

Uniform Civil Code: Balancing Pluralism, Gender Justice, and Constitutional Rights

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Abstract

The “Uniform Civil Code” (UCC) that India is proposing has long been a divisive issue. The objective is to establish a single set of laws that govern personal matters like marriage, divorce, inheritance, and adoption for all individuals, irrespective of their religious beliefs. However, because of India’s variety in religion and culture, implementing a UCC is difficult. In this research study, the idea of the UCC and its ramifications within the Indian context are being critically examined. The study examines the historical context of UCC alongwith its legal implications and sociological ramifications. It discusses the competing arguments surrounding the UCC, including concerns about religious freedom, cultural diversity, and gender justice. The study also examines the legal rulings and Constitutional framework related to the UCC. The necessity for a sophisticated and inclusive strategy that preserves constitutional rights, advances gender equality, and respects cultural variety is highlighted in this paper.

Keywords: Uniform Civil Code (UCC), Personal Laws, Religious Freedom, Gender Justice, Cultural Diversity, Constitutional Rights.

I. Introduction

“Injustice anywhere is a threat to justice everywhere.”

-Dr. Martin Luther King

In India, the UCC has attracted quite a lot more years of debates and discussions. It refers to the concept of enacting a unified body of rules that would govern personal matters like marriage, divorce, inheritance, and adoption and would be applicable to all citizens, irrespective of their religious beliefs. In contrast to the current system, where various religious communities have their own unique sets of personal laws, the UCC seeks to provide a unified legal framework that applies consistently to everyone.

A. Background and Significance of the Uniform Civil Code:

India is a multicultural nation that is home to many different religious sects and has a rich cultural legacy. The Indian legal system has been firmly entrenched with the existence of

personal rules based on religious traditions for centuries. These personal laws, which were drawn from religious texts and practises, control issues involving families, marriage, and inheritance. Multiple personal laws coexisting has created a complicated legal environment that raises issues with fairness, equality, and the balancing of divergent legal rules.

A “Uniform Civil Code” was first proposed in India during the colonial era, when the British administration sought to codify laws that would apply to all citizens, irrespective of their religious affiliations. Concerns about protecting religious freedom and cultural autonomy, however, led to opposition to the proposal. After the achievement of independence, the founding fathers and mothers of Indian Constitution acknowledged the necessity for a UCC but left its implementation to later legislation.

The UCC is extremely important since it tries to remedy a number of issues with the current system of personal laws. Advocates claim that it would advance social harmony, gender equality, secularism, and constitutional rights. They contend that having a unified legal system would ensure that everyone is treated equally, put an end to discriminatory acts, and uphold the values of justice and individual rights.

B. Research Problem and Objectives:

The current study subject entails a critical analysis of the “Uniform Civil Code” concept and its ramifications in the Indian socio-legal context. This research study tries to explore the UCC’s many facets, including its historical context, legal ramifications, sociological repercussions, and competing justifications for its adoption.

The following are the study’s particular objectives:

- Understanding the arguments for and against the creation of a UCC as well as the historical evolution of personal laws in India.
- To examine the UCC’s legal aspects, including its judicial rulings, Constitutional clauses, and comparative viewpoints.
- To investigate the UCC’s social effects, especially as they relate to gender equity, cultural diversity, and religious freedom.
- To evaluate objectively the opposing arguments put forth by UCC supporters and opponents, including feminist viewpoints.
- To put out a comprehensive strategy for implementing the UCC that strikes a balance between the necessity of Constitutional rights, gender equality, and cultural variety.

C. Scope and Methodology of the Study:

The current research focuses on the application of the “Uniform Civil Code” in India. It examines historical, legal, sociological, and gender-related aspects to give a complete

knowledge of the UCC and its implications. The study consults both primary and secondary sources, such as provisions in the Constitution, legislation, court rulings, academic writings, and professional opinions.

The process include a critical evaluation and study of the UCC-related literature, laws, and judicial rulings that have already been made. In order to give a more comprehensive picture, it also compares the personal laws of other countries. The research paper also uses feminist perspectives and qualitative analysis of various points of view to illustrate the complex dynamics around the UCC.

The general objective of this paper is to contribute to the ongoing discussion on the UCC by shedding light on its background, significance, and potential effects in the Indian socio-legal context. It aims to offer insights and suggestions for a fair and inclusive approach to the UCC's adoption in India by critically analysing the topic.

I. Historical Background of the Uniform Civil Code

The British colonial rulers attempted to codify and unify the various legal systems present in the Indian subcontinent during the colonial era, which is when the “Uniform Civil Code” of India was first established. The British government worked to establish a unified legal system that would be applicable to each and every individual, regardless of their cultural or religious practises. However, a number of religious groups opposed these measures, arguing that their unique personal rules should be preserved.¹

A. Evolution and Origin of Personal Laws in India:

India has a long history of varied personal laws that have evolved over time based on religious and customary practises. The majority of India's personal rules are drawn from religious texts, folklore, and local customs. Hindu personal law, for instance, is founded on literature from the Manusmriti and Dharmashastra schools of thought. Christian personal laws are influenced by Christian theological beliefs, whilst Muslim personal laws refer to the Quran and Hadith.²

B. Debates and Discussions on the Need for a Uniform Civil Code:

There have been arguments and discussions about the need for an Indian “Uniform Civil Code” for many years. Advocates contend that a unified legal system is necessary to achieve justice, equality, and the harmonisation of contradictory legal laws. They emphasise that

¹ Elizabeth Kolsky, Codification and the Rule of Colonial Difference: Criminal Procedure in British India, 23 (3) LAW & HISTORY Rev. 23, no. 3 631-683 (2005).

² Blog, Personal Laws of Hindu and Muslim in India, iPLEADERS (June 20, 2018), <https://blog.ipleaders.in/hindu-law/>.

personal laws founded on religious beliefs frequently support gender inequality and discrimination. A common civil law, according to supporters of the “Uniform Civil Code”, would foster social harmony, secularism, and individual liberties.

The lack of a UCC has hampered the country’s efforts to promote social harmony, socio-economic equality, and gender justice. India is a multicultural nation with many different religions, each of which has its own distinct set of laws governing private matters like marriage, divorce, adoption, inheritance, and succession. It would be accurate to say that, in a nation with a wide range of cultures, the absence of a UCC has only served to exacerbate inequalities and inconsistencies.

On the other side, detractors voice worries about the potential destruction of diversity as well as cultural autonomy and religious freedom. They contend that personal laws give various religious communities a sense of identity and cultural independence. The adoption of a UCC has drawn criticism for its potential to impose majoritarian rules that would disrespect the rights and interests of religious minorities.

C. Historical Attempts and Legislative Initiatives towards a Uniform Civil Code:

A “Uniform Civil Code” has been attempted to be enacted in India on numerous occasions in the past. A UCC was to be implemented in accordance with Article 44 of the “Directive Principles of State Policy”, which was part of the original Constitution of India. However, successive governments have held off on passing a thorough “Uniform Civil Code” due to the delicate nature of the subject and the political difficulties involved.

The Hindu Code Bills were presented in the early years of independence in an effort to modernise Hindu personal law and provide women more rights. These measures were passed in pieces over the course of several years in the face of fierce resistance. Similar initiatives to codify the customs of other religious groups, however, met with opposition and were not successful.³

The problem of the UCC has continued to be discussed and contested ever since. Legal professionals, academics, women’s rights advocates, and religious leaders are just a few of the stakeholders who have voiced their viewpoints on the necessity for a UCC and its possible effects on Indian society.

Despite the absence of a complete UCC, intermittent legislative measures targeting certain

³ Editorial, Disagreement between Rajendra Prasad and Nehru over Hindu code bills, INDIA TODAY (July 14, 2017, 07:12 PM), <https://www.indiatoday.in/fyi/story/rajendra-prasad-jawaharlal-nehru-disagreement-hindu-bill-codes-uniform-civil-code-1023473-2017-07-10>.

topics have been made. For instance, laws governing divorce, marriage, and inheritance have been changed and updated to give women across all faith communities more rights and equality.

D. The Need for an Uniform Civil Code in India:

Currently, Goa is the only Indian state having a single civil code. All individuals with a residence in Goa are subject to the “*Portuguese Civil Code of 1867*”. The rest of the country lacks a unified civil code. In India, distinct religious communities are regulated by different personal laws.

In India, the foundation of marriage, divorce, inheritance, and other personal laws is found in religious writings and traditions. Hindus, Muslims, Christians, and Sikhs are among the country’s largest religious groups, and each has its own set of distinctive personal laws.

The Hindu personal laws also known as the ‘Hindu Code Bill’ were codified by the Parliament in 1956 and also apply to Sikhs, Jains, and Buddhists. The four legislations that make up the ‘Hindu Code Bill’ are: “*The Hindu Marriage Act of 1955*”⁴, “*The Hindu Succession Act of 1956*”⁵, “*The Hindu Minority and Guardianship Act of 1956*”⁶, and “*The Hindu Adoption and Maintenance Act of 1956*”⁷.

Muslims in India adhere to the Muslim Personal Law, which is based on the Shariah. The laws governing Muslim marriage, divorce, inheritance, and maintenance are: “*The Muslim Personal Law (Shariat) Application Act, 1937*”⁸.

“*The Indian Succession Act of 1925*”⁹ is applicable to Christians, Parsis, and Jews. Depending on whether they have children or other relatives, Christian women are given a certain share. Parsi widows get the same amount as their kids, and if the parents of the deceased are still alive, they get half of the children’s share.

This kind of diverse personal laws resulted in the formation of various social evils in society, particularly those that are detrimental to women’s dignity. Under these laws, women have less rights than men. Additionally, numerous taboos are created by religious personal regulations, such as patriarchy, early marriage, dowries, domestic abuse, etc. A unified personal law will therefore promote uniformity and eliminate all the negative elements that have crept into our current personal laws.

⁴ The Hindu Marriage Act, 1955, No. 25 of 1955, Acts of Parliament, 1955 (India).

⁵ The Hindu Succession Act, 1956, No. 30 of 1956, Acts of Parliament, 1956 (India).

⁶ The Hindu Minority and Guardianship Act, 1956, No. 32 of 1956, Acts of Parliament, 1956 (India).

⁷ The Hindu Adoption and Maintenance Act, 1956, No. 78 of 1956, Acts of Parliament, 1956 (India).

⁸ The Muslim Personal Law (Shariat) Application Act, 1937, No. 26 of 1937 (India).

⁹ The Indian Succession Act, 1925, No. 39 of 1925 (India).

Also, Multiple personal laws create a complex and confusing legal environment. Due to the fact that people are subject to various legal frameworks purely based on their religious affiliation, this frequently leads to legal conflicts, delays in the administration of justice, and confusion among the public. A UCC would make the legal system simpler by giving each person access to a uniform and comprehensible legal framework. Without the need for intricate legal interpretation, it would be possible for everyone to understand their rights and obligations, resulting in quick administration of justice.

Muslim personal law permits customs including polygamy, unilateral divorce (*talaq-e-biddat*), and unequal grounds for divorce. Women are frequently left powerless and defenceless by these practises. For instance, *talaq-e-biddat* permits fast divorce without the approval or involvement of women, whereas polygamy can cause emotional and financial hardship for women and children. The Indian Constitution's cherished values of equality and dignity are violated by these laws. Inheritance and property rights are similarly discriminatory under Muslim personal law, with daughters receiving half of the inheritance that sons receive and widows having limited access to their late husband's possessions. These actions foster gender inequality and the economic inequities that women face. Equal inheritance and property rights must be fostered in contemporary society to secure the economic security and empowerment of women. Under personal laws, Muslim women also suffer substantial difficulties in the areas of maintenance and alimony. Although the law allows for maintenance to be paid during the *iddat* period, there are restrictions and questions surrounding this clause. Many women find it difficult to find financial assistance beyond the *iddat* period, especially if they don't have independent sources of income. This makes divorced Muslim women even more dependent and vulnerable. As a result, at this point in the UCC debate, the topic of women's equal property rights may need to be reformulated completely.¹⁰

In brief, the background of the Indian Uniform Civil Code's history reveals a difficult and divisive topic that has been contested for generations. The story around the necessity for a consistent legal framework has been moulded by discussions and debates about the history and growth of personal laws. Even though there haven't been many attempts to pass a comprehensive "Uniform Civil Code", there have been intermittent changes made to certain areas of personal laws.

II. Legal Dimensions of the Uniform Civil Code

The "Uniform Civil Code" has substantial legal implications in the Indian context. The UCC

¹⁰ Nivedita Menon, A Uniform Civil Code in India: The State of the Debate in 2014, 40 (2) FEM. STUD. 480–86 (2014).

debate in India is significantly shaped by both the Constitutional framework and the decisions of courts. This section examines the UCC's Constitutional provisions and related debates, examines important judgements, emphasises the significance of state legislation and the necessity for a complete strategy, and compares personal laws in various countries.

A. Constitutional Provisions and Debates Surrounding the UCC:

Article 44 of the Indian Constitution's "Directive Principles of State Policy" is a guiding principle that advocates for the development of a "Uniform Civil Code" across the country. Article 44 states that: "*The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India*".¹¹ The Directive Principles of State Policy give the government direction when creating policies and passing legislation to further the welfare of people. While Article 44 reflects the framers' goal to create a "Uniform Civil Code", it is vital to highlight that the Directive Principles are non-justiciable in nature. As a result, they are not legally binding and must be carried out at the administration and legislative branches' whim.

The interpretation and application of Article 44 are the key topics of discussion when it comes to the UCC's constitutional requirements. Advocates claim that the Article 44 captures the framers' intention to create a secular, unified legal system that upholds social justice and equality. They claim that in order to secure gender justice, abolish discriminatory practises, and promote national integration, the UCC is essential.

However, Critics contend that the UCC, as it is described in Article 44, may violate the basic freedom to practise and spread religion, which is protected by Article 25 of the Constitution of India.¹² They claim that the rights to religious liberty and cultural independence guarantee personal laws. They caution against potential majoritarian impositions and advocate for the maintenance of varied personal laws to fit Indian society's pluralism.

The debate over personal laws essentially puts religious and personal freedom against the State's ability to reshape the nuclear family. It is therefore being maintained that the community should itself go forward to seek improvements because each religious organisation has cultural sovereignty. This serves as the justification for the implementation of voluntary UCC or internal law reform. In fact, "*The Special Marriage Act of 1954*"¹³ and "*The Indian Succession Act of 1925*"¹⁴ are both examples of voluntary adoption of the UCC.

Many scholars claimed that the UCC puts India's secularism in jeopardy by eradicating minorities' distinctive customs and cultures with a single personal law. Scholars argued that

¹¹ INDIA CONST. art 44.

¹² INDIA CONST. art 25.

¹³ The Special Marriage Act, 1954, No. 43 of 1954 (India).

¹⁴ The Indian Succession Act, 1925, No. 39 of 1925 (India).

since marriage is a sacrament and a component of religion in Christianity, the UCC's requirement that marriages be registered with a government agency like the Registrar denigrates and desecrates a holy ceremony. Such a code would violate the "freedom of religion" guaranteed by Article 25 of the Constitution of India, not just for religious minorities but also for the faith that is practised by the majority. The freedom of minorities to maintain and defend their unique culture is protected by Article 29.¹⁵ According to scholars, there is a real concern that a unified code will obliterate the distinctive cultures and customs of minorities.

B. Judicial Pronouncements and the UCC: A Review of Landmark Cases:

The Indian judiciary through major decisions, has significantly influenced the conversation surrounding the "Uniform Civil Code". The courts have frequently endorsed a UCC, but they have also stressed the need for caution, slow growth, and respect for religious freedom.

In the case of "*Mohd. Ahmed Khan v. Shah Bano Begum*"¹⁶ (1985), the Supreme Court held that Muslim women were entitled to maintenance beyond the iddat (post-divorce waiting period) under the Code of Criminal Procedure, effectively overruling some sections of Muslim personal law. The court also held that the State should take the initiative to carry out the principle set forth in Article 44 since it is the State's responsibility to ensure that citizens of the country have access to a "Uniform Civil Code". The decision generated debates about the necessity of a UCC to guarantee gender fairness.

In the case of "*Ms. Jordan Diengdeh v. S.S. Chopra*"¹⁷ (1985), The court recommended and made observations in favour of reforming the law of marriages by creating a unified legislation that would apply to everyone, regardless of caste or religion.

In the case of "*Sarla Mudgal v. Union of India*"¹⁸ (1995), The Supreme Court emphasised the necessity of passing a "Uniform Civil Code" and asked the government to take the necessary action. The court made it clear that it could not issue writ of '*mandamus*' for the UCC's adoption because it belonged in the legislative branch.

The Supreme Court has stated that it supports the creation of a "Uniform Civil Code", but it has also emphasised the importance of cautious deliberation, gradual change, and respect for religious freedom and diversity. The Supreme Court has acknowledged that any significant revisions to personal laws must be approved by both the legislature and the general public.

¹⁵ INDIA CONST. art 29.

¹⁶ Mohd. Ahmed Khan v. Shah Bano Begum, A.I.R 1985 SC 945 (India).

¹⁷ Ms. Jordan Diengdeh v. S.S. Chopra, (1985) SCR Supl. (1) 704 (India).

¹⁸ Sarla Mudgal v. Union of India, A.I.R 1995 SC 1531 (India).

But the court's order in the "*Ahmedabad Women's Action Group v. Union of India*"¹⁹ case (1997) and "*Lily Thomas v. Union of India*"²⁰ case (2000) clarified that there was no direction issued to the government to enact the "Uniform Civil Code". These cases again created confusions.

However, the Supreme Court in the case of "*John Vallamattom v. Union of India*"²¹ (2003), stated that it is unfortunate that Article 44 of the Constitution has not been implemented. A unified civil code will promote the process of national unification by removing ideological inconsistencies.

The Supreme Court in the case of "*Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*"²² (2019), gave a decision relating to the Portuguese Civil Code, which is applicable to Goa's inheritance law. In its decision, the Supreme Court of India observed that despite being included in the Indian Constitution, the Centre had disregarded the guiding principles of public policy by neglecting to establish a "Uniform Civil Code".

C. Role of State Legislations and the Need for a Comprehensive Approach:

State legislations are essential in topics pertaining to personal laws and family affairs, in addition to the Constitutional framework and court rulings. Several Indian states have passed legislation to address specific concerns within personal law, such as marriage, divorce, and inheritance reform.

However, in order to address the more significant difficulties related to personal laws and the UCC's application, a comprehensive strategy is required. Legislation from different states may be inconsistent and have loopholes in it. A complete strategy would comprise a thorough analysis of personal laws from many theological perspectives with the goal of ensuring equality, justice, and harmony in family matters.

The implementation of the UCC and any changes to personal laws must be carefully considered, a consensus must be reached, and constitutional principles must be upheld. In order to guarantee that the UCC respects the ideals of justice, gender equality, and cultural sensitivity, a thorough approach would require consulting with a variety of stakeholders, including religious leaders, legal experts, women's rights organisations, and the general public.

Dr. B R Ambedkar believed that a UCC was desired but should be voluntary till the country was socially ready to adopt it. The Indian Penal Code, Criminal Procedure Code, Civil

¹⁹ Ahmedabad Women's Action Group v. Union of India, AIR 1997, 3 SCC 573 (India).

²⁰ Lily Thomas v. Union of India, (2000) 6 SCC 224 (India).

²¹ John Vallamattom & Anr v. Union of India, (2003) 6 SCC 611 (India).

²² Jose Paulo Coutinho v. Maria Luiza Valentina Pereira, (2019) SCC OnLine SC 1190 (India).

Procedure Code, Indian Contract Act, the Law of Torts, and other uniform statutes already exist in India and are applicable to all inhabitants. The “Uniform Civil Code” referred to here primarily relates to private law involving adoption, inheritance, and marriage. Its goal is to bring about consistency in particular areas.

The majority of the UCC’s provisions fall under Concurrent List Entry No. 5, which also includes all areas that were previously controlled by personal laws before the Constitution was passed. This entry covers topics with joint families, adoption, minors and infants, marriage and divorce, wills and succession, and partition. As a result, if both the Central government and State assemblies decide to do so, legislation pertaining to Personal Laws may be introduced. States like Gujarat, Uttarakhand, and Assam are reportedly moving closer to putting the UCC into effect. However, UCC under Article 44 is a directive to Central government, because only the legislations passed by Central government will have a effect throughout the India. The UCC’s main compelling point, according to the current Central government, is that it will encourage equality and uniformity in Indian society. They think that a unified set of laws, irrespective of religion, would better safeguard the rights of all citizens. They contend that the UCC will lessen prejudice against minorities and women. The UCC is opposed on the grounds that it would undermine cultural diversity and religious freedom. They hold that there are certain personal customs, usages, regulations, etc., that should be respected within each religion.

D. Personal Laws in certain other Countries Jurisdictions:

The application of a “Uniform Civil Code” can be improved with the help of a comparative analysis of personal laws in other countries. Several countries have taken varying approaches to personal laws, affected by variables such as history, culture, and legal traditions.

A common civil code has been adopted by a number of nations to guarantee their citizens’ equality and fairness. A unified civil code that controls private matters irrespective of religion affiliation has been implemented by nations like France, Germany, and Turkey. These nations offer as illustrations of how to successfully apply a common civil code while upholding individual liberties and fostering social cohesion. In contrast, pluralistic legal systems exist in nations like the United Kingdom and the United States where religious and secular laws coexist. Comparative study enables a better comprehension of the potential benefits and difficulties related to the application of a “Uniform Civil Code”. It emphasises the significance of striking a balance between individual rights, cultural diversity, and social harmony while developing and putting into practise legal reforms.

Briefly stated, the legal aspects of the “Uniform Civil Code” include Constitutional provisions, discussions, judgements from courts, and comparative analyses. Implementing a

UCC is governed by the Constitutional framework, in particular Article 44 of the “Directive Principles of State Policy”. In the framework of the UCC, the decisions rendered by the Supreme Court have emphasised the significance of gender equality and progressive reform. Comparative examination of personal laws in various countries might provide important insights into possible strategies for a unified legal system. Moving forward, an inclusive strategy necessitates striking a balance between Constitutional ideals, gender equity, and religious freedom. Building consensus requires thoughtful discussion, consultations, and interaction with stakeholders. The elimination of discriminatory practises and initiatives to uplift women should continue to be a top priority. It is crucial to accommodate cultural variety while respecting the ideals of justice and equality. It takes careful thought, resolving concerns, and working towards a consensus that respects the Constitutional ideals and assures equality and justice for all in order to create an efficient and inclusive “Uniform Civil Code” in India.

III. Societal Implications of the Uniform Civil Code

In India, the discussion over the “Uniform Civil Code” has gone through three stages that were based on several fundamental concerns, including national integration, legal equality, and, most recently, gender justice. It is appropriate for us to explore the “Uniform Civil Code” (UCC) debate in order to enhance our Constitutional democracy because the normative ideals of a polity and political contingency are constantly at conflict in India.²³ The adoption of a UCC in India has far-reaching socio-economic consequences. This section examines the UCC’s effects on gender justice, religious freedom, and cultural diversity as well as the difficulties and worries related to its implementation.

A. Religious Freedom and Cultural Diversity: Balancing Individual Rights and Community Practices:

The delicate balance between individual rights and social norms is called into question by the UCC. Critics claim that establishing a consistent legal system could violate people’s freedom of religion and cultural independence. They assert that the identities and practises of various religious communities depend heavily on the personal laws drawn from religious traditions. When putting the UCC into practise, it is crucial to protect cultural diversity and guarantee everyone’s right to practise their faith freely.

On the other hand, advocates of the UCC stress that gender justice and individual rights should take precedence over religious practises that uphold prejudice and inequality. They contend that a consistent legal system would guarantee equality of treatment for all citizens,

²³ Peter Ronald D., Politics of the Uniform Civil Code in India, 50 (48) EPW 50-57 (2015).

irrespective of their allegiance with a particular religion. In order to address the concerns of many religious communities and promote the ideals of justice and equality, it is essential to strike a balance between individual rights and cultural diversity.

B. Gender Justice and the UCC: Analyzing Diverse Feminist Perspectives:

The UCC's potential impact on gender justice is one of the most significant societal ramifications. The current personal laws in India, which were influenced by religious customs, have come under fire for supporting discriminatory and gendered practises. Critics claim that these rules frequently put women at a disadvantage when it comes to marriage, divorce, inheritance, and other private affairs.

The implementation of a unified legal framework, according to the UCC's proponents, would offer a chance to address these gender disparities. They claim that gender justice ought to be an essential component of all legal systems, and that personal laws must to be examined and changed to protect women's equality and empowerment. The UCC can be used as a tool to eradicate discriminatory actions and provide everyone, regardless of gender, an even playing field.

Diverse feminist perspectives on the UCC show a spectrum of opinions within the movement. While some feminists believe that the UCC is an effective way to promote gender justice and equality, others are concerned about how it can affect religious liberty and cultural autonomy. Important points of view and arguments in feminist discourse include:

- **Gender Justice:** Many feminists contend that the UCC is required to address the gender disparities that are still present in current personal laws. They claim that women are frequently at a disadvantage due to personal laws when it comes to marriage, divorce, inheritance, and other personal problems. They see the UCC as a chance to guarantee gender justice and equal rights for everyone.
- **Religious Freedom and Cultural Autonomy:** Concerns about possible restrictions on religious liberty and cultural independence raised by a unified legal system are shared by some feminists. They contend that personal laws can be changed within religious frameworks in order to alleviate gender disparities, and that enforcing a UCC may cause rights associated with religion and culture to diminish.
- **Intersectional Perspectives:** Some feminists emphasise the significance of taking intersectional viewpoints into account while talking about the UCC. They contend that any reform should take into account the particular difficulties experienced by marginalised women, such as those who belong to religious minority groups and come from lower socio-economic statuses. They support a comprehensive strategy that guarantees gender justice while upholding individual freedom of belief and cultural diversity.

In summary, different points of view on the “Uniform Civil Code” include those of supporters, who emphasise equality, secularism, and the need for a common law, and those of opponents, who emphasise religious freedom, cultural autonomy, and the dangers of commonality. Diverse viewpoints exist within feminist discourse; some are in favour of the UCC as a way to achieve gender justice, while others are worried about how it would affect religious liberty and cultural autonomy. In order to create a thorough and inclusive debate about the UCC’s implementation in India, it is essential to recognise these arguments and perspectives.

C. Challenges and Concerns Related to Implementing the UCC:

The UCC’s implementation is not without difficulties and worries. Critics of the UCC highlight worries about religious freedom, cultural autonomy, and the possible dangers of homogeization. They argue against enforcing a single set of rules and support the preservation of individual laws based on religious beliefs. Critics believed that unified civil code will not improve anything; on the contrary, it will make everything worse. The right to equality has several facets and impacts both individuals and communities on various levels. The normative issues that UCC aims to address will intensify, not disappear, according to critics. What is required is greater formal and substantive application of equality at all levels, not UCC.²⁴ Key justifications offered by critics include:

- **Political and Religious Resistance:** The implementation of the UCC is a politically sensitive matter that frequently encounters opposition from various religious and political groups. The legislative procedure faces substantial obstacles due to worries about conceivable majoritarian impositions and the deterioration of cultural variety.
- **Balancing Uniformity and Diversity:** Striking the right balance between uniformity and accommodating the various cultural and religious practises in India is a difficult task. It is crucial to make sure that the UCC upholds and respects the rights and traditions of other religious communities.
- **Legal Complexity and Harmonization:** It is a difficult undertaking to harmonise the current personal laws, which have developed over centuries. Critics express worries about the risks of homogenization that could result from a unified legal system. They contend that the plurality of personal laws is a reflection of Indian society’s heterogeneous makeup and adds to its richness. They warn against imposing majoritarian norms and support a pluralistic strategy that respects and takes into account various cultural and religious practises.
- **Implementation and Acceptance:** It would be necessary for the general public to embrace and comprehend the UCC on a large scale in order for it to be implemented

²⁴ Akhilendra Pratap Singh, Utility of Uniform Civil Code, 59 (2) J. I.L.I 178-187 (2017).

successfully. For implementation to be successful, it is essential to forge consensus and handle issues with gender justice, cultural diversity, and religious freedom.

- **Practical difficulties due to Diversity:** India has a rich culture that is present in all of its states, castes, and religious groups. Because of this variability, it is challenging to enact a consistent set of laws regarding private matters like as marriage, divorce, inheritance, and maintenance.
- **Cultural Autonomy:** Critics stress the value of diversity and independent cultures. They assert that personal laws are a reflection of the distinctive cultural norms and customs of various religious communities. They contend that establishing a universal legal system could undermine cultural variety and push some communities to the margins.
- **Perception among Minorities:** The minority community was strongly opposed to the UCC, believing that it would essentially impose a “majority code” on India’s diverse and complicated society. Many members of the Hindu majority society opposed the notion of a UCC as well, thus the grievances weren’t just restricted to the minority population.
- **Violation of Fundamental rights:** Many believe that a “Uniform Civil Code” runs counter to the fundamental rights protected by Articles 25: “*fundamental right to religion*”²⁵, Article 26 (b): “*right of each religious denomination to manage its own affairs in matters of religion*”²⁶, and Article 29: “*right to preserve distinctive culture*”²⁷.
- **Issues with drafting of Uniform Civil Code:** The implementation of the UCC is a difficult process because it will include many modifications, such as adopting broad interpretations of marriage, maintenance, adoption, and succession. The work is extremely difficult, and the government would need to deal with the minority and majority populations with compassion and objectivity.
- **Not supported by Law commission:** The 21st Law Commission stated that UCC is now neither necessary nor desirable in a consultation document that was published in 2018. Instead, it argued in favour of codifying all personal laws so that any prejudices or stereotypes within them might be exposed and tested against the fundamental rights guaranteed by the Constitution.²⁸
- **No Uniformity even in Civil Laws relating to non-religious matters:** The majority of civil cases in India are governed by a uniform body of law, including the Evidence Act, Criminal Procedure Code, Contract Act, Civil Procedure Code, and Transfer of Property

²⁵ INDIA CONST. art 25.

²⁶ INDIA CONST. art 26 (b).

²⁷ INDIA CONST. art 29.

²⁸ Krishnadas Rajagopal, Uniform civil code neither necessary nor desirable at this stage, says Law Commission, THE HINDU (August 31, 2018 07:14 PM), <https://www.thehindu.com/news/national/uniform-civil-code-neither-desirable-nor-necessary-at-this-stage-says-law-commission/article61498390.ece>.

Act, among others. States have, however, made countless amendments, so even under these civil and criminal laws there is difference in some regions.

Addressing these challenges and concerns requires an open and inclusive dialogue. It is essential to strike a balance between individual rights, cultural diversity, gender justice, and religious freedom in order to create a “Uniform Civil Code” that is both efficient and fair and that accurately reflects the multifaceted nature of Indian society.

In conclusion, the societal effects of the “Uniform Civil Code” include issues related to gender justice, cultural diversity, religious freedom, and implementation difficulties. In order to create a UCC that fosters social harmony, equality, and justice for all people in Indian society, it is crucial to strike a balance between individual rights and community practises, address gender imbalances, and handle issues linked to religious autonomy.

D. Advocates’ Viewpoint: Equality, Secularism, and the Necessity of a Common Civil Law:

The development of a unified legal system that would support equality, secularism, social cohesion, etc. is advocated by UCC proponents. They assert that a common civil law is necessary to ensure that all citizens, regardless of their religious affiliations, receive equal treatment and have access to basic rights. Key justifications offered by proponents of UCC include:

- **Secularism:** Advocates draw attention to the secularist ideals entrenched in the Constitution of India. They contend that a UCC would encourage equal treatment under the law, irrespective of religious practises, and is consistent with the secular structure of the country.
- **Social Cohesion:** Proponents claim that through minimising religious barriers and promoting a common civic identity, a UCC would promote social cohesion and national unification. They contend that a single civil law would strengthen the bonds between various communities.
- **Equal status to all Citizens:** A UCC would contribute to guaranteeing all citizens equal status regardless of the community they are a part of. It is considered that in order to guarantee equal status to its citizens, a secular democratic republic must have a common civil and personal law, regardless of religion, class, caste, gender, or other factors.
- **Promote Gender Parity and Justice:** Almost all faiths discriminate against women because they offer men the highest rank and privilege in areas of succession and inheritance. A UCC will thereby eliminate practises that restrict a woman’s ability to enjoy equality. A Hindu girl was not granted a birthright to the joint family inheritance under Mitakshara branch of Hindu law. According to Islamic law, a man is often entitled to twice as much inheritance as a woman who has the same degree of relationship to the deceased.

Christian wives could not obtain a divorce based solely on their husband's adultery; it had to be accompanied by cruelty, bestiality, and sodomy. Conversely, Christian husbands can simply declare their wives to be adulteresses and file for divorce. A non-Parsi spouse of a Parsi husband was only entitled to half of the husband's property, according to Parsi personal law, and daughters of Parsi men who married non-Parsis lost their property rights.²⁹

- **End contentious provisions of Personal laws:** All faiths have prevailing social norms that are based on upper-class, patriarchal social concepts. The sanctity of the patriarchal orthodox people will therefore be destroyed by the drafting and application of the "Uniform Civil Code", or they will vigorously reject it.
- **Simplification of Laws:** The UCC will simplify and harmonise the complex laws governing marriage ceremonies, succession, inheritance, and adoptions. Additionally, this will assist in reducing the judiciary's workload.
- **Sign of a modern Progressive Nation:** Personal laws were created in a certain historical setting and should not remain the same in an altered time and setting. UCC shall support the advancement of society based on the contemporary constitutional values of liberty, equality, and justice.

V. Towards an Inclusive Approach

Implementing the "Uniform Civil Code" in India necessitates an inclusive strategy that respects and defends Constitutional rights, promotes gender equality, and recognises cultural diversity. This part emphasises the value of safeguarding individual liberties and Constitutional rights, advancing gender equality, combating discrimination, and taking into account cultural diversity and different legal systems.

A. Protecting Constitutional Rights and Individual Freedoms:

The UCC must be viewed from an inclusive perspective, which means upholding individual freedoms and Constitutional rights. The basic rights guaranteed in the Constitution of India must be respected in any revision or implementation of the UCC. Respecting the freedoms of religion, expression, and privacy is part of this. Instead of restricting these rights, the UCC should offer a legal framework that upholds and protects each citizen's individual liberties and freedoms.

Despite much debate, the framers of our Constitution were unable to come to an agreement

²⁹ Vibhuti Patel, All personal laws in India are discriminatory, LIVE MINT (August 22, 2017, 07:46 PM), <https://www.livemint.com/Opinion/Cn69qE9pQClmtQzzvw1oVP/All-personal-laws-in-India-are-discriminatory.html>.

on the UCC. The “Uniform Civil Code” was moved from its initial position under “Fundamental Rights” to the “Directive Principles of State Policy” as a compromise.³⁰

The Constitution’s Part III contains a section on “Fundamental Rights” that runs from Articles 12 to 35. A portion of legal professionals think that a “Uniform Civil Code” would violate the fundamental rights of religion (Articles 25–28). Fundamental Rights and Directive Principles are supposed to support one another in the ideal scenario. But there have frequently been instances of conflict and disagreement amongst them. In reality, these are two ends of a scale, and it is up to the governments to find a middle ground.

Parliamentary discussions and judicial rulings serve as the foundation for understanding and resolving conflicts between fundamental rights and directive principles. There have been some significant rulings about the conflict between “fundamental rights” and “directive principles of state policy”. Two of the rulings are in the cases of: “*Golaknath v. State of Punjab*”³¹ (1967) and the “*Kesavananda Bharti v. State of Kerala*”³² (1973).

Based on these judgements, it can be claimed that the Parliament has the authority to change a citizen’s fundamental rights, but the change should not impact the “basic structure” of the Constitution.

B. Promoting Gender Equality and Addressing Discriminatory Practices:

In putting the UCC into practise, gender equality must be prioritised as a core value. Discriminatory practises that are ingrained in current personal laws must be addressed in order to be inclusive. The UCC should work to remove gender disparities and guarantee that everyone has the same rights, opportunities, and protections, regardless of gender.

Personal law provisions that uphold gender discrimination must be severely examined and changed. The UCC should place a strong emphasis on gender justice and offer enforceable protections for women’s rights. Any reforms must consider intersectional viewpoints as well as the unique difficulties encountered by marginalised women, especially those from lower socio-economic and religious backgrounds.

C. Recognizing Cultural Diversity and Accommodating Multiple Legal Systems:

India is a vast nation with a vibrant cultural landscape. This variety is recognised and respected by the UCC when it is approached inclusively. It acknowledges that various religious communities have unique traditions, laws, and legal frameworks that are

³⁰ GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION, 101-102 (Oxford India Paperbacks, 1999).

³¹ Golaknath v. State of Punjab, (1967) AIR 1643 (India).

³² Kesavananda Bharti v. State of Kerala, AIR 1973 SC 1461 (India).

fundamental to their respective cultural identities.

It is crucial to accommodate many legal systems while striving towards a unified legal system. Finding a balance between upholding communities' unique practises and respecting cultural autonomy is necessary to guarantee everyone has access to equality, justice, and their basic human rights. While providing a common set of fundamental rights and principles that apply consistently to all citizens, the UCC should be adaptable enough to take into account various personal laws and practises.

This inclusive strategy entails meaningful discussion and collaboration with a wide range of stakeholders, including community representatives, legal professionals, religious leaders, and organisations that advocate for women's rights. In order to achieve a UCC that balances the protection of individual rights, gender equality, and cultural diversity, it is necessary to address concerns, create consensus, and strive towards that goal.

In conclusion, an inclusive strategy for the UCC means safeguarding fundamental liberties and Constitutional rights, advancing gender equality, combating discrimination, and taking into account the diversity of cultures and legal systems. By adhering to these guidelines, it is feasible to create a UCC that recognises and respects India's unique cultural heritage while upholding the Constitutional values of justice, equality, and human rights. Get rid of the codified Hindu laws, such as the "*Hindu Undivided Family*" (HUF), coparcenary discrimination, and the law that only a male family member may request the division of a residence; also get rid of polygamy, "*triple-talaq*", etc.³³

VI. Conclusion

The "Uniform Civil Code" in India is a complicated and sophisticated idea that has been the focus of a lot of discussion and debate. Throughout this research paper, multiple dimensions of the UCC is examined, such as its historical context, legal aspects, societal ramifications, competing perspectives, and the necessity for an inclusive approach.

A. Recap of Key Findings and Discussions:

The UCC's historical background exposed its roots in the colonial era and following disputes on the necessity for a unified legal framework. The legal aspects of the UCC centred on Constitutional provisions like Article 44 of the "Directive Principles of State Policy", Article 25 & 29 of the "Fundamental Rights", and significant judicial rulings that influenced the conversation around the UCC. In order to obtain insight into various approaches and their implications, the research paper undertook a comparative analysis of personal laws in other jurisdictions.

³³ Leila Seth, A Uniform Civil Code: Towards Gender Justice, 31 (4) IND. INT. CEN. QTLY. 40-54 (2005).

The UCC's social repercussions revealed a fragile equilibrium between religious freedom, cultural diversity, and gender justice. The research paper looked at the opposing arguments put out by both supporters and opponents of the UCC as well as various feminist viewpoints that offered insightful analysis on social justice and gender equality. The research paper also talked about the significance of an inclusive strategy that respects individual liberties and Constitutional rights, encourages gender equality, and takes into account cultural diversity.

B. Recommendations for an Inclusive Approach towards the Uniform Civil Code:

Based on our observations and discussions, the following recommendations are made for an inclusive approach to the UCC:

1. **Engage in Transparent and Inclusive Dialogue:** Encourage an open and honest discussion including a variety of stakeholders, including community representatives, women's rights organisations, legal professionals, and marginalised groups. Encourage healthy dialogue to comprehend various viewpoints and issues with the UCC.
2. **Conduct Comprehensive Impact Assessments:** Conduct thorough impact analyses to determine how the UCC would affect various religious and cultural communities, marginalised groups, and women. This will guarantee that the UCC's implementation takes into account the distinct needs and realities of different societal groups.
3. **Protect Fundamental Rights and Individual Freedoms:** Ensure that the UCC maintains and protects "fundamental rights" guaranteed by the Constitution of India, such as the freedom of religion, expression, and privacy. In accordance with Constitutional principles, this will ensure that people are free to practise their religion and cultural customs.
4. **Promote Gender Equality and Women's Empowerment:** Integrate gender equality concepts into the UCC framework and try to get rid of any discriminatory rules in personal laws. Empower women by giving them equal rights and opportunities in areas such as inheritance, property rights, divorce, and other associated ones.
5. **Sensitize and Educate the Public:** Create public awareness campaigns and educational initiatives to inform people about the objectives, advantages, and challenges of the UCC. In order to encourage support and active engagement from all facets of society, promote comprehension and debunk myths about the UCC.
6. **Address Intersectionality in UCC Reforms:** When creating UCC reforms, take into account the intersectional characteristics of gender, religion, caste, class, and other identities. Make sure to take into account the unique difficulties experienced by marginalised women from various religious and cultural backgrounds.
7. **Establish Clear Mechanisms for Conflict Resolution:** Create explicit conflict resolution structures to manage problems resulting from the implementation of the UCC.

Create specialised family courts or panels of legal professionals, religious scholars, and social workers to guarantee impartial and fair decisions.

8. **Accommodate Customary Practices within Legal Frameworks:** Ensure that local traditions and customs can be accommodated within the UCC framework as long as they don't conflict with fundamental human rights or the Constitution. As a result, cultural diversity can be maintained while the law is upheld.
9. **Gradual Implementation and Phased Reforms:** Implement the UCC in stages to guarantee a smooth transition and enough time for stakeholders to adapt and adjust. The new legal framework will be easier to grasp, adopt, and adhere to with gradual application.
10. **Strengthen Legal Aid and Support Services:** Ensure the availability of legal assistance and support services, particularly for vulnerable and marginalised groups, to help them understand and navigate the UCC effectively. These services should be easily available, affordable, and culturally sensitive.
11. **Involve Grassroots Organizations and Civil Society:** Engage civil society organisations, NGOs, and grassroots organisations in the creation and implementation of the UCC. Their knowledge, experience, and close ties to the communities will enable a more inclusive strategy and boost the UCC's efficacy.
12. **Establish Monitoring and Evaluation Mechanisms:** Establish systems for monitoring and evaluating the UCC's effects on various communities, people, and marginalised groups. Review and evaluate the UCC's efficiency and fairness on a regular basis in order to make the required corrections and advancements.
13. **Encourage Research and Scholarship:** In order to improve understanding, produce evidence-based policy recommendations, and guide decision-making, encourage research and scholarly work on the UCC. Promote multidisciplinary study on the legal, social, cultural, and gender aspects of the UCC by academic institutions and researchers.
14. **International Engagement and Learning:** Participate in international dialogues and exchange experiences with nations that have put similar legal reforms into place or are in the process of doing so. Enhance the inclusivity and efficiency of the UCC in India by taking note of their achievements, difficulties, and best practises.
15. **Continual Review and Adaptation:** Recognise that the UCC is a dynamic process that necessitates ongoing evaluation, modification, and reform. Re-evaluate the UCC on a regular basis to make that it upholds the ideals of justice, equality, and human rights while staying up-to-date, addressing new issues as they arise, and being in line with changing society dynamics.

By putting these recommendations into practise, the UCC can be approached from a diverse

perspective, assuring the preservation of individual rights, advancing gender equality, acknowledging cultural diversity, and fostering a peaceful and just society for all citizens.

C. Future Prospects and the Way Forward:

The UCC's implementation is a difficult and delicate process that requires careful thought, cooperation, and inclusivity. While there may be hurdles and opposing viewpoints, the future possibilities for an inclusive approach to the UCC are encouraging.

It's critical to keep having productive conversations, spreading awareness, and promoting education on the subject if we're to advance. This will promote a better comprehension of the pertinent problems and enable a more educated and inclusive discussion. The creation of a thorough and balanced UCC requires the participation of a wide range of stakeholders, including community representatives, legal professionals, activists for women's rights, and religious leaders.

The best course of action is for a staged, systematic approach that considers the particular worries and needs of various communities. In order to accomplish this, it is necessary to create consensus, mitigate concerns, and make sure that the UCC upholds Constitutional rights, advances gender equality, and takes into account cultural diversity. India may work towards a legislative framework that upholds the ideals of justice, equality, and human rights for every citizen by aiming for an inclusive approach.

The implementation of the UCC necessitates an inclusive and fair strategy that upholds Constitutional rights, advances gender equality, values cultural diversity, and takes into account different legal systems. By adhering to these values, India can get closer to being a society where people have more freedom and rights, gender inequality is addressed, and cultural diversity is valued and embraced.

Disclaimer: The views expressed in this research paper on the “Uniform Civil Code” are personal opinions and interpretations. The information provided is based on the knowledge available at the time of writing and does not intend to hurt anyone's feelings, religions or promote any bias. Readers are encouraged to form their own opinions and critically evaluate the information presented.

References:

1. Austin, G. (1999). *The Indian constitution: Cornerstone of a nation*. Oxford India Paperbacks.
2. Diengdeh, M. J. (1985). *Ms. Jordan Diengdeh v. S.S. Chopra*, Supp. (1) SCR 704.

3. Kolsky, E. (2005). Codification and the rule of colonial difference: Criminal procedure in British India. *Law and History Review*, 23(3), 631–683.
4. Menon, N. (2014). A Uniform Civil Code in India: The state of the debate in 2014. *Feminist Studies*, 40(2), 480–486.
5. Patel, V. (2017, August 22). All personal laws in India are discriminatory. *Mint*. <https://www.livemint.com/Opinion/Cn69qE9pQClmtQzzvw1oVP/All-personal-laws-in-India-are-discriminatory.html>
6. Peter Ronald, D. (2015). Politics of the Uniform Civil Code in India. *Economic and Political Weekly*, 50(48), 50–57.
7. Rajagopal, K. (2018, August 31). Uniform civil code neither necessary nor desirable at this stage, says Law Commission. *The Hindu*. <https://www.thehindu.com/news/national/uniform-civil-code-neither-desirable-nor-necessary-at-this-stage-says-law-commission/article61498390.ece>
8. Seth, L. (2005). A Uniform Civil Code: Towards gender justice. *Indian International Centre Quarterly*, 31(4), 40–54.
9. Singh, A. P. (2017). Utility of Uniform Civil Code. *Journal of the Indian Law Institute*, 59(2), 178–187.
10. The Hindu Marriage Act, No. 25 of 1955, India.
11. The Hindu Succession Act, No. 30 of 1956, India.
12. The Hindu Minority and Guardianship Act, No. 32 of 1956, India.
13. The Hindu Adoption and Maintenance Act, No. 78 of 1956, India.
14. The Muslim Personal Law (Shariat) Application Act, No. 26 of 1937, India.
15. The Indian Succession Act, No. 39 of 1925, India.
