



2025

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Recommended Citation

Lucky Naresh Boudh, *Uniform Civil Code in India: A Historical, Legal, and Societal Analysis*, 4 IJHRLR 305-315 (2025).
Available at www.humanrightlawreview.in/archives/.

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Uniform Civil Code in India: A Historical, Legal, and Societal Analysis

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Manuscript Received
25 Mar. 2025

Manuscript Accepted
28 Mar. 2025

Manuscript Published
31 Mar. 2025

ABSTRACT

Article 44 of the Indian Constitution, which advocates for the implementation of a Uniform Civil Code (UCC), has long been at the center of legal and social discourse. The provision envisions a common set of civil laws applicable to all citizens, irrespective of religious affiliations, replacing the existing personal laws governing matters such as marriage, divorce, inheritance, and adoption.

This research paper explores the historical evolution of the UCC, examining its constitutional intent and the debates surrounding it. It assesses the current status of personal laws in India, highlighting the challenges that hinder the realization of a uniform legal framework.

The study also analyzes judicial pronouncements, legislative developments, and public perspectives to provide a comprehensive understanding of the UCC's feasibility and potential impact. Through an extensive review of legal literature and case law, this paper aims to present a nuanced perspective on the prospects of implementing a Uniform Civil Code in India.

KEYWORDS

UCC, Constitution, Divorce, Inheritance, Adoption.

INTRODUCTION

India's diverse religious landscape is reflected in its complex legal framework, where personal laws governing family and civil matters vary across communities. Rooted in sacred texts and ancient customs, these laws often perpetuate disparities and inequalities. For instance, Hindus are guided by their own set of personal laws, while Muslims adhere to Sharia-based principles.

Amidst this tapestry of disparate laws, the Uniform Civil Code (UCC) emerges as a beacon of standardization, seeking to harmonize these laws and ensure equal rights and justice for all citizens, regardless of their faith, caste, or gender. Enshrined in Article 44 of the Indian Constitution, the UCC represents a directive principle that nudges the state towards a unified and egalitarian civil code.

The Uniform Civil Code (UCC) in India is a proposed set of laws aimed at replacing personal laws based on religion with a common civil law applicable to all citizens, regardless of religion. It is a highly debated topic with social, legal, and political implications.

IMPORTANCE OF UCC IN INDIA

1. Ensures Equality and Justice

UCC promotes gender equality by eliminating discriminatory personal laws. It ensures equal rights in matters like marriage, divorce, inheritance, and adoption for all citizens, irrespective of religion.

2. Strengthens National Unity and Integrity

A common civil code reduces communal divisions and promotes national integration. It ensures that all citizens are treated equally under the same legal framework, fostering unity.

3. Simplifies Legal System

Currently, India has multiple personal laws (Hindu, Muslim, Christian, etc.), which can lead to legal complexity. UCC will create a single legal framework, making the judicial system more efficient and reducing the burden of multiple laws.

4. Promotes Secularism

Article 44 of the Directive Principles of State Policy (DPSP) directs the state to implement UCC. It ensures that laws are not based on religion but on equality and justice, aligning with the secular fabric of India.

5. Protects Women's Rights

Personal laws often favor men in divorce, maintenance, and inheritance matters. A uniform code will grant women equal rights in family matters, ensuring fairness.

6. Prevents Misuse of Personal Laws

Some individuals exploit personal laws for personal benefit, such as polygamy or instant triple talaq (now banned). UCC ensures a

standardized legal approach that prevents misuse.

7. Aligns India with Modern Democracies

Many countries, including the USA and France, follow a uniform civil code. Implementing UCC will bring India closer to modern legal principles and global standards.

8. Decreases Conflicts

By lowering the burden on courts and fostering social harmony, UCC helps reduce conflicts resulting from disparate personal laws.

9. Protects -Vulnerable Groups

UCC can better protect vulnerable groups, such as women, minorities, and children, ensuring that their rights are upheld.

10. Enhances Global Competitiveness

By offering a contemporary and progressive legal framework that complies with international standards, UCC can increase India's competitiveness in the global market.

CHALLENGES IN IMPLEMENTING UCC

1. Religious and cultural concerns

Many communities fear that a UCC will erode their cultural and religious identities.

2. Personal law vs. uniform law

The debate centers around whether personal laws should be retained to protect community-specific rights or whether a uniform law should be applied to all citizens.

3. Gender equality and justice

Critics argue that existing personal laws perpetuate gender based discrimination, and a UCC could help address these issues.

4. Implementation challenges

Implementing a UCC would require significant changes to existing laws, institutions, and social norms.

5. Federalism and state autonomy

Some argue that a UCC would infringe upon state autonomy and the federal structure of India.

6. *Public opinion and awareness*

There is a need to raise public awareness and engage in a national debate on the UCC to build consensus and address concerns.

The Uniform Civil Code (UCC) aims to replace personal laws based on religion with a common set of laws governing marriage, divorce, inheritance, and adoption for all citizens, irrespective of religion. Here are its advantages and disadvantages.

ADVANTAGES OF UCC

1. ***Equality & Gender Justice*** – UCC ensures equal rights for men and women, removing discriminatory religious laws, especially in marriage, divorce, and inheritance.
2. ***National Integration*** – It promotes unity by eliminating differences in personal laws and reinforcing a sense of national identity.
3. ***Simplification of Laws*** – A common code would reduce the complexity and contradictions in personal laws, making the legal system more efficient.
4. ***Modernization & Secularism*** – It aligns India's legal system with modern principles of justice and secularism, keeping religion separate from law.
5. ***Ease of Judicial Process*** – Courts will no longer have to interpret multiple religious laws, reducing litigation and backlog.
6. ***Encourages Social Reform*** – Outdated customs like triple talaq and polygamy can be abolished uniformly, promoting progressive changes in society.

DISADVANTAGES OF UCC

1. ***Religious Resistance*** – Many religious groups see UCC as an attack on their traditions and fear loss of religious identity.
2. ***Diversity vs. Uniformity*** – India is a diverse country, and imposing a uniform law might disregard cultural and customary practices.
3. ***Political & Social Tensions*** – Implementation may lead to political and communal conflicts, making it a sensitive issue.

4. **Implementation Challenges** – Framing a single law that satisfies all communities is complex and may require constitutional amendments.
5. **Fear of Majoritarianism** – Minority communities may perceive UCC as an imposition of the majority's customs and values.
6. **Potential Backlash** – Instead of promoting harmony, it might lead to protests and unrest if not implemented with consensus.

CASE STUDY

1. Mohd. Ahmed Khan v. Shah Bano Begum (1985)

- **Citation:** AIR 1985 SC 945
- **Facts:** A 62-year-old Muslim woman, Shah Bano, sought maintenance from her husband under Section 125 of the CrPC after being given triple talaq.
- **Judgment:** The Supreme Court ruled that secular laws like CrPC apply to all citizens regardless of religion. It emphasized the need for a Uniform Civil Code under Article 44 of the Constitution.
- **Significance:** This case triggered discussions on UCC and led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, which diluted the ruling.

2. Sarla Mudgal v. Union of India (1995)

- **Citation:** AIR 1995 SC 1531
- **Facts:** A Hindu man converted to Islam solely to marry a second wife, avoiding the Hindu Marriage Act's monogamy rule.
- **Judgment:** The Supreme Court held that mere conversion to Islam does not dissolve a Hindu marriage, and a second marriage under Islam while the first subsists is void under Section 494 IPC (Bigamy).
- **Significance:** The Court emphasized the need for UCC to prevent misuse of religion for personal benefits.

3. Lily Thomas v. Union of India (2000)

- **Citation:** AIR 2000 SC 165
- **Facts:** Similar to Sarla Mudgal, the case involved Hindu men converting to Islam to marry again without divorcing their first wife.

- **Judgment:** The Court reaffirmed that a second marriage under Islam, while the first Hindu marriage is intact, amounts to bigamy under IPC.
- **Significance:** Strengthened the argument for a Uniform Civil Code.

1. John Vallamattom v. Union of India (2003)

- **Citation:** AIR 2003 SC 2902
- **Facts:** A Christian priest challenged Section 118 of the Indian Succession Act, 1925, which restricted Christians from bequeathing property for religious or charitable purposes.
- **Judgment:** The Court struck down the provision as unconstitutional and reiterated the need for a common civil code to remove such religious-based legal disparities.

2. Shayara Bano v. Union of India (2017) – Triple Talaq Case

- **Citation:** AIR 2017 SC 4609
- **Facts:** Shayara Bano challenged the constitutionality of instant triple talaq (Talaq-e-Biddat).
- **Judgment:** A 5-judge constitutional bench ruled 3:2 that triple talaq is unconstitutional, arbitrary, and violative of Article 14.
- **Significance:** While the case didn't directly deal with UCC, it reinforced the argument for a common set of laws for personal matters. The ruling led to the Muslim Women (Protection of Rights on Marriage) Act, 2019, criminalizing instant triple talaq.

CONCLUSION

As India strives for a more equitable and harmonious society, the Uniform Civil Code (UCC) emerges as a beacon of hope, promising to bridge the gaps between diverse communities and foster a culture of inclusivity. Yet, its implementation must tread carefully, navigating the intricate tapestry of religious sentiments, cultural nuances, and social norms. To ensure a seamless transition, a participatory and inclusive dialogue with all stakeholders is imperative, one that acknowledges concerns, builds consensus, and ultimately yields a UCC that embodies the principles of justice, equality, and compassion, while celebrating the rich diversity of India's pluralistic heritage.

This research has embarked on an exhaustive exploration of the

Uniform Civil Code (UCC) in India, meticulously examining its far-reaching implications on the nation's legal framework and social fabric. The findings of this study unequivocally underscore the transformative potential of a UCC in promoting gender equality, national integration, and legal uniformity, thereby fostering a more inclusive and equitable society. However, the research also acknowledges the complexities and challenges posed by India's rich cultural diversity and religious sensitivities, which must be carefully navigated in the pursuit of a UCC.

The significance of this study extends beyond the realm of Indian jurisprudence, contributing meaningfully to the broader field of constitutional law and social justice by emphasizing the imperative of a comprehensive and inclusive approach to legal reform. As we look to the future, this research encourages policymakers, scholars, and stakeholders to engage in continued exploration and application of the UCC, with a view to creating a more just and equitable legal framework for all Indians. Furthermore, future research could greatly benefit from a comparative analysis of UCCs in other countries, providing valuable insights and best practices that can inform and enrich the ongoing discourse on UCC in India.

Ultimately, this study reinforces the critical importance of a UCC in promoting social cohesion, equality, and justice, and invites all stakeholders to join in the pursuit of a more inclusive and equitable legal framework for India's diverse citizenry.

FACTS AND JUDGMENTS

1. Mohd. Ahmed Khan v. Shah Bano Begum (1985)

❖ **Citation:** AIR 1985 SC 945

❖ **Bench:** Y.V. Chandrachud (CJI), D.A. Desai, O. Chinnappa Reddy, E.S. Venkataramiah, and Ranganath Misra

❖ **Facts:**

- Shah Bano Begum, a 62-year-old Muslim woman, was married to Mohd. Ahmed Khan, a lawyer, for over 40 years. They had five children.
- In 1978, Khan pronounced triple talaq and divorced her. After the divorce, he refused to provide her maintenance, beyond the Iddat period (a period of three months post-divorce under Islamic law).
- Shah Bano filed a petition under Section 125 of the CrPC, which allows a wife, regardless of religion, to claim maintenance if she is unable to maintain herself.

- The trial court directed the husband to pay ₹25 per month as maintenance. Dissatisfied, she appealed to the High Court, which increased the amount to ₹179.20 per month.
- Khan challenged this order in the Supreme Court, claiming that under Muslim personal law, he was not obliged to pay maintenance beyond the Iddat period.

❖ **Judgment:**

- The Supreme Court ruled in favor of Shah Bano.
- It held that Section 125 CrPC, being a secular law, applies to all citizens, irrespective of religion.
- The Court observed that the husband's duty to maintain his wife does not end with the Iddat period if she cannot maintain herself.
- The Court called for the implementation of a Uniform Civil Code (UCC) under Article 44 of the Constitution, which aims to replace personal laws based on religious customs with a common set of laws governing personal matters.
- The ruling led to intense political and religious debates, eventually resulting in the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, which diluted the Shah Bano ruling by limiting the husband's maintenance obligation to the Iddat period only.

2. **Sarla Mudgal v. Union of India (1995)**

❖ **Citation:** AIR 1995 SC 1531

❖ **Bench:** Kuldeep Singh and R.M. Sahai

❖ **Facts:**

- The case involved multiple writ petitions challenging bigamy by Hindu men converting to Islam to marry again without dissolving their first marriage.
- Sarla Mudgal, the president of Kalyani (a women's rights organization), filed the petition on behalf of women whose husbands had converted to Islam for a second marriage.
- The men argued that since they had converted, they were now governed by Muslim personal law, which permits polygamy.

❖ **Judgment:**

- The Supreme Court held that mere conversion to Islam does not automatically dissolve an existing Hindu marriage.

- It ruled that a Hindu marriage, valid under the Hindu Marriage Act, 1955, remains legally binding even if one partner converts to Islam.
- The second marriage under Islam, while the first Hindu marriage subsists, is void under Section 494 IPC (Bigamy).
- The Court emphasized the need for a Uniform Civil Code (UCC) to prevent people from misusing religious conversions for personal benefit.

3. **Lily Thomas v. Union of India (2000)**

❖ **Citation:** AIR 2000 SC 165

❖ **Bench:** S. Saghir Ahmad and R.P. Sethi

❖ **Facts:**

- This case was similar to Sarla Mudgal.
- Lily Thomas, a social activist, filed a Public Interest Litigation (PIL) against men converting to Islam solely to enter into a second marriage, bypassing the monogamy rule under Hindu Marriage Act.
- The petitioners argued that men were misusing religious conversion to circumvent legal consequences under Hindu law.

❖ **Judgment:**

- The Court reaffirmed the ruling in Sarla Mudgal, declaring that mere conversion to Islam does not dissolve an existing Hindu marriage.
- It held that the second marriage, despite the conversion, amounts to bigamy under Section 494 IPC.
- The judgment further strengthened the call for a Uniform Civil Code to prevent such legal loopholes.

4. **John Vallamattom v. Union of India (2003)**

❖ **Citation:** AIR 2003 SC 2902

❖ **Bench:** V.N. Khare (CJI), S.B. Sinha, and A.R. Lakshmanan

❖ **Facts:**

- John Vallamattom, a Christian priest, challenged Section 118 of the Indian Succession Act, 1925, which prohibited Christians from bequeathing property for religious or charitable purposes through wills made within 12 months of death.
- Vallamattom argued that the provision was discriminatory against Christians and violated Articles 14 and 15 of the Constitution.

❖ Judgment:

- The Supreme Court declared Section 118 unconstitutional, stating it was discriminatory and violated the right to equality under Article 14.
- The Court stressed the need for a Uniform Civil Code to remove religious-based legal disparities in matters of succession and inheritance.

5. Shayara Bano v. Union of India (2017) – Triple Talaq Case**❖ Citation:** AIR 2017 SC 4609**❖ Bench:** J.S. Khehar (CJI), Kurian Joseph, R.F. Nariman, U.U. Lalit, and Abdul Nazeer**❖ Facts:**

- Shayara Bano, a Muslim woman, filed a petition challenging the constitutionality of triple talaq (Talaq-e-Biddat), a practice allowing Muslim men to divorce their wives instantly by saying “talaq” three times.
- She argued that the practice was arbitrary, discriminatory, and violated fundamental rights under Articles 14, 15, and 21.

❖ Judgment:

- The 5-judge constitutional bench ruled by a 3:2 majority that triple talaq is unconstitutional.
- The Court held that the practice was arbitrary and violative of Article 14 (right to equality).
- While the case did not directly deal with UCC, it strengthened the argument for common laws in personal matters.
- The ruling led to the enactment of the Muslim Women (Protection of Rights on Marriage) Act, 2019, which criminalized instant triple talaq.

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