

CHALLENGES AND PROSPECTS OF IMPLEMENTING UNIFORM CIVIL CODE IN A MULTICULTURAL SOCIETY

- Shweta¹ & Somlata Sharma²

Abstract

- Brief overview of the Uniform Civil Code (UCC) as a proposed reform to harmonize personal laws in India. The abstract will highlight key socio-political dimensions, challenges posed by cultural pluralism, and the potential roadmap for balanced implementation.
- Importance of UCC in addressing gender inequality, fostering national unity, and modernizing outdated laws.
- Key focus: challenges posed by India's multicultural society and the prospects of implementing UCC through progressive reforms and inclusive strategies.

Introduction

The concept of a Uniform Civil Code stems from the idea of secularism and, in turn, helps to deeply and broadly establish it. Secularism represents a fundamental and significant trend in human thought and experience evolution. The process of secularization involves separating religion from other aspects of life and thought. As a principle of non-discrimination based on religion, secularism arises from the rule of law and is essential for its flourishing. This idea is woven throughout the constitutional framework and is intended to be a way of life and a perspective.

Religions have significantly influenced Indian politics and society, serving as a cornerstone of Indian culture. In India, religion is often regarded as a way of life and is an essential aspect

¹ Research Scholar MDU- CPAS, Maharshi Dayanand University, Rohtak Haryana.

² Associate Professor at MDU- CPAS, Maharshi Dayanand University, Rohtak Haryana.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

of cultural identity. The concept of a Uniform Civil Code (UCC) proposes the creation of a single set of laws that would apply to all religious communities in India, including Hindus, Muslims, Christians, Sikhs, and others. This code is based on Article 44 of the Indian Constitution, which states that the state must promote the implementation of a UCC to ensure that all citizens have equal access to civil laws. However, Article 37 of the Constitution indicates that Article 44 is not a mandate, meaning the UCC is not obligatory. Consequently, the Government of India has not prioritized the fulfilment of this responsibility as outlined in the Constitution.

The implementation of a Uniform Civil Code (UCC) faces several challenges. One significant roadblock is the extensive authority of the Indian Parliament and State legislatures to address many issues that may be included in this code. Additionally, a primary obstacle is the strong attachment various religious groups have to their separate personal laws, which they prefer not to have interfered with by any outside authority. Despite these challenges, the state must pay close attention to the objectives outlined in Article 44 of the Indian Constitution and strive to implement them as diligently as possible. However, creating a comprehensive code that addresses all aspects of marriage, divorce, succession, adoption, and more could complicate efforts to change long-standing traditions and customs held by the people.

The Indian state of Goa follows the Goa Civil Code, a set of civil laws originally based on the Portuguese Civil Code. This legal framework continues to be upheld even after Goa's annexation by India in 1961.

In October 2015, the Supreme Court of India emphasized the necessity for a Uniform Civil Code (UCC), stating, "This cannot be accepted; otherwise, every religion will claim the right to address various issues as a matter of its personal law. We do not agree with this at all. It must be established through a decree of a court." On 31 August 2018, the Law Commission of India announced in a 185-page consultation paper that a Uniform Civil Code is "neither necessary nor desirable at this stage," adding that secularism cannot contradict the plurality that exists in the country. On 14 June 2023, the 22nd Law Commission of India sought input from religious organizations and the general public regarding the implementation of a Uniform Civil Code (UCC). According to a notification released by the commission, interested individuals can share their opinions within a 30-day timeframe.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

Indian society in the pre-independence era had various considerations for marriage, such as socio-economic status, jati, and gotra. The Hindu Code Bills and other legislative measures abolished many of these practices among Hindus, Jains, Sikhs, Buddhists, Parsis, and Christians. However, some conservative groups within these communities have been advocating for amendments to their respective Marriage Acts.

Critics of the Uniform Civil Code (UCC) argue that it poses a threat to religious freedom. They view the elimination of religious laws as contrary to secularism and see the UCC as a strategy for the BJP to target Muslims under the guise of progressivism. In contrast, BJP members assert that they promote the UCC as a means to achieve religious equality and equal rights for women by addressing unfair religious laws.

Legal experts and rights groups advocate for amending gender-discriminatory laws rather than implementing a uniform civil code. One example of such a law is the Protection of Women from Domestic Violence Act of 2005, which applies to women from all communities without requiring a Uniform Civil Code.

On July 17, 2023, Justice Krishna Murari, who recently completed his tenure on the Supreme Court of India, stated that “uniformity in any way is beneficial.” However, he emphasized that before implementing a Uniform Civil Code, extensive deliberations and consultations with the general public should be conducted on a large scale.

On February 7, 2024, the Uttarakhand Legislative Assembly passed the Uniform Civil Code of Uttarakhand Act, 2024. Uttarakhand Chief Minister Pushkar Singh Dhami described this legislation as a “historic moment” for the country. However, the law itself excludes Scheduled Tribes and has faced criticism on technical grounds.

What is UCC?

- Definition: A single legal framework governing personal matters like marriage, divorce, inheritance, adoption, and maintenance for all citizens, irrespective of religion or community.
- Constitutional mandate: Article 44 of the Directive Principles of State Policy.

Relevance in India’s Multicultural Context:

- India’s pluralistic society with diverse personal laws for Hindus, Muslims, Christians, Parsis, and tribal communities.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

- Tensions between religious freedom (Articles 25-28) and constitutional equality (Articles 14-16).

Objective of the Research:

- Analysing the socio-political challenges and potential benefits of implementing a Uniform Civil Code (UCC) in India's multicultural society. Proposing actionable strategies to navigate India's cultural, political, and legal complexities.
- Proposing practical strategies to navigate the cultural, political, and legal complexities of India.
- To analyze the interaction of social, political, and cultural factors in the implementation of the UCC and to propose a framework for achieving legal uniformity while respecting diversity.
- The need for a Uniform Civil Code (UCC) is essential in addressing legal fragmentation and promoting gender equality.

Historical Evolution of UCC in India

- **Pre-Independence:**
 - British colonial policies on personal laws: codification of Hindu and Muslim laws.
 - Early discussions on uniform laws: the Lex Loci Report of 1840.
- **Constitutional Assembly Debates:**
 - Vision of UCC: Debates between leaders like Dr. B.R. Ambedkar and others who emphasized gradual reforms.
 - Compromise to include UCC as a Directive Principle of State Policy, not a Fundamental Right.
- **Post-Independence Developments:**
 - Codification of Hindu personal laws (1950s).
 - Resistance to codifying Muslim personal laws.
 - **Shah Bano Case (1985):** Debate on maintenance rights for Muslim women.
 - **Sarla Mudgal Case (1995):** Polygamy and conflict of personal laws.
 - **José Paulo Coutinho Case (2019):** Supreme Court observations on the need for UCC.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

Challenges in Implementing UCC

2.1 Religious and Cultural Diversity

- **Multiplicity of Religions and Practices:**

There is coexistence among distinct religious communities, each with its own set of personal laws. Some minority communities express resistance, fearing the erosion of their cultural identity. Traditions and customs play a vital role in shaping individual and community identities.

- **Intra-Religious Variations:**

There are notable differences within religious groups; for example, there are distinct practices among Sunni and Shia Muslims.

- **Multiplicity of Personal Laws:**

Hindu personal laws are codified under various acts such as the Hindu Marriage Act and the Hindu Succession Act. Muslim personal laws are governed by the Shariat Application Act and the Dissolution of Muslim Marriages Act. Additionally, Christian, Parsi, and tribal communities have their own separate legislations governing their personal laws.

- **Concerns of Minority Communities:**

Many perceive the idea of a Uniform Civil Code (UCC) as a potential threat to their religious autonomy and identity. There is a prevalent fear of majoritarian dominance, especially among minority groups.

2.2 Political and Ideological Resistance to the Uniform Civil Code (UCC)

- **The politicization of the UCC:**

The UCC is often seen as a political agenda, utilized by parties for electoral gains.

It has become a polarizing issue between different political parties.

The BJP's strong support for the UCC is interpreted as part of a Hindutva agenda.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

Opposition parties and minority groups frequently label the UCC as politically motivated.

- **Legislative Inertia:**

Successive governments have avoided pursuing the UCC due to electoral sensitivities

- **Lack of Consensus Among Stakeholders:**

Various religious leaders, political parties, and community groups oppose the UCC on ideological grounds.

- **Role of the State:**

There are tensions between state sovereignty and the rights of communities.

- **Electoral Calculations:**

The UCC is used as a topic in political campaigns to appeal to specific voter bases.

2.3 Legal and Judicial Complexities

- **Judicial Hesitations and Legislative Inaction:**

There have been limited proactive efforts by both the judiciary and the legislature to implement reforms.

- **Ambiguities in Existing Laws:**

There is a lack of uniformity within codified personal laws, such as variations in Hindu laws across different states.

- **Judiciary's Role:**

While the courts advocate for the implementation of a Uniform Civil Code (UCC), their efforts are constrained by the principle of separation of powers.

2.4 Gender Inequality in Personal Laws

- **Gender Biases:**

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

Muslim women face limited rights regarding polygamy, maintenance, and inheritance.

Hindu women's inheritance rights were only codified in 2005.

Before the 2001 amendment, Christian women experienced discrimination in divorce laws.

- **Discriminatory Practices in Personal Laws:**

There are unequal inheritance rights, polygamy, and insufficient maintenance provisions for women under certain laws.

- **Balancing Gender Justice with Religious Autonomy:**

Efforts are needed to reconcile progressive reforms with respect for cultural traditions.

- **Balancing Reforms with Community Concerns:**

There is often pushback from patriarchal structures within religious groups against these reforms.

2.5 Federalism and State Autonomy:

- Personal laws are included in the Concurrent List. Conflicts between the Centre and States arise because personal laws often fall under state jurisdiction, which can create potential friction.

2.6 Diverse Regional Practices:

- Diverse customary laws and practices vary significantly across Indian states. Conflicts may arise between central legislation and specific state customs. Additionally, tribal laws and practices are often overlooked in mainstream discussions.

2.7 Concerns about Cultural Homogenization

- Fears that uniform cultural criteria would erode India's pluralistic ethos. Worries about the imposition of majority cultural norms on minority communities.
- **Loss of Pluralistic Identity:**

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

Concerns about applying a uniform framework to a culturally diverse population.

2.8 Secularism and Constitutional Values:

- Contradictions Between Constitutional Secularism and Religious Personal Laws.
- Concerns About Eroding Minority Protections Under Articles 25 and 26 of the Indian Constitution.

3. Prospects of UCC Implementation

3.1 Promoting Equality and Justice

- Ensuring equal rights for women in all communities. UCC as a pathway to achieve gender equality in personal laws.
- Balancing women's rights with community rights. Eliminating gender biases in laws related to inheritance, marriage, and maintenance.

3.2 Promoting National Integration

- Building a unified legal system that reinforces the idea of a single Indian identity.
- Simplifying legal frameworks to reduce conflicts that arise from overlapping personal laws.
- Reducing legal fragmentation while fostering a sense of unity in diversity.
- Strengthening the concept of "One Nation, One Law."
- Balancing uniformity with respect for diversity.

3.3 Legal Modernization

- Replacing outdated personal laws with progressive legal provisions.
- Updating archaic personal laws to align with contemporary societal values.
- Eliminating outdated practices through a unified legal framework.
- Harmonizing Indian laws with global human rights standards.
- Promoting progressive values in family law.

3.4 Economic and Administrative Benefits

- Reducing judicial backlog by addressing contradictions in personal laws.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

- Simplifying legal processes by eliminating multiplicity of personal laws.
- Streamlining legal processes for marriage, divorce, and inheritance.

3.5 Global Precedents as a Model

- Turkey: Secularization of personal laws under Atatürk.
- France: Strict separation of religion and law.
- Indonesia: Balancing customary and secular laws.

4. Strategies for Implementing UCC

4.1 Gradual and Incremental Implementation

- Start with optional UCC provisions for those willing to adopt. Pilot implementation in select states or sectors before nationwide rollout.
- Codify individual personal laws as a forerunner to uniformity.
- Phased reforms to build trust and consensus.

4.2 Inclusive Stakeholder Engagement

- Dialogue with religious leaders, social activists, legal experts, and women's organizations.
- Building consensus through dialogue with religious and community leaders.
- Encouraging community-driven reforms to address concerns about autonomy.
- Build trust by ensuring representation from all communities.

4.3 Cultural Sensitivity in Law making

- Accommodate diverse traditions within the broader framework of UCC.
- Incorporating safeguards to preserve cultural and religious practices within the framework of UCC.
- Allowing for flexibility and exemptions for specific customary practices.
- Include safeguards to protect cultural practices.
- Allowing room for community-specific practices within a broader uniform framework.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

- Special exemptions or provisions for customary practices.

4.4 Education and Public Awareness

- Campaigns to dispel myths about UCC being anti-religion.
- Promoting awareness about the benefits of UCC for gender justice and national unity.
- Highlighting case studies where UCC-like reforms have improved societal outcomes.
- Educating the public on the benefits of UCC.
- Highlighting success stories of women and marginalized groups benefiting from legal reforms.

4.5 Judicial and Legislative Action

- Proactive role of the judiciary in promoting legal reforms through judgements and recommendations.
- Strengthening legislative mechanisms to draft inclusive and progressive UCC laws.

5. Comparative Case Studies

- **Turkey:**

Adoption of secular civil laws under Mustafa Kemal Atatürk.

- **France:**

Strict secularism and its impact on personal and family laws.

- **Indonesia:**

Balancing secular laws with customary practices under Adat laws.

6. SUGGESTIONS

Current trends indicate that little progress has been made in establishing a Uniform Civil Code (UCC), and the challenges in this area remain significant. To address these issues, the following suggestions are proposed:

- While uniform legislation is important, enacting it all at once could undermine the nation's unity and integrity. Instead, gradual and progressive legislation should be

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

implemented in a democratic society governed by the rule of law. At various levels, the legal system can address the most pressing problems.

- The most effective way to change people's habits and customs is through gradual reform. Rather than creating a comprehensive civil code that encompasses all aspects of family law, it would be better to develop piecemeal standard laws targeting specific areas such as adoption, maintenance, divorce, marriage, and inheritance.
- A comprehensive comparison of various personal laws should be conducted to identify the similarities and differences in their provisions. Based on the principles that are largely consistent across these personal laws, legislation regarding personal status can be adopted and implemented more readily.
- Additionally, the reasons for the ineffectiveness of current family legislation, such as the Dowry Prohibition Act, the Hindu Code, and the Muslim Marriage Dissolution Act, should be thoroughly analyzed.
- The adoption of a temporary dual system of family law seems to be a viable solution for the situation at hand. Since we cannot eliminate religious groups' laws all at once, we need to remove the objectionable components gradually. Concurrently, we could propose a Uniform Civil Code (UCC) based on the best aspects of current family law and submit it to a referendum. If a majority of the community supports its adoption, it will become mandatory for them. Otherwise, the community will continue to be governed by its separate personal laws, which can be reformed and modernized as necessary. If this dual system proves to be beneficial, the separate personal laws may eventually diminish in relevance.
- To ensure the successful implementation of this approach and to achieve the objectives of Article 44, the state must exercise its authority wisely and liberally.

7. Vision for India

The UCC (Uniform Civil Code) serves as a pathway to achieving gender justice, modernizing legal frameworks, and fostering national unity, all while preserving India's diverse cultural fabric.

- It proposes a balanced framework that respects this diversity and upholds the principles of justice, equality, and national unity. The approach emphasizes the need

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

to balance religious freedom and cultural diversity with the constitutional ideals of equality.

- A step-by-step method is suggested for harmonizing personal laws without alienating any communities involved. The aim is to create an inclusive, equitable, and progressive legal system that recognizes diversity while adhering to constitutional principles.
- Emphasis is placed on the importance of incremental reforms, stakeholder engagement, and cultural sensitivity. There is a clear need for a phased, consultative approach that takes into account cultural nuances. Gradual reforms are preferred over abrupt changes, ensuring that laws are framed with cultural sensitivity in mind. Furthermore, inclusive processes should be established to guarantee community participation.

Conclusion

In conclusion, it is reasonable to propose that a secular India requires a Uniform Civil Code (UCC); however, it is not essential to impose such a code on a populace that is resistant to change. The majority of people are unwilling to abandon their religious practices in favor of secular laws. Only through improving literacy rates, increasing awareness of various socio-political issues, promoting healthy debates, and fostering social and religious mobility can the Uniform Civil Code be effectively implemented. The ultimate goal of changing the UCC should be to ensure equality, national unity, integrity, and justice for both men and women.

When implementing the UCC across the country, we must consider the challenges faced by minority religious groups, such as feelings of insecurity and the potential loss of identity within Indian culture. These concerns must be addressed for the UCC to be adequately implemented. Furthermore, contemporary legislation regarding sensitive issues should only be integrated into the UCC when it is enacted. Mobilizing Hindus, Muslims, Christians, and Parsis in this direction will likely yield positive outcomes and help reduce fundamentalist hostility.

References

- <http://www.jstor.org/stable/43953824>

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

- <http://dx.doi.org/10.2139/ssrn.3643457>
- blog.ipleaders.in/ucc-in
- [Chavan & Kidwai 2006](#), p. 13–20.
- [^ "Debate without draft Uniform Civil Code is a non-issue, says ex-CEC S.Y. Quraishi". *The Hindu*. 6 August 2023.](#)
- [^ ""Let the draft come...nobody is opposing law," Sanjay Raut on UCC". *The Economic Times*. 4 July 2023.](#)
- [^ "Call to implement Goan model of civil code". *New Indian Express*. 15 May 2012. Archived from \[the original\]\(#\) on 8 May 2014. Retrieved 22 October 2013.](#)
- [^ Boyle, Kevin; Sheen, Juliet \(7 March 2013\). *Freedom of Religion and Belief: A World Report*. Routledge. pp. 191–192. ISBN 978-1-134-72229-7. Archived from the original on 13 May 2016. Retrieved 16 September 2015.](#)
- [^ *The Constitution of India, Right to Freedom of religion, Article 25* \(PDF\), archived from \[the original\]\(#\) \(PDF\) on 21 June 2014](#)
- [^ Anand, Utkarsh \(13 October 2015\), *Uniform Civil Code: There's total confusion, why can't it be done, SC asks govt*, *New Delhi: The Indian Express*, archived from the original on 15 October 2015, retrieved 13 October 2015](#)
- [^ "Muslim intellectual proposes a revolutionary Uniform Civil Code". *The Statesman*. IANS. 30 November 2016. Archived from the original on 1 December 2016. Retrieved 30 November 2016.](#)
- [^ Ahmad, Tufail \(30 November 2016\). "My blueprint for the Uniform Civil Code". *DailyO*. Archived from the original on 30 November 2016. Retrieved 30 November 2016.](#)
- [^ "Law Commission seeks views on Uniform Civil Code: What is the UCC and the debate around it". 18 June 2023.](#)
- [^ Anand, Hardik \(28 May 2018\). "Amend Hindu Marriage Act to ban same-gotra marriages: Khaps". *Hindustan Times*. Retrieved 13 August 2021.](#)
- [^ "Uniform Civil Code: Another nail in the coffin to satisfy the facade of party manifesto". *India Legal*. 23 July 2020. Retrieved 14 September 2020.](#)
- [^ ^a ^b Jump up to: Jigeesh, AM \(6 December 2019\). "After objections, BJP member withdraws Bill for UCC". *The Hindu Business Line*. Retrieved 22 August 2020.](#)
- [^ "Uniformity is Good but Uniform Civil Code Needs Large-Scale Consultations: Ex-SC Judge Murari". 17 July 2023.](#)

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

- [^ "Uniform Civil Code bill passed in Uttarakhand assembly". Hindustan Times. Retrieved 7 February 2024.](#)
- [^ "The Wire: The Wire News India, Latest News, News from India, Politics, External Affairs, Science, Economics, Gender and Culture".](#)
- [^ "Uttarakhand Excludes Tribes: Civil Code Impact | SRIRAMs IAS".](#)



For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>