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## The Uniform Civil Code in India: A Constitutional Ideal or a Social Dilemma?

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**Research Paper**

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### ABSTRACT

The objective of working on this research paper is to get to know about UCC i.e., the Uniform Civil Code which was given a place in our Constitution in Article 44 which talks about the Directive Principles of State Policies which aims to bring in a set of common laws for governing some matters like marriage, adoption, and inheritance by replacing the personal laws of different religions. The Government of India is getting ready to implement this in India, and there are a lot of agitations regarding the implementation of UCC in India, people who support secularism don't want this law to be implemented because of the chance of losing the importance of their religious laws and practices. This paper begins with the definition, and meaning of UCC, followed by historical development (post-independent debates and constituent assembly discussions), its importance in the Indian context, a detailed analysis of Article 44, an overview of personal laws in India, the need for UCC, challenges and opposition to UCC, Judicial pronouncements, gender justice and secularism and their relations with UCC, priority of Minority rights, arguments for and against UCC, government efforts and committees, recent developments and public debates, followed by recommendations and summary of key points, future outlook for UCC.

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**Research Methodology:**

The research method used in writing this paper is the Doctrinal Method i.e., secondary data was collected from different commentaries, books, research papers, and websites and was used in doing research and writing this paper, along with the data case laws were also referred and taken as reference in order present the data in a much more understandable way and this also helps readers in understanding the concept by comparing with the present scenarios and status.

### **Research Questions**

1. What are the constitutional bases of the Uniform Civil Code in India and how does this basis affect the present debates about its implementation?
2. How does the implementation of UCC impact the principles of the Constitution like Secularism and Equality?

### **Research Objectives**

1. To explore the concept of the Uniform Civil Code with its origin and development in India and its inclusion in the Constitution through Article 44.
2. To know and summarize the pre-independence and post-independence discussions that led to the present stance on UCC in India.
3. To examine the differences between the personal laws and the Uniform Civil Code in the cases of marriage, inheritance, and other aspects.
4. To evaluate the arguments for and against the implementation of UCC.

### **Hypothesis**

It is not impossible to implement the Uniform Civil Code in India and necessary measures have to be taken to overcome the challenges that come in the way of the process or action of implementation like socio-religious clashes and sentiments, legal complexities, and opposition due to assumptions of violation or dilution of the religious and minority autonomy and rights.

### **Literature Review**

The study done by Sidharth Singh discussed Historical and Constitutional Importance, analysis of Article 44, and key cases like Shah Bano, in the research done by Dr. Pardeep Inder Kaur. (2024), it was found about Consensus and Gradual legal reforms regarding the Uniform Civil Code. In the research done by S. Sadhana, it was found and studied about balancing religious freedom and laws. It also talked

about the necessity of a separate system which needs to be different from that of personal laws. A study done by Choudary talked about UCC and Personal laws, and the research done by Sharma, it was discussed Adoption under UCC and Islam. A study by Agnes discussed Secularism and UCC and a study by Parashar analyzed the status of Independence of Law and Religion and a study by Dhagamwar, Indian Law Institute, discussed the steps for successful UCC implementation and a study of Chavan and Kidwai about the Comparison of UCC and with Personal Laws and the study done by Ratnaparkhi and Kumar mentioned about the Challenges to Implementing UCC.

## Introduction

India also called unity in diversity which means that the Indian population consists of a mix of people from all cultures, religions, castes, and genders irrespective of these differences among the people all of them live together unitedly and are ruled by the Government elected together by all the people of the country. In such a state, some laws are common for all like the civil procedure code, Indian Penal Code, etc., Still, there are some other laws called personal laws which vary from different religions i.e., there will be separate laws for respective religious people that govern the matters of Marriage, Divorce, Succession, Maintenance, Adoption, Partition, Gifts, and Wills, etc. As per Schedule 7 of the Indian Constitution these matters of personal laws are listed in the Concurrent list, i.e., both Central and State Governments can pass or make laws about these matters. Now there is a concept of a Uniform Civil Code that replaces all these personal laws and treats the people of all religions equally. There have been confusion and debates since the independence of the implementation of UCC as this neglects and puts an end to the religious laws that were earlier framed by the religious heads based on their religious cultures, traditions, practices, and beliefs.

Despite UCC<sup>1</sup>Being included in the Indian Constitution under Article 44, the Government has no absolute or full power to implement or force the provisions and principles of the code on people as Article 44 is part of Directive Principles of State Policy which are the guidelines for the governments of centre and states that guides them in framing the laws that aims to brings in social and economic equality among the subjects of the statethat were enshrined in Part-IV (Articles 36-51) and are not

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<sup>1</sup>Siddharth Singh. (2024). Unravelling the Uniform Civil Code (UCC): Evolution, implications, and challenges in contemporary India. *International Journal of Criminal, Common and Statutory Law* 2024; 4(1): 45-49

enforceable by Court and that means individuals cannot approach courts of law seeking their enforcement. But are just fundamentals that need to be used by the law-making authorities.

The meaning of the term “Uniform Civil Code” is very clearly understandable with the name itself, Uniform means common or same, Civil means citizen and those cases which are not criminal in nature and Code means set of rules of laws. Thus, it can be said that a Uniform Civil Code means a Common or General set of rules and laws that are used to govern certain types of civil cases and issues of the people like Marriage, divorce, maintenance, inheritance, adoption, and succession of the properties irrespective of their religions and any other criteria by which people are categorized or grouped. This UCC aims to promote and bring Equality, Justice, and social togetherness among the people irrespective of their religion.

### **Historical Development<sup>2</sup>**

This concept of UCC is not new and did not come into the picture in the present stance but has there in existence since the colonial era when the British then proposed a common legal framework regarding personal issues. It aimed to govern personal matters like marriage, inheritance, and succession for all citizens of the country irrespective of religious beliefs. Even during colonial rule, different personal laws governed based on religions and cultures. The British then introduced the common laws for areas like criminal law, and property rights like the Indian Penal Code and the Indian Succession Act through Lex Loci Report in the year 1840 but, personal laws were not touched by the British government and did not attempt to reform for bringing uniformity.

After attaining Independence, there was a debate between progressive and conservative legislators about UCC as personal laws became a political issue in the constituent assembly. In those Constitutional debates on UCC, they discussed the relevancy and utility which Muslim members strongly opposed it due to fear of getting their laws dissolved or destroyed. In the year 1976, Secularism and Socialism were added to the already existing principles like Sovereignty, Democracy, and Republic with justice, liberty, equality, and fraternity of the preamble of the Constitution. The constitutional assembly debates focused on balancing religious freedom and national unity. Muslim members opposed UCC stating that personal

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<sup>2</sup>Dr. Pardeep Inder Kaur. (2024). Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives. International Journal of Novel Research and Development

laws as part of religious freedom and insisted family laws should not be included in it. Wherein, Hindu members supported and advocated UCC for achieving gender equality and secularism by also citing the examples of Turkey, Europe, and other nations where uniform laws are followed even by minorities. Dr. B.R. Ambedkar argued that UCC would create power but not an obligation and assured Muslim Communities that UCC would be optional based on the consent of all the people. Thus, through the constitution they granted parliament the power to enact UCC, as per Article 372 and Entry 5, List III, 7<sup>th</sup> schedule of the Constitution allows for the amendment in personal laws. Later, the Hindu Code Bill was passed through which different laws governing marriage, succession, maintenance, and adoption were enacted by making necessary changes like allowing remarriage and avoiding child marriage to the previously made rules and policies by Hindu cultural heads, and thereafter others demanded reforms in Muslim Personal Laws.

### **Importance in the Indian Context**

India being a secular nation, respects and follows all the religions and religious groups' beliefs without any restriction and also allows the right of religious freedom by listing it as a fundamental right in part 3 of the Indian Constitution. Thus, along with considering the importance of religion, it should also give utmost attention and priority to social welfare by promoting equality and reducing gender discrimination under some personal laws that restrict the freedom of women and restrict them in certain aspects. There are certain concerns about the effectiveness and possible abuse of UCC, but still, there must be some efforts by the Government to enact it to promote social welfare and equality. There is a need for progressive and developing dynamic laws for present-day societies, thus in order to follow the concept of the Rule of Law whose main principle is equality before the law which means that all are equal before the law and everyone should be treated equally in this dynamic society by providing everyone equal opportunities and treatment. There were protests even during the time of enacting the Hindu bill by the Hindu supporters but still, it was needed for India's unity and equality.

Goa's Civil Code was accepted by all the communities since the Portuguese era. It includes the equitable property rights and compulsory marriage registration rules by which both sons and daughters are given equal property rights strengthens the family unit by restricting child marriages and bigamy and also provides for equality between spouses in divorce or death. Even Chief Justice Y.V. Chandrachud applauded Goa's civil code and called it a model for the rest of the country and hoped for UCC to spread

across India. Critics argue that India has moved further from the ideal since the constitution was written and it might be ideal for a particular state which deserves and requires it.

In recent times, Uttarakhand state has also passed a UCC bill in 2024 which has some key provisions like mandatory registration for marriage within 60 days equal inheritance rights for men and women, regulating live-in relationships, etc. Other states like Gujarat and Assam are also intended to implement the UCC bill and are working on it.

### **Provisions of Uttarakhand UCC Bill of 2024**

- Minimum age for marriage for both men and women was prescribed.
- Mandatory registration of marriage within 60 days.
- Polygamy and bigamy were prohibited and Halala, Iddat, and triple talaq were banned.
- Dissolution of marriage in contravention of UCC norms was made punishable.
- Live-in couples have to register their relationship within a month. Details have to be verified by the registrar who can conduct inquiries to establish the validity of the relationship.
- Cannot rent or buy property without registration.
- A child born of such a relationship will be considered legitimate.
- Information about the termination of the relationship has to be given to the officials.
- If a woman deserted by her partner, she would be entitled to maintenance.

### **Analysis of Article 44<sup>3</sup>**

The Uniform Civil Code was mentioned in Article 44, part- 4 which deals with the Directive Principles of the State Policy (DPSP) in the Indian Constitution. So it is not justiciable and an individual cannot appeal in a court of law to implement UCC or in case of any violations of UCC. It is given that, “The State shall endeavour to secure for the citizens for the citizens a Uniform Civil Code throughout the territory of India”. Its objective is to promote social harmony national integrity and equality by imposing common laws on personal issues for all the citizens of the nation. It aims to balance Secularism and

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<sup>3</sup>Dr. Pardeep Inder Kaur. (2024). Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives. International Journal of Novel Research and Development

Equality by separating religion from personal laws or matters to ultimately ensure equality and justice over religious considerations and seeks to eliminate discrimination mainly based on gender. There were a lot of agitations and opposition towards the implementation of UCC due to India's religious and cultural diversity which is also concerned with minority rights and religious freedom.

### **Overview of Personal Laws in India<sup>4</sup>**

There are different personal laws for different religions in India. Post-independence the laws governing Hindus were codified through the Hindu Code Bill in the 1950's. Muslim laws are based on Sharia law which is uncodified but some of its areas have been regulated in the form of the Muslim Personal Law (Shariat) Application Act of 1937. Christian personal laws are codified and regulated through different laws regarding marriage, divorce, and the Indian Succession Act for succession issues. In the same way Parsis are also governed by their own separate personal laws and the Indian Succession Act for succession issues. Along with these, some customary laws govern tribal communities, these laws are based on their indigenous practices and are not codified regulating different issues like marriage, divorce, inheritance, and adoption.

For Hindus, there is the Hindu Marriage Act, of 1955 for regulating issues like marriage, and divorce, etc, the Hindu Succession Act of 1956 which regulates inheritance rights to women, and gives daughters equal coparcenary rights, the Hindu Adoptions and Maintenance Act of 1956 which provides guidelines for adoption including the right for women to adopt, Hindu Minority and Guardianship Act of 1956 which established rules of guardianship recognizing both parents as natural guardians.

There are some issues in these Hindu Personal laws like gender inequality particularly in the areas like inheritance before the 2005 reforms and along with these, there are certain customary practices that cause social and legal challenges. Even in the case of Muslim Laws, there are some drawbacks like Gender inequality and the Uncodified nature of Muslim laws often leads to inconsistency in application across.

Differences still exist even in the Christian personal laws, in the matters of marriage and other provisions when compared to other religion's personal laws. When it comes to the Parsi laws, they are

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<sup>4</sup><https://ceerapub.nls.ac.in/wp-content/uploads/2019/05/JLPP-2017Vol-4-.pdf>

comparatively progressive in terms of marriage and divorce but restrictions on interfaith marriages, and inheritance rights still exist.

Overall, the main issues in the personal laws are Gender inequality, inconsistency among different communities, Secularism, and lack of legal uniformity. And it is very clear that India's personal laws reflect different religious and cultural diversity but they also pose challenges in ensuring gender equality, legal uniformity, and secularism.

### **Need for UCC<sup>5</sup>**

There are certain benefits from implementing and enforcing the Uniform Civil Code, some of them are as follows:

1. **Gender Equality:** UCC removes gender biases which are present in various religious rules and thus both men and women would be getting equal rights in the matters of marriage, divorce, adoption, inheritance,
2. **Elimination of Discriminatory Practices:** UCC can help remove the discrimination that sometimes happens by following some practices that are outdated and replacing all such old-schooled ideas.
3. **Uniformity in Civil Laws:** UCC would become a single common law governing the matters of people of all religions by replacing their personal laws and maintaining consistency and uniformity.
4. **National Integration:** Single common law helps in promoting unity and integrating the nation by treating all the people equally.
5. **Simplification of Legal Processes:** Common law helps in resolving the issues by the judicial officers and authorities if they follow a single and common law which simplifies the procedures involved in cases.
6. **Modernization of Laws:** Personal laws are old-schooled and may not fit present-day scenarios and situations and require modernizing the laws with contemporary values and requirements.

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<sup>5</sup>Drishti IAS- India



7. **Reducing Communal Tensions:** The communal riots among different groups of people of different religions can be reduced by implementing one single law for everyone which can remove differences and everyone can be treated in the same way.
8. **Secularism:** UCC promotes secularism and does not oppose its principles but respects all religions and treats all religions equally, in addition, this uniform law does not disturb certain religious beliefs but only aims to regularize and govern certain laws in order to ensure and implement equality among everyone.
9. **Legal Clarity and Certainty:** UCC reduces the confusion regarding applying different laws to people of different religions and improves clarity and certainty.
10. **Global Comparisons:** Following one single and common law like UCC for all the people helps the nation in maintaining the global standards and that also helps in measuring and comparing the performances and equality that is being maintained in the nation with other nations.

### Arguments in favor of UCC<sup>6</sup>

- UCC promotes National Integration and secularism and will unite everyone by removing several religious laws and policies because of which each and every religious person is being treated differently, thus with the help of a common law for all, we can remove the differences by replacing the different personal laws thus ultimately helps in promoting a common sense of identity.
- The main drawback of some personal laws is Gender inequality in which women are facing a lot of problems in the matters of marriage, inheritance, and other issues. By implementing UCC, certain practices like polygamy, unequal inheritance and can finally ensure gender justice and equality for women.
- UCC simplifies the legal procedures and avoids overlapping of personal laws over some common constitutional principles and one single code can also reduce confusion and disputes and help in reducing the burden for the judicial authorities.
- Benefits from a common code and laws for all the people irrespective of religion can be availed by inspiration from many European countries which also helps in standardizing progress and increases modernity.

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<sup>6</sup><https://byjus.com/free-ias-prep/need-for-a-uniform-civil-code-in-a-secular-india/>

- The Burden of understanding, implementing, and interpreting different laws and different cases for the same type of case different religions increases the burden for judges and justice administration authorities. Thus, using a single code or law helps in reducing backlog or pending cases and increases the pace of resolving the issues if there is a single common law for everyone.
- There are places where UCC was already implemented and running successfully and promoting equality among all the communities. In India, Goa has successfully implemented UCC since the beginning of the Philippines era, and recently in the year 2024, Uttarakhand state also implemented UCC and two more states are working on preparing the UCC bills and are about to pass the bills and implementing the laws soon.

### Arguments against UCC<sup>7</sup>

- There are several oppositions to implementing UCC in India, their arguments are for protecting the secular feature of the nation and they feel that their culture and traditions might get drowned if all are governed by common law.
- They feel that the rights and believe that it might undermine religious autonomy which also leads to feelings of exclusion.
- Some personal laws are deeply connected to religious beliefs and cultures, reforming those provisions of personal laws might be felt by religious persons as infringing their religious freedom.
- Reconciliation of different religions' laws requires important reforms and potentially increases the judicial workload in altering the laws and making necessary changes to the already existing laws.
- They are of such opinion that India's different groups of people may not accept and be fine with the system of common laws and they might be against their customs and may not fit into their cultures and traditions.
- Keeping aside the concept of reducing the workload of judicial officers by making a common law by replacing personal laws, before its implementation itself, there are a lot of petitions being filed in the courts of law, challenging the constitutionality of implementing UCC in India and

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<sup>7</sup>Drishti IAS- India

seeking non-implementation of the code and protection of Secularism and their religious freedom.

- In some places, where UCC was already implemented there is no true uniformity as there still exists certain exemptions in some areas to some groups of people and this shows that there is no absolute uniformity. For instance, if we consider Goa, there are provisions allowing specific forms of polygamy for Hindus and exempting Catholics from certain laws, which shows a lack of true uniformity in this common code.

### **Judicial Pronouncements<sup>8</sup>**

1. In the case of Mohd. Ahmed Khan vs Shah Bano Begum and Others AIR 1985 SC 945, the Supreme Court held that Muslim Women are entitled to maintenance as per the Indian Secular laws. This judgment sparked national debate about the need for common law and gender equality and reminded the option of UCC which can be implemented to ensure and implement equality of women in the matters of marriage and maintenance after divorce.
2. In the case of Sarla Mudgal and Others. v. Union of India AIR 1995 SC 1531, the court made it clear that if a Hindu man converting to Islam to marry again or for 2<sup>nd</sup> marriage without legally and properly divorcing the first wife will be treated guilty under the offence of Bigamy as per the Indian Penal Code. This case highlighted how personal laws can be exploited by making use of the loopholes and this situation stressed the need for a common law say UCC, to prevent individuals from dodging legal responsibilities through illegal and unethical religious conversions.
3. In the case of Shayara Bano vs. Union of India AIR 2017 9 SCC 1, also called as Triple Talaq Case, it was held that the old practice of giving divorce by a Muslim man to his wife by pronouncing instant triple talaq was unconstitutional and was declared void by the Supreme Court. This case again emphasized the need for bringing in gender justice and legal reforms in personal laws to protect Muslim women's rights and dignity by ending discriminatory practices.

Thus, these are some important judicial pronouncements that emphasized and reinforced the need for bringing a common law i.e., a Uniform Civil Code by replacing the personal laws which help promote

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<sup>8</sup>Dr. Pardeep Inder Kaur. (2024). Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives. International Journal of Novel Research and Development

gender equality and protect the rights of women in matters of marriage, and divorce as well as in the matters of succession of the properties and also to prevent people from misusing the loopholes in those laws.

### **Challenges in implementing a Uniform Civil Code<sup>9</sup>**

1. **Diversity of Personal Laws:** India's different religions and cultural diversity means that various groups of people follow different personal laws governing certain matters. Bringing all those religious people's belief in one single or common law is difficult for the government and even reconciling the differences would be difficult.
2. **Federalism and Distribution of Powers:** As personal laws fall under the concurrent list as per Schedule 7 of the Indian Constitution, both central and state governments can make laws on these issues, and for this, there must be cooperation between both centre and states. If the central government makes laws on these issues alone, that may lead to tensions.
3. **Resistance from States:** Some states which are having a population of minority classes or religions are not willing to implement UCC as they feel it might affect the government opinion and trust of the public in the government and there might also be some clash between the states and centre.
4. **Protection of Minority Rights:** The reason for not accepting UCC to get implemented is the fear of Minorities about their rights getting violated and diluting their cultural practices as the implementation of a common code would impose common laws for everyone and in order to grant and guarantee freedom of religion.
5. **Socio-religious Sensitivities:** Religion and Societal principles like equality are important elements and people trust these principles thus while making any changes in the laws that affect religious sentiments and fundamental rights like equality, the government must take necessary precautions to avoid damaging or disturbing the public sentiment regarding their religious beliefs.
6. **Political Will and Consensus:** Any change to be done to any principle or provision of the Constitution, requires following an amendment process or a process of making a bill in the parliament by obtaining the assent of all the members of parliament, this is not just the consent of

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<sup>9</sup>Dr. Pardeep Inder Kaur. (2024). Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives. International Journal of Novel Research and Development

the members of parliament but also the consent of different organizations, religious groups, and political parties which covers the content of all the subjects of the nation.

7. **Legal Complexities:** Interpreting and combining all the presently existing personal laws and making a single common law for the people of all religions is a lengthy and complex procedure to be done as they have to make sure that no one single group of people's sentiments or beliefs should be violated or disturbed and the law should be satisfactory and logical for all the people and it is also a difficult process and procedure which has to be taken place while drafting the laws.

### **Legislative Hurdles and Political Will for UCC<sup>10</sup>**

With the implementation of UCC, the process of bringing amendments to the present laws and creating new laws is a complex process and requires more time. Before this, there must be some formal consultations with the religious heads and legal experts along with the public to ensure fairness to the people and also to maintain constitutionality. Different religious groups who are not interested and willing to implement UCC have to be convinced and make them understand the positive consequences of implementation and should also ensure that certain beliefs and practices of their religion won't get violated. There is a requirement of political will which means political parties should also agree to the conditions and principles of the code which might not be possible as some political parties may not be ready to give their will keeping in mind the vote bank politics. Some oppositions from the minority groups are also some hurdles for implementation. There might also be a disturbance in the federal structure and cooperation between the centre and states.

### **Role of the Judiciary in Promoting UCC<sup>11</sup>**

1. **Interpretation of Constitutional Principles:** There is a requirement for interpretation of Article 44, by which states are encouraged to implement a UCC. Some judgments asserted the importance of maintaining equality, and secularism as per the embedded principles of the Constitution.

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<sup>10</sup>Dr. Pardeep Inder Kaur. (2024). Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives. International Journal of Novel Research and Development

<sup>11</sup>Dr. Pardeep Inder Kaur. (2024). Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives. International Journal of Novel Research and Development

2. **Judicial Activism:** The Judiciary is always active and is ready to ensure that the rights of people are not violated and protected by the judiciary through several media like Public Interest Litigation (PILs) and Suo moto cases in which people can file a petition on behalf of the problem of general public and Courts can take the cognizance of cases on its own motion in certain cases.
3. **Striking Down Discriminatory Practices:** Courts have struck down many religious practices like the Triple Talaq which courts found unconstitutional and unethical as they found these practices violate their right to equality and right to liberty. Thus, always courts aim to bring gender equality.
4. **Guiding Legislative Action:** Though the judiciary doesn't make laws it guides the law-making agencies like legislators, legislative assemblies, and parliament in making laws. Judgements of the courts act as sources of laws which helps legislators in making laws that ensure equality and minority rights are protected.
5. **Public Awareness:** Judgements of courts regarding UCC create public awareness about the necessity of ensuring gender justice and equality and protecting secularism by superseding some religious practices and laws.
6. **Monitoring Implementation:** The Judiciary also monitors whether their orders are properly implemented, keeps a check on protecting women's rights, and ensures that the constitutional principles are being followed.

### **Public Opinion and Recent Developments Towards UCC<sup>12</sup>**

1. **Public opinion and Societal Attitudes:** There are mixed public opinions on UCC, i.e., some people support UCC and some people oppose it. People support to promote gender equality and secularism whereas people oppose it out of fear of losing their cultural identity.
2. **Public Debates:** Debates and discussions take place frequently about UCC and its implementation and people along with politicians along some experts in the legal field express their views about UCC's feasibility.
3. **Judicial Pronouncements:** Though courts cannot make laws, sometimes, their judgments influence and emphasize the need for bringing changes in the laws, and sometimes when they pass any judgment relevant to the personal laws, many times it brings out the importance or necessity of enacting or implementing UCC.

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<sup>12</sup>Dr. Pardeep Inder Kaur. (2024). Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives. International Journal of Novel Research and Development

4. **Awareness Campaigns:** There are certain groups and organizations who fight for the rights of women and also conduct some awareness programs and campaigns with which they try to push for reforms in the laws and also make others aware of the need to protect women's rights and treating them equally with men.
5. **Political Positions:** Some politicians and political parties make use of their statements about the implementation of UCC for the benefit of vote banking. But actually, there will not be a clear idea and their opinions vary from others due to their beliefs in different ideologies and religions.
6. **State-level Initiatives:** Many State governments have started exploring the requirement of implementing UCC at the state level and are forming different committees to study its feasibility and if they deem it feasible, they are passing their state bills to implement it. Some states like Goa and Uttarakhand have already passed UCC bills and have implemented them.
7. **International Comparisons:** Experts compare the outputs and results of implementing UCC with other nations that have already passed such laws and are in force now, this also helps in understanding the ground reality and possibility of implementation and can also check whether the law is working for a right purpose or not.

### Potential Benefits<sup>13</sup>

1. **Gender Equality:** Implementing UCC ensures providing equal rights to men and women by removing some of the discriminatory laws and provisions protecting the rights of women and empowering women.
2. **Secularism and National Unity:** Removing all the personal laws of all religious groups of the country and bringing a common law helps in promoting and protecting the secular feature of the Indian Constitution and also unites the people and ensures all are treated equally.
3. **Simplification of Laws:** Replacing several laws with one single law simplifies the work of the legal professional as well as judicial administrators as it reduces the workload of interpreting different laws for different cases of people of different religions.
4. **Promotion of Social Justice:** UCC helps in promoting social justice and helps in creating a more inclusive society by ensuring gender equality and eliminating the discriminatory practices that are part of some personal laws of certain religions.

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<sup>13</sup><https://www.legalserviceindia.com/legal/article-14523-uniform-civil-code-a-detailed-analysis.html>

### Potential Drawbacks<sup>14</sup>

1. **Resistance from Minority Communities:** Minority religious groups of people always view UCC as an infringement on their religious autonomy which led to opposing also due to concerns about preserving their identity.
2. **Federal Structure Complications:** It is difficult to implement UCC due to India's federal system which allows both central and state governments to make laws for the matters of personal laws and it might be difficult to manage governing due to lack of proper coordination.
3. **Political and Social Sensitivities:** UCC is a very sensitive topic that could lead to religious riots and tensions in the states where the minority religious population is more and political parties or groups that belong or are relevant to a particular religion might get beneficial with the vote bank based on their stand on the implementation of UCC.
4. **Complexity of Personal Laws:** Personal laws consist of elements of religious traditions and practices, following these provisions of different religious personal laws might be difficult for the judicial officers to implement after interpreting the cases, and applying different laws for different cases is also a complex and difficult task. Instead having a single and common law for all religious people would make the work easier and speedy resolution of disputes can be achieved.

### Way Forward<sup>15</sup>

- **Inclusive Dialogue:** There should be discussions open to everyone like different religious leaders or heads, legal experts, and other representatives of communities, and this process must consist of clear communication and must also collectively encourage participation from public debates by which people give their opinions which are considered in the process of law-making.
- **Phased Implementation:** Different areas of personal laws have to be changed and must be implemented one by one rather than changing all the provisions and adopting all at a time. So that if there persist any issues in the process, they can be amended and sorted by considering the outcomes and feedback of the public.

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<sup>14</sup>S.SADHANA. (2018). A CONTEMPORARY STUDY ON THE UNIFORM CIVIL CODE. International Journal of Pure and Applied Mathematics Volume 120 No. 5 2018, 4683-4694-

<sup>15</sup><https://www.drishtiiias.com/daily-updates/daily-news-editorials/india-s-uniform-civil-code-conundrum#>



- **Constitutional Safeguards:** Minority communities and religious groups have to be given trust that their rights are safeguarded by setting up some committees and monitoring bodies to whom complaints can be addressed and allowing communities to approach and seek exemptions from removing or suspending such practices that don't violate the fundamental rights and other constitutional principles.
- **Civil Code and Uniform Civil Code:** To protect the rights and remove discrimination, there is another option of just bringing in a fair code and laws instead of removing the presently existing laws and bringing everyone into one ambit. So that, there won't be any dialogue of disturbance regarding religious beliefs and clashes.
- **Evidence-Based Reform:** People must be shown certain examples of states or nations where there is already a Uniform Code and must let them know the benefits of implementing it and should also bring awareness among people about their rights not being violated or diluted. In India, Goa and Uttarakhand are the two states that are presently following UCC, and thus these states can be shown as examples and references even for the government and can learn from the outputs.

### Landmark Cases <sup>16</sup>

1. **Shah Bano Case:** This is the case of 1985, in which a Muslim woman named Shah Bano sought maintenance after getting a divorce from her husband through the practice of Islamic law called triple Talaq. The Supreme Court granted her maintenance rights and gave the judgment in her favour. This case led to a debate on UCC and one of the personal laws namely, the Muslim Women (Protection of Rights on Divorce) Act of 1986, which limited and restricted maintenance rights to Muslim women.
2. **Mary Roy Case:** The judgment for this case was given in the year 1986, in which a Christian woman named Mary Roy challenged the provisions of the Travancore Christian Succession Act, that discriminate against women. The Supreme Court of India set a precedent for non-discriminatory inheritance laws by emphasizing the need for gender equality.
3. **Danial Latifi Case:** This case of 2001 also dealt with the maintenance of Muslim women and ensured that they get maintenance even after the iddat period. This case again promoted gender

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<sup>16</sup><https://www.tsclcd.com/uniform-civil-code-a-critical-analysis>

justice by upholding maintenance rights under section 125 of the Criminal Procedure Code of 1973.

4. **Sarla Mudgal & Thomas Cases:** These cases were held in the years 1995 and 2000, in which the court held that misusing the option to convert from one religion to another with mala-fide intention or to misuse the laws by taking up the cases in which Hindu men were converting to Islam for bigamy without legally giving divorce to first wife is unconstitutional and ruled that such actions constituted bigamy and such people wouldn't be protected by using the excuse of religious freedom.
5. **Triple Talaq Cases:** The judgment was given in the year 2017 by the Supreme Court after taking up a series of cases challenging the practice of instant triple talaq in Islam declaring the practice as unconstitutional and violating the right of equality of Muslim women.

## Conclusion

The Uniform Civil Code is one of the trending news in the present-day stance in India. Just like before, still, there exists a tension and rift between constitutional principles and religious beliefs and practices. Article 44 of the Indian Constitution provides for the provision of a Uniform Civil Code and its requirement but as it comes under the Directive Principle of State Policies its elements cannot be justiciable and in the case of their violation individuals cannot reach the court of law to ensure its implementation. Because the provisions of DPSP are only used as guidelines to the lawmakers and assist a guide them in making laws by keeping in mind the necessary requirements and their implementation. This Uniform Civil Code proposes a set of civil laws common for everyone by replacing the personal laws of different religions. However, it faces opposition due to the concerns of religious beliefs getting diluted.

This Research Paper highlights the historical background of UCC, and the balance between secularism, and gender equality. Analysis of Article 44, and overview of personal laws, followed by the importance and need of Uniform Civil Code, Arguments for and against the implementation of UCC, Challenges in implementing UCC, Role of Judiciary, Legislative hurdles, political wills, benefits and drawbacks, Judicial Pronouncements and landmark cases.

In summary, the UCC is a constitutional idea that is still a societal dilemma. However, it can be concluded that it is possible to implement the Uniform Civil Code in India not by completely removing all the provisions of religious personal laws and declaring them void which might disturb the sentiment

of the respective religious groups of people but by amending the necessary provisions which are gender-discriminatory and those who oppose have to be made to understand the need for such changes by bringing in awareness among them. Thus, it would be easier for the government to implement the Uniform Civil Code which can promote gender equality and empower women's rights as well as protect the interest of different religious people and build their trust in the country's secularism.

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