reduce difficulties arising from the application of different personal laws. The Bill may also encourage social unity by establishing similar civil rules for people belonging to different communities. In addition, it seeks to strengthen gender equality by providing equal legal rights to men and women in matters covered by the proposed Code.²³

The Bill aims to promote **equality, social unity and gender justice** through common civil laws. It may also simplify the legal system by reducing differences between personal laws.

However, some communities may oppose replacing their personal laws and customs. Its implementation may also create practical difficulties and concerns about protecting India's diverse religious and cultural traditions.²⁴

Developments in UCC and Personal Law Reform

The Uniform Civil Code (UCC) has received increasing attention in India in recent years. The Law Commission of India has considered both the reform of personal laws and the question of a common civil framework.

The 21st Law Commission of India, headed by Justice Balbir Singh Chauhan, issued the Consultation Paper on Reform of Family Law in 2018. Instead of recommending an immediate UCC, the Commission focused on reforming existing personal and family laws. It observed that complete uniformity was not necessary for national unity and that differences between communities do not always amount to discrimination. The Commission therefore emphasised the need to identify and remove discriminatory provisions, particularly those affecting women. The 22nd Law Commission of India, headed by Justice Ritu Raj Awasthi, also considered the UCC. In 2023, it invited views and suggestions from the public and interested organisations on the issue of a Uniform Civil Code.²⁵

Limitations of the Portuguese Civil Code, 1867, which continues to influence Goa's common civil-law system are as follows,

²³ Sakshi Kuthari, *Article 44 of Indian Constitution*, IPLEADER (Sep. 22, 2026, 9.30 PM).

²⁴ *Id.*

²⁵ Aneesha Kumari, *UNIFORM CIVIL CODE IN INDIA: A CONSTITUTIONAL MANDATE OR A CULTURAL CONUNDRUM*, Lawway Lawyers J. (2025).

- The law does not treat all religions equally regarding marriage and divorce, as Roman Catholic marriages follow distinct Church procedures that receive special state recognition.
- The Code contains certain exceptions in relation to marriage and divorce, which raises questions about complete uniformity.
- Some provisions have been criticised for providing different rights to husbands and wives in matters of divorce, raising concerns about gender equality. Finally, although the system provides for joint ownership of certain marital property, questions have been raised regarding the management and control of such property.²⁶

These limitations show that the Goa model, despite being commonly described as a Uniform Civil Code, does not necessarily provide complete uniformity in every aspect of personal and family law.

The **Uniform Civil Code of Uttarakhand, 2024** was passed by the State Legislature in 2024 and came into force on 27 January 2025. It provides common rules on matters including marriage, divorce, succession and live-in relationships, while excluding Scheduled Tribes covered by the statutory provision. The Code also requires registration of certain live-in relationships. Its implementation has added a practical dimension to the UCC debate, particularly concerning equality, gender justice, privacy, personal liberty and individual autonomy.²⁷

Constitutional Concerns Regarding the Uttarakhand UCC

- The Uttarakhand Code mainly deals with relationships recognised as marriage between a man and a woman. So, questions arise about whether LGBTQ+ relationships receive equal treatment under the Code.
- Some violations of the Code can lead to punishment. Critics are concerned that criminal provisions could affect some religious or minority communities more strongly where their customary practices are regulated by the Code.
- Couples in live-in relationships have to provide certain information for registration. This raises a question: how much information about a person's private relationship should the government be allowed to collect? This is especially relevant for interfaith or inter-caste couples.

²⁶ Kuthari, *Supra* note 23.

²⁷ Kumari, *Supra* note 25.

- The Code requires certain live-in relationships to be registered. A concern raised is that people already have some legal protection under the Protection of Women from Domestic Violence Act, 2005, so there is a question about whether additional registration requirements are necessary.²⁸

Recent development in 2026

The Uttarakhand UCC came into force on 27 January 2025, introducing common rules on marriage, divorce and live-in relationships. It also introduced digital procedures, including online marriage registration, reducing the need for physical visits to government offices. The State Government reported significant use of the online registration system during its first year. **In 2026, the Uttarakhand Government introduced an amendment ordinance** under Article 213 of the Constitution. The amendments mainly aimed to improve the procedural, administrative and penal provisions of the UCC and make its implementation clearer and more effective. The State Government also organised awareness programmes to explain the UCC to the public.²⁹

The **Assam Uniform Civil Code Bill, 2026** introduced common rules relating to marriage, divorce, inheritance and live-in relationships. It prohibits polygamy and bigamy and makes the registration of marriages and live-in relationships compulsory. It also provides for equal inheritance rights and maintenance for women deserted by their live-in partners. However, Scheduled Tribes in Assam are excluded from the Bill to protect their customary laws and practices. Thus, the Bill attempts to promote uniformity and equality while also recognising tribal customs.³⁰

The **Gujarat Legislative Assembly passed the Gujarat Uniform Civil Code, 2026, on 24 March 2026**. It provides common rules on marriage, divorce, inheritance, adoption and live-in relationships. It requires registration of marriages and live-in relationships, prohibits polygamy and ensures equal inheritance for sons and daughters. Scheduled Tribes are excluded to protect their customary practices. The Code also raises constitutional questions relating to equality, religious freedom, privacy and individual rights.³¹

The Madhya Pradesh Assembly passed the Uniform Civil Code (UCC) Bill on 21 July

²⁸ Kuthari, *Supra* note 23.

²⁹ Uttarakhand Govt Implements the UCC (Amendment) Ordinance, 2026, Akashvani News (Jan. 27, 2026), <https://newsonair.gov.in/uttarakhand-govt-implements-the-ucc-amendment-ordinance-2026>

³⁰ DRISHTIIS, <https://www.drishtiiis.com/daily-updates/daily-news-analysis/assam-ucc-bill-2026> (last visited Sep. 25, 2026).

³¹ STERLING & PARTNERS, <https://sterlingpartners.law/gujarat-uniform-civil-code-2026-explained> (last visited Sep. 23, 2026).

2026 through a voice vote. The Bill aims to introduce common rules for personal-law matters and promote equality and women's rights, including measures against practices such as polygamy. The Bill faced opposition from some Congress MLAs, who raised concerns about the legislative process and the need for further scrutiny. Supporters argued that the UCC would provide equal rights and reduce differences in personal laws.³²

The UCC aims to promote equality, gender justice, social unity and secularism by providing common civil rules. However, its implementation may be difficult in a diverse society due to concerns about religious freedom, traditions and State interference. Therefore, the UCC requires a balance between uniform laws and cultural diversity.³³

CONCLUSION

The Uniform Civil Code is an important constitutional issue connected with equality, gender justice, individual rights and national unity. Article 44 of the Constitution directs the State to work towards a common civil code, while other constitutional provisions protect equality and religious freedom. The UCC may help provide similar legal rights in matters such as marriage, divorce, adoption and inheritance, but its implementation is challenging because India has different religions, customs and traditions. The aim should be to ensure equality and justice without unnecessarily affecting legitimate cultural and religious practices. Ultimately, the UCC should be treated as part of a wider process of social and legal reform, with the objective of achieving justice, equality and unity while respecting India's diversity.

³² Aakanksha Yadav, *Madhya Pradesh Assembly Approves Uniform Civil Code Bill*, csrjournal (2026).

³³ Kumari, *Supra* note 25.