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“ UCC DEBATE: CONSTITUTIONAL PERSPECTIVE AND CHALLENGES”

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ABSTRACT

The debate on the Uniform Civil Code (UCC) in India has long occupied a central place in constitutional discourse, reflecting the complex interplay between equality, secularism and cultural pluralism. Article 44 of the Constitution, located within the Directive Principles of State Policy, directs the State to strive towards establishing a common set of civil laws governing marriage, divorce, succession and adoption. Proponents argue that the UCC would advance gender justice by eliminating discriminatory practices embedded in personal laws, promote national integration by applying uniform rules across communities and reinforce the secular character of the Indian State. Critics, however, contend that the UCC threatens religious freedom, undermines minority rights and disregards India’s deep cultural diversity. Judicial pronouncements such as Shah Bano, Sarla Mudgal and John Vallamattom have highlighted the constitutional significance of UCC, while also acknowledging the sensitivities involved in its implementation. The judiciary has consistently emphasized harmonization of personal laws with fundamental rights, though it has refrained from imposing uniformity through judicial decree, leaving the task to legislative consensus.

Comparative experiences from countries like Turkey and France demonstrate the possibility of a uniform code in homogeneous societies, while plural societies such as Indonesia,

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Malaysia and South Africa illustrate models of legal pluralism tempered by constitutional safeguards. This paper critically examines the constitutional framework of UCC, the competing arguments for and against, the judicial approach, comparative perspectives and contemporary challenges. It argues that while UCC is constitutionally desirable, its implementation requires sensitivity to India's pluralistic social fabric. The way forward lies in gradual reform, codification of existing personal laws and inclusive dialogue with all stakeholders. A phased and consensual approach, rather than abrupt imposition, is essential to reconcile the constitutional promise of equality with the social reality of diversity.

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I. INTRODUCTION

The Uniform Civil Code, or UCC, is a big and often heated topic in India. It's about a single set of laws for everyone, regardless of their religion, for things like marriage, divorce, inheritance, and adoption.

Right now, India has a mix of different personal laws. Hindus follow one set of rules, Muslims another, Christians a third, and so on. This creates a diverse but also complicated legal landscape. The people who wrote India's Constitution hoped that one day, the country would have a single law for everyone, and they even put this idea in Article 44¹. But it has

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been difficult to implement because of political sensitivities, religious beliefs, and the sheer diversity of the country².

This research paper aims to explore the debate around the UCC from a constitutional point of view. It's not just a legal issue, but a social, cultural, and political one as well. By studying the UCC, we can get a better sense of how India balances individual rights and community traditions, and how it navigates the space between new ideas and long-held beliefs. It's a key part of understanding India's journey as a nation³.

STATEMENT OF PROBLEM

The Uniform Civil Code debate in India is a long standing issue in constitutional law that reflects the tension between equality, secularism, and cultural pluralism. While Article 44 of the constitution envisions a uniform set of civil laws for all citizens, the provision has remained aspirational due to political sensitivity, social resistance, and the complexity of codifying diverse personal laws.

HYPOTHESIS

While the UCC is a constitutionally desirable goal, its successful implementation requires a gradual, sensitivity, and inclusive approach that respects India's pluralistic social fabric, rather than an abrupt imposition.

RESEARCH QUESTIONS

1. What is the constitutional basis of the Uniform Civil Code under Article 44 and how does it interact with fundamental rights such as equality, non-discrimination and freedom of religion?
2. To what extent have judicial pronouncements shaped the debate on UCC in India and what role has the Supreme Court played in balancing secularism with religious freedom?

3. What are the primary arguments advanced in favour of implementing a UCC, particularly in terms of gender justice, national integration and secularism?
4. What are the main concerns raised by the opponents of UCC, especially with respect to minority rights, cultural diversity and federal autonomy?
5. What political, social and legal challenges hinder the practical implementation of a UCC in India?

OBJECTIVES

The objective of this research paper is to examine the debate surrounding the UCC from a constitutional perspective and analyze the challenges that hinder its implementation. It also aims to explore the historical evolution of the idea, judicial interventions, and the constitutional principles that frame the discussion.

SCOPE AND LIMITATION

The study examines the constitutional framework of the UCC, including Article 44 and its relationship with fundamental rights. It also analyzes the competing arguments for and against the code, the approach taken by the judiciary, and contemporary challenges to its implementation. The research draws on comparative perspectives from other countries to provide context.

The research acknowledges the deep social, cultural, and political complexity of the UCC debate. It does not propose a single, definitive legal draft for a UCC but instead focuses on the constitutional, judicial, and social aspects of the debate. The study recognizes that a uniform code is not a simple legal matter and its implementation requires addressing diverse

social realities.

II. HISTORICAL EVOLUTION OF UCC IN INDIA

The story of the Uniform Civil Code, or UCC, in India is a long one, stretching all the way back to when the British ruled. The British had a weird way of dealing with laws they made criminal and business laws the same for everyone but left family matters like marriage and inheritance to ⁴each religious community. Hindus had their laws, and Muslims had theirs. Over time the British did change some Hindu laws like allowing widows to remarry, but they mostly left Muslim law alone. This created a system where India was a mix of different personal laws when it became independent.

When India's leaders were writing the Constitution they had big debate about the UCC. People like Dr. B.R. Ambedkar believed that a single law was essential for fairness, especially for women and for uniting the country. But others worried that it erase the unique traditions of minority groups. In the end, they found a middle ground, they put the UCC in Article 44 as a goal for the government to work toward, but didn't make it a law that people could demand in court. This compromise showed the tension between the ideal of equality and the reality of India's diverse society.

Over the years, India's courts have brought the UCC back into the spotlight. In the famous **Shah Bano case** in 1985, the Supreme Court said a divorced Muslim woman should get alimony and it reminded the government about the UCC. This caused a huge political reaction, and the government passed a new law that essentially reversed the court's decision. Later, in other cases like **Sarla Mudgal**⁵ and **John Vallamattom**,⁶ the Court again pushed for a uniform code, arguing against unfair personal laws that allowed things like a man converting to Islam just to get a second wife, or that discriminated against Christian women in inheritance.

More recently, the **Law Commission of India**⁷ looked at the issue. In 2018, it said that a single, unified code wasn't the right move at that moment. Instead, it suggested that it's better to improve and update the existing personal laws to make them fairer and more in

line with the Constitution. This shows that the issue is still very sensitive, and many people prefer making small, gradual changes rather than one big, abrupt change. So, the journey of the UCC in India has been a complex one, shaped by its past, court battles, and a constant balancing act between the desire for uniformity and the reality of a diverse, pluralistic nation.

I. CONSTITUTIONAL FRAMEWORK

The Uniform Civil Code (UCC) is a core idea in India's Constitution, but its position is a bit complex. The main thing to remember is **Article 44**, which is part of the **Directive Principles of State Policy**⁸. These principles are like a set of goals for the government to work toward but they are not laws that you can sue someone over in court. The people who wrote the Constitution put the UCC here because they knew that making a single law for everyone on things like marriage and inheritance would be very controversial and might upset minority groups. So, they decided it would be a long-term goal for a future government to pursue.

The UCC also has a close relationship with your **fundamental rights**. For example, **Article 14** says everyone is equal before the law, and **Article 15** says you can't be discriminated against based on your religion, sex, etc. Many people argue that personal laws, which often treat men and women differently, clash with these rights. On the other hand, people who oppose the UCC often point to **Article 25**, which guarantees freedom of religion⁹. They believe their personal laws are part of their religious practice and should be protected. But the courts have consistently said that things like marriage and inheritance aren't "essential" parts of religion and can therefore be regulated by the government.

The courts have played a big role in this debate. In cases like **Shah Bano** and **Sarla Mudgal**, the Supreme Court has repeatedly said that personal laws need to be fair and in line with the Constitution. While the judges haven't forced the government to create a UCC, they've used **Article 44** to gently remind them that it's a constitutional duty. The courts have essentially

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tried to make existing personal laws more just, rather than creating a new uniform law themselves.

So, the UCC sits at a crossroad, it's a goal for the country to be more uniform and equal, but it has to be balanced with the constitutional guarantee of religious freedom and cultural diversity. It's a big challenge that requires a careful approach that respects everyone while still working towards justice.

I. UCC DEBATE: ARGUMENTS FAVOR AND AGAINST

The debate around the Uniform Civil Code (UCC) is a big one, with passionate arguments from both sides. It really gets to the heart of what India is all about—a country that values both equality and diversity.

Arguments for the UCC

One of the biggest reasons people support the UCC is **gender justice**¹⁰. Right now, personal laws for different religions often treat women unfairly. They might get less of an inheritance than their brothers, have a harder time getting a divorce, or face other disadvantages. Even though some reforms have happened, a lot of these unequal rules still exist. A UCC would ensure that men and women have the same rights, finally living up to the promises of equality in the Constitution.

Another strong point for the UCC is **national unity**¹¹. When different communities have different laws, it can make people feel separated by religion. A single, consistent law for everyone would help bring the country together under one common legal system. It would make things simpler and reduce conflicts between different laws, creating a more unified nation.

Supporters also argue that the UCC is necessary for true **secularism**¹². In India, being secular

means the state should treat all religions equally. But having separate personal laws based on religion seems to go against this idea, as it can give different groups different legal rights. A UCC would make sure that civil laws apply to everyone, regardless of their faith, truly making the country's laws secular.

Lastly, a UCC would bring much-needed **modernization and clarity**¹³ to the legal system. In today's world, we need laws that are simple, clear, and consistent. A uniform code would get rid of confusion and make sure that justice is delivered the same way for everyone, no matter where they're from or what religion they follow.

Even with the potential benefits, many people have strong objections to the Uniform Civil Code (UCC). These arguments highlight the major challenge of balancing the country's unity with its incredible diversity.

Arguments Against the UCC

The biggest concern is that a UCC could be a **threat to India's cultural and religious diversity**¹⁴. For many communities, personal laws aren't just legal rules; they're a core part of their identity and traditions. Opponents fear that forcing a single law on everyone could be seen as an attack on their way of life, leading to a feeling of resentment and loss of cultural heritage.

There are also **concerns about federalism**¹⁵. Since family law is something both the central government and state governments can make laws about, a UCC created by the central government might be resisted by states who feel it goes against their unique local cultures and legislative powers.

Putting a UCC into practice would also be **extremely difficult**¹⁶. The traditions around things like marriage, dowry, and inheritance are incredibly varied, not just between religions but even within different sub-communities. Creating a single law that respects this diversity while still being uniform is a huge, complex challenge.

Finally, a major fear for many **minority groups**¹⁷ is that a UCC would simply impose the values of the majority Hindu community. They worry that the debate is often used to target minorities, particularly Muslims, which makes it hard to build the trust needed to agree on a common code. This concern about cultural homogenization is a central point of the opposition.

Ultimately, the UCC debate shows a fundamental conflict: it's about balancing the constitutional ideals of **equality and justice** with the deeply held values of **cultural identity and diversity**.

I. COMPARITIVE PERSPECTIVE

We can get a better handle on the Uniform Civil Code (UCC) debate in India by looking at how other countries handle similar issues. It turns out, how a country balances a single law for everyone with different community traditions often depends on how diverse its population is.

Countries with Uniform Codes

Some countries have successfully implemented a single set of civil laws. For example, in **Turkey**¹⁸, Mustafa Kemal Atatürk replaced Islamic law with a new, secular code in the 1920s. He did this to modernize the country and ensure equal rights for men and women. In **France**¹⁹, the Napoleonic Code established one clear set of laws for things like family and inheritance, bringing consistency to the legal system. These examples show that a uniform code can work well when a society is more culturally similar and people are generally on board with a single legal framework.

Countries with Legal Pluralism

However, in countries with many different cultures and religions, a "one-size-fits-all" approach is much harder to pull off. **Indonesia** and **Malaysia** are good examples; they have

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separate family laws for their Muslim citizens, while others follow civil codes. And in **South Africa**, customary laws are recognized alongside national laws, as long as they don't violate the country's constitutional principles of equality. These cases demonstrate that a country can maintain a diverse legal system while still ensuring that fundamental rights are protected for everyone²⁰.

What This Means for India

India's situation is uniquely complex because of its incredible diversity. Trying to impose a UCC in the same way Turkey or France did could cause major social friction and make minority communities feel targeted. The experiences of countries with legal pluralism suggest that a more gradual, thoughtful approach might be better for India. This could involve slowly updating personal laws to make them fairer, having open conversations with all communities, and making sure that any new laws respect diversity while still promoting equality and secularism.

I. CONTEMPORARY CHALLENGES IN IMPLEMENTING UCC

The debate around the Uniform Civil Code (UCC) is a big part of Indian law, but putting it into practice has been tough. Here's a look at the modern challenges that have kept it from becoming a reality.

Political and Legislative Hurdles²¹

The UCC is a political hot potato. Different political parties see it through the lens of elections. Some push for it as a way to unite the country, while others worry that it would alienate minority voters and stand against their rights. Because of this political disagreement, Parliament has been hesitant to pass a comprehensive law, even when courts have suggested it. Since family law is also a state issue, it makes passing a nationwide code even more complicated.

Social and Religious Resistance²²

Religious groups are a major obstacle. For many, personal laws are a huge part of their cultural and religious identity. Communities fear that a uniform law would erase their customs and traditions, and they worry that the UCC would simply impose the values of the majority. This fear is especially strong among minority groups like Muslims and Parsis, and it's made worse by political talk that can make the UCC seem like an attack on specific communities. Without trust and open conversation, any attempt to force a single law would likely cause social unrest.

Legal and Technical Challenges²³

Even if the political and social issues were solved, drafting the UCC would be a huge challenge. Personal laws aren't the same even within a single religion. For example, Hindu law changes by region, and Muslim law has different schools of thought. So, creating a single law that respects this diversity while still being uniform is incredibly complex. It also raises questions about what the UCC should cover. Should it only deal with marriage and divorce, or should it also include inheritance and adoption? If the law is too simple, it might ignore the customs of smaller communities; but if it's too detailed, it might lose its purpose of being uniform.

WAYS FORWARD

When we talk about moving toward a Uniform Civil Code (UCC), it's clear that a sudden change might not be the best way to go. Instead, many people suggest a more thoughtful, step-by-step process.

A Gradual and Consultative Approach²⁴

Instead of forcing a single code on everyone all at once, the best way forward might be to make changes little by little, and only after talking to everyone involved. This means engaging with religious groups, community leaders, and women's organizations to build

trust and get their feedback.

Codifying Personal Laws²⁵

A good first step is to **codify personal laws**. Right now, some of these laws aren't written down clearly, which can cause confusion. By writing them all down, it becomes easier to see which parts are unfair, especially to women, and then fix them. This makes the system more transparent and sets the stage for future changes.

Making Gender Justice the Priority²⁶

The main goal of this whole process should be to ensure **gender justice**. The focus should be on getting rid of all the rules that disadvantage women in matters of inheritance, divorce, and property, no matter what religion they follow.

An Optional UCC²⁷

One of the most interesting ideas is to create an **optional UCC**. This would give people a choice: they could either continue to follow their community's personal law or choose to be governed by the new, uniform code. This approach respects cultural traditions while encouraging people to voluntarily adopt the new standards over time.

The Roles of the Judiciary and Legislature

While the courts have done a great job of highlighting the need for a UCC and interpreting laws in a way that aligns with the Constitution, the ultimate responsibility for creating a new law lies with the **legislature**. It's up to lawmakers to take these careful, consultative steps toward a fair and unified system.

Ultimately, a well-designed UCC that is introduced carefully has the potential to strengthen secularism and promote gender equality without erasing India's rich cultural diversity.

I. CONCLUSION

The discussion about the Uniform Civil Code (UCC) is a big deal in India. It's about a balancing act: how do we make sure everyone is treated equally and the country stays secular, while also respecting India's many different cultures and traditions?

The Constitution, in Article 44, says that the government should work toward a single set of civil laws for everyone. But it has been a long time, and this hasn't happened yet. The main reasons are politics, people's strong feelings about their religious and cultural identities, and the sheer difficulty of creating a single law that fits a huge, diverse country.

The courts have often stepped in to remind everyone about this. In important cases like **Shah Bano**²⁸, the judges pointed out that personal laws need to be fair and in line with the Constitution, especially when it comes to gender equality. However, the courts have made it clear that it's really up to the government to create this new law.

So, what's the best way forward? A sudden, forceful change would likely cause a lot of problems. A better approach would be to take it slow and talk to everyone. A good first step would be to clearly write down all the different personal laws, which would make them more transparent and easier to reform. Then, we can focus on fixing the parts that are unfair to women. Another idea is to make the UCC optional, so people can choose to be governed by it. This would respect people's traditions while still moving toward a more unified system.

In the end, a UCC that is created with care and sensitivity could help make India's laws fairer and its society more unified without losing the rich cultural diversity that makes the country unique.

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