

Uniform Civil Code: Comparative Analysis of India and Foreign Jurisdictions

By THE LEGAL QUORUM

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Abstract

The Uniform Civil Code (UCC) remains one of the most contested constitutional directives in India. Enshrined in Article 44 of the Directive Principles of State Policy, [\[1\]](#) the UCC envisages a common set of civil laws governing marriage, divorce, adoption, and inheritance for all citizens, irrespective of religion. Despite decades of judicial nudges and political discourse, India has not yet enacted a nationwide UCC. This article critically examines the Indian debate on the UCC, tracing its constitutional origins, key judicial interventions, and the challenges to implementation. Drawing comparisons with France, Turkey, and Goa, the article argues that India's pluralistic society requires a phased, consultative approach to the UCC rather than wholesale adoption.

I. Introduction

One of the most debated constitutional directives in India since Independence is the Uniform Civil Code (UCC). Applicable to all citizens irrespective of religion, the UCC envisages a common set of civil laws governing marriage, divorce, adoption, and inheritance, as enshrined in Article 44 of the Directive Principles of State Policy. [\[1\]](#) Despite decades of judicial pronouncements and political discourse, India has not yet implemented a nationwide UCC. The framers of the Indian [Constitution](#) saw it as a step forward towards national integration and equality, but its implementation has remained elusive for over seven decades.

The pluralistic society of India complicates the idea of uniformity because of its diverse religious communities and personal laws. While Hindu law underwent codification in the 1950s, Muslim, Christian, and Parsi personal laws continue to operate separately. Although political resistance and social sensitivities have stalled progress, the judiciary has repeatedly nudged Parliament towards the enactment of the UCC. Functioning examples of uniformity can be seen in countries such as France and Turkey, which have successfully codified civil laws, and in Goa within India.

This article critically examines the Indian debate on the UCC, tracing judicial interventions and comparing India's experience with foreign jurisdictions such as France, Turkey, and Goa that have successfully codified their laws. The central argument is that India's pluralistic society requires a phased, consultative approach to the UCC rather than wholesale adoption. Through an examination of constitutional debates, judicial pronouncements, challenges, and comparative experiences, this article seeks to provide a nuanced understanding of the UCC debate.

II. Historical and Constitutional Background

The roots of the UCC debate lie in the Constituent Assembly debates of 1948–49. Dr. B.R. Ambedkar strongly advocated for a common civil code, arguing that it was essential for national unity and gender justice. According to Ambedkar, personal laws rooted in religion perpetuated inequality and hindered social reform. Several members opposed this position, fearing it would infringe upon religious freedom and minority rights.

The compromise was to include the UCC in the Directive Principles rather than among the enforceable Fundamental Rights.^[2]

India's approach to personal laws was also shaped by the colonial legacy. The British followed a policy of non-interference in religious matters, allowing communities to retain their personal laws. This policy created a fragmented [legal](#) system in which Hindus, Muslims, Parsis, and Christians were governed by separate codes in matters of marriage, inheritance, and divorce.

The Constitution of India, adopted in 1950, sought to balance multiculturalism with secularism. Article 44 states: "*The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.*"^[1] Being a Directive Principle, however, it is non-justiciable — courts cannot compel the legislature to enact it. This constitutional design reflects the tension between aspirational goals and political realities.

III. Judicial Pronouncements in India

The judiciary has played a pivotal role in keeping the UCC debate alive. In *Mohd. Ahmed Khan v. Shah Bano Begum* (1985),^[3] the Supreme [Court](#) upheld the right of a divorced Muslim woman to maintenance under Section 125 of the Code of Criminal Procedure, 1973.^[4] The judgment sparked widespread protests from conservative Muslim groups but was simultaneously hailed as progressive. Under political pressure, the government enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986,^[5] diluting the effect of the judgment — highlighting the clash between political appeasement and judicial activism.

In *Sarla Mudgal v. Union of India* (1995),^[6] the Court dealt with the issue of Hindu men converting to Islam to practice polygamy. The Court condemned such misuse of personal laws and emphasized the need for a UCC to prevent exploitation. In *John Vallamattom v. Union of India* (2003),^[7] the Court struck down discriminatory provisions in the Christian inheritance law, reiterating the importance of the UCC.

In *Shayara Bano v. Union of India* (2017),^[8] the Supreme Court declared the practice of instant triple talaq unconstitutional, marking a significant step towards gender justice. In *Joseph Shine v. Union of India* (2018),^[9] the Court decriminalized adultery, reinforcing the principle of equality in personal relationships. These judgments reflect the judiciary's consistent push for reform even in the absence of legislative action.

A historic development was marked by the enactment of the Uttarakhand Uniform Civil Code Act, 2024^[10] — the first state-level UCC in India — covering marriage registration, divorce, inheritance, and live-in relationships. It provides a model for other states, although nationwide adoption remains uncertain.

IV. Challenges in India

India's religious diversity is the primary challenge to implementing the UCC. The personal laws of Hindu, Muslim, Christian, and Parsi communities differ significantly in matters of marriage, divorce, and inheritance. For instance, Muslim law permits polygamy under certain conditions, while Hindu law prohibits it. Hindu divorce law recognizes cruelty and desertion as grounds, while Christian divorce law historically required proof of adultery.

Gender justice is another pressing concern. Personal laws in many communities discriminate against women, particularly in matters of inheritance and divorce. Muslim women, for example, face unequal inheritance rights compared to men. Hindu women gained equal inheritance rights only after the Hindu Succession (Amendment) Act, 2005.^[11]

The UCC has also been stalled by political resistance. Political parties fear alienating minority communities — particularly Muslims, who view the UCC as an attempt to impose Hindu law. This perception has rendered the UCC a politically sensitive issue frequently used as a tool for electoral polarization. Social sensitivity further complicates the debate: personal laws are tied to cultural identity, and any attempt to reform them is perceived as an attack on religious autonomy. Balancing secularism with multiculturalism remains a delicate task.

V. Comparative Perspectives

A comparative study of France, Turkey, and Goa offers instructive lessons for India's UCC debate.

France: France adopted the Napoleonic Civil Code (1804), which applies uniformly to all citizens. Religion plays no role in civil matters such as marriage, divorce, and inheritance, which are governed entirely by secular law. This demonstrates how codification can strengthen equality and secularism.

Turkey: Under Mustafa Kemal Atatürk's reforms (1926), Turkey replaced Islamic Sharia law with an adaptation of the Swiss Civil Code. Marriage became a civil contract and polygamy was abolished. This demonstrates how decisive political will can overcome religious resistance.

Goa: Goa follows the Portuguese Civil Code (1867),^[12] which applies uniformly to all communities regardless of religion. This provides a working example of a UCC within India, balancing cultural respect with [legal](#) uniformity.

Unlike the relatively homogeneous societies of France and Turkey, India's pluralism complicates the adoption of uniformity. However, Goa's example demonstrates that a UCC is feasible within India if implemented with careful cultural adaptation. The absence of a phased roadmap and the risk of backlash from sudden imposition represent the core policy gap that must be addressed.

VI. Critical Analysis

The debate surrounding the UCC in India is not merely a matter of legal reform — it is a deeply layered issue that touches upon constitutional ideals, gender justice, religious identity, and political pragmatism. A critical analysis must therefore go beyond the binary of 'for' or 'against' and interrogate the complexities that have prevented its realization for over seven decades.

At the heart of the UCC debate lies the tension between secularism and multiculturalism. The Indian [Constitution](#) envisions a secular state in which laws apply equally to all citizens regardless of religion. At the same time, the framers recognized the importance of cultural autonomy and the protection of minority rights. This dual commitment has produced a paradox: while Article 44 calls for a uniform code, Articles 25–28 guarantee the freedom of religion.^[1] The challenge lies in reconciling these provisions without undermining either constitutional value. Scholars have argued that Indian secularism is not homogenizing but pluralistic — it accommodates diversity rather than erasing it. In this sense, a rigid imposition of the UCC could be seen as contrary to India's constitutional model of secularism.

In sum, the UCC debate is marked by constitutional paradoxes, gender justice concerns, judicial limitations, comparative lessons, and political sensitivities. A critical approach reveals that while the UCC is desirable for advancing secularism and equality, its implementation requires careful navigation of India's pluralism. The challenge lies not in whether to enact the UCC, but in how to enact it in a manner that respects diversity while advancing justice.

VII. Way Forward

Implementing a Uniform Civil Code in India is not merely a matter of legislative drafting — it requires a practical, gradual, and consultative process. The real challenge lies not only in the content of the law but in ensuring that people from all backgrounds perceive it as fair and willingly accept it. This demands a step-by-step approach, genuine dialogue with all stakeholders, and a clear commitment to gender justice as the central purpose of reform.

1. Phased Implementation: Rather than attempting comprehensive reform at once, the government can begin with areas of broad consensus — such as mandatory marriage registration, equal inheritance rights, and updated maintenance laws. These steps do not interfere with religious rituals but do advance fairness. Over time, this approach allows communities to adjust and creates the foundation for addressing more contested issues such as divorce and adoption law.

2. Consultative Process: Meaningful engagement with religious leaders, civil society organizations, women's groups, and legal experts is essential. The Law Commission of India's reports of 2018 and 2023^[13] have emphasized that the UCC should respect diversity rather than override it. A genuinely consultative process reduces the perception of the UCC as a majoritarian project and increases its legitimacy across communities.

3. Gender Justice as the Organizing Principle: The UCC must be framed primarily as a vehicle for gender equality rather than religious uniformity. Personal laws in many communities continue to disadvantage women in matters of inheritance and divorce. Framing the UCC as a fulfillment of the Constitution's equality guarantees — rather than as an attack on any religion — is essential to building cross-community support.

4. Learning from State-Level Models: The experiences of Goa's Portuguese Civil Code and the Uttarakhand Uniform Civil Code Act, 2024^[10] offer valuable models. If more states experiment with their own UCC frameworks, the country can identify what works before any nationwide implementation, reducing the risk of widespread resistance.

5. Public Awareness and Political Consensus: Many citizens continue to perceive the UCC as an instrument to impose Hindu law on other communities — a mischaracterization that public [legal](#) literacy programs can address. Equally important is political will: legislators must prioritize the country's long-term constitutional commitments over short-term electoral calculations.

VIII. Conclusion

The Uniform Civil Code remains one of the most enduring constitutional promises in India. For more than seventy years, it has been debated, deferred, and contested — yet it continues to occupy a central place in India's legal and political imagination. The UCC is not merely a legislative reform; it represents India's commitment to equality, secularism, and national unity. Its enactment would signal that every citizen is entitled to the same civil rights regardless of their religion.

The Constituent Assembly debates reflect how difficult it was to balance secularism with religious freedom. Dr. B.R. Ambedkar and his contemporaries believed a common civil code was essential for unity and gender justice, while others feared it would threaten minority rights. The eventual placement of the UCC in the Directive Principles — rather than the Fundamental Rights — illustrated how the framers sought to preserve the aspiration while acknowledging political reality. Over the decades, judgments in cases such as *Shah Bano*,^[3] *Sarla Mudgal*,^[6] and *Shayara Bano*^[8] have kept the debate alive, but courts can only interpret and urge — legislative action remains the exclusive domain of Parliament.

India's religious diversity, concerns about gender justice, and political sensitivities have together delayed the UCC. Yet these same factors make a common civil code necessary. Personal laws continue to treat women

unequally, and piecemeal reforms cannot address the systemic problem. The examples of France's Napoleonic Code, Turkey's civil law reforms, and Goa's Portuguese Civil Code demonstrate that uniform civil law is achievable. India's unique pluralism means the process must be gradual, consultative, and sensitive — but it need not be indefinitely deferred. The UCC is not about erasing diversity; it is about ensuring that diversity never becomes an excuse for discrimination. Its eventual enactment would be a decisive step toward making India a more just and genuinely secular nation.

References

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- [13] Law Commission of India, Consultation Paper on Reform of Family Law (2018); Law Commission of India, Report No. 283 (2023).