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A Comparative Study on Goa Common Civil Code and Uttarakhand Uniform Civil Code

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ABSTRACT

A uniform civil code comprises of comprehensive laws which are prescribed in the personal law and family matters viz., marriage, inheritance and property rights with uniformity throughout the country. In this land resides such diverse population that one of the important roles they serve is framing laws in civil codes of uniformity spirit. The civil codes of Goa and Uttarakhand have a particularly unique history, and very commonly set out from that history, for it is based on common cultural and historical backgrounds. About Goa's civil code in this article, this is what was taken as a combination of Indian and European laws about marriage and divorce and property of the people. Yet it was also proved that Uttarakhand had the uniform civil code, which was in compliance with what specific requirements its resident required, like she had provisions as regards women rights over their property as well as over their inheritance. In this article, the author shall present similarities and differences on how these two states have approached development. It is also contrasted and elucidated Uniform Civil Code bill that is at present under operation in varied States of India. It touched upon the landmark judgments which shaped up the debate over the Uniform Civil Code and the bearing on issue of gender justice and in the matter of rights of inheritance. Further, as the study strikes a balance between individual's freedom and social harmony, a complex relationship is analyzed between Uniform Civil Code, secularism and the problems in the implementation of a Uniform Civil Code.

Keywords: Uniform Civil Code, Uttarakhand Uniform Civil Code, Goa Common Civil Code, Personal Laws, Marriage, Inheritance, Property Rights, Gender Justice, Secularism.

I. INTRODUCTION

BACKGROUND OF UNIFORM CIVIL CODE (UCC) IN INDIA

During the British colonial period that the idea of uniform civil code in India took roots as the British supplied various personal rules for different religious groups. On this point, however, it was a necessary modification of the laws of the day, that one body of laws should be applied to the personal laws. The decision to include a UCC in the Constitution was taken by the Indian

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Constitution's founders, who included it in Article 44 of the Directive Principles of State Policy and noted that the state must provide for a common civil law for all the faiths³. Successive administrations have failed to enact a countrywide UCC in spite of this constitutional duty because of sociopolitical sensitivities and the strong resistance from religious organizations⁴. Legal complications and court interventions to make personal laws gender-free have arisen as a result of the diverse rules that religious groups have regarding marriage, divorce, inheritance, and adoption⁵. This is apparent from the cases of the Shah Bano and Sarla Mudgal (1985 and 1995 respectively) which spoke about the dilemma between the personal laws relating to the state of the women and the need for reformation⁶.

Attempts to create a UCC are opposed by religious and political organizations, whose opposition is because they believe a UCC would undermine their right to maintain their cultural or religious autonomy. The Hindu Code Bill (1955–56) was a major step towards legal consistency in respect of adoption, marriage, and succession, as it changed the Hindu personal rules. It has reinforced the diversity of India's legal system by keeping aside Muslim, Christian, and Parsi personal laws unaffected. As in *Lily Thomas v. Union of India* (2000), it had stressed the need for a unified legal system to avoid the use of personal laws like bigamy and polygamy, where the men attempt to restrict the rights of their wives. The Law Commission of India, in its 2018 report, proposed that the personal laws should be changed rather than the right to a UCC for a progressive and inclusive approach to legal consistency. One instance of such a made UCC having its viability in the Indian legal system is the Goa Civil Code, which is a Portuguese hangover. At times this political debate on UCC has been divisive, since different governments have different opinions as to how it should be implemented. Championing a UCC on the basis of national unification and gender fairness, the BJP-led government has been pushing for it⁷. However, minority organizations and political parties maintain that UCC would weaken India's secular fabric by impairing the individual laws that protect religious pluralism⁸. Though legislative efforts to create a UCC for Uttarakhand have been intermittent, it is the first Indian

³ Shamim Ahmad Ansari, Uniform Civil Code in India: A Comprehensive Analysis, 10 INT'L J. APPLIED RSCH. 106, 106-110 (2024).

⁴ Pardeep Inder Kaur, Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives, 24 INT'L J. NEW RSCH. DEV. 1, 1-24 (2024).

⁵ Shraddha Oberoi & Ruchi Sapahia, Comparative Analysis of Uniform Civil Code in India and Foreign Countries, in LEGAL EDUCATION IN INDIA 1, 1-50 (2023).

⁶ M.S. RATNAPARKHI, UNIFORM CIVIL CODE: AN IGNORED CONSTITUTIONAL IMPERATIVE 1-401 (Deep & Deep Publications 2018).

⁷ Pardeep Inder Kaur, Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives (2020) (unpublished dissertation, Punjabi University, Patiala).

⁸ Peter Ronald Desouza, Politics of the Uniform Civil Code in India, 50 ECON. & POL. WKLY. 50, 50-57 (2015).

state to establish a contemporary UCC⁹. Legislative consistency is considered a common example in the Special Marriage Act of 1954 that allows interfaith marriages under a secular format without influence on private laws. The Indian court made sure to reaffirm to ensure social agreement and inclusion that a UCC should be gradually realized rather than forced, much so in *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*¹⁰.

Great debate prevails over the road of UCC today because it is a hard road to balance an individual's rights and the peace of the community. Feminist legal academics argue that a UCC, as a form of legislation regulating women's rights, is indispensable within such a society where women's rights are suppressed by religious law. However, some of them suggest that there can be destabilizing social and political socio-legal impacts of a rapid deployment, which adds a need for a gradual, dialogue-based approach. There are positive examples of success despite the concern of regional diversity and religious opposition, as the Goa Civil Code has been successful and recently adopted in Uttarakhand. A comparative study with other countries that have already adopted civil codes, i.e., France, Turkey, and Tunisia, underlines the need for state efforts to ensure the legality and respect of religious liberties. And in the end, the UCC is a constitutional goal at the end, but it is never put into effect without doing it right, carefully, with legislative drafting, with agreement, and with backing from the bench.

SIGNIFICANCE OF COMPARATIVE ANALYSIS IN LEGAL STUDIES

Comparative analysis is an absolute necessity in the study of law to understand and to assess all the legal systems that are in place worldwide¹¹. Exposure to the fundamental principles to uncover and get best practices by methodically analyzing the laws of other countries may help to facilitate culturally sensitive and successful legal changes for the scholars and the practitioners alike. It contributes to the harmonization of rules in the context of the ever more intertwined world and the comprehension of one's own legal system¹². Such a use would be to study the handling of human rights issues and the risk that universal standards are applied by the different countries. It is also a comparative analysis, which, in addition, helps in legal unification in areas like international commerce, as in such areas legal unity is needed to avoid difficulties regarding international communications and international transactions¹³. Because it

9 Sonam Singh, *Uniform Civil Code in India: Urgent Need of Hour for Harmonization* (2023) (unpublished dissertation, Baba Mastnath University, Rohtak).

10 Pallavi Singh & Vivek Kumar, *Need of Uniform Civil Code and Its Prospective Challenges*, 5 SHODHKOSH 1702 (2024).

¹¹ Md. Zahidul Islam & Moin Uddin, *The Important Role of Comparative Legal Research*, 9 J. ASIAN & AFR. SOC. SCI. & HUMAN. 31, 31-43 (2023)

¹² Hugh J. Ault & Mary Ann Glendon, *The Importance of Comparative Law in Legal Education: United States Goals and Methods of Legal Comparisons*, 27 J. LEGAL EDUC. 599, 599-608 (1975).

¹³ Jens Christian Dammann, *The Role of Comparative Law in Statutory and Constitutional Interpretation*, 14 ST.

expands the range of the legal education's students' and professionals' comprehension of the many faces of justice and equality, it is also key in legal education. Comparative analysis makes a more just and efficient legal framework for the rest of the world through the comparison of legal systems. While this approach could also be used in the real world to impact legislative drafting and policy options and enlighten a certain scholarly debate¹⁴. In effect, comparative analysis can be useful in approaching across legal cultures for improving communication between the parties, expanding the matter of legal creativity, and new suggestions under the concern of the global horizon.

II. HISTORICAL EVOLUTION AND LEGISLATIVE CONTEXT

The discussions on India's Uniform Civil Code (UCC) are a complex web of historical occurrences, constitutions, and colonial legacies. However, Goa, to my mind, was a special example governed by a uniform civil code under the Portuguese colonial authority¹⁵. Goa's personal laws relating to marriage, divorce, and inheritance remain under this personal law, although the states that follow religion-based personal law in the country go under this code¹⁶. Since then, Uttarakhand's attempt at UCC has raised the question of achieving a balance between cultural diversity and legal uniformity. As an alternative, the insights into the realities of establishing a UCC in India can be gained from the newly developed frameworks in Uttarakhand states. This discussion analyzes Goa's civil code in relation to the historic Portuguese origin and the way that it has been blended into the Indian legal system.

GOA COMMON CIVIL CODE: HISTORICAL DEVELOPMENT

Goa's legal system is said to be derived from the Portuguese colonial government because the Portuguese Civil Code of 1867 had been extended to its overseas colonies, which included Goa in 1870¹⁷. This thorough code received a hearty welcome from the local populace, who liked this methodical explanation of civil law with its fairness and uniformity. It worked well in complementing what they needed to do every day. The code became accredited with laying its many parts in a relative informality and enhancing Goa's society's cosmopolitan character¹⁸. Together, the Portuguese in 1880 passed the Gentile Hindu Usages Decrees to accommodate

THOMAS L. REV. 513 (2002).

¹⁴ A.V. Yudina, Objects, Purposes and Levels of Comparative Legal Studies, RUDN J. L. 129 (2014).

¹⁵ GOVERNMENT OF GOA, PORTUGUESE CIVIL CODE (Official Translation, 2018).

¹⁶ Sharksoflaw, Uttarakhand Uniform Civil Code (UCC), LEGAL SERV. INDIA, <https://www.legalserviceindia.com/legal/article-20194-uttarakhand-uniform-civil-code-ucc-.html> (last visited Mar. 30, 2025).

¹⁷ GOVERNMENT OF GOA, PORTUGUESE CIVIL CODE (Official Translation, 2018).

¹⁸ Incredible Goa, Everything You Wanted to Know About Uniform Civil Code in Goa, INCREDIBLE GOA (2024), <https://www.incrediblegoa.org/uniform-civil-code-go> (last visited Mar. 30, 2025).

regional traditions, with some particular relevance to the Hindu population. These ordinances acknowledged certain customs, including the Hindu joint family structure as well as the allowance of adoption or polygamy in specified circumstances¹⁹. The effect of this strategy was to show how to combine it with uniform civil law and respect for indigenous customs. The Indian government chose to get rid of the existing civil code because it was progressive in character and reiterated in different peoples in case the time Goa was freed and included inside India in 1961. This ruling upheld the very fundamentals of the code, which were followed as personal laws in Goa to this day.

UTTARAKHAND UNIFORM CIVIL CODE: LEGISLATIVE CONTEXT

The adoption of the Uniform Civil Code (UCC) in the recent past by Uttarakhand has caused tremendous change in India's legal system by bringing in a major reform in the personal laws within the communities of the state²⁰. This is based on this as a justification for this legislative action to discharge the objective of being on an equal footing and without fairness in private affairs, like the cases of marriage, divorce, and cohabitation, as well as inheritance, with no religious connection²¹. Chief Minister Pushkar Singh Dhami said that UCC will further give a marginalized status to women's rights and will also end historical injustice to women. The Bharatiya Janata Party (BJP) has said publicly for a long time now that the idea of such a union of the UCC of personal rules furthers national unification and gender equity in the premises and thus has political motives to adopt it in the Uttarakhand case²². As such, it was the first such consensus the legislative assembly of the state ever adopted in independent Indian history and was a precedent that others could learn from. On the move, there has, however, been some debate about it. Some criticized the idea that UCC would serve as a vehicle for someone to be a part of minority groups and manifest their laws and religious practices. It has also been criticized, however, for possible impact on cultural diversity and the rights of religious groups experimenting at personal self-governance. This is an example of the Supreme Court's dilemma of giving jurisdiction to the UCC while excluding Scheduled Tribes, which emphasizes how the implementation of such a code could be a big challenge if the country is multicultural. The Uttarakhand deployment of the UCC has reignited national debates over whether to pursue a

¹⁹ Goa Civil Code, WIKIPEDIA, https://en.wikipedia.org/wiki/Goa_Civil_Code (last visited Mar. 30, 2025).

²⁰ Anushka Swaroop, UCC: A Step Towards National Integration - Uttarakhand's Experience and Beyond, 8 INT'L J. L. MGMT. & HUMAN. 45, 45-62 (2023).

²¹ Uniform Civil Code in Uttarakhand: An In-depth Analysis, DHYEYA IAS (Feb. 15, 2023), <https://www.dhyeyaias.com/current-affairs/perfect-7-magazine/uniform-civil-code-in-uttarakhand> (last visited Mar. 30, 2025).

²² Uttarakhand Uniform Civil Code (UCC), LEGAL SERV. INDIA (Feb. 2023), <https://www.legalserviceindia.com/legal/article-20194-uttarakhand-uniform-civil-code-ucc-.html> (last visited Mar. 30, 2025).

national code of the UCC for the whole country. How Uttarakhand fared in effecting the UCC will probably be a case study for all other states that contemplate such legislation. On the one hand, it is perceived as a step forward toward modernity and equality, and on the other, it could be used to support the majoritarian aspirations in terms of the political instrument.

KEY JUDICIAL PRONOUNCEMENTS IMPACTING BOTH CODES

The conversation around the Uniform Civil Code (UCC) in India has been influenced by numerous court rulings that place a huge stress on the difficulties and necessities of setting up such a code. This seminal case perhaps provided the setting for the Supreme Court to nail its head on how important a UCC is to ensure gender equality. *Ahmed Khan v. Shah Bano Begum*, 1985²³. The court lamented that the Constitution's Article 44, which requires a UCC, had become 'a dead letter' and urged the government to enact it. In 1995, *Sarla Mudgal vs. Union of India* turned the focus on conflicts arising out of personal laws with respect to marriage and conversion²⁴. The court needed this UCC in order to further create national unity and to avoid such disputes and had urged the government to make it a reality. Likewise, in the same vein, in *John Vallamattom v. Union of India* (2003)²⁵ It also emphasizes that many of the personal laws supportive of discrimination and in conflict with the Constitution only took discriminatory laws in the name of religion.

In July 2021, the Delhi High Court supported the need for a UCC and stated caste, religion, and community boundaries go on vanishing away with the advancement of Indian society. The court also said that the hope that should be signaled in Article 44 should not be merely a dream and the only responsibility of the central government was to take these necessary steps. In November 2021, the Allahabad High Court also demanded a UCC in the current age; it had asked that the federal government form a committee to fulfill the objective of Article 44.

These court rulings show the judiciary's constant validation of the importance of a UCC in the path of justice and equality. In the same vein, they both recount the difficulties and sensitivity of implementation in India's heterogeneous religious and cultural milieu. A lot of emphasis has been placed by the courts that the UCC is a good thing because its implementation needs to be done very carefully so that it does not destroy the unity of the country.

III. COMPARATIVE ANALYSIS: GOA VS. UTTARAKHAND CIVIL CODES

MARRIAGE AND DIVORCE LAWS

²³ Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945.

²⁴ Sarla Mudgal v. Union of India, AIR 1995 SC 1531.

²⁵ John Vallamattom v. Union of India, AIR 2003 SC 2902.

Goa's marriage laws follow the Portuguese Civil Code of 1867, based on which a compulsory marriage registration was mandatory, and there is uniformity in the law, irrespective of faith²⁶. Quite different from this are the religious personal laws that are common in other Indian states where marriage laws are decided by the process of faith-based practice. However, in contrast with the mentioned UCC, aims at eliminating religious variances and unifying laws regulating divorce, molar marriage, and marital rights through a similar universal registration system²⁷. The Uttarakhand model can be one progressive feature of Goa's legal system in the sense that it allows both couples access to divorce as well as alimony. Whereas historically, there was a consistent system in Goa, being the first state to implement UCC, people dealing with legal experts say that Uttarakhand's implementation of UCC has been faced with hurdles like opposition from religious groups²⁸.

PROPERTY RIGHTS AND INHERITANCE

While succession rules based on religion are the norm elsewhere in Indian states, Goa's Civil Code's inheritance laws, as with these rules, distribute property equitably among successors, regardless of gender or religion. Unlike other Hindu and Muslim inheritance laws, the rule assures a couple of joint ownership of marriage property. As per the reports, this model is an inspiration for the UCC draft of Uttarakhand, which is driven to eliminate gender biases embedded in the religion's personal law and provide women equality of property rights. But the praiseworthy thing in this modern approach; it is also the case in Goa where the same normative standards were developed in the Portuguese legal system several centuries ago, as some legal experts term, there sure is a place in the legislation of Uttarakhand as well so as to make an equilibrium between the contemporary inheritance norms and traditional family structure.

SECULARISM VS. CUSTOMARY PRACTICES

There is no doubt about Goa's civil code as it was often intriguing as an exposition of secular law worked in the secular law for all faith sects. However, under certain circumstances, certain traditional practices, for example, restricted polygamy for Hindus, remain. Passage of Uttarakhand's UCC is caught in the political atmosphere, and therefore it is wound around

²⁶ Dário Moura Vicente, Family Law in Goa After the Act of 2012: Key Concepts in the Portuguese Civil Code of 1867 and the Code of Gentile Hindu Usages and Customs of 1880 (2020) (unpublished manuscript, University of Lisbon).

²⁷ Vijeta Poulekar, Marriage and Divorce Law in Goa Civil Code, ESAMSKRITI (2022), <https://www.esamskriti.com/e/Culture/Indian-Culture/Marriage-and-Divorce-Law-in-Goa-Civil-Code-1.aspx> (last visited Mar. 30, 2025).

²⁸ Uttarakhand Becomes First State to Implement Uniform Civil Code (UCC), VAJIRAM & RAVI (Feb. 8, 2023), <https://www.vajiramendravi.com/current-affairs/uttarakhand-ucc> (last visited Mar. 30, 2025).

questions surrounding how religious minorities may react to it, given that it is reportedly a secular legal framework.

Table 1: Comparative Legal Framework of Goa and Uttarakhand Civil Codes ²⁹

Aspect	Goa Common Civil Code	Uttarakhand Uniform Civil Code
Legal Origin	Derived from Portuguese Civil Code of 1867	Enacted based on constitutional directives and UCC debates
Marriage Laws	Mandatory civil registration for all communities	Uniform registration system, with provisions for customary laws
Divorce Provisions	Governed by secular laws with equal rights for both spouses	Equal divorce rights, aiming for gender neutrality
Inheritance & Property	Equal property rights for men and women; joint ownership for spouses	Strengthened inheritance rights for women, ensuring gender justice
Religious Impact	Applies to all citizens irrespective of religion	Balances uniformity while allowing limited customary practices
Judicial Oversight	Implemented through local civil courts	Legal provisions enforced through a newly established civil framework
Implementation Challenges	Resistance from religious groups, need for modernization	Balancing religious diversity with uniformity, need for public acceptance
Impact on Gender Justice	Ensures gender equality in marriage and inheritance	Strengthens women's rights but faces resistance from conservative groups

²⁹ Vishakha Khatri, Uniform Civil Code (UCC): Goa vs Uttarakhand, THE LAW GIST (Mar. 15, 2023), <https://www.thelawgist.com/uniform-civil-code-go-a-vs-uttarakhand> (last visited Mar. 30, 2025).

GENDER JUSTICE AND EQUALITY

The Uniform Civil Codes (UCC) of Goa and Uttarakhand make the matter complex when it comes to gender justice and equality. A communion of assets system based on the Portuguese Civil Code of 1867 governs the UCC, where all property acquired by spouses after permission is held as a joint possession, and there are equal inheritance rights for men and women under this UCC system³⁰. And yet, even these modern measures have not been enough to bury these old traditions. Among the various ways gender discrimination is practiced, the Code of Gentile Hindu Usages and Customs of Goa, which allows bigamy subject to conditions, for example, when the first wife has no son by the age of 30 or a child by the age of 25, is an example³¹.

But, the new Uttarakhand UCC also wants that there should be no gender bias on any question of personal law such as marriage, divorce, adoption and inheritance, eliminating the blunder of three apparently different enactments on a single proclamation. This means that, speaking further, the code has also disallowed such customs as polygamy and brothers and sisters have been given the same rights of inheritance, which entails a very important progress towards gender equality. Some clauses have been discussed, however. How live in relationships should be registered and how it entails the matter of personal privacy and autonomy is also discussed. Such policies as they are criticized as well because they have potential to curtail the autonomy of those women and to subject them to social scrutiny.

On the other hand, the civil law standards in the US have already been subject to the effort of UCC in both states to reach a compromise between the defence of individual rights and the standardization of civil laws. Some of the (perhaps some old) laws are practiced in Goa, but they are also charged with the prerogative to note laws that, even if not new ones, need to be adapted with laws that may be invasive, like in Uttarakhand. They, however, need to be assessed and talked about so that neither loss of justice nor equality to all people is witnessed.

IV. UNIFORM CIVIL CODE IMPLEMENTATION IN OTHER STATES

PENDING UCC BILLS IN VARIOUS STATES: STATUS AND DEBATES IN INDIAN LEGISLATURES

The debate over the adoption of a Uniform Civil Code (UCC) in Indian state legislatures has been hot. However, this is yet to be implemented by other governments and Uttarakhand was

³⁰ FLAVIA AGNES, *LAW AND GENDER INEQUALITY: THE POLITICS OF WOMEN'S RIGHTS IN INDIA* (Oxford University Press 1999).

³¹ ARCHANA PARASHAR, *WOMEN AND FAMILY LAW REFORM IN INDIA: UNIFORM CIVIL CODE AND GENDER EQUALITY* (Routledge 1992).

the first state to do so. For instance, Gujarat and Himachal Pradesh have similar proposals to make UCC statutes profitable with personal laws of different faiths for promoting equality and secularity. These attempts are heated by discussions in favor of the UCC for it promises national integration, gender equality and hatred in the name of UCC while against it will violate cultural customs and religious liberty. Governmental agreements fall very hard because India's multicultural culture becomes very intricate in and of itself; and due to the intricacy of India's multicultural culture; most governments choose to be safe and cautious, taking the path of diversity. This is the change in the conversation when legislative authorities still are trying to balance the rich variety of the nation, and the law should be in accordance with civil laws.

STATE-LEVEL VS. NATIONAL-LEVEL UCC: DIFFICULTIES IN ESTABLISHING A COMMON LEGAL FRAMEWORK

One of the many is the problem of the adoption of a state level or national Uniform Civil Code (UCC) by the state, a problem which illustrates the problems in building up a unified legal system in the India. The national UCC works towards unity and equality because many people normally lead by the same personal laws in all states³². Critics however claim that applying this approach could result in resistance because other groups may not concur with this choice on account of local, cultural and religious practices. State level UCCs like that in Uttarakhand do offer such an opportunity of making local laws but still there is a scope for divergence in a country. In a country like India with a high level of multiculturalism, the question arose regarding the viability of a one-size-fits-all legal system³³. What makes this difficult is the challenge to achieve balance between India's multicultural makeup, which needs to be respected and accommodated, and the constitutional requirement of uniformity.

SUPREME COURT AND HIGH COURT INTERPRETATIONS OF JUDICIAL PRECEDENTS' EFFECT ON UPCOMING UCC LAW

The real impact of this ruling has been on the discussion of Uniform Civil Code (UCC) in the Indian judicial. The Supreme Court promoted the UCC in its seminal case *Mohd. Ahmed Khan v. Shah Bano begam*, 1985 to ensure gender justice as well as gender equality³⁴. In similar vein the Court stressed the necessity of a UCC to decide the disputes arising out of the personal laws in *Sarla Mudgal v. Union of India* (1995) More particularly with respect to bigamy and other

32 Pardeep Inder Kaur, *Towards a Uniform Civil Code in India: Challenges, Prospects, and Stakeholder Perspectives* (2019) (unpublished manuscript, Punjabi University, Patiala).

33 Mohammad Nasir & Maimuna Siddiqui, *Is UCC a State Issue or a National One? Uttarakhand vs the Constitution*, THE PRINT, Feb. 4, 2025.

34 TAHIR MAHMOOD, *PERSONAL LAWS IN CRISIS: A CASE FOR UNIFORM CIVIL CODE* 78 (N.M. Tripathi Pvt. Ltd. 1986).

abuse of religious conversion for marriage, etc.³⁵. The rulings indicate that the court considers the UCC to be a means for promoting social justice and national unity. However, the implementation of a UCC fits into its legislative sphere as it poses a combination of legislative action and contrary judicial interpretation as it stands in India's legal system.

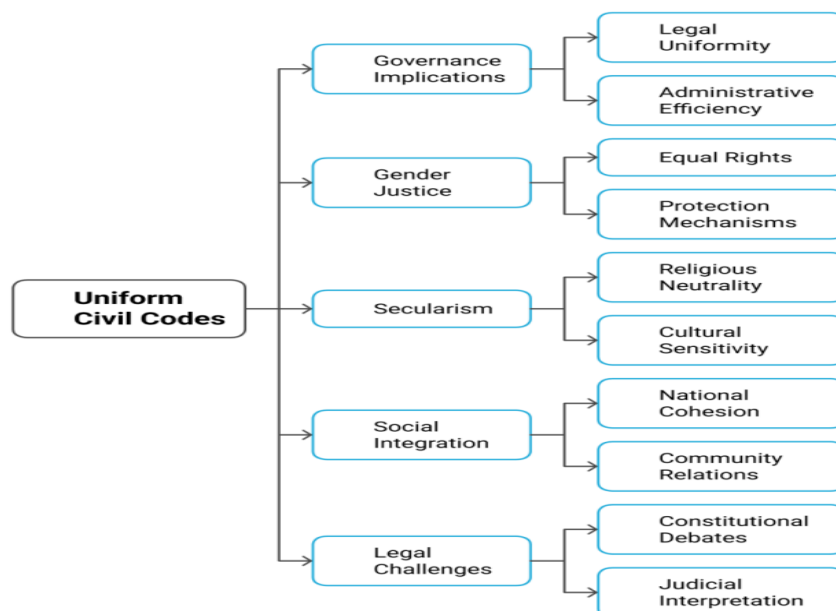


Figure 3: Legal and Social Implications of Goa and Uttarakhand Civil Codes³⁶

V. CHALLENGES IN IMPLEMENTATION OF UCC

CONSTITUTIONAL AND LEGAL HURDLES

Significant constitutional and legal obstacles lie between the adoption of the India Uniform Civil Code (UCC), particularly since equating religious liberties and basic rights with the goal of ensuring legal uniformity is difficult. Article 44 of the Directive Principles of State Policy directs the formation of a UCC to ensure equality and integration of the nation, but Article 25 of the Indian Constitution has been made expressly for the protection of religious freedom, consenting to communities observing their personal laws³⁷. In notable cases such as *Shah Bano v. Union of India* (1985) and *Sarla Mudgal v. Union of India* (1995) This inherent contradiction has drawn legal discussions and judicial interventions, but the need for a UCC has been underlined by the Supreme Court, which acknowledges this being quite a complicated issue³⁸.

³⁵ FAIZAN MUSTAFA, *UNIFORM CIVIL CODE: A CONSTITUTIONAL PERSPECTIVE* 45 (Oxford University Press 2018).

³⁶ VRINDA NARAIN, *RECLAIMING THE NATION: MUSLIM WOMEN AND THE LAW IN INDIA* (University of Toronto Press 2008).

³⁷ M.P. JAIN, *INDIAN CONSTITUTIONAL LAW* 98 (Kamal Law House, 5th ed. 1998).

³⁸ B. SHIVA RAO, *THE FRAMING OF INDIA'S CONSTITUTION: A STUDY* 205 (Universal Law Publishing Co., 2d ed. 2004).

Moreover, India's lack of legislative agreement as well as lack of agreement upon what exactly constitutes secularism regarding gender justice and equality makes it challenging to write an inclusive code that respects India's cultural traditions³⁹. Any efforts to ensure the implementation of a UCC ought to think. Additionally, the court precedents have placed emphasis on the slow and consultative implementation of policies rather than spontaneously turning out laws.

SOCIAL AND POLITICAL CHALLENGES

UCC implications for the achievement of political objectives, religious feelings, and communal identity, the UCC argument is not merely a legal point; it is also a very socially political one. A number of minority groups, especially Muslim and Christian organizations, are strongly opposed to the UCC because they believe it violates their cultural sovereignty⁴⁰. Moreover, political parties have opinions on the UCC, though much tends to be coordinated on the ground of vote bank rather than of law. For instance, while some regional parties favor the UCC as a first step towards national unity, others, especially those in non-Christian and non-Hindu areas, embrace it with great vigor as it will decompose minority religious and ethnic communities⁴¹. And public discussion and demonstration to highlight fears of religious traditions as they deteriorate show social opposition. However, for the issues to be addressed and for the transition to a UCC to be an inclusive process, which also takes into account the opinions of precisely all the societal segments, the involvement of the stakeholders and the public awareness are crucial⁴².

BALANCING SOCIAL HARMONY WITH INDIVIDUAL RIGHTS

The UCC has a strike between a need for communal peace and an individual right. A balanced framework of gender equity and equal rights must be able to address the cultural uniqueness of India's multicultural culture. Legislative revisions do have the capability to be imposed in a one-size-fits-all approach that can alienate minority populations and produce social upheaval⁴³. Some of the academics have, in fact, supported the progressive extension of UCC not by

³⁹ Vajiram Editor, Uniform Civil Code, Meaning, Arguments in Favour and Against, VAJIRAM & RAVI (Jan. 25, 2025), <https://www.vajiramendravi.com/current-affairs/uniform-civil-code-meaning> (last visited Mar. 30, 2025).

⁴⁰ India Today, Uniform Civil Code Debate: India Ready For Uniform Civil Code? One Nation, One Law?, YOUTUBE (Jun. 16, 2023), <https://www.youtube.com/watch?v=xxxxxxxxxxx>.

⁴¹ ASHA BAJPAI, CHILD RIGHTS IN INDIA: LAW, POLICY, AND PRACTICE 78 (Oxford University Press, 2d ed. 2003).

⁴² WERNER MENSKI, COMPARATIVE LAW IN A GLOBAL CONTEXT: THE LEGAL SYSTEMS OF ASIA AND AFRICA 412 (Cambridge University Press 2006).

⁴³ Uniform Civil Code in India: Balancing Equality and Religious Freedom, LEGAL MGMT. BLOG (Mar. 1, 2025), <https://www.legalmgmt.com/blog/uniform-civil-code-india> (last visited Mar. 30, 2025).

compulsion but by consensus building in a free and voluntary manner⁴⁴. Starting from acceptance of UCC as voluntary acceptance. With a modicum of public involvement and flexibility, it is possible to have legal uniformity along with cultural variety in Goa's Common Civil Code. Therefore, the government has to ensure that the shift towards UCC is participatory and the views of all parties, in particular the vulnerable populations, are considered to prevent the widening of the socioeconomic gaps⁴⁵.

Table 2: Conceptual Model for Balancing Individual Freedom and Social Harmony in UCC Implementation⁴⁶

Key Aspects	Individual Freedom	Social Harmony	Balancing Mechanisms
Legal Framework	Protection of fundamental rights under Article 25	Directive Principles advocating UCC (Article 44)	Gradual, consensus-based legislative approach
Religious Freedom	Autonomy in personal laws for communities	Avoidance of legal fragmentation	Optional adoption and phased enforcement
Gender Justice	Equal rights in marriage, divorce, and inheritance	Resistance from conservative religious groups	Inclusion of gender-sensitive legal reforms
Judicial Precedents	Landmark rulings emphasizing individual rights	Courts balancing religious rights and legal uniformity	Progressive interpretation of personal laws
Political Considerations	Secular governance and non-interference in religious matters	Political resistance from minority communities	Consultative policymaking involving stakeholders
Implementation strategy	Ensuring voluntary compliance and adaptation	Ensuring non-discriminatory legal provisions	Public awareness campaigns and education initiatives

⁴⁴ Y. Ghosh & A. Chakraborty, Secularism, Multiculturalism and Legal Pluralism: A Comparative Analysis Between the Indian and Western Constitutional Philosophy, 7 ASIAN J. LEGAL EDUC. 73, 73-81 (2019).

⁴⁵ P. SHAH, LEGAL PLURALISM IN CONFLICT: COPING WITH CULTURAL DIVERSITY IN LAW 80 (Routledge-Cavendish 2016).

⁴⁶ Ananya Varma & Yatan Sharma, Uniform Civil Code: Divide or Unite?, INDIAN POL'Y F. (Mar. 13, 2020), <https://www.indianpolicyforum.org/articles/uniform-civil-code-divide-or-unite> (last visited Mar. 30, 2025).

VI. CONCLUSION AND RECOMMENDATIONS

With the just-floated Uttarakhand Common Civil Code, it becomes evident how difficult it is to apply a unified personal law system in the country. What stationing the standardized civil code is on in the life world of Goa (one of the ethnic regions) is the Portuguese legal traditions are its long-standing. Uttarakhand's UCC described the modern attempt of bridging the sociopolitical lease with the personal laws. Secular interest should be clung to while the various traditions and customs should not be neglected; the gender issues should be made equitable, and the balance between the individual rights and communal peace should be maintained, the research too points out.

RECOMMENDATIONS FOR POLICY FORMULATION

Policymakers remember that they wish to implement UCC step by step so that communities could adapt also in steps. A way to resolve issues and make it broader and applicable is to help a collaboration procedure of legal professionals, religious academics, and civil society representatives. Given the importance of the extra care to the gender justice of the new legal frame that must not be in the values of equality and non-discrimination, the latter should be taken into consideration. Also, such provisions should be specific to protect the rights of the minorities and prevent the interference by any person with the UCC process.

Future Research Directions on UCC in India

For instance, investigations are required to investigate the socioeconomic impacts of the implementation of UCC in various communities by probing through the effects of personal uniform laws on property rights, marriage, and inheritance. Specifically, information about nations with similar legal systems 'effectively' put into practice can be useful when doing comparative research. Furthermore, it would also be of interest to see empirically the extent of how much of the Indian public would be ready to accept the UCC and the changes it will throw up. Future studies should also focus on what are the results, for constitutional principles, of judicial interpretations of UCC clauses (of which some concern basic rights, others freedom of religion).
