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## Gender Justice and Religious Freedom: Evaluating the Uniform Civil Code in India

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### ABSTRACT

The debate surrounding the Uniform Civil Code (UCC) in India represents one of the most complex intersections of constitutional law, gender justice, religious freedom, and socio-cultural pluralism. While the UCC is envisioned as a mechanism to ensure equality and uniformity in personal laws governing marriage, divorce, inheritance, adoption, and maintenance, it has simultaneously generated apprehensions regarding state interference in religious and cultural practices. This research paper undertakes an in-depth analysis of the UCC through the dual lenses of gender justice and religious freedom. It critically examines constitutional mandates, judicial interpretations, personal law systems, feminist critiques, and minority perspectives, ultimately assessing whether a UCC can be designed and implemented in a manner that promotes substantive gender equality without undermining India's pluralistic ethos.

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### 1. Introduction

India's legal system is unique in its coexistence of a secular constitutional framework with religion-based personal laws. These personal laws, derived from religious scriptures, customs, and colonial codifications, regulate intimate aspects of civil life such as marriage, divorce, succession, and guardianship. The framers of the Indian Constitution recognized the inherent tension between legal



uniformity and cultural diversity, which is reflected in the placement of the Uniform Civil Code under Article 44 of the Directive Principles of State Policy.

Gender justice has emerged as a central concern in contemporary legal discourse, particularly in relation to personal laws that often perpetuate patriarchal norms. Simultaneously, religious freedom remains a cornerstone of India's constitutional identity, protecting minority rights and cultural autonomy. This paper explores whether the UCC can serve as a bridge between these competing principles or whether it risks privileging one at the cost of the other.

## **2. Conceptual Framework**

### **2.1 Gender Justice**

Gender justice includes equal access to opportunities and rights, autonomy, dignity, and substantive equality in addition to formal equality. Gender justice in the context of personal laws requires that legal frameworks actively eliminate structural disparities rooted in social and cultural practices and refrain from discriminating on the basis of sex or gender.

### **2.2 Religious Freedom**

The Indian Constitution guarantees religious freedom, which encompasses the freedom of conscience as well as the ability to declare, practice, and spread one's faith. It also includes religious communities' collective rights to self-govern. Public order, morality, health, and other essential rights, however, limit this freedom.

### **2.3 Uniform Civil Code**

A common set of secular rules that apply to all citizens, regardless of religion, is referred to as a Uniform Civil Code. It seeks to replace the current system of personal laws based on religion with a single legal framework based on constitutional principles.

## **3. Constitutional and Legal Foundations of the UCC**

### **3.1 Article 44 and the Vision of the Constitution**

Article 44 of the Indian Constitution directs the State to endeavour to secure a Uniform Civil Code for all citizens. Although non justiciable, it reflects the long-term vision of the Constitution's framers to



promote national integration and equality before the law. Dr. B.R. Ambedkar viewed the UCC as a means to reform society while maintaining safeguards for minority communities during the transition.

### **3.2 Fundamental Rights and Personal Laws**

The fundamental rights protected by Articles 14 (equality before the law), 15 (non-discrimination), and 21 (right to life and dignity) frequently interact with personal legislation. Constitutional issues are raised by practices that deny women equal rights to inheritance or autonomy in marriage. In addition, Articles 25 and 26 safeguard religious liberty, establishing a careful constitutional equilibrium.

## **4. Personal Laws in India: A Gendered Analysis**

### **4.1 Hindu Personal Law**

Significant legislative changes have been made to Hindu personal law, especially as a result of the Hindu Code Bills. Gender biases still exist in areas like guardianship and marital roles, despite measures like equal inheritance rights for daughters.

### **4.2 Muslim Personal Law**

In India, Muslim personal law is mostly based on interpretations of Sharia and is not codified. From a gender justice perspective, practices including unequal inheritance sharing and the historical acceptability of unilateral divorce have been heavily criticized; nonetheless, some of these issues have been addressed by recent judicial interventions.

### **4.3 Christian and Parsi Personal Laws**

Although Christian and Parsi personal laws are codified, they contain clauses that have historically disadvantaged women, especially when it comes to succession and divorce. Disparities persist notwithstanding the gradual introduction of improvements brought about by amendments and judicial scrutiny.

## **5. Objectives of the Study**

- To analyze the concept of gender justice and assess how existing personal laws affect gender equality in matters of marriage, divorce, inheritance, and maintenance.
- To critically assess the role of the judiciary in addressing conflicts between gender justice and religious freedom through landmark judgments.



- To analyze concerns and criticisms regarding the Uniform Civil Code, particularly from the perspective of minority rights, cultural autonomy, and pluralism.
- To explore whether a balanced and inclusive Uniform Civil Code can be formulated that upholds gender justice while respecting religious diversity.
- To assess the impact of personal laws on gender justice in India.
- To examine the constitutional tension between gender equality and religious freedom.
- To evaluate the necessity and feasibility of a Uniform Civil Code.
- To analyze judicial and legislative approaches toward personal law reform.
- To propose solutions for harmonizing equality with cultural pluralism.

## 6. Scope of the Study

The research is confined to:

- The legal framework of personal laws in India
- Constitutional provisions relating to equality and religious freedom
- Judicial interpretation of gender justice in personal laws
- The debate surrounding the feasibility and desirability of a Uniform Civil Code

## 7. Judicial Responses and the Role of the Courts

The Indian judiciary has been instrumental in drawing attention to the contradictions between constitutional ideals and personal laws. Courts have highlighted the need for reform to safeguard women's rights in a number of significant rulings, frequently citing Article 44 to promote legislative action. Recognizing the delicate nature of religious and cultural matters, courts have, nevertheless, also shown moderation.

### Case Law Analysis

The Indian judiciary has been significant in influencing the conversation around religious freedom, gender justice, and the Uniform Civil Code. Courts have addressed gender-based discrimination, assessed the validity of personal laws, and reaffirmed the importance of Article 44 of the Constitution through a number of historic rulings.

#### 7.1 Mohd. Ahmed Khan v. Shah Bano Begum (1985)



The Supreme Court ruled in this historic decision that a Muslim woman who is unable to support herself after a divorce is entitled to maintenance under Section 125 of the Criminal Procedure Code. The Court stressed that in terms of maintenance, secular laws that provide social justice take precedence over personal laws. The ruling strongly supported the adoption of a Uniform Civil Code, noting that it would aid in resolving conflicts arising from religious beliefs and foster national unification. Even though the ruling caused political opposition that prompted legislative action, it is yet a significant step forward for gender equity.

### **7.2 Sarla Mudgal v. Union of India (1995)**

Whether a Hindu husband could convert to Islam in order to consummate a second marriage without ending the first was the question on the Court's agenda. The second marriage was declared null and void by the Supreme Court, which ruled that such conversions were unlawful if they were carried out purely to avoid personal law responsibilities. In order to stop fraud and shield women from exploitation, the Court emphasized the abuse of personal laws and restated the necessity of a Uniform Civil Code. The tension between personal laws and constitutional morality was highlighted by this case.

### **7.3 Danial Latifi v. Union of India (2001)**

In this case, the Muslim Women (Protection of Rights on Divorce) Act, 1986 was tested for constitutionality. The Supreme Court took a progressive stance, ruling that a Muslim husband's obligation to provide maintenance goes beyond the iddat term and must guarantee the woman's future means of subsistence. By applying constitutional principles to the interpretation of personal law, the ruling balanced gender justice with religious freedom.

### **7.4 John Vallamattom v. Union of India (2003)**

Section 118 of the Indian Succession Act, 1925, which prohibited Christians from leaving property for charity or religious uses, was overturned by the Supreme Court. The Court ruled that the clause violated Article 14 and was discriminatory. The idea that personal laws and laws based on religion must adhere to constitutional principles of equality was reaffirmed by this ruling.

### **7.5 Shayara Bano v. Union of India (2017)**

The Supreme Court ruled that the practice of instant triple talaq was unlawful due to its arbitrary nature and violation of fundamental rights in what is commonly referred to as the Triple Talaq case. The ruling



emphasized that religious practices that violate constitutional morality cannot be protected under Articles 25 and 26 and was a major step toward gender justice within Muslim personal law.

### **7.6 Joseph Shine v. Union of India (2018)**

This decision declared Section 497 of the Indian Penal Code (adultery) to be unconstitutional, even though it had nothing to do with personal laws. The Court placed a strong emphasis on equality, individual autonomy, and dignity—principles that are equally pertinent when assessing gender discrimination in personal legislation and the UCC discussion.

### **7.7 Contemporary Judicial Observations**

The Supreme Court and other High Courts have reaffirmed the need for a Uniform Civil Code in recent years, but they have underlined that the legislative branch is responsible for putting it into effect. Gender fairness and constitutional principles must take precedence over discriminatory personal law practices, as courts have often stressed.

## **8. Recent Case Law and Judicial Developments (2024–2026)**

### **8.1 Uttarakhand Uniform Civil Code — High Court Challenges**

Soon after the Uttarakhand Uniform Civil Code Act, 2024 was put into effect, numerous writ petitions were filed in the Nainital High Court contesting it. Claiming that the law violates religious freedoms guaranteed by Articles 25 and 26 of the Constitution, petitioners—including Muslim organizations—contested articles pertaining to marriage, divorce, cohabitation, Iddat, and inheritance. In one of the first significant court tests of the state-level UCC statute, the High Court ordered the state government to reply to these petitions.

### **8.2 The Supreme Court has reserved its decision regarding maintenance**

The Supreme Court of India affirmed that a divorced Muslim lady is entitled to support under Section 125 of the Criminal Procedure Code (CrPC) in a noteworthy recent development (2024). By guaranteeing that Muslim women, like women from other communities, can pursue maintenance rights under secular law, this ruling upholds the ideals of gender justice. It affirms secular legal protections while echoing Shah Bano's ideas in a modern setting.

### **8.3 Supreme Court's Interim Stay in *In re: Waqf (Amendment) Act, 2025***



In re: Waqf (Amendment) Act, 2025 is pertinent to religious freedom jurisprudence even though it is not specifically a UCC case. The Waqf (Amendment) Act's main provisions were partially halted by the Supreme Court of India, which also heard combined constitutional complaints from different religious organizations. The bench ordered that waqf property not be changed until after additional hearings. This case highlights the judiciary's close examination of laws that affect minority rights and religious organizations, which is important context for the larger UCC discussion.

#### **8.4 High Court Judicial Support for UCC**

In a family property dispute, the Karnataka High Court recently expressed strong support for a Uniform Civil Code (UCC) and urged state and federal governments to enact one in accordance with Article 44 of the Constitution. The court stressed that a UCC can aid in upholding the constitutional guarantees of equality, justice, and secularism and that religion-based personal laws can lead to unfair treatment, particularly for women.

#### **Other Relevant Judicial Movements**

##### **Judicial Consideration of Major Constitutional Bench on Rights Clash**

According to rumours, the Chief Justice of India is thinking about assembling a nine-judge Constitutional Bench to deal with general concerns about religious freedom vs women's rights, such as access to places of worship, detrimental customs, and other rights disputes. If such a bench were established, it may provide seminal case law that would directly influence UCC discussions by elucidating the proper balance between constitutional rights.

#### **9. State-wise Status of Uniform Civil Code**

##### **9.1 Goa: The Long-standing Civil Code**

- Goa has had a unified civil law system since the 19th century, derived from the Portuguese Civil Code of 1867.
- This *Goa Civil Code* applies *irrespective of religion* for personal matters like marriage, divorce, succession, inheritance and family law.
- It prohibits polygamy and ensures property rights and gender equality provisions that closely resemble the goals of a Uniform Civil Code.



- Goa's model is often cited as the only genuine UCC in operation in India — though modern criticisms note areas needing reform to meet current gender justice standards.

## 9.2 Uttarakhand: First Post-Independence UCC Law

- Uttarakhand passed the *Uniform Civil Code of Uttarakhand Act, 2024*, and implemented it starting January 2025, making it the first state after independence to enact a UCC.
- The Act governs marriage, divorce, succession, inheritance and live-in relationships, and applies to all residents except those protected by tribal customary laws.
- It standardizes provisions like *monogamy*, *marriage registration*, *equal inheritance rights*, and *regulation of live-in relationships* — tackling gender discrimination and religious diversity concerns.
- Implementation is ongoing, including procedural amendments (e.g., marriage and relationship registration rules), showing how state UCC can evolve through judicial and legislative refinement

## 9.3 Other States — Partial Reforms and Legislative Movements

While most Indian states still operate under religion-based personal laws, some states have pursued reforms that reflect pieces of a uniform approach:

### Assam

- Passed an Assam Prohibition of Polygamy Bill, 2025, aiming to outlaw polygamy and unify marriage standards across communities.
- The Chief Minister has publicly pledged that a broader UCC will be pursued if re-elected, including standardizing marriageable age and banning practices like *Nikah Halala* and *Muta* marriage.

### Other States

- Several states (e.g., Gujarat, Maharashtra, Karnataka, Madhya Pradesh, Odisha) have enacted anti-conversion or religious freedom laws, which affect personal law dynamics and intersect with UCC debates — though these are *not* UCC laws per se.



These laws regulate religious conversions and inter-religious marriages but do *not* unify personal law across religions.

## **10. Arguments in Favour of the Uniform Civil Code**

### **10.1 Advancing Gender Equality**

Proponents argue that a UCC would eliminate discriminatory provisions across personal laws, ensuring equal rights for women in marriage, divorce, and inheritance regardless of religion.

### **10.2 Legal Certainty and Simplification**

A uniform code would reduce legal complexity and ambiguity, making the law more accessible and predictable for citizens.

### **10.3 National Integration and Secularism**

Supporters contend that a common civil code would strengthen secularism by treating all citizens equally under the law and fostering a sense of national unity.

## **11. Arguments Against the Uniform Civil Code**

### **11.1 Threat to Religious and Cultural Autonomy**

Opponents fear that a UCC may erode religious identities and impose majoritarian norms on minority communities.

### **11.2 Pluralism as a Constitutional Value**

Critics contend that legal plurality enables communities to maintain unique cultural practices, while supporters view India's diversity as a strength.

### **11.3 Implementation Challenges**

Drafting a truly inclusive and acceptable UCC poses significant practical challenges due to the diversity of customs and beliefs across communities.

## **12. Reconciling Gender Justice and Religious Freedom**



A balanced approach to the UCC requires prioritizing individual rights over discriminatory practices while respecting cultural diversity. Researchers suggest phased reforms, optional adoption models, and extensive community consultation as potential pathways toward consensus.

### **13. Comparative and International Perspectives**

Several democratic countries have adopted uniform civil laws while allowing limited religious accommodations. Comparative analysis suggests that uniformity and cultural sensitivity need not be mutually exclusive if reforms are grounded in constitutional morality.

### **14. Conclusion**

The Uniform Civil Code debate encapsulates the broader struggle between tradition and modernity, equality and identity, unity and diversity. While the UCC holds promise as a tool for advancing gender justice, its success depends on careful, inclusive, and rights-based implementation. Rather than abrupt uniformity, a gradual and consultative approach rooted in constitutional values may offer the most sustainable path forward.

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