

Uniform Civil Code in India: Constitutional Mandate or Political Debate

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Abstract

The debate over the Uniform Civil Code (UCC) in India represents one of the most enduring constitutional and political controversies since independence. Envisaged under Article 44 of the Directive Principles of State Policy, the UCC seeks to replace religion-based personal laws with a common framework governing marriage, divorce, inheritance, and succession, thereby ensuring equality before law and gender justice. However, its implementation has been mired in tensions between constitutional ideals and socio-political realities. While proponents argue that the UCC would promote national integration, secularism, and gender equality, opponents perceive it as an intrusion into religious freedom, minority rights, and cultural identity. Judicial pronouncements—from *Shah Bano* to *Shayara Bano*—have consistently highlighted the necessity of reform, yet underscored that UCC lies within the legislative domain. Comparative experiences from countries like France and Turkey reveal that uniform codes can strengthen secularism, but India's unique pluralism poses distinct challenges. Contemporary debates remain polarized, complicated by political mobilization and misconceptions about its scope. This paper argues that the UCC is not merely a constitutional mandate but a transformative social reform that requires gradual, consultative, and inclusive implementation. Its success ultimately depends not only on legislative will but also on political maturity and social acceptance.

Keywords: Uniform Civil Code, Article 44, secularism, gender justice, personal laws, constitutional mandate, political debate, judicial interpretations.

Introduction

The idea of a Uniform Civil Code (UCC) in India represents one of the most enduring constitutional debates in the post-independence legal framework. At its core, the UCC refers to the formulation and application of a single, uniform set of secular civil laws that would govern matters relating to marriage, divorce, maintenance, inheritance, succession, and adoption for all citizens of India, irrespective of their religion or personal faith traditions. Presently, these areas are governed by personal laws, which derive authority from diverse religious texts, customs, and community practices such as the Hindu Marriage Act, 1955, the Muslim Personal Law (Shariat) Application Act, 1937, the Indian Christian Marriage Act, 1872, and the Parsi Marriage and Divorce Act, 1936.

The UCC draws its constitutional legitimacy from Article 44 of the Directive Principles of State Policy (DPSP), which directs that “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.” While not justiciable in a court of law, this provision reflects the aspirations of the framers of the Constitution to create a more integrated, egalitarian, and secular legal order. However, more than seven decades after independence, the UCC remains unrealized, primarily due to the complexities of India’s religious pluralism, political hesitations, and the fear of perceived encroachment upon the right to freedom of religion under Articles 25–28 of the Constitution.¹

The debate around UCC is therefore situated at the intersection of secularism, gender justice, and minority rights. Advocates argue that UCC would promote equality before law (Article 14) and non-discrimination (Article 15) by dismantling patriarchal norms embedded within many personal laws, especially those affecting women. For instance, the **Shah Bano case (1985)**² highlighted the vulnerability of Muslim women under personal law, prompting the judiciary to stress the urgency of implementing UCC for ensuring gender justice. Opponents, however, contend that UCC is often projected as a majoritarian political tool, threatening the cultural autonomy of minorities and reducing India’s secularism to mere homogenization.³

Moreover, the Supreme Court of India has, in several landmark judgments, expressed dissatisfaction over the government’s inaction in implementing UCC. In **Sarla Mudgal v. Union of India (1995)**⁴, the Court categorically observed that a UCC would help in national integration by removing contradictions based on ideologies. Despite judicial pronouncements, the matter continues to be a subject of political rhetoric rather than concrete legislative action, reflecting its sensitive nature in a country as diverse as India.

The controversy surrounding the UCC thus embodies the central dilemma of Indian secularism: Should the State impose uniformity in the name of equality, or should it preserve diversity even at the cost of perpetuating inequality? This tension continues to shape India’s socio-legal discourse, making the UCC simultaneously a constitutional mandate and a political debate.⁵

Constitutional Perspective

The Uniform Civil Code (UCC) finds its constitutional basis in Article 44 of the Directive Principles of State Policy (DPSP), which explicitly provides that: “*The State shall endeavour to*

¹M.P. Jain, *Indian Constitutional Law*, 8th ed. (LexisNexis, 2018), p. 1780.

²*Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

³Flavia Agnes, “Towards Gender-Just Laws: Challenges Facing the Uniform Civil Code,” *Economic and Political Weekly* 31, no. 50 (1996): 3284–3289.

⁴*Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.

⁵ Rajeev Bhargava, *The Promise of India’s Secular Democracy* (Oxford University Press, 2010), pp. 210–215.

secure for the citizens a uniform civil code throughout the territory of India.” This provision was incorporated by the framers of the Constitution with the objective of promoting national integration and social reform, particularly in the field of personal laws that govern matters such as marriage, divorce, inheritance, and succession. Although DPSPs are non-justiciable under Article 37 of the Constitution, they are nevertheless fundamental in the governance of the country and are intended to guide the State in framing policies that advance the goals of justice, liberty, equality, and fraternity.⁶

At the same time, the Fundamental Rights (Part III) of the Constitution grant individuals freedom of religion under Articles 25–28, thereby recognizing and protecting India’s religious and cultural diversity. Article 25 guarantees freedom of conscience and the right to freely profess, practice, and propagate religion, subject to public order, morality, and health. Article 26 secures the right of religious denominations to manage their own affairs in matters of religion, while Articles 27 and 28 protect citizens from being compelled to pay taxes for the promotion of religion and regulate religious instruction in educational institutions.⁷

This dual framework a directive towards uniformity (Article 44) and a guarantee of religious freedom (Articles 25–28) creates a constitutional tension. On one hand, Article 44 aspires to eliminate inequalities rooted in diverse personal laws, thereby promoting equality before law (Article 14) and non-discrimination (Article 15). On the other hand, any attempt to enforce a UCC must carefully navigate the constitutional protection of religious practices to avoid infringing upon cultural autonomy and pluralism.⁸

The Supreme Court has, on several occasions, highlighted this tension. In **Shah Bano Begum v. Union of India (1985)**, the Court emphasized that Article 44 remains a “dead letter” due to legislative inaction and underlined the need for a common code to ensure gender justice.⁹ Similarly, in **Sarla Mudgal v. Union of India (1995)**, the Court observed that a UCC would aid national integration by removing contradictions in laws based on religion.¹⁰ However, the judiciary has also maintained that the implementation of UCC is ultimately a matter for the legislature, not the courts.

Thus, the constitutional perspective on UCC highlights a delicate balancing act: safeguarding the secular character of the State and gender equality on one side, while respecting religious freedoms and cultural diversity on the other. The challenge lies in harmonizing these constitutional values

⁶The Constitution of India, Article 37 and Article 44, Directive Principles of State Policy.

⁷ The Constitution of India, Articles 25–28, Fundamental Rights.

⁸M.P. Jain, *Indian Constitutional Law*, 8th ed. (LexisNexis, 2018), p. 1780–1785.

⁹*Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

¹⁰*Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.

without privileging one over the other, thereby ensuring that India's model of secularism remains both inclusive and egalitarian.

Historical Evolution

The debate surrounding the Uniform Civil Code (UCC) is not new; it dates back to the framing of the Indian Constitution. In the Constituent Assembly Debates (CAD), the idea of enacting a UCC met with sharp division of opinion. Dr. B.R. Ambedkar, as the Chairman of the Drafting Committee, strongly supported the inclusion of UCC in the Directive Principles of State Policy, emphasizing that personal laws should not become an obstacle to social reform and gender equality.¹¹ Ambedkar argued that while religious freedom was important, it could not extend to practices that curtailed individual rights, especially those of women.¹²

However, several members, such as **Mohammad Ismail Sahib** and **Naziruddin Ahmad**, opposed the proposal, fearing that immediate enforcement of UCC would infringe upon the cultural autonomy of religious minorities.¹³ In response, Ambedkar clarified that the State would “endeavour” to secure a UCC, implying that it would not be imposed abruptly but introduced gradually, after securing broader social consensus.¹⁴ This compromise explains why UCC was placed in the **Directive Principles (Part IV)** rather than the **Fundamental Rights (Part III)**, making it aspirational rather than mandatory.

One of the most significant examples of UCC in practice can be found in **Goa**, which continues to follow the **Portuguese Civil Code of 1867**, retained even after its integration into India in 1961.¹⁵ This Code applies uniformly to all citizens of Goa irrespective of religion, covering matters of marriage, divorce, and succession, though certain community-specific exemptions remain. The Goan model is often cited as evidence that a UCC can function in a plural society, albeit on a smaller scale.

Judicial pronouncements over the years have also played a pivotal role in keeping the debate alive. In the landmark **Mohd. Ahmed Khan v. Shah Bano Begum (1985)**, the Supreme Court held that Muslim women were entitled to maintenance under Section 125 of the Code of Criminal Procedure, even beyond the iddat period, sparking a nationwide debate on personal laws versus

¹¹Constituent Assembly Debates, Vol. VII, 23 November 1948, Speech of Dr. B.R. Ambedkar.

¹²Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1966), pp. 133–135.

¹³Constituent Assembly Debates, Vol. VII, 23 November 1948, Speech of Mohammad Ismail Sahib.

¹⁴B. Shiva Rao (ed.), *The Framing of India's Constitution: A Study*, Vol. V (New Delhi: Indian Institute of Public Administration, 1967), p. 219.

¹⁵Law Commission of India, Consultation Paper on “Reform of Family Law” (2018), pp. 10–11.

gender justice.¹⁶ Similarly, in **Sarla Mudgal v. Union of India (1995)**¹⁷, the Court addressed the issue of bigamy under Hindu personal law when one spouse converted to Islam to solemnize a second marriage, and once again underlined the necessity of a UCC to prevent misuse of personal law provisions.⁷

More recently, in **Shayara Bano v. Union of India (2017)**, popularly known as the **Triple Talaq case**, the Supreme Court declared the practice of instant triple talaq unconstitutional, marking a significant step toward reforming personal laws to align with constitutional guarantees of equality and dignity.¹⁸ In subsequent observations, the Court has continued to highlight the importance of moving toward a UCC, even while reiterating that the responsibility for its enactment lies with the legislature.

Thus, the historical trajectory of the UCC reflects a gradual evolution from constitutional debates at the founding moment, to limited regional implementation in Goa, and continuous judicial interventions that have kept the discourse alive. However, the absence of legislative consensus and concerns over India's pluralistic fabric have prevented its realization on a national scale.

Political Debate

The question of implementing a Uniform Civil Code (UCC) in India has always transcended the purely legal sphere and entered the realm of politics and ideology. While the Constitution envisages it as a long-term goal under Article 44, its realization has repeatedly been shaped by the interplay of competing political, religious, and social forces. The debate is thus often framed not only in terms of constitutional morality but also as a contested political project.

- Proponents of the UCC argue that it would significantly strengthen the process of national integration by removing legal divisions based on religion. In a secular democracy, they contend, citizens should be governed by a single set of civil laws rather than different religious codes, thereby ensuring the unity and integrity of the nation.¹⁹ The existence of divergent personal laws, in their view, perpetuates communal identities and undermines the principle of equality before law under Article 14.

Another central plank of support for UCC is its promise of gender justice. Personal laws, across all major religions, have historically reflected patriarchal norms whether in matters of

¹⁶ *Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

¹⁷ *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.

¹⁸ *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

¹⁹ Constituent Assembly Debates, Vol. VII, 23 November 1948, Speech of Dr. K.M. Munshi.

inheritance, divorce, or guardianship.²⁰ For instance, under classical Hindu law, women faced severe restrictions in property rights until statutory reforms in the 20th century, while under traditional Muslim law, practices such as triple talaq disproportionately disadvantaged women. By introducing a common secular code, supporters argue, the State can ensure substantive equality for women, thereby fulfilling the constitutional mandate of non-discrimination under Article 15.²¹

Finally, the UCC is seen as essential to building a modern and secular identity for India, aligning its legal framework with the ideals of liberal democracies worldwide.²² Supporters emphasize that secularism, in its true sense, does not mean the preservation of separate religious laws but rather the equal treatment of all citizens under a uniform legal framework. In this light, the UCC is portrayed as a necessary step toward realizing the vision of a progressive and egalitarian India.

- Conversely, critics view the UCC as an encroachment upon religious freedom and minority rights guaranteed under Articles 25–28 of the Constitution.²³ For minority communities, especially Muslims, the UCC is often perceived as a majoritarian project, whereby the dominant Hindu norms would be imposed under the guise of uniformity. This perception of cultural homogenization has fueled fears of marginalization and led to significant political resistance.

Furthermore, opponents argue that the debate over UCC has been frequently politicized and used as an electoral agenda rather than a genuine reform measure.²⁴ Political parties have often invoked the UCC issue during election campaigns, framing it either as a symbol of reform and national integration or as a threat to minority autonomy. This has deepened mistrust among communities and hindered the possibility of consensus-building.

Finally, the practical challenges of implementation in a country as socially and culturally diverse as India cannot be ignored. Customs vary not only across religions but also within sub-groups, castes, and regions.²⁵ Attempting to enforce a uniform law without broad-based consultation and consensus may therefore result in social unrest and resistance. Critics

²⁰Archana Parashar, *Women and Family Law Reform in India: Uniform Civil Code and Gender Equality* (Sage Publications, 1992), pp. 45–49.

²¹Flavia Agnes, “Towards Gender-Just Laws: Challenges Facing the Uniform Civil Code,” *Economic and Political Weekly* 31, no. 50 (1996): 3284–3289.

²²Rajeev Dhavan, “The Road to Uniform Civil Code,” in B. Kirpal et al. (eds.), *Supreme but not Infallible: Essays in Honour of the Supreme Court of India* (Oxford University Press, 2000), pp. 272–275.

²³The Constitution of India, Articles 25–28, Fundamental Rights.

²⁴Zoya Hasan, *Politics of Inclusion: Castes, Minorities, and Affirmative Action* (Oxford University Press, 2009), pp. 213–216.

²⁵Law Commission of India, Consultation Paper on “Reform of Family Law” (2018), p. 12.

maintain that gradual codification and reform of personal laws, rather than wholesale replacement with a UCC, would be a more pragmatic and inclusive approach.

Thus, the political debate over the UCC reflects the clash between two visions of India one that emphasizes uniformity in the interest of equality and national integration, and another that prioritizes pluralism, diversity, and cultural autonomy. The enduring stalemate highlights that the UCC is not merely a legal reform but also a question of identity, secularism, and the role of the State in regulating personal matters.

Judicial Interpretations

The Indian judiciary has played a pivotal role in keeping the debate on the Uniform Civil Code (UCC) alive, even as successive governments have hesitated to legislate on the issue. Through a series of landmark judgments, the Supreme Court of India has consistently highlighted the importance of enacting a UCC to promote equality, gender justice, and national integration. At the same time, the Court has also reiterated that its role is limited to interpretation of law, and the actual implementation of a UCC rests within the legislative domain.

One of the earliest judicial interventions came in the celebrated **Mohd. Ahmed Khan v. Shah Bano Begum (1985)**, where the Court held that a Muslim woman was entitled to maintenance under Section 125 of the Code of Criminal Procedure, notwithstanding the Muslim Personal Law.²⁶ The judgment, delivered by Chief Justice Y.V. Chandrachud, strongly emphasized that Article 44 of the Constitution had remained a “dead letter” due to governmental inaction. The Court observed that a common civil code would help secure national integration by removing disparate loyalties to different laws. However, the backlash from conservative Muslim groups led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, which effectively nullified the progressive impact of the judgment.

In **Sarla Mudgal v. Union of India (1995)**, the Court once again raised the necessity of a UCC.²⁷ The case dealt with Hindu men who converted to Islam to solemnize a second marriage without dissolving their first marriage. The Court held such marriages to be invalid and an abuse of personal law. Justice Kuldip Singh, in a strongly worded judgment, reiterated that the absence of a UCC created loopholes for exploitation and undermined the constitutional principle of equality.

Similarly, in **John Vallamattom v. Union of India (2003)**, the Supreme Court struck down Section 118 of the Indian Succession Act, 1925, which imposed restrictions on the Christian community

²⁶*Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

²⁷*Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.

in bequeathing property for religious or charitable purposes.²⁸ While delivering the judgment, Chief Justice Khare observed that Article 44 was based on the expectation that the State would secure a UCC for all citizens, and that the time had come for Parliament to frame such a law.

In the more recent **Shayara Bano v. Union of India (2017)**, popularly known as the Triple Talaq case, the Court declared the practice of instant talaq (talaq-e-biddat) unconstitutional, holding it to be arbitrary and violative of Article 14.²⁹ Although the case did not directly deal with UCC, it reflected the Court's continuing concern with personal law practices that undermine gender justice. The judgment reignited debates around UCC, especially regarding the need to harmonize personal laws with constitutional guarantees.

At the same time, the judiciary has been careful to underline the limits of its role. In several rulings, the Supreme Court has observed that the implementation of UCC is a matter of policy, lying squarely within the competence of the legislature.³⁰ Thus, while the judiciary has acted as a catalyst for reform, it has refrained from judicially enforcing Article 44, respecting the principle of separation of powers.

Overall, the judicial discourse reflects a dual approach: progressive interpretation of personal laws to advance equality and gender justice, combined with a consistent appeal to Parliament to fulfill the constitutional vision of a Uniform Civil Code.

Comparative Analysis

The debate on the Uniform Civil Code (UCC) in India cannot be fully appreciated without a comparative perspective, since many nations particularly those with diverse populations—have grappled with similar questions of reconciling personal laws with secular legal systems. Experiences from other jurisdictions reveal both the possibilities and the challenges of enacting uniform civil laws.

- France represents one of the earliest and most influential models of a uniform civil law regime. The Napoleonic Civil Code of 1804 established a comprehensive legal framework governing family, property, and civil rights, applicable uniformly to all citizens regardless of religion.³¹ This codification was closely tied to the French conception of *laïcité* (secularism), which emphasizes strict separation of church and state. By eliminating religiously derived personal laws, France aimed to consolidate national identity under a single secular legal order. The

²⁸*John Vallamattom v. Union of India*, (2003) 6 SCC 611.

²⁹*Shayara Bano v. Union of India*, (2017) 9 SCC 1.

³⁰ Law Commission of India, Consultation Paper on “Reform of Family Law” (2018), p. 16.

³¹John Henry Merryman, *The Civil Law Tradition*, 3rd ed. (Stanford University Press, 2007), pp. 28–32.

French model, however, operated in a socio-political context with relatively limited religious diversity compared to India, making the transition less contentious.

- A closer analogy for India may be found in Turkey, which, under the leadership of Mustafa Kemal Atatürk, undertook sweeping legal reforms in the 1920s to modernize and secularize the state. In 1926, Turkey replaced Islamic Shariat law in family matters with the Swiss Civil Code, thereby establishing a UCC that applied uniformly across religious communities.³² The reform was intended to dismantle patriarchal traditions, promote gender equality, and foster a secular national identity. While Turkey's experience demonstrates that legal uniformity can be achieved in a predominantly Muslim society, it was facilitated by the strong centralized authority of the Atatürk regime a political environment significantly different from India's plural and democratic framework.

- In multi-religious countries, the approach to personal laws has varied. For instance, Indonesia, the world's largest Muslim-majority democracy, retains a system of plural personal laws, where different religious groups are governed by their own family laws, though codification efforts have attempted to introduce elements of uniformity.³³ Similarly, Nigeria operates under a tripartite system of English common law, Islamic law, and customary law, with significant regional variations. This pluralistic framework often creates tensions in ensuring gender equality and consistency in legal outcomes.³⁴

By contrast, Tunisia stands out for its progressive Code of Personal Status (1956), which abolished polygamy and established gender-equal rights in family law, applying uniformly across the population.³⁵ However, such reforms were possible in relatively homogeneous societies where the State played a strong interventionist role.

Implications for India

The comparative experience suggests that while a uniform family code can strengthen secularism and gender justice, its feasibility is highly dependent on political will, social context, and cultural diversity. Unlike France or Turkey, India's diversity is not only inter-religious but also intra-

³²Andrew Davison, *Secularism and Revivalism in Turkey: A Hermeneutic Reconsideration* (Yale University Press, 1998), pp. 102–105.

³³ Mark Cammack, "Indonesia's 1989 Religious Judicature Act: Islamization of Indonesia or Indonesianization of Islam?" *Indonesia* 63 (1997): 143–168.

³⁴A.E. Ekpou, "The Dilemma of Legal Pluralism in Nigeria," *Journal of African Law* 34, no. 2 (1990): 129–144.

³⁵ Mounira Charrad, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco* (University of California Press, 2001), pp. 219–225.

religious, with customs and traditions varying across regions, sects, and communities. This makes a wholesale imposition of UCC both politically sensitive and socially complex.³⁶

Hence, while international models illustrate the transformative potential of uniform codes, they also underline that India must evolve its own unique approach one that balances the constitutional promise of equality with respect for pluralism and cultural autonomy.

Gender Justice Dimension

One of the strongest justifications for the Uniform Civil Code (UCC) is its potential to dismantle gender-based inequalities entrenched in personal laws. Despite constitutional guarantees of equality (Articles 14 and 15), women across religious communities often face discrimination in matters of marriage, divorce, inheritance, guardianship, and adoption.

Although codified through the Hindu Marriage Act (1955) and the Hindu Succession Act (1956, amended in 2005), patriarchal remnants persist. For example, prior to the 2005 amendment, daughters were denied coparcenary rights in ancestral property. Even now, issues like unequal guardianship rights reflect gender bias.

Women face discrimination in divorce (*talaq* practices, though *triple talaq* has been struck down in *Shayara Bano v. Union of India*, 2017) and inheritance (a female heir generally receives half the share of a male counterpart). Polygamy, though rarely practiced, is still legally permitted.³⁷

Before the Indian Divorce (Amendment) Act, 2001, Christian women had fewer grounds to obtain divorce than men. Maintenance rights also remain limited.

Parsi women who marry outside the community often lose inheritance rights, unlike Parsi men in similar situations, leading to questions of gender equity.

Thus, a well-structured UCC can ensure uniformity in rights irrespective of religion, placing gender justice above religious orthodoxy. Judicial interventions like *Shah Bano v. Union of India (1985)*³⁸ and *Mary Roy v. State of Kerala (1986)* show how the courts have repeatedly highlighted the need for equality in personal laws.

³⁶Law Commission of India, Consultation Paper on “Reform of Family Law” (2018), p. 14.

³⁷*Shayara Bano v. Union of India*, (2017) 9 SCC 1.

³⁸*Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

Law Commission Reports & Recommendations

The Law Commission of India has played a key role in shaping the discourse around UCC. **Early Reports** like the 10th and 15th Law Commissions emphasized the need to gradually reform personal laws rather than imposing a sudden UCC.

21st Law Commission Report (2018) under Justice B.S. Chauhan, categorically stated that a Uniform Civil Code was “neither necessary nor desirable” at that stage. Instead, it recommended codification of personal laws and reforms to eliminate discriminatory practices while preserving cultural diversity. For example, it suggested:

- Gender-neutral provisions in adoption and guardianship laws.
- Reform of succession laws to ensure equal property rights.
- Harmonization of divorce procedures across religions.

However, Scholars argue that the Commission’s cautious approach reflects India’s pluralism, but critics view it as a missed opportunity to establish constitutional morality over religious orthodoxy. The 22nd Law Commission (2023) has also sought fresh public opinion, reigniting the debate.

Socio-Legal Implications

The introduction of a UCC carries profound implications beyond legal reform, touching upon the social fabric of India:

- A UCC can strengthen individual autonomy by freeing citizens from religiously imposed restrictions. For example, interfaith marriages often face legal hurdles under personal laws, while a uniform code could provide a neutral framework.
- Minority communities often perceive the UCC as a threat to their identity, fearing that it may impose a “majority” worldview. Misconceptions, particularly that UCC equals “Hindu law in disguise,” must be addressed through transparent drafting and community consultations.
- India follows the principle of “positive secularism,” which respects all religions. A UCC could redefine secularism as neutrality of the State in family law, but if implemented insensitively, it risks deepening communal divides.

While UCC may foster national unity by eliminating legal fragmentation, abrupt imposition could lead to social unrest. A gradual, consultative approach is essential to ensure acceptance and avoid alienation of minorities.

Contemporary Challenges and Gaps

Despite its constitutional mandate under Article 44, the implementation of a Uniform Civil Code (UCC) in India continues to face significant challenges. These challenges stem not only from political hesitations but also from deeply entrenched social, cultural, and religious diversities that characterize Indian society.

Lack of Political Consensus

One of the foremost hurdles is the absence of political consensus on the issue. While some political parties strongly advocate for the UCC as a matter of national integration and gender justice, others caution that such a move may alienate minority communities and undermine India's pluralism.³⁹ Successive governments, irrespective of political ideology, have often avoided concrete steps, choosing instead to highlight the issue during electoral campaigns. This lack of bipartisan agreement has kept UCC in the realm of rhetoric rather than policy.

Misconceptions and Minority Concerns

A major barrier to UCC is the widespread misconception that it would amount to the imposition of Hindu personal law on minorities.⁴⁰ This apprehension has been particularly acute among Muslims, who perceive UCC as a political project of majoritarian homogenization rather than as a genuine reform for equality. The historical experience of the *Shah Bano* controversy (1985), where judicial endorsement of Muslim women's rights was overturned by political intervention under pressure from religious groups, has further deepened these suspicions.⁴¹ Unless clarified, such misconceptions will continue to fuel resistance and inhibit meaningful dialogue.

Reconciling Pluralism with Equality

Another pressing challenge lies in balancing India's cultural pluralism with the constitutional principle of equality. India is not only multi-religious but also multi-cultural within each religion, with customs varying across regions, sects, and castes.⁴² Attempting to impose a single uniform law without acknowledging this diversity risks social unrest and may be perceived as erasure of community identities. The real challenge, therefore, is to design a UCC that respects cultural

³⁹Zoya Hasan, *Politics of Inclusion: Castes, Minorities, and Affirmative Action* (Oxford University Press, 2009), pp. 212–216.

⁴⁰Tahir Mahmood, *Uniform Civil Code: Fictions and Facts* (Oxford University Press, 2012), pp. 58–62.

⁴¹*Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945; Muslim Women (Protection of Rights on Divorce) Act, 1986.

⁴²Marc Galanter, "Hinduism, Secularism, and the Indian Judiciary," *Philosophy East and West* 21, no. 4 (1971): 467–487.

diversity while ensuring equal rights, a balance that is far more complex in India than in relatively homogenous societies like France or Turkey.

Gender Justice Beyond a Single Community

While the debate on UCC has often focused disproportionately on Muslim personal law, the reality is that patriarchal norms persist across all major religious personal laws.⁴³ For instance, until the Hindu Succession (Amendment) Act, 2005, Hindu daughters had limited rights in ancestral property. Similarly, Christian women face restrictions under provisions of the Indian Divorce Act, 1869, which historically discriminated against them in grounds for divorce.⁴⁴ Thus, gender inequality is a universal concern, not confined to a single religious tradition. Focusing exclusively on reforming Muslim law risks communalizing the debate, whereas a truly uniform and just code must address patriarchal practices across all religions.

The contemporary challenges reveal that the path to UCC is fraught with political, social, and cultural complexities. Without dispelling misconceptions, building consensus, and ensuring that reform addresses inequality in all personal laws, the UCC risks being seen not as an instrument of justice but as a tool of division. Hence, the task before policymakers is not merely legal codification, but social negotiation and trust-building to ensure that UCC emerges as a truly inclusive and equitable reform.

Way Forward

The debate over the Uniform Civil Code (UCC) must move beyond ideological polarization toward pragmatic reform. Rather than being enforced abruptly, the UCC should be implemented in a gradual, consultative, and inclusive manner that balances constitutional values of equality with India's pluralistic ethos.

Incremental Reform through Codification

Instead of imposing an entirely new and uniform code in one stroke, a more pragmatic approach is to reform existing personal laws through codification and harmonization.⁴⁵ Incremental amendments such as the Hindu Succession (Amendment) Act, 2005, which equalized property rights for daughters, or the striking down of *Triple Talaq* in *Shayara Bano v. Union of India* (2017) demonstrate that meaningful progress toward gender justice can be achieved without

⁴³Flavia Agnes, "Redefining the Agenda of the Women's Movement within a Secular Framework," *Economic and Political Weekly* 30, no. 17 (1995): 873–878.

⁴⁴Archana Parashar, *Women and Family Law Reform in India: Uniform Civil Code and Gender Equality* (Sage Publications, 1992), pp. 90–94.

⁴⁵Tahir Mahmood, *Uniform Civil Code: Fictions and Facts* (Oxford University Press, 2012), pp. 75–80.

undermining religious identity. Codification of customary practices into legislation also provides clarity and judicial consistency, paving the way for eventual convergence into a UCC.

Consultative and Participatory Dialogue

The success of any UCC depends on trust-building with India's diverse communities. Policymakers must conduct extensive consultations with religious leaders, women's groups, civil society, and regional representatives to avoid the perception of majoritarian imposition.⁴⁶ The Constituent Assembly itself had envisioned the UCC as a long-term goal, achievable only through gradual persuasion rather than coercion. Such dialogue will ensure that the eventual code reflects a broad-based consensus rather than the will of a single political party.

Ensuring Gender Justice without Undermining Religious Freedom

The central purpose of the UCC should be to eliminate gender inequalities in personal laws while upholding freedom of religion guaranteed under Articles 25–28 of the Constitution.⁴⁷ A sensitive approach is therefore required one that addresses discriminatory practices (such as unequal divorce provisions or inheritance rights) without unnecessarily intruding into non-discriminatory cultural practices. This would allow the UCC to be framed as a women's rights issue rather than a religious identity issue, reducing communal resistance.

Phased and Flexible Implementation Models

Given India's vast diversity, phased implementation appears to be the most practical route. One model could be region-wise application, beginning in states with relatively homogenous populations or greater political consensus, such as the precedent set by Goa's continuation of the Portuguese Civil Code.⁴⁸ Another approach is optional adoption, where individuals may voluntarily choose to be governed by the UCC instead of their personal law a model suggested by legal scholars as a transitional step.⁴⁹ This flexibility would allow citizens to experience the benefits of a common code while avoiding coercion.

The way forward lies not in presenting the UCC as an instrument of majoritarian dominance, but as a constitutional reform aimed at equality, justice, and integration. A gradual, consultative, and

⁴⁶ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1999), pp. 278–281.

⁴⁷ Flavia Agnes, *Law, Justice and Gender: Family Law and Constitutional Provisions in India* (Oxford University Press, 2011), pp. 56–61.

⁴⁸ Archana Parashar, *Women and Family Law Reform in India: Uniform Civil Code and Gender Equality* (Sage Publications, 1992), pp. 135–140.

⁴⁹ Prabha Kotiswaran, "Towards an Optional Uniform Civil Code?" *Indian Journal of Constitutional Law* 5, no. 1 (2011): 23–45.

flexible approach prioritizing gender justice and respecting religious freedom can transform the UCC from a political flashpoint into a unifying reform aligned with the vision of the Constitution.

Conclusion

The debate on the Uniform Civil Code (UCC) embodies one of the most complex intersections of constitutional mandate, social reform, and political discourse in India. While Article 44 of the Constitution clearly envisages the UCC as a long-term objective of governance, its realization has remained elusive due to the inherent tension between the promise of equality under Articles 14 and 15 and the freedom of religion under Articles 25–28. The UCC thus straddles the fine line between being a tool of constitutional transformation and a flashpoint of political contestation.

On one hand, the UCC promises to eliminate gender discrimination, harmonize personal laws, and strengthen secularism, thereby advancing the vision of a modern, egalitarian India.⁵⁰ On the other hand, critics argue that in a society as diverse as India, its enforcement risks being perceived as majoritarian imposition on minority communities, thereby fueling social and political resistance.⁵¹ This duality has made the UCC a contested terrain where constitutional ideals collide with political realities.

The Supreme Court, through cases such as *Shah Bano* (1985), *Sarla Mudgal* (1995), and *Shayara Bano* (2017), has consistently underlined the urgency of reform, yet acknowledged that the power to legislate lies with the Parliament and State Legislatures.⁵² The judiciary's repeated reminders reflect both the necessity of reform and the complexity of its execution.

Ultimately, the success of the UCC cannot be measured solely by its legislative enactment. Its legitimacy will rest on social acceptance, political consensus, and inclusive dialogue with all stakeholders. The path forward requires a gradual, consultative, and flexible approach that upholds constitutional values without eroding cultural pluralism. In this sense, the UCC must be understood not as a coercive instrument, but as a progressive reform rooted in equality, justice, and integration values that lie at the heart of the Indian constitutional project.

⁵⁰ B. Shiva Rao, *The Framing of India's Constitution: Select Documents*, Vol. IV (Indian Institute of Public Administration, 1968), pp. 231–235.

⁵¹ A.G. Noorani, "The Uniform Civil Code Debate in India," *Economic and Political Weekly* 30, no. 49 (1995): 3071–3077.

⁵² *Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *Shayara Bano v. Union of India*, (2017) 9 SCC