



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **UNIFORM CIVIL CODE AND GENDER JUSTICE: A LEGAL PERSPECTIVE**

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## **Abstract**

Implementation and the establishing a Uniform Civil Code (UCC) in India is debatable topic from many years because; it must balance the rights of religious freedom with equality and secularism principles. This paper examines the multiple difficulties that UCC faces from the legal system and society coupled with its important role in establishing gender equality. Under Article 14, 15 and 21 of the Constitution the discussion reveals equality standards while confronting religious opposition and political unwillingness. The paper explores how landmark legal cases enable the judiciary to defend uniformity in the law. The Article concludes with the recommendations and the approach of inclusivity which acknowledges multiculturalism while maintaining laws that secure fairness and equality.

**Key words** - Uniform Civil Code (UCC), Secularism, Equality, Religious Freedom, Gender Justice.



## 1- Introduction

The Uniform Civil Code (UCC) is the codification of a special set of secular laws that replace personal laws based on the scriptures and customs of each major religious community in India with a common set governing every citizen. Under Article 44 of the Indian Constitution, UCC will ensure the uniformity of law keeping in view the fundamentals of secularism, equality and justice.<sup>1</sup> But, its implementation is not an easy one as there is opposition upon which the state should not interfere in religious backgrounds and necessary steps to preserve culture.<sup>2</sup>

One of the most basic tenets of the Indian Constitution is Secularism which means that state does not favor any religion while governing from the streets above. The prevailing system of personal laws, which differs among religious communities, leads to legal inconsistencies, and frequently reinforces gender disparities. For one, the Constitution contains Articles 14, 15 and 21<sup>3</sup> which underline the right to equality and the right to be free from discrimination and stress that the same law must apply uniformly to all citizens irrespective of religion.

One of the essential components of UCC is gender justice as the personal laws in different communities are patriarchal and deprive women from the rights of marriage, divorce, and property. India is suffering from the lack of a common civil code that removes the disparities facilitated by law which favor women more when patriarchal norms are followed. One of the key elements to dispensing and upholding the constitutional promise of justice is maintaining an equitable legal framework<sup>4</sup>.

This article examines historical development of personal laws, judicial pronouncements in favour of UCC and socio-political roadblocks to its adoption. The article further touches upon how UCC, depending upon its effectuation, could also promote gender equality and uniformity of laws. Through analysis of these factors, the article intends to provide insight in to the continuing conversation surrounding legal reform and social justice in India.

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<sup>1</sup> Jain, Rahul, Uniform Civil Code Towards Gender Justice (August 21, 2023). International Journal of Legal Developments and Allied Issues, Volume 9, Issue 5, September- October 2023, (05 March 2025, 10:05 A.M.) Available at SSRN: <https://ssrn.com/abstract=4767156>

<sup>2</sup> Ibid

<sup>3</sup> India Const. art. 14,15,21.

<sup>4</sup> Paul, Sandip and Blogs, Neolexvion, Uniform Civil Code: A Step towards attaining Gender Justice (April 30, 2021). Neolexvion Blogs,(06 March 2025, 11:07 A.M.) <https://www.aequivic.in/post/uniform-civil-code-a-step-towards-attaining-gender-justice> , Available at SSRN: <https://ssrn.com/abstract=3836899>



## **2- Historical Evolution of Personal Laws in India in Relation to Uniform Civil Code**

### **2.1- Pre-Colonial India: Customary and Religious Laws Governing Personal Matters**

Historically, the legal system before colonial rule in India was based on religion. Different communities adhered to their religious laws in reference to personal matters such as marriage, divorce, inheritance, and adoption. Hindu laws were based on the Vedas, Manusmriti and several other Dharmashastras whereas Muslim laws were based on the Quran and the Hadith. Religious scholars interpreted these laws, but customary practices mostly dominated the landscapes of jurisprudence<sup>5</sup>. Both Hindu and Muslim rulers permitted their subjects to practice their religions, and local priests, qazis, and community elders settled many disputes.

### **2.2- British Colonial Era: Codification of Hindu and Muslim Personal Laws**

Under British domain, India went through vast changes in the legal system. British Interventions were primarily in the form of changes to criminal and commercial laws while not interfering with personal laws. In a report from 1840, Lex Loci Report, it was argued that uniform laws should be applied in matters of criminal justice but where personal laws were concerned, it should remain within the jurisdiction of religion.<sup>6</sup>

But with the passes of time British started codifying personal laws. The colonial period introduced legal reforms, such as the Hindu Widows' Remarriage Act of 1856, the Indian Divorce Act of 1869, and the Hindu Marriage Act of 1891. This was also the time of introduction of the Shariat Act of 1937, which aimed to bring Muslim personal laws under the purview of Islamic law rather than customary practices. The reforms implemented by the British gradually promoted the British type of law in Indian law, but also aimed at retaining the status of independence in the field of religion in the personal sphere.<sup>7</sup>

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<sup>5</sup> Choudhary, Richa, Uniform Civil Code (July 12, 2020). (09 March 2025, 10:30) Available at SSRN: <https://ssrn.com/abstract=3649628> or <http://dx.doi.org/10.2139/ssrn.3649628>

<sup>6</sup> Singh, Chanchal Kr and Kumar, Mritunjay, The Uniform Civil Code Debate in India: Conceptual Predicaments, Historical Legitimacy, and Challenges to Pluralism (January 01, 2022). Chanchal Kumar Singh & Mritunjay Kumar, The Uniform Civil Code Debate in India: Conceptual Predicaments, Historical Legitimacy, and Challenges to Pluralism V SML. L. REV. 12 (2022)., (09 March 2025 12:10 P.M. ) Available at SSRN: <https://ssrn.com/abstract=4948897> or <http://dx.doi.org/10.2139/ssrn.4948897>

<sup>7</sup> Ibid

## **2.3- Post-Independence Debates:**

### **a- Constituent Assembly Discussions on UCC**

Discussions surrounding the Uniform Civil Code became a highly controversial debate in the history of the Constituent Assembly of India. The main architect of the Indian Constitution Dr.B.R. Ambedkar maintained solid support for adopting the Uniform Civil Code because he recognized it as a fundamental requirement for gender justice along with national unity and social advancement. According to him multiple religious-based personal laws generate legal inconsistencies which contradict constitutional equality provisions<sup>8</sup>.

Throughout the debate Ambedkar encountered substantial resistance against his UCC stance which came chiefly from Assembly members and religious leaders who opposed his ideas. Members who were part of the Muslim community expressed concerns that establishing a UCC would both jeopardize religious freedom and risk damaging the cultural traditions of religious minorities<sup>9</sup>. The supporters of personal laws believed their beliefs required these distinctive religious laws so they thought state efforts to establish a unified legal system exceeded proper state power<sup>10</sup>.

During the UCC discussion Naziruddin Ahmad spoke strongly against immediate UCC adoption because he saw implementing uniform laws as likely to produce social tensions in the nation. He advocated that incremental community-based reforms should replace the state-establishing nation-wide legal standards through legislation<sup>11</sup>. Religious laws form integral parts of both private affairs and community practices so any government intervention would undermine religious independence according to Mohammad Ismail Sahib and Pocker Sahib Bahadur.<sup>12</sup>

K.M. Munshi along with Alladi Krishnaswamy Iyer supports Ambedkar to advocate for his progressive standpoint<sup>13</sup>. The speakers highlighted that national unification of criminal and civil law systems already existed but personal law fragmentation still preserved gender

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<sup>8</sup> Constituent Assembly Debates (Proceedings), Volume VII, Tuesday 23rd Nov, 1948.

<sup>9</sup> P, Ramji Kumar, A Dream for Uniform Civil Code in 75 Years of Independent India with Special Reference to its Implementation Procedure Propounded by Founding Fathers in the Constituent Assembly: An Analysis (November 25, 2022).( 11 March 2025, 10:30 A.M.) Available at SSRN: <https://ssrn.com/abstract=4649269> or <http://dx.doi.org/10.2139/ssrn.4649269>

<sup>10</sup> *ibid*

<sup>11</sup> Constituent Assembly Debates (Proceedings), Volume VII, Tuesday 23rd Nov, 1948.

<sup>12</sup> *ibid*

<sup>13</sup> *Ibid*

discrimination and numerous social disadvantages. Munshi believed that Uniform Civil Code would defend the constitutional principle of secularism which requires the state to create laws without religious interference.<sup>14</sup>

### **b- Inclusion of Article 44 in Directive Principles of State Policy**

In light of the prevalent opposition from religious groups and the political sensitivity regarding the UCC, the Framers of the Constitution placed the provision under the Directive Principles of State Policy (DPSP) instead of under the Fundamental Rights making it a non-justiciable right. So, Article 44<sup>15</sup> was incorporated in part IV of the Constitution and it read as "The State shall endeavour to secure for the citizen a uniform civil code through-out the territory of India" The framers of the Constitution expected that the Indian state would slowly strive to implement a common civil code as per the aspirations and beliefs of all religious communities and one which would ultimately become a guiding principle for the state. This is an area of compromise, between social reform and religious sensitivity. Ambedkar was disappointed with this non-justiciable declaration of UCC by the Assembly but accepted the political reality of the time.

### **c- Attempts at Legal Reforms and Resistance from Religious Groups**

Different initiatives have worked to create legal reforms which follow the guidelines of UCC throughout the years. The Hindu Code Bills from the 1950s established themselves as major reforms that led to legal standardization. These laws especially the Hindu Marriage Act (1955) and Hindu Succession Act (1956) along with Hindu Adoptions and Maintenance Act (1956) established reforms in Hindu personal law systems to achieve equality between sexes. Religious communities remained divided because reforms did not extend to Muslim and Christian personal laws.<sup>16</sup>

The Shah Bano case of 1985<sup>17</sup> became a major milestone in the ongoing discussion about UCC. Under Criminal Procedure Code Section 125 the Supreme Court extended maintenance rights to divorced Muslim women for all citizens without religious exception. When Muslim religious protesters mobilized opposition to the ruling Muslim Women (Protection of Rights on Divorce) Act, 1986 replaced the Supreme Court's verdict through legislation. The incident showed the

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<sup>14</sup> ibid

<sup>15</sup> India Const .art.44

<sup>16</sup> Sriraam, Dr. Sangeetha, Uniform Civil Code: An Instrument for Gender Justice (February 24, 2020). (12 March 2025, 1:30 PM,) Available at SSRN: <https://ssrn.com/abstract=3590351> or <http://dx.doi.org/10.2139/ssrn.3590351>

<sup>17</sup> Mohd Ahamd Khan Vs Shah bano begum, 1985 ,AIR 1945



strong opposition of religious groups who disagreed with any touch on their personal laws.

The issue of triple talaq (instant divorce) has become a major topic to debate about UCC. A Court issued a decision against triple talaq in 2017 and the Muslim Women (Protection of Rights on Marriage) Act made it illegal for men to perform instant divorce in 2019. This marked a significant step toward uniformity in personal laws, albeit on a case-by-case basis rather than through a comprehensive UCC.<sup>18</sup>

The implementation of a Uniform Civil Code appears complex because of historical developments in personal laws throughout India. The reform of Hindu personal laws has been substantial yet Muslim and Christian personal laws have faced minimal adjustment as the subject matters both political and religious sensitivities. Laws in India show advancement toward uniformity through the series of slow-moving legal steps including triple talaq reform and maintenance law updates. The path to complete enactment of a UCC demands the resolution of religious and cultural opposition that continues to exist against it.

A nationwide common civil code seems possible because both Goa experienced success with implementing their code and Uttarakhand recently also implemented the uniform civil code. As India continues to advance the challenge of finding equilibrium between religious freedom and legal uniformity will lead to making the common civil code a future reality.

### **3- Gender Disparities in Personal Laws in India**

#### **3.1- Hindu Personal Laws**

##### *a- Inequality in Marriage (Guardianship and Consent)*

Marriages remained arranged and the bride's consent was not sought due to the importance placed on her guardianship in marriage under Hindu personal laws. Although the Hindu Marriage Act, 1955 made progress by introducing the requirement of consent, patriarchal remnants are still found. Even within reformed systems, women still have little freedom of choice over who they marry, and in many conservative communities, societal pressure is a big factor.<sup>19</sup>

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<sup>18</sup> Ibid

<sup>19</sup> Paul, Sandip and Blogs, Neolexvision, Uniform Civil Code: A Step towards attaining Gender Justice (April 30, 2021). Neolexvision Blogs,(13 March 2025, 11:25 A.M.) <https://www.aequivic.in/post/uniform-civil-code-a-step-towards-attaining-gender-justice> , Available at SSRN: <https://ssrn.com/abstract=3836899>

*b- Property Rights and Coparcenary System (Pre and Post-2005 Amendments)*

Hindu women traditionally have been largely disentitled to inherit property, under the Mitakshara based Hindu law. Coparcenary distributes the property only among the male members of a joint Hindu family. Women could only expect maintenance or a limited estate, which passed to male heirs when women died. Things changed significantly post the Hindu Succession (Amendment) Act 2005<sup>20</sup>, which granted equal coparcenary rights to daughters. However, even with this legal reform, the reality on the ground is that women find it next to impossible to exercise these new rights due to social norms and lack of awareness on the diya law, and disputes regarding property inheritance are still rife.

*c- Divorce Laws and Maintenance Issue*

Under the provisions of the Hindu Marriage Act of 1955 divorce became possible through cruelty desertion and adultery as legal basis<sup>21</sup>. The burden of proving these grounds lies on the Women makes it difficult for them to leave unhappy Marriages. Although maintenance laws exist they do not provide sufficient financial security to divorced women. Under Section 24 of the Hindu Marriage Act women are eligible for interim maintenance but they experience difficulties when attempting to enforce their rights to receive their financial due.

### 3.2- Muslim Personal Laws

*a- Polygamy and Triple Talaq (Judicial Reforms and The Muslim Women Act)*

Muslim personal laws traditionally accepted polygamy and allowed a Muslim man to have as many as four wives, the same was not true for women, who had no corresponding rights. This practice has come under fire for being discriminatory. The Supreme Court deemed triple talaq (instant divorce) unconstitutional in 2017<sup>22</sup>, and then the practice was criminalized under the Muslim Women (Protection of Rights on Marriage) Act, 2019. Though these judicial and legislative reforms have strengthened the rights of women in India, conservative sections are not averse to opposing them and gender justice remains elusive due to poor implementation of these reforms.

*b- Maintenance Rights and the Aftermath of the Shah Bano Case*

In 1985, the Supreme Court in Shah Bano case made a landmark ruling by awarding

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<sup>20</sup> Section 5, Hindu Succession Act 1956.

<sup>21</sup> Section 13 Hindu Marriage Act 1955

<sup>22</sup> Shyara Bano Vs Union of India 2017,9 SCR,797

maintenance to a divorced Muslim woman under the provisions of Section 125<sup>23</sup> of the Criminal Procedure Code which is applicable to all citizens including Muslims. While anti-Muslim groups met the judgment for Muslim women with violent backlash, leading the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986 which had guided that Muslim women have a right to maintenance only for the duration of iddat (few months post-divorce). While some later decisions have tried to reduce the effects of this law, it largely reduced the post-divorce economic protections for women.

### *c- Inheritance and Unequal Property Rights*

According to Muslim personal law, inheritance is regulated by the Quran, which entitles men to twice the share that women get. The rationale behind this disparity is that men bear more financial burdens. But, in today's world, where women also work and contribute to family budgets, this system looks archaic and somehow wrong. Women are entitled to inherit, but enforcing their rights is difficult in patriarchal families where it is male relatives who have power in decision-making.<sup>24</sup>

## 3.3- Christian and Parsi Personal Laws

### *a- Divorce and Custody Laws*

Christian divorce laws have traditionally been more stringent than for other communities. Christian divorce in India was governed by the Indian Divorce Act of 1869 which made it almost impossible for women to get divorced. The legislation called for evidence of adultery in addition to various other premises like cruelty or desertion. The 2001 amendment eased these demands, however the social stigma over divorce remains alive for Christian women. Custody laws, too, tend to favor fathers, which puts women at a disadvantage in obtaining custody.<sup>25</sup>

### *b- Succession and Property Rights Disparities*

Unlike Hindu women and Muslim women, Christian women have better inheritance rights, as per the Indian Succession Act, 1925 which provides for equal shares for sons and daughters<sup>26</sup>.

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<sup>23</sup> Section 125 Code of Criminal Procedure 1973

<sup>24</sup> Abugharsa, Azza, Muslim Women's Inheritance Rights: Between Ordained and Practice (December 25, 2023). (16 March 2025 4:00 P.M.) Available at SSRN: <https://ssrn.com/abstract=4675357> or <http://dx.doi.org/10.2139/ssrn.4675357>

<sup>25</sup> Puniyani, Riya, Uniform Civil Code and Conflicts of Personal Laws (July 4, 2020). ( 17 March 2025 12:30 PM) Available at SSRN: <https://ssrn.com/abstract=3643457> or <http://dx.doi.org/10.2139/ssrn.3643457>

<sup>26</sup> Ibid



In practice, however, male family members often seek to control family wealth. Apart from men, even women are not spared; particularly if they get married to people from different faiths. Under the erstwhile law, a Parsi woman marrying outside the community forfeits some inheritance rights she has, whereas, a Parsi man continues to live by the confident assertion that "a Parsi man can stand to marry anyone and continue to inherit".<sup>27</sup>

### 3.4- Tribal and Customary Laws

#### *a- Gender Inequality in Property and Marital Rights*

Personal laws related to marriage, divorce, and inheritance for many tribal communities in India is governed by customary laws, which tend to be more discriminatory against women than mainstream personal laws. Some tribal societies not allow from women to inherit ancestral property. Patriarchal traditions also dictate marriage laws that actually make it difficult or impossible for women to leave or obtain a divorce, or to re-marry. Traditional practices like bride price, which involves a groom giving a certain amount of money or goods to the bride's family, also promote gender inequity.

#### *b- Judicial Interpretation on Tribal Women's Rights*

Indian judiciary has played an important role to bring the change in gender disparities in tribal laws. In the case of *Madhu Kishwar v. State of Bihar*<sup>28</sup>, the Supreme Court recognised that tribal women faced structural discrimination in inheritance and urged State legislature to remove gender insensitive provisions. But reforms in tribal personal laws pose a difficult problem because of autonomous powers to tribal communities under the Fifth and Sixth Schedules of the Constitution.

Personal laws with their inherent gender inequality are still the major obstacle in our way of realising gender justice in the country<sup>29</sup>. Although women's rights have been improved through legislative and judicial interceding, the experience of women's rights have not been particularly effective due to social and cultural practices. While the need to address these disparities is often articulated in the form of a demand for a Uniform Civil Code (UCC), progress on the UCC has been slow due to opposition from religious and community leaders.

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<sup>27</sup> Puniyani, Riya, *Uniform Civil Code and Conflicts of Personal Laws* (July 4, 2020). ( 17 March 2025 12:30 PM) Available at SSRN: <https://ssrn.com/abstract=3643457> or <http://dx.doi.org/10.2139/ssrn.3643457>

<sup>28</sup> 1996,1 SCR,442

<sup>29</sup> Supra Note 1

Meaningful reforms in personal laws will require a balanced approach that moves through cultural diversity and ensures gender equality. Invitation: Beyond implementing gender-equitable laws, strengthening women's legal awareness and enforcing existing laws, and challenging the patriarchal customs are the keys to building a just and equal society.

## **4- UCC as a Tool for Gender Justice**

### **4.1- Constitutional Mandate for Gender Equality**

The principles of gender equality are enshrined in the Indian Constitution under different provisions enabling free citizens to live with dignity, equality, liberty and fraternity especially Articles 14, 15 and 21<sup>30</sup>. According to Article 14<sup>31</sup> of The Constitution of India, "Everyone shall be equal before the law and entitled to equal protection of the law". Article 15<sup>32</sup>, provides anti-discrimination because of religion, race, caste, sex, or place of birth, which secures that no one is discriminated against, besides premises of sex or gender. The courts have read the right to live with dignity, within the right to life and personal liberty guaranteed under Article 21<sup>33</sup> of the Constitution, which is fundamental to achieving gender justice. These provisions in the Constitution require the State to make laws for all the citizens uniformly without compromising one gender against the other, thus reinforcing the rationality for introducing Uniform Civil Code (UCC) that can do away with gendered inequalities.

### **4.2- Supreme Court's Role in Advancing Gender Justice**

Through landmark judgments, the Supreme Court of India has been a vibrant and effective proponent of gender justice, creating a constitutional framework that progressively guarantees women their rights.

#### **a- Vishaka v State of Rajasthan<sup>34</sup> (Sexual Harassment at Workplace)**

The Supreme Court addressed the issue of harassment at the workplace in the Vishaka case and laid down elaborate guidelines to ensure the protection of women against sexual harassment at the workplace. The case reiterated the need for statutory safeguards for equality of the genders and dignified existence, including in all walks of life, and highlighted the need for a Uniform Civil Code (UCC) which will provide uniform legal protection to all women

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<sup>30</sup> India Const. art. 14,15,21.

<sup>31</sup> India Const.art.14

<sup>32</sup> India Const,art.15

<sup>33</sup> India Const, art 21

<sup>34</sup> 1997, 6 SCC 241

irrespective of personal laws.

#### **b- Shayara Bano v. Union of India<sup>35</sup> (Triple Talaq and Women's Rights)**

It is in this context the case of tripal talaq (talaq-e-biddat) was held to be unconstitutional. This practice was against the fundamental rights of the Muslim Women which is guaranteed under Article 14 and 21 of the Constitution. It was significant moves in the direction of gender justice in personal laws, which can serve as the springboard for UCC to abolish discriminatory practices in marriage and divorces in all religions.

Joseph Shine v. Union of India<sup>36</sup> (Adultery now no longer a crime)

In this case SC quashed Section 497 of the IPC, which punished adultery and only men as perpetrators, by treating women as mere victims. The law had no meaningful scope today in a modern society and was founded upon the archaic notion of patriarchy, which offended against gender equality, ruled the Court. Therefore, this judgment reiterates the need for non-discriminating laws across the gender spectrum, thereby reinforcing the claim for UCC as a tool for gender justice.

#### **4.3- Impact of UCC on Eliminating Gender Discrimination**

A Uniform Civil Code has the potential to remove gender biases entrenched in personal laws by ensuring equal rights for men and women in various aspects of personal and family life.

##### **a- Equal Rights in Marriage and Divorce**

The personal laws on marriage and divorce differ from one religious community to another but are generally disadvantageous to women. Hindu law, for instance, might require monogamy today, but historical Muslim law permitted men to have multiple spouses<sup>37</sup>. Likewise, divorce for Hindu and Christian women can only happen on particular grounds, while divorce for Muslim women historically has more than a couple of obstacles in getting a just divorce. Implementation of UCC would provide a uniform civil law that guarantees equal rights and responsibilities within marriage and divorce, and shield women from unilateral divorce and polygamy.

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<sup>35</sup> 2017,9 SCR,797

<sup>36</sup> 2019 3,SCC,39

<sup>37</sup> Sriraam, Dr. Sangeetha, Uniform Civil Code: An Instrument for Gender Justice (February 24, 2020). (20 March 2025, 12:30 PM,) Available at SSRN: <https://ssrn.com/abstract=3590351> or <http://dx.doi.org/10.2139/ssrn.3590351>



**b- Property and Inheritance Equality**

Personal laws have historically favoured men when it comes to inheritance matters. Only with a remedial legislation called the Hindu Succession (Amendment) Act in 2005 were women formally recognized as coparceners — but this was on paper only, as the ground situation varied widely. Under Muslim inheritance law, women inherit only half what men inherit. Both Christian and Parsi inheritance laws have also been gender-biased. A UCC ensures equal rights to property and inheritance laws to women irrespective of religion.<sup>38</sup>

**c- Uniform Adoption and Guardianship Rights**

Different personal laws maintain gender discrimination in laws regarding both adoption and guardianship. Current Hindu regulations restrict natural guardianship rights to men before decisions in *Gita Hariharan v. Reserve Bank of India*<sup>39</sup> sought to change this tradition. In this case the Supreme Court held that mother may serve as the natural guardian, underscoring the child's wellbeing as crucial.

Under Muslim personal laws the practice of full adoption rights remains unrecognized which prevents Muslim women from adopting children. The implementation of a UCC would create a standardized adoption system which provides equal child care rights to both male and female guardians.

India requires the enactment of a Uniform Civil Code to establish complete gender equality. The Constitutional guarantee of gender equality remains unfulfilled because different personal law systems throughout India still maintain legal inequalities which harm women. Through time the Supreme Court has made key rulings which established the necessity of gender-equitable laws while UCC stands as the final solution for achieving fair treatment in all personal law aspects. Personal laws that unify according to UCC will function as an effective instrument for gender equality which grants women across different communities the necessary power to create an egalitarian societal framework.

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<sup>38</sup> Sriraam, Dr. Sangeetha, Uniform Civil Code: An Instrument for Gender Justice (February 24, 2020). (20 March 2025, 12:30 PM,) Available at SSRN: <https://ssrn.com/abstract=3590351> or <http://dx.doi.org/10.2139/ssrn.3590351>

<sup>39</sup> 1999 2 SCC 228

## **5- Judicial Interpretation and Landmark Cases on UCC**

### **a- Shah Bano Case<sup>40</sup> (1985): Maintenance Rights and Political Repercussions**

It was a landmark judgment demanding Uniform Civil Code (UCC). Most prominently, the case that represents this is Shah Bano case where a 73-year-old Muslim woman has been divorced by her husband through triple talaq and her husband refuses to pay her any maintenance (after the iddat period of three months post-divorce.) A simless law, applicable to all citizens of the country irrespective of their religion, runs under it, and she approached the Supreme Court claiming for maintenance under the CrPC. The court ruled in her favour this time, noting that Muslim women, like women of other faiths, basing on Islam, had the right to maintenance (CrPC) beyond the iddat period.

Controversy erupted throughout the country over the implementation of UCC following this verdict. Progressive voices hailed it as a step toward greater gender justice but conservative Muslim groups described it as an interference in private religious laws. The political fallout was huge—the state was under pressure from different fronts of religionists to ensure that this mischief was undone and introduced The Muslim Women (Protection of Rights on Divorce) Act 1986, which was an almost complete nullification of the way that judgement and put a cap on the rights of Muslim women to maintenance. It reiterated the anti-change ethos around personal laws and showed how the political process conditions judicial progress on gender justice.

### **b- Sarla Mudgal Case (1995)<sup>41</sup>: Bigamy and the Need for UCC**

This case was concerned with bigamy and the abuse of religious conversion as a tool to sidestep personal laws. In this case Hindu man converted to Islam for another marriage without divorcing his first wife. His first wife, Sarla Mudgal, has challenged this act, asserting that the conversion is being used as a way to evade a charge of bigamy, which is an offence under Hindu personal law.

The Supreme Court stated that a marriage cannot be dissolved simply by converting to another religion and that the practice amounted to bigamy under including Section 494 of the Indian Penal Code. Judgment noted discrepancies in personal laws and that loopholes in legal

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<sup>40</sup> Mohd Ahamd Khan Vs Shah bano begum, 1985 ,AIR 1945

<sup>41</sup> Sarla mudgal Vs Union of India, 1995 AIR,1531

provisions gave scope for misuse of personal laws for the benefit of few individuals. The Court robustly called for a UCC, maintaining that a uniform law related to marriage and divorce was the only way to bring about justice and save individuals from the exploitation behind the mask of religious freedom.

**c- Danial Latifi Case<sup>42</sup>: Protection of Muslim Women Post-Divorce**

Danial Latifi was a landmark judgment to dilute the effect of the Muslims Women (Protection of Rights on Divorce) Act, 1986 passed as retaliation to the Shah Bano judgment. The legislation limited the right of Muslim women to receive maintenance beyond the iddat period concern over the financial security of Muslim women after divorce.

Senior advocate Danial Latifi, appearing for a petitioner, challenged the Act on the ground that it was unconstitutional in violation of the fundamental rights in the Constitution. The SC maintained the Act but noted that it should not render Muslim women without funds. Not only was the husband legally bound to ensure that his divorced wife was maintained during the iddat period, but the Court also stated that the same provision extended to future needs, to ensure appropriate support. There was an attempt to strike a balance between maintaining the sanctity of religious laws and the need for gender justice, revealing the medium to long-term role that the judiciary can potentially play in advancing reforms within the existing personal law structure.

**d- John Vallamattom Case<sup>43</sup> : Religious Bias in Succession Laws**

The John Vallamattom case highlighted the notion of religious bias in laws governing property inheritance. John Vallamattom, a Christian priest, challenged the provision of Section 118 of the Indian Succession Act, 1925, that he said imposed restrictions on Christians from disposing of property by way of will. Under the law, Christians could not bequeath property for religious or charitable purposes without seeking government approval, a restriction not placed on Hindus, Muslims, or Parsis.

The Supreme Court held otherwise and struck down this provision as unconstitutional, as being against Article 14, which provides for equality before law. In fact, it asserted that

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<sup>42</sup> Danial Latifi vs Union of India, AIR 2001, SC, 3958.

<sup>43</sup> John Vallamattom Vs Union of India, AIR 2003, SC 2902



personal laws should not be religion-based and that a UCC would facilitate this process concerning inheritance and succession laws. The idea of a set of personal laws being a safeguard for the constitutional principles of equality and non-discrimination was also reinforced in this case.

The recent case of *Anoop Baranwal vs. Union of India*<sup>44</sup>, a Public Interest Litigation (PIL) was filed and a scrutiny was done on certain aspects of a case related to the creation of a committee for the upcoming implementation of a Uniform Civil Code (UCC) by the government of Gujarat and the government of Uttarakhand. The writ petition argued that the constitution does not grant states powers to form such committees.

The PIL was dismissed by a bench consisting of Chief Justice D.Y. Chandrachud and Justice P.S. Narasimha, as it pointed out that the constitution of these committees was within the states' prerogative. According to article 162 of the Constitution, this defines the extent of executive power of states, to hold that constituent power to form such committees exists with the states. The court further reaffirmed the state actions by emphasizing Entry 5 of the Seventh Schedule, which relates to the subjects under the executive authority of the states, including marriage.

The Apex Court indirectly acknowledged the authority of state governments in studying and also adopting UCCs by still exercising the power of the State to form committees on UCC. This position is in harmony with the larger constitutional scheme to secure uniformity in civil law across the country as envisaged under Article 44 of the Directive Principles of State Policy. Although the Court did not directly endorse the UCC, the judgment has been beneficial for efforts to examine and implement such legislation, in the interest of national integration and gender justice.

Judiciary has played a crucial role in point out the necessity of a Uniform Civil Code through many landmark cases, all of which have showcased the failings and bigoted nature of those personal laws. Judgments such as *Shah Bano* and *Danial Latifi* did seek to provide greater protection for women in the wake of divorce, but *Sarla Mudgal* revealed the perversion of the law by showing how men were using conversion to escape their obligations. Likewise John

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<sup>44</sup> 2023 Live Law (SC) 22

Vallamattom pointed out how succession laws are unfair to Christians. But even these judicial interventions have failed to political resistance and religious sensitives for not implementation of UCC. None the less, these are still landmark cases in Indian legal history, where the Indian judiciary is paving the way for gender justice and equality before law.

## **6- Challenges in Implementing UCC**

### **6.1- Religious and Cultural Resistance**

Religious and cultural opposition represents one of the major obstacles when attempting to establish a Uniform Civil Code (UCC). India maintains diverse social structure because numerous religious communities throughout the nation enforce separate laws for marriage inheritance adoption and divorce procedures. Numerous cultural groups oppose the adoption of a single civil code since they suspect it will reduce their traditional practices which might eventually lead to loss of their heritage identity. Religious entities such as Muslim groups along with Christian and Sikh organizations consistently express views that UCC will challenge their spiritual laws which threaten their traditional religious practices.<sup>45</sup>

The common misunderstanding regarding UCC is that its purpose consists of Hindu law enforcement upon other religious groups. The false assumption regarding UCC has led different religious minorities to oppose the law while missing its purpose as an equality and justice instrument. The UCC advocates assert that the target of their proposals does not include any particular religion but instead stands for an equal and impartial legal system for all regardless of religious affiliation. The accomplishment of UCC requires immediate action to overcome skepticisms and its intended purposes need comprehensive explanations<sup>46</sup>.

### **6.2- Political and Legislative Challenges**

The lack of consensus on the issue will be in the Indian political milieu of the day that enables differentiation between party's vis a vis the enactment of the Uniform Civil Code. However, UCC policy divides the political sides because it reflects the support base of each side on this issue. Political organizations divided remain on support for UCC but the different group's opposition to it protects its voter base. Such lack of political consensus over UCC has led to

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<sup>45</sup> Choudhary, Richa, Uniform Civil Code (July 12, 2020). (22 March 2025, 10:30A,M,) Available at SSRN: <https://ssrn.com/abstract=3649628> or <http://dx.doi.org/10.2139/ssrn.3649628>

<sup>46</sup> Ibid

endless delays in the legislative process for establishing a uniform civil code system<sup>47</sup>.

Lawmakers are hesitant to proceed with UCC because they are afraid fundamentalist religions and certain voting blocs would get upset over requiring their beliefs. Also, their use of legislation to deal with UCC could be politically unstable and have adverse electoral effects due to different attitudes towards this matter by the public. Despite progress on the UCC over multiple governments, administrations have shunned decisive advances because they risk losing support from other key population segments<sup>48</sup>. It is unimplemented through decades because of the resistance of the policymakers to move on this issue.

### 6.3- Social and Practical Hurdles

There is social normative tradition and patriarchal system is the main hindrances factors for not implement UCC. In many communities, these personal laws discriminate against women, especially in terms of inheritance, marriage and divorce. Without a change in patriarchal thinking, laws will never translate into real gender equality because changing the legal framework is not enough for a person to change their opinion about gender roles. A lot of individuals including families are loyal to their traditional cultural laws which oppose a transformation that puts their very fundamental values at risk<sup>49</sup>.

The largest challenge is that there is not enough awareness and acceptability of the UCC in the communities. Most people are unaware of the benefits of UCC, while mistakenly believing that this law is an invasion of personal privacy. UCC will succeed only with institutional awareness campaigns, with teaching people what it stands for and where it has gone wrong, how they are indeed delivering justice for all. Public support is vital for the success of law reforms oriented to achieve their objectives.

### 6.4- Legal Complexity of Merging Diverse Personal Laws

Due to the different personal laws of communities, the implementation of UCC faces challenges in creating a single framework which is quite complex legally. Each social group has its own ancient traditional legal code that is not like others. To avoid a specific section of

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<sup>47</sup> Choudhary, Richa, Uniform Civil Code (July 12, 2020). (23 March 2025, 4:30 P.M. ) Available at SSRN: <https://ssrn.com/abstract=3649628> or <http://dx.doi.org/10.2139/ssrn.3649628>

<sup>48</sup> Ibid

<sup>49</sup> Ibid

the community being treated discriminately or being marginalised, the merging of the various personal laws into a single condition to govern joint undertakings requires extensive correlation and the resulting disputable thoughts expect a larger conversation<sup>50</sup>.

The great challenge is in ensuring that UCC runs without discrimination for any community. A legal structure that offers undue advantages to one community over another can potentially lead to continued disputes in society and create tensions in the country,” he added. The central challenge lies in how to approach drafting a UCC because it must respect religious traditions while also upholding fundamental equality and fairness principles. It is here that legal professionals and scholars and policymakers need to work together in constructing a balanced code that goes hand in hand with constitutional values and to deal with the multi-traditions in India.

These include the challenge of its resistance from religion, political delays and corresponding social barriers and complex legal procedures which can be seen in the case of India when first introduced in the country during this period of history. Breaking down barriers to equality, however, remains crucial to the attainment of personal laws justice. A well-functioning UCC envisioned on gender rights and diversity will help India in creating fair legal institutions. A future UCC will necessarily need to be supported by dialogue between diverse interest groups and awareness campaigns along with incremental legal changes.

## **7- Recommendations for Implementing UCC**

### **7.1- Fostering Religious and Cultural Dialogue**

The government must come to dialogue with each and every community, to break down the resistance, mainly among religious and cultural groups. A consultative approach founded on mutual understanding that respects religious sentiments can erase the fear of the loss of identity and highlight the merits of UCC. By encouraging religious scholars, legal experts, and leaders of civil society to contribute to the discussion, we can create a more inclusive and acceptable framework for the implementation of the UCC.

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<sup>50</sup> Singh, Chanchal Kr and Kumar, Mritunjay, The Uniform Civil Code Debate in India: Conceptual Predicaments, Historical Legitimacy, and Challenges to Pluralism (January 01, 2022). Chanchal Kumar Singh & Mritunjay Kumar, The Uniform Civil Code Debate in India: Conceptual Predicaments, Historical Legitimacy, and Challenges to Pluralism V SML. L. REV. 12 (2022). (23 March 2025 5:00 P.M.) Available at SSRN: <https://ssrn.com/abstract=4948897> or <http://dx.doi.org/10.2139/ssrn.4948897>



It needs a public awareness campaign to clarify the misconception that UCC is an anti-minority policy. Instead of religious imposition, the focus should be on equality, justice and gender rights regarding UCC. A well-structured outreach program through media, community engagement, and education can help build acceptance for a uniform civil framework.

For achieving acceptance from religious and cultural groups the government needs to participate in sincere discussions with representatives who belong to these communities. Implementation of UCC benefits combined with respect for religious beliefs will help religious communities accept UCC through collaborative discussions. Religious scholars, legal experts and civil society leaders accepting forum participation will establish a broader cooperative framework for executing UCC programs.

Public education initiatives to explain exactly how the uniform civil code does not work against minority groups. Promoting equality and justice together with gender rights takes precedence above viewing UCC as religious domination. The creation of an outreach program using media outreach along with educational programs and local community awareness initiatives will help people accept a single civil code framework.

### **7.2- Political and Legislative Willpower**

For the purpose to implement UCC, supportive political processes (and political consensus) are needed. The way forward is a bipartisan approach where parties work together to frame policy on the basis of constitutional values instead of electoral considerations. The government should set up an independent committee of experts to study global best practices and suggest how to slowly digress into one.

Lawmakers need to allow introduction of the UCC on a step-by-step basis, to allow communities some adaptation period. Implementing pilot programs in specific states or working with voluntary adoption models would be an effective step before national mandates. The views expressed here are those of the author and do not represent the stand of this publication. Parliament must also ensure that discussions on UCC restrict themselves to the legal domain of equality and not so much of religious sensitivities

### **7.3- Changing Societal Attitudes and Increasing Awareness**

In order to make UCC a success we need to start addressing the deep rooted patriarchal norms.

Educational institutions, non-governmental organizations, and women organizations have to take the helm in bolstering gender justice. De-centralised legal literacy campaign can be started on a very grass-root-level to help people know about their basic rights and also to make the people aware of the advantages of a single legal system.

These should include community-based mother-tongue programmes that allow open discussions with women about gender equality and personal laws. Workshops, legal aid, and using local influencers can help speed up the societal acceptance of the UCC.

#### **7.4- Legal and Structural Reforms**

A thorough legal examination will help UCC reach harmony between different personal laws without compromising fairness. The legal documentation needs to protect traditional cultural elements but remove gender discrimination elements. A panel of legal experts including constitutional scholars judges and community representatives needs to observe the transition period to stop any group from facing marginalization.

The development of an independent regulatory organization should check implementation progress and receive complaints when the transition occurs. In addition to hearing challenges related to disputes over differences in code interpretation, the body will serve to uphold inclusive processes that lead to a fair transition.

It must be ensured that UCC is drafted in accordance with principles of multiculturalism and constitutional principles. To summarize, only via discussions and gradual changes in the legislation and arrangements will a Uniform Civil Code succeed in implementation in the country and eventually be a source for equality and national harmony and legal justice. This mission will take the effort of multiple government bodies, civil society institutions and faith groups working together.

### **8- Conclusion**

Uniform Civil Code (UCC) is crucial for building a just legal system; it ensures equal treatment is meted out to every citizen of India, regardless of their beliefs and religious communities they belong to. Currently, various faith-based groups adhere to their own personal law system that can be highly discriminatory, and disproportionately affect women.

We need to plan definitive bicycle ride based on UCC which can remove all such discriminations and same laws are applicable for every citizen.

But implementing the UCC has not been smooth. But many fear it will rob them of their cultural identity or disproportionately target minorities. Progress has also been hampered by religious beliefs, political considerations and ingrained traditions. Add all this with the fact that most people do not fully understand their legal rights, it gets harder to accept modes of changes.

A phased approach is necessary to ensure the smooth working of the UCC. Involving spiritual and community leaders, reaching the public through awareness programs, and implementing reforms step by step is a better way for people to learn and accept the change. Gender justice has also made inroads into the courts through landmark judgments which have paved the way for progressive laws.

But finally, UCC can become successful if it respects both the ethos of the Constitution and the diversity of Indian culture. India needs to build and follow a fairer system that protects each and every citizen of the country.



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