



INTERNATIONAL LAW
JOURNAL

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

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

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Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated 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 RELIGIOUS AUTONOMY: A SOCIO-LEGAL TUG OF WAR UNDER ARTICLES 25 AND 44

AUTHORED BY - NAMRATA SINGH¹

Abstract

A complex constitutional paradox emerges at the intersection of the Uniform Civil Code (UCC) and the right to religious freedom in India, centred around the friction between Article 25 of the constitution², which guarantees freedom of religion, and Article 44, which directs the state to endeavour to secure a Uniform Civil Code for all citizens.³ This unresolved tension reflects a deeper constitutional dilemma that is balancing the individual's right to observe religious personal laws with the state's obligation to promote legal uniformity and secularism. In a nation celebrated for its cultural and religious pluralism, this clash presents a persistent challenge to legal harmonisation without infringing upon constitutionally guaranteed rights.

The historical context of this debate rooted in the deliberations of the constituent Assembly. A review of these debate reveals a significant divergence in vision between those advocating for legal modernisation and those insisting on the preservation of cultural autonomy. Among the strongest proponents of a Uniform Civil Code Dr. B.R. Ambedkar, whose commitment to gender justice, social equality, and uniform legal standards underscored his legal philosophy. However, apprehensions voiced by minority community representatives, particularly from Muslim constituencies about the potential erosion of religious identity and autonomy led to the compromise of including the UCC as a non-justiciable Directive Principle under Article 44 rather than as an enforceable right.⁴

Judicial developments have further shaped the discourse surrounding the UCC. Landmark rulings, including Mohd. Ahmed Khan v. Shah Bano Begum and Shayara Bano v. Union of India, underscore the judiciary's gradual shift towards prioritising constitutional morality and

¹ B.A.LL.B Student at KIIT School of Law

² India Const. art. 25.

³ India Const. art. 44.

⁴ M.P. Singh, Constitution of India 378–384 (15th ed. 2023).

gender equality over personal law. Similarly, in the Shayara Bano case, the court invalidated the practice of instant triple talaq, reinforcing the commitment to individual dignity and gender justice⁵⁶. These rulings reflect the court's recurrent emphasis on harmonising personal law with constitutional principles, especially in cases where religious practices conflict with the rights of women.⁷

Recent legislative actions and state-level initiatives have reignited debates about the feasibility and desirability of implementing the UCC in contemporary India. The enactment of the Uniform Civil Codes by the state of Uttarakhand in 2024 stands as a landmark development. Framed as a mandatory registration of live-in relationships, uniform grounds for divorce, prohibition of polygamy, and equal rights regardless of legitimacy or gender. While the Uttarakhand UCC marks a significant step towards codified legal uniformity, it has simultaneously sparked critical discourse about its scope and limitations, particularly its exclusion of LGBTQ+ rights and its selective application to tribal communities.⁸

Furthermore, comparative constitutional analysis offers valuable insights into the possibilities and pitfalls of implementing a UCC in a multicultural society. Secular democracies such as France and Turkey have adopted uniform civil frameworks while maintaining religious tolerance in public and private life. However, the Indian context presents a distinct challenge, given the embeddedness of religious identity in personal law and the historical accommodation of community specific practices. Legal pluralism, as recognition of the nation's composite culture. Therefore, any efforts to establish a UCC must proceed with caution, ensuring that the reform process does not undermine the inclusive character of Indian secularism.⁹

Stakeholder perspectives on the UCC remain sharply divided. Minority communities often view the push for uniformity with suspicion, perceiving it as an attempt to impose majoritarian values under the guise of reform. Conversely, feminist legal scholars and civil society advocates argue that the current system of personal laws particularly those governing marriage, divorce, guardianship, and inheritance perpetuates patriarchal norms and gender inequality.¹⁰

⁵ Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 S.C.C. 556 (India).

⁶ Shayara Bano v. Union of India, (2017) 9 S.C.C. 1 (India).

⁷ Law Comm'n of India, Consultation Paper on Reform of Family Law (Aug. 31, 2018).

⁸ Uttarakhand UCC Bill, 2024 (Enacted Mar. 2024).

⁹ Flavia Agnes, Family Law: Volume I – Family Laws and Constitutional Claims 42–65 (Oxford Univ. Press 2011).

¹⁰ Id.

The judiciary has increasingly echoed these concerns, calling for the elimination of discriminatory practices cloaked in the grab of religion. Political narratives further complicate the debate, as various parties deploy the UCC either as a symbol of national unity or as polarising electoral issue, thereby distorting its foundational intent.¹¹

In light of these socio-legal complexities, the imposition of a singular, top-down Uniform Civil code appears neither viable nor normatively desirable deliberation is essential. A phased model of implementation grounded in inclusive consultations, inter-community dialogue, and culturally responsive legal drafting offers a pathway that honours both constitutional commitment and social diversity.¹² The initial focus could be on codifying gender-just laws applicable to all citizens irrespective of religion, thereby initiating convergence legal framework that embodies the spirit of Article 44 while upholding the religious autonomy enshrined in Article 25.¹³

Ultimately, the socio-legal tug of war between uniformity and religious autonomy underscores the need to reconcile the constitution's vision of justice with the lived realities of a pluralistic society. The simultaneous existence of Article 25 and 44 symbolises a foundational duality for India's aspiration towards national integration through legal harmony, and its unwavering commitment to protect cultural and religious plurality. Therefore, the evolution of a uniform civil code must be envisioned not as an exercise in legal homogenisation, but as a participatory project of constitutional synthesis, one that integrates equality with identity, and state-led reform with community agency, in pursuit of a just and inclusive social order.¹⁴

Key words: Uniform Civil Code, Article 44, Article 25, Religious Freedom, Constitutional Morality, Uttarakhand UCC 2024, Legal Pluralism, Secularism.

Introduction

The debate surrounding the Uniform Civil Code (UCC) in India reflects one of the most complex and enduring socio-legal challenges faced by the country. At its core lies the constitutional tension between Article 25, which guarantees the right to freedom of religion,

¹¹ Law Comm'n of India, *supra* note 6.

¹² *Id.*

¹³ India Const. arts. 25, 44.

¹⁴ M.P. Singh, *supra* note 3.

and Article 44, a Directive Principle that urges the state to secure a UCC for its citizens. This juxtaposition illustrates a deeper constitutional paradox; how does a secular and pluralistic nation reconcile individual religious autonomy with the state's responsibility to establish legal uniformity across all communities?¹⁵

The Indian constitution envisions a society governed by laws that uphold justice, equality, and liberty for all, regardless of religion, caste, or gender. Yet, in personal matters such as marriage, divorce, succession, and adoption, India continues to maintain multiple legal regimes based on religious affiliations. This legal pluralism, while historically rooted in colonial administrative conveniences and post-independence constitutional compromises, has led to systemic inequities, particularly for women across different communities. Consequently, the demand for a UCC has gained traction as a possible corrective measures to address these disparities, promising a unified legal framework that guarantees equal civil rights to all citizens.¹⁶

However, the pursuit of legal uniformity inevitable collide with the deeply entrenched cultural and religious identities that define Indian society. For many communities, personal laws are not merely legal frameworks but expressions of religious rights. This result in a persistent socio-legal tug of war as a conflict between collective national integration through a common civil code and the preservation of individual and group identities under the umbrella of religious freedom.¹⁷

The roots of this conflict can be traced back to the debates of the constituent Assembly. While leaders such as Dr. B.R. Ambedkar argued for a modern, egalitarian legal system that transcended religious boundaries, others were cautious, fearing alienation of minority communities and potential majoritarian imposition. As compromise, the UCC was relegated to Part IV of the constitution as non-justiciable directive principle, signalling long-term aspirational reform rather than immediate enforcement. This constitutional positioning itself reflects the tension between legal modernisation and social accommodation, which continue to define the UCC discourse even today.¹⁸

¹⁵ India Const. art. 25, 44.

¹⁶ Werner Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa* 248–49 (2d ed. 2006); Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* 30–31 (2001).

¹⁷ Rajeev Dhavan, *The Uniform Civil Code Debate in India*, 45 *J. Indian L. Inst.* 419, 426–27 (2003).

¹⁸ Constituent Assembly Debates, vol. VII, 540–45 (Nov. 23, 1948) (India); India Const. Part IV, art. 44.

In the post-independence era, the Indian judiciary has played a crucial role in keeping the debate around the Uniform Civil Code (UCC) alive, especially through landmark cases like *Mohd. Ahmed Khan v. Shah Bano Begum*¹⁹ and *Sarla Mudgal v. Union of India*²⁰. This judgment highlighted the discriminatory nature of personal laws and stressed the need for a uniform legal framework to uphold constitutional values. However, such judicial advocacy has also triggered backlash from religious groups who view it as interference in matters of faith, underscoring the socio-political sensitivities involved. The 2024 enactment of the Uttarakhand UCC, which includes provisions such as mandatory marriage registration, equal inheritance rights, and a ban on polygamy, has further intensified the national discourse. While seen by many as a progressive step, the legislation has been critiqued for its exclusion, particularly of LGBTQ+ rights and tribal customs, raising questions about inclusivity and the risks of a one-size-fits-all model in a pluralistic society.²¹

India's unique constitutional and cultural landscape complicates UCC implementation in ways unlike other secular democracies like France or Turkey. The right to religious autonomy is both a constitutional guarantee and a key part of many communities' identities, making personal law reform a deeply sensitive issue.²² Public opinion remains divided: advocates argue for gender justice and legal clarity, while critics fear majoritarian imposition under the guise of reform. The intersection of religion, gender, caste, and class means the effects of such reform vary widely, with feminist scholars emphasizing the need to address institutionalized gender inequality, while minority groups call for inclusive dialogue to protect their cultural identity.²³ Therefore, any move toward a UCC must be gradual, consultative, and rooted in a socio-legal approach that values equity over uniformity. True reform must emerge from consensus and shared constitutional values, balancing unity with diversity and right with respect for faith.²⁴

Uniform Civil Code and Religious Autonomy

- Freedom of Religion (Articles 25–28): Balancing Individual Liberties and Group Rights

The Indian Constitution guarantees religious freedom through Article 25 to 28, ensuring that

¹⁹ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.R. 556 (India);

²⁰ *Sarla Mudgal v. Union of India*, (1995) 3 S.C.R. 543 (India).

²¹ The Uttarakhand Uniform Civil Code Act, 2024 (India).

²² Zoya Hasan, *Politics of Inclusion: Castes, Minorities, and Affirmative Action* 163–67 (2009)

²³ Flavia Agnes, *Personal Laws and Equality Debate in India*, 14 *Int'l J. Const. L.* 121, 126–29 (2016)

²⁴ Marc Galanter, *Law and Society in Modern India* 237–39 (1997).

every individual has the right to freely profess, practice, and propagate religion. However, these constitutional provisions also recognize the right of religious communities to independently oversee their internal religious matters. This dual recognition often creates legal and philosophical tension when the right of individuals conflict with the customs of religious collectives.²⁵

To navigate these issues, the judiciary has developed what is commonly referred to as the “essential practices doctrine”. Through this lens, courts assess whether a particular religious custom forms an indispensable part of that faith. Judgment such as those in the Shirur Mutt and Sabarimala Cases have applied this test, leading to diverse outcomes. However, entrusting courts with the interpretation of religious doctrine has drawn criticism, raising questions about the boundaries between religious freedom and constitutional oversight. This reflects the broader challenge of harmonizing personal liberty with collective religious identity in India’s secular democratic framework.²⁶

- Directive Principles and Article 44: Guiding Ideals and Political Inaction

Article 44, placed among the Directive Principle of State Policy, calls for the establishment of a Uniform Civil Code (UCC) to ensure equal civil rights across all communities. Unlike Fundamental Rights, Directive Principle are not enforceable in courts, but they are intended to guide legislative and policy decision in line with the constitution’s ethical vision.²⁷

Despite repeated emphasis by the judiciary, as in the Sarla Mudgal case, concrete steps toward implementing a UCC have been limited. This lack of progress is largely attributed to political sensitivities, particularly concerns among minority groups who fear the erosion of their personal laws and cultural identity. Nevertheless, recent development such as the introduction of the UCC in Uttarakhand signal a slow but deliberate movement from principle to practice, albeit uneven and region-specific.²⁸

²⁵ India Const. arts. 25–28.

²⁶ The Comm’r, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282; Indian Young Lawyers Ass’n v. State of Kerala (Sabarimala Temple Entry Case), (2018) 10 SCC 1.

²⁷ India onst. art. 44.

²⁸ Sarla Mudgal v. Union of India, AIR 1995 SC 1531; The Uniform Civil Code of Uttarakhand Bill, 2024, PRS India, https://prsindia.org/files/bills_acts/bills_states/uttarakhand/2024/Uniform-Civil-Code-Uttarakhand-bill-2024.pdf.

- Part III vs. Part IV: A Conflict or a Complementary Framework?

There is often a perceived contradiction between the justiciable rights outlines in part III and the non-justiciable directive in Part IV. However, constitutional interpretation has increasingly emphasized their complementary nature. Part III guarantees individual freedom, while Part IV outlines the objectives that the state must strive to achieve, such as social justice, economic equality, and legal uniformity.²⁹

In landmark ruling such as *Minerva Mills v. Union of India*, the supreme court clarified that the two part should be viewed as working in tandem rather than in opposition. Particularly in matters like the UCC, the state must find a middle path that respect both individual freedom and collective welfare. This approach allows for gradual rooted in consensus, ensuring that changes in personal law do not come at the cost of fundamental rights.³⁰

Federalism and state Autonomy: Fragmentation vs. Innovation in Legal Reforms

The Indian model of secularism, especially after the inclusion of the term in the Preamble through the 42nd Amendment, endorses religious neutrality rather than a strict separation of the state and religion. This unique form of secularism permit state involvement in religious affairs when necessary to uphold constitutional values like equality and justice.³¹

The broader goal of constitution secularism is to maintain social harmony by ensuring that no religion receives preferential treatment while also preventing practices that violate basic human rights. In cases such as *Shayara Bano* (challenging triple talaq), the judiciary has intervened to safeguard individual dignity against discriminatory religious norms. Despite being a cornerstone of the constitution, secularism is often tested by political ideologies and selective interpretations. Nonetheless, it remains essential in reconciling the ideals of personal freedom with cultural and religious diversity.³²

²⁹ India Const. Part III & IV.

³⁰ *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789.

³¹ INDIA CONST. preamble; The Constitution (Forty-second Amendment) Act, 1976.

³² *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

Historical and political Genesis of the Uniform Civil Code Debate

The origins of the Uniform Civil Code (UCC) debates in India reflect a fundamental tension between the ideals of legal uniformity and the realities of religious diversity. As the Indian Constitution was being drafted, the framers were deeply divided over whether a common set of civil laws should replace the existing personal laws governed by religious customs.³³

Dr. B.R. Ambedkar, a key figure in shaping India's framework, strongly supported the introduction of a UCC. He considered it a necessary step towards ensuring social equality and justice, especially for women. Yet, the constituent Assembly saw substantial debate and disagreement over its implementation. Many minority representatives feared that a uniform code might interfere with their right to maintain distinct religious traditions in personal matters such as marriage, succession, and family law. To avoid escalating communal tensions in a newly independent and diverse nation, the framers placed Article 44 within the Directive Principle of State Policy, making it a non-binding constitutional goal.³⁴

The roots of this debates are also linked to colonial legal policy. During British rule, the administration codified Hindu personal laws but largely refrained from altering Muslim personal laws. These selective reforms created a dual system that continued into post-independence India and contributes to the suspicion that legal uniformity might disproportionately affect minority communities.³⁵

Following independence, attempts at reform were limited and uneven. The Hindu code Bill, proposed under Ambedkar's leadership, aimed to modernize Hindu personal laws. Yet due to widespread opposition, it was slit into several laws passed in the mid-1950s. No comparable reform was undertaken for other religious communities, reinforcing perceptions of bias in legal efforts³⁶.

Over the years, the nature of the UCC debate has shifted politically. What began as a constitutional vision for equality has often reframed within majoritarian discourse, leading to increase mistrust among minority groups. For many, UCC in seen not as a neutral legal reform,

³³ Constituent Assembly Debates, Vol. VII (Nov. 23, 1948).

³⁴ Constituent Assembly Debates, Vol. VII (Nov. 23, 1948); INDIA CONST. art. 44.

³⁵ Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (1993).

³⁶ Werner Menski, *Hindu Law: Beyond Tradition and Modernity* (2003).

but as potential threat to their cultural and religious autonomy. Thus, the historical and political context of the UCC debate reveals deep-seated complexities rooted in colonial legacies, constitutional ideals, and identity politics that continue to shape its contentious role in Indian law and society.³⁷

Jurisprudence and the Social Question of Justice

The Indian judiciary has played a crucial role in shaping the discourse on the Uniform Civil Code (UCC), particularly in instances where legislative progress has been stagnant. Through a series of landmark judgments, the court have highlighted the need to reconcile personal laws with constitutional values, particularly those pertaining to equality, justice, and non-discrimination. The judicial narrative on UCC has not only attempted to ensure gender justice but also provoked deeper questions about religious autonomy and the scope of state intervention in personal law regimes.³⁸

The case of *Mohd. Ahmed Khan v. Shah Bano Begum* (1985) marked a watershed moment in this journey. The supreme Court, while interpreting Section 125 of the Criminal Procedure Code, upheld the right of a divorced Muslim woman to receive maintenance. This progressive verdict was hailed for upholding gender justice beyond religious boundaries. However, it triggered a significant backlash from conservative religious sections, eventually leading to the enactment of the Muslim Women (protection of Right on Divorce) Act, 1986, which effectively diluted the judgment. This sequence of events exposed the delicate balance the judiciary must maintain between safeguarding individual rights and respecting religious sentiments.³⁹

Another milestone case, *Sarla Mudgal v. Union of India* (1995), addressed the misuse of religious conversion for circumventive monogamy laws. The court ruled that a Hindu man could not convert to Islam solely to contract a second marriage without dissolving the first, as such an act would violate the principles of justice and legal morality. The judgment underscored the challenges posed by legal pluralism when exploited for personal gain and highlighted the absence of a uniform framework to regulate civil matters uniformly across religions.⁴⁰

³⁷ Faizan Mustafa, *Uniform Civil Code: A Misconceived Idea*, *The Hindu* (Oct. 27, 2016).

³⁸ *Sarla Mudgal v. Union of India*, AIR 1995 SC 1531; *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

³⁹ *Id.*

⁴⁰ *Mohd. Ahmed Khan v. Shah Bano Begum*, 1985 AIR 945, 1985 SCR (3) 844 (India).

Uniform civil code and Federal Innovation

The Uniform Civil Code (UCC), although inscribed as a Directive Principle under Article 44 of the Constitution, has witnessed sporadic experiments at the state level, most notably in Goa and recently in Uttarakhand. Goa remains unique as it inherited the Portuguese Civil Code of 1867, which continues to function as a de facto UCC, regulating marriage, divorce, and succession irrespective of religion. This uniformity has been lauded for ensuring gender parity and simplifying legal processes, though it is not free from limitations, particularly in its exclusion of contemporary concerns such as live-in relationships or LGBTQIA+ rights.⁴¹

In 2024, Uttarakhand became the first Indian state post-independence to voluntarily enact a UCC, marking a watershed in Indian legal forms. The Uttarakhand UCC was framed following consultations led by a high-level committee chaired by Justice Ranjana Prakash Desai. Its objective includes eliminating discriminatory personal law provisions, instituting uniform grounds for marriage and divorce, and ensuring equality in inheritance. Noteworthy features include mandatory registration of marriages and live-in relationships, abolition of the concept of illegitimacy, and equal inheritance rights of men and women. However, the law exempts Scheduled Tribes to protect their cultural identity.⁴²

Though progressive in intent, the Uttarakhand UCC has not been without criticism. Scholars and civil rights groups argue that it does not adequately address the concerns of the LGBTQIA+ community and that its implementation may serve political interests more than social reform. Moreover, critics raise questions regarding the top-down approach adopted without adequate grassroots-level dialogue, thereby risking alienation of religious minorities.⁴³

- Federalism and state Autonomy: Fragmentation vs. Innovation in Legal Reforms

India's federal structure accommodates asymmetrical governance, allowing states to innovate while upholding unity. The implementation of UCC at the state level reflects this dynamic

⁴¹ The Portuguese Civil Code, 1867, as applicable in Goa; See 57 Years After Liberation, Goa Gets English Translation of Portuguese Civil Code, 1867, *Indian Express* (Oct. 3, 2020), <https://indianexpress.com/article/india/57-years-after-liberation-go-get-english-translation-of-portuguese-civil-code-1867/>.

⁴² See Justice Ranjana Prakash Desai Submits Final UCC Report to Uttarakhand CM Dhami, *Daily Excelsior* (Feb. 2, 2024), <https://www.dailyexcelsior.com/justice-ranjana-prakash-desai-submits-final-ucc-report-to-uttarakhand-cm-dhami/>.

⁴³ See Final Uniform Civil Code Draft for Uttarakhand Recommends Ban on Triple Talaq and Halala; Suggests Tribals Be Kept Out of Ambit, *The Hindu* (Feb. 3, 2024), <https://www.thehindu.com/news/national/other-states/uniform-civil-code-draft-submitted-to-uttarakhand-cm/article67803530.ece>.

tension between central vision and regional autonomy. On one hand, these state-level experiments showcase federalism as a laboratory of reform national legislation. Uttarakhand's UCC, while not binding on other states, sets a precedent that could inspire similar efforts in Gujarat, Assam, or Madhya Pradesh.⁴⁴

On the other hand, the fragmented nature of civil law across states raises concerns regarding legal uniformity. Differing civil codes across the country may perpetuate confusion, especially of a pan-India UCC also leads to varied standards of gender justice and civic rights, challenging the constitutional mandate of equality before the law.

This fragmentation versus innovation debate also intersects with political considerations. While the Centre may support UCC implementation for national integration, it must tread carefully to respect state autonomy under the constitutional framework. The challenge, therefore, lies in ensuring legal consistency without compromising the foundational principles of Indian federalism.

- Community Engagement, Awareness, and Resistance in Ongoing Legal Reform Processes

Community participation remains a pivotal yet underdeveloped element in the UCC reform process. Legal uniformity imposed without extensive public deliberation risks backlash and resistance, as seen historically in reactions to the Shah Bano judgement or the Hindu Code Bill debates. The Uttarakhand model in reactions did not incorporate public feedback through questionnaires and consultations, but of inclusive representation – particularly of minorities and women's groups-remains contested⁴⁵.

Public awareness about the implication of UCC also varies significantly across communities. In many cases, resistance stems not from principled objections to equality but from fear of cultural erosion. Community leaders, religious institutions, and civil society must be meaningfully engaged through dialogues, educational campaigns, and legal literacy initiatives. Legal reforms must be viewed not merely as a legislative exercise, but as a sociocultural

⁴⁴ See Hindu Code Bills, *Wikipedia*, https://en.wikipedia.org/wiki/Hindu_code_bills (last visited June 5, 2025).

⁴⁵ See Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 S.C.C. 556, A.I.R. 1985 S.C. 945, <https://indiankanoon.org/doc/823221/>.

transformation requiring trust-binding and participatory governance. The state-level implementation of UCC reflects legal innovation, its future trajectory on harmonizing federal principles with national objectives, and lawmaking with community consensus. The road to a uniform civil code must be tread with both constitutional prudence and democratic sensitivity.⁴⁶

- Pathways Forward: Harmonization, Legal Innovation, and Social Dialogue

The debate on the Uniform Civil Code (UCC) has reached a crucial juncture where moving forward requires not just legal uniformity but also a deeper engagement with India's cultural plurality. In this context, the discourse must evolve from a binary of uniformity versus diversity, towards a nuanced understanding of commonality within diversity. The challenge is not erasing difference, but to embed justice and equality into a legal framework that respects diverse identities.⁴⁷

- Rethinking Uniformity vs. Commonality

Rather than enforcing absolute uniformity, legal reform must prioritize the principle of Substantive equality. The idea is to forge a common civil framework where diverse personal customs may coexist, provided they do not violate the values enshrined in the constitution, especially dignity, equality, and non-discrimination. This approach distinguishes between discriminatory religious practices and benign cultural variation. Legal pluralism need not be antithetical to constitutionalism, if it is steered through a rights-based lens. Respect for religious autonomy should be reconciled with the imperative to ensure every individual, regardless of identity, enjoy equal civil protection.⁴⁸

- Progressive Codification Through Participation

A crucial step forward lies in implementing codification gradually and with active public participation. Rather than abrupt or centralized imposition, a gradual harmonization of personal laws, beginning with universally accepted reforms, such as equal inheritance rights and guardianship can build public trust. Progressive state, as seen in Uttarakhand, may function as pilot jurisdictions, allowing for flexible and decentralized experimentation. However, such reforms must be shaped by community consultation, ensuring that stakeholders, especially

⁴⁶ See Shah Bano Case: Section 125 of Criminal Procedure Code Is Secular in Nature, *LexForti Legal News* (Apr. 23, 2020), <https://lexforti.com/legal-news/shah-bano-case-section-125-of-criminal-procedure-code-is-secular-in-nature/>.

⁴⁷ See Hindu Code Bills, *Wikipedia*, https://en.wikipedia.org/wiki/Hindu_code_bills (last visited June 5, 2025).

⁴⁸ See Hindu Code Bills, *Wikipedia*, https://en.wikipedia.org/wiki/Hindu_code_bills (last visited June 5, 2025).

women, minorities, and marginalized groups are not passive recipients but active agent in the process.

Codification should also aim at modernizing the spirit of personal laws while retaining while retaining their cultural legitimacy where they do not contravene constitutional morality. Uniformity should not mean cultural erasure, but the creation of a shared civil space that upholds justice without flattening India's legal mosaic.⁴⁹

- Mechanism for Dialogue and Democratic Legitimacy

A robust and inclusive dialogue is indispensable. Law commission, parliamentary committees, and constitutional forum must be revitalized as platforms for sustained public deliberation. This mechanism can function as intermediaries between the State and Society, helping translate diverse societal inputs into legislative form. Additionally, constitutional morality a principle emphasized by the judiciary should guide this transition. It serves as a compass to ensure that reforms uphold liberty, equality, and fraternity without undermining religious freedoms. Public education campaign, legal literacy programs, and media engagement can further bridge the gap between abstract legal principles and public understanding. Civil society organization, academia, and religious bodies must be brought into constructive dialogue, ensuring that reform is informed, inclusive, and legitimate.⁵⁰

Conclusion

The road ahead is not towards a monolithic legal order but towards a plural and inclusive civil code. Harmonization must be rooted in social trust, respect for diversity, and the democratic will of the people. A phased, participatory, and constitutionally anchored UCC can serve as a model of progressive legal reform one that strengthens national unity without compromising the nation's plural ethos.

Legal reforms in a country as diverse as India cannot be rushed or imposed in abstraction. It must be built upon dialogue, deliberation, and consensus, ensuring that every voice, especially

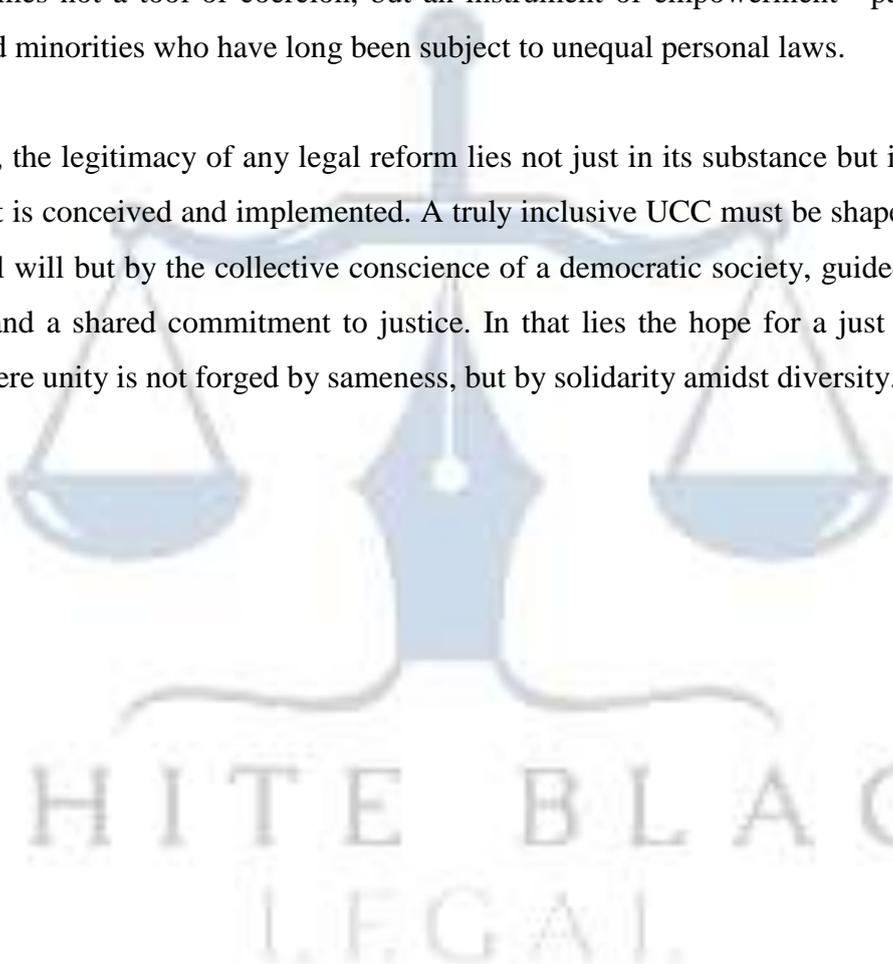
⁴⁹ See UCC Draft Is Ready and Will Be Submitted to the Government Soon, Says Committee, *The Hindu* (June 30, 2023), <https://www.thehindu.com/news/national/other-states/uniform-civil-code-draft-for-uttarakhand-ready-to-be-submitted-to-govt-says-panel-head-ranjana-desai/article67026862.ece>.

⁵⁰ See Final Uniform Civil Code Draft for Uttarakhand Recommends Ban on Triple Talaq and Halala; Suggests Tribals Be Kept Out of Ambit, *The Hindu* (Feb. 3, 2024), <https://www.thehindu.com/news/national/other-states/uniform-civil-code-draft-submitted-to-uttarakhand-cm/article67803530.ece>.

those from historically marginalized communities, is heard and respected. By adopting an incremental and consultative approach, the state can navigate sensitive areas of personal law without alienating cultural or religious groups.

Furthermore, anchoring reform in constitutional morality ensures that legal change aligns with the ideals of equality, dignity, and justice. Instead of erasing identities, a well-framed civil code can protect individual rights while allowing for respectful cultural variation. In this way, the UCC becomes not a tool of coercion, but an instrument of empowerment—particularly for women and minorities who have long been subject to unequal personal laws.

Ultimately, the legitimacy of any legal reform lies not just in its substance but in the process by which it is conceived and implemented. A truly inclusive UCC must be shaped not merely by political will but by the collective conscience of a democratic society, guided by fairness, empathy, and a shared commitment to justice. In that lies the hope for a just and cohesive India—where unity is not forged by sameness, but by solidarity amidst diversity.⁵¹



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⁵¹ See Hindu Code Bills, *Wikipedia*, https://en.wikipedia.org/wiki/Hindu_code_bills (last visited June 5, 2025).