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Practicality of Uniform Civil Code

ISHAAN UDAY¹ AND HEMANG NAGPAL²

ABSTRACT

The Uniform Civil Code (UCC), as envisioned under Article 44 of the Indian Constitution, proposes a single, unified legal framework to govern personal laws related to marriage, divorce, inheritance, and property—irrespective of religious affiliations. Historically, the idea of a uniform legal system can be traced back to the Lex Loci Report of 1840, which recommended the codification of laws concerning crimes, contracts, and evidence. However, the British colonial administration deliberately excluded Hindu and Muslim personal laws, reinforcing the policy of “divide and rule.”

The essence of the UCC lies in ensuring legal equality and justice by eliminating discriminatory practices embedded within religious personal laws. However, despite being enshrined in the Directive Principles of State Policy (DPSP), the UCC remains a constitutional aspiration rather than a binding law. The challenge of implementing a uniform civil code in a nation as culturally and religiously diverse as India is immense, requiring a delicate balance between legal uniformity and social harmony.

This paper critically examines the feasibility, challenges, and implications of drafting and implementing the Uniform Civil Code in India. It explores whether a truly just and inclusive UCC can be framed—one that upholds the principles of secularism, equality, and individual rights while being sensitive to India's pluralistic ethos.

I. INTRODUCTION

The Uniform Civil Code (UCC), as envisioned under Article 44 of the Indian Constitution, proposes a single, unified legal framework to govern personal laws related to marriage, divorce, inheritance, and property—irrespective of religious affiliations. Historically, the idea of a uniform legal system can be traced back to the Lex Loci Report of 1840, which recommended the codification of laws concerning crimes, contracts, and evidence. However, the British colonial administration deliberately excluded Hindu and Muslim personal laws, reinforcing the policy of “divide and rule.”

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¹ Author is a Student at Gujarat National Law University, Gandhinagar, India.

² Student at Gujarat National Law University, Gandhinagar, India

constitutional aspiration rather than a binding law. The challenge of implementing a uniform civil code in a nation as culturally and religiously diverse as India is immense, requiring a delicate balance between legal uniformity and social harmony.

This paper critically examines the feasibility, challenges, and implications of drafting and implementing the Uniform Civil Code in India. It explores whether a truly just and inclusive UCC can be framed—one that upholds the principles of secularism, equality, and individual rights while being sensitive to India's pluralistic ethos.

II. HISTORICAL & LEGAL BACKGROUND

A. Pre-independence UCC need

The origin of the UCC dates back to colonial India when the British government submitted the 2nd Law Commission Report 1835, influenced by the views of J.H. Harington.³ *“In their Second Report the Commission examined the problems of Lex Loci and codification and came to the conclusion that ‘what India wants is a body of substantive civil law, in preparing which the law of England should be used as the basis, but which, once enacted, should be the law of India on the subject it embraced. And such a body of law, prepared as it ought to be with a constant regard to the condition and institutions of India, and character, religions, usages of the population, would, we are convinced, be of great importance to that country.’”*

It stressed the need for uniformity in the codification of Indian law relating to crimes, evidence, and contracts, specifically recommending that the personal laws of Hindus and Muslims be kept outside such codification since they derived authority from their respective religions. Thus, the idea of a Uniform Civil Code for India was laid which simply excluded matters of personal laws such as marriage, divorce, inheritance etc. This principle of Non-Interference was reiterated in 1858 by Queen Victoria,⁴ who in her proclamation promised the people of India absolute non-interference in religious matters. However, due to certain movements made by progressive sections of British-ruled India and Women's organisations in India, the Britishers had to enact laws aimed at reviving Hindu Women from a disadvantaged position. These laws included Hindu Widow Remarriage Act of 1856, Married Women's Property Act of 1874, Hindu Inheritance (Removal of Disabilities) Act of 1928 and Hindu Women's Right to Property Act of 1937. Post the BN Rau Committee of 1941 (Hindu Law Committee), which aimed at making a codified uniform Hindu Law to govern all Hindus,

³ Banerjee, A. C., *English Law in India*, Abhinav Publications, pp. 133, (1984)[<https://books.google.co.in/books?id=7MXExXXb9usC&pg=PA134&hl=en#v=onepage&q&f=false>].

⁴ Shamim Ahmad Ansari and Dr. Naseem Akhtar, *Uniform Civil Code in modern India: Historical roots, contemporary developments, and the role of the judiciary in pursuit of 'One Nation-One Law'*, 90 Law J. 4-1-8-824 (2024), <https://www.lawjournal.info/article/90/4-1-8-824.pdf>.

demands were also raised to codify other personal laws as well. G.R. Rajagopal, Secretary of Law Ministry responsible for drafts of new Hindu Law Bills, said, *"It was felt that an attempt should be made to codify the Hindu Law and if this succeeded, and way of the measures produced thereby had in themselves intrinsic merits commending them for universal application, the time would not be far off when other communities might like to follow suit and ask for reconsideration of their own law in the light of the changed situations"*. Thus, a demand for a UCC, limited not only to criminal, contract, and property but also covering aspects of Personal Law, started to gain momentum.

B. History of the insertion of Article 44 in the Indian Constitution⁵

The Uniform Civil Code, as enshrined in Article 44 of the Constitution, was originally Article 35 of the Draft Constitution.⁶ This article was extensively debated on Tuesday, 23rd November 1948, opened by Mr. Mohamad Ismail Sahib, the first President of the Indian Union Muslim League (IUML) who proposed to add an amendment in the form of 35-A which read, *"Provided that any group, section or community of people shall not be obliged to give up its own personal law in case it has such a law."* He stated that the right to follow & adhere to our own religion is a fundamental right and should not be curtailed by enacting a UCC covering aspects of personal law such as marriage, inheritance, succession etc. He further went on to give the example of Yugoslavia where the *"The Serb, Croat and Slovene State agreed to grant to the Mussulmans in the matter of family law and personal status provisions suitable for regulating these matters in accordance with the Mussulman usage."* He was of the view that in order to ensure harmony in the country, uniformity of personal laws is not the correct approach but will much rather only lead to regimentation, discontent & disharmony. Along the same lines, Mr. Naziruddin Ahmad, a member of the IUML, supported the view of Mr. Ismail along with the addition that *"personal laws of any community which has been guaranteed by the statute shall not be changed except with the previous approval of the community ascertained in such manner as the Union Legislature may determine by law"*. He also brought forward the relevant point of UCC being in a clash with Article 19, which granted citizens the fundamental freedom of conscience & to freely profess, practice & propagate religion. He stated that the state should not interfere with the personal beliefs of its citizens, similar to the way in which the Britishers, in their 175 years of rule, had enacted various laws to bring uniformity, such as the Transfer of Property Act 1908, Indian Penal

⁵ Volume VII, Constituent Assembly Debates 540-552, held on Tuesday, 23rd November (1948).

⁶ **How the Uniform Civil Code Came to Be Included in the Indian Constitution**, *Indian Express* (Feb. 22, 2024), <https://indianexpress.com/article/explained/how-the-uniform-civil-code-came-to-be-included-in-the-indian-constitution-9147625/>.

Code 1860, Registration Act 1908 but had not dealt with the fundamental personal matters of the communities. Mahmood Ali Baig Sahib Bahadur, a member of the Indian National Congress (INC) also supported the above two speakers proposing his amendment that *“nothing in this article shall affect the personal laws of citizens”*. Finally, B. Pocker Sahib Bahadur of the Muslim League supported the above view, while maintaining that if Independent India were to have a UCC, it would be a consent-based law where communities would have to *“opt-in”* to be governed by such law and they *“shall not be obliged to give up their own personal laws”*. He stated that if the state was given the power to override all provisions of personal laws and to have uniformity of law to be imposed upon people, such a provision would be a tyrannous provision which ought not to be tolerated. He further posed a very important question, *“What is the purpose served by this uniformity except to murder the consciences of the people and make them feel that they are being trampled upon as regards their religious rights and practices?”*.

In response to these concerns raised about the UCC, Shri KM Munshi, a member of INC at that time strongly advocated for a UCC in India stating that this was not the first time that UCC was being discussed but was rather discussed in several committees and at various places already. He argued that personal laws should be separated from religion as they govern secular aspects like inheritance and succession. He emphasised that Draft Article 19 already permits the state to regulate secular activities associated with religion, and a Civil Code would unify and modernise Indian society. He rejected the claim that a UCC would be tyrannical to minorities, citing examples from Turkey and Egypt, where no separate personal laws exist and all communities must necessarily follow the uniform civil code. He further highlighted the internal divisions within Hindu personal laws which sought to be corrected by the Hindu Law Draft Bill and stressed that gender equality and national unity require uniform legal principles. He criticised the British colonial legacy of treating personal law as religious and urged India to evolve into a strong, consolidated nation with secular laws. He ended his debate with a powerful statement *“If however the religious practices in the past have been so construed as to cover the whole field of life, we have reached a point when we must put our foot down and say that these matters are not religion, they are purely matters for secular legislation. The sooner we forget this isolationist outlook on life, it will be better for the country. Religion must be restricted to spheres which legitimately appertain to religion, and the rest of life must be regulated, unified and modified in such a manner that we may evolve, as early as possible a strong and consolidated nation.”* Shri Alladi Krishnaswami Ayyar, one of the greatest constitutional lawyers and a member of the INC, argued in line with KM Munshi, stating that

rather than hampering amity amongst communities, it builds amity amongst them. Citing examples from France, Germany & Italy, he stated that people there are subject only to a uniform civil code rather than a multiplicity of personal laws. He finally urged his Muslim friends to understand that the democratic government in Independent India would be different from that of British Ruled India & that there was no danger to religion since a democratic government would respect all communities while moving towards a secular, unified legal framework. He cited the example where certain teachings were taken from Islamic Law to reform Hindu Law. Finally, Dr. B. R. Ambedkar, Chairman of the drafting committee, vehemently opposed the amendments that were suggested by the Muslim Leaders, stating that India already had a uniform legal framework in many areas, including criminal law, contract law, and property law, with only marriage and succession remaining outside its scope. He further challenged the claim of the above speakers that Muslim personal law had always been uniform and immutable, citing examples where Hindu law influenced Muslim inheritance laws in various regions of India until legislative changes in 1937 and 1939. Further, he emphasised that members of the assembly were reading too much into Article 35, he clarified that Article 35 only directs the State to "endeavour" to secure a UCC, without mandating immediate or compulsory enforcement but rather voluntary adoption similar to the Shariat Act of 1937, where Muslims could choose to be governed by Shariat law through a declaration. *"It does not say that after the Code is framed the State shall enforce it upon all citizens merely because they are citizens. It is perfectly possible that the future Parliament may make a provision by way of making a beginning that the Code shall apply only to those who make a declaration that they are prepared to be bound by it, so that in the initial stage the application of the Code may be purely voluntary."* This, he argued, would eliminate fears of forced imposition & answer the doubts related to religious freedom. He concluded that the amendments lacked merit and urged their rejection.

Finally, after the speech of Dr. BR Ambedkar, the constituent assembly negated all the proposed amendments and adopted Article 35 as it is "The State shall endeavour to secure the citizen a Uniform Civil Code throughout the territory of India", which became present-day Article 44.

III. LEGAL CONTEXT HIGHLIGHTING THE NEED FOR A UCC

A. The Shah Bano Case 1985⁷

The Rajiv Gandhi administration had a potentially historic opportunity to change the position

⁷ Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 SCC 556.

and circumstances of Muslim women in India.⁸ A 73-year-old woman named Bano demanded maintenance from her husband, Muhammad Ahmad Khan, who had divorced her and ended a 40-year marriage through triple talaq (*Talaq e Biddat*). Her maintenance claim was denied by him, and the case went into drawn-out court proceedings. Although a local court's 1980 ruling initially granted Bano maintenance, the case was appealed all the way to the Supreme Court, which ultimately decided in Shah Bano's favour under Section 125 of the Code of Criminal Procedure (Cr.P.C.) 1973, which applied to all citizens regardless of religion.

On the matter of a UCC, the SC observed, *"It is also a matter of regret that Article 44 of our Constitution has remained a dead letter. It provides that "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India". There is no evidence of any official activity for framing a common civil code for the country. A belief seems to have gained ground that it is for the Muslim community to take a lead in the matter of reforms of their personal law. A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions on this issue. It is the State which is charged with the duty of securing a uniform civil code for the citizens of the country and, unquestionably, it has the legislative competence to do so. A counsel in the case whispered, somewhat audibly, that legislative competence is one thing, the political courage to use that competence is quite another. We understand the difficulties involved in bringing persons of different faiths and persuasions on a common platform. But, a beginning has to be made if the Constitution is to have any meaning. Inevitably, the role of the reformer has to be assumed by the courts because it is beyond the endurance of sensitive minds to allow injustice to be suffered when it is so palpable. But piecemeal attempts of courts to bridge the gap between personal Laws cannot take the place of a common Civil Code. Justice to all is a far more satisfactory way of dispensing justice than justice from case to case."*

The Shah Bano case quickly became a contentious political topic. Following the anti-Sikh riots in 1984, the majority of India's minorities—Muslims being the largest—feared attacks on their identity and felt compelled to protect their culture.^[1] The government was charged by Muslim conservatives with promoting Hindu supremacy over all Indian citizens to the detriment of minorities. The Muslim personal law, which they regarded as part of their cultural identity, was threatened by the Criminal Procedure Code. They claimed that the judiciary's recommendation of a UCC was proof that all Indians would be forced to adopt

⁸ Uniform Civil Code: The Importance of an Inclusive and Voluntary Approach, *The Hindu Centre* (Jan. 6, 2024), <https://www.thehinducentre.com/the-arena/uniform-civil-code-the-importance-of-an-inclusive-and-voluntary-approach/article64931357.ece#twentyseven27>.

Hindu ideals. The Hindu Code being well established in the country by then, the fear amongst the minorities was that its provisions would become the template for UCC which would be superimposed on the minorities. To pacify these fears and, in effect, nullify *Shah Bano*, the Rajiv Gandhi administration passed the Muslim Women (Protection of Rights in Divorce) Act, 1986. This made Sec. 125 non-operable for Muslim women. According to this, maintenance was payable to the divorced wife only during the *iddat* period (the mandatory waiting period when the divorce matters are being settled), and not thereafter.

B. Sarla Mudgal Case 1995⁹

The second instance where the court highlighted the need for a UCC was *Sarla Mudgal v. Union of India* which examined whether Hindu men could convert to Islam to enter into a second marriage without dissolving their first.¹⁰ The petitions were filed against Hindu husbands who, while being legally married under Hindu sacrament law, embraced Islam as a means to circumvent the Hindu Marriage Act, 1955, which explicitly prohibited bigamy. The Supreme Court ruled that conversion to Islam does not automatically dissolve a previous Hindu marriage and that entering into a second marriage under such circumstances would amount to bigamy, punishable under Section 494 of the Indian Penal Code (IPC), 1860. The verdict upheld the legal rights of the first wife, emphasising that religious conversion cannot be misused to evade matrimonial obligations.

Justice Kuldeep Singh, in the first paragraph of the Judgement, made staunch observations regarding the UCC. It reads, "*The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India*" is an unequivocal mandate under Article 44 of the Constitution of India which seeks to introduce a uniform personal law — a decisive step towards national consolidation. Pandit Jawaharlal Nehru, while defending the introduction of the Hindu Code Bill instead of a uniform civil code, in Parliament in 1954, said, "I do not think that at the present moment the time is ripe in India for me to try to push it through." It appears that even 41 years thereafter, the rulers of the day are not in a mood to retrieve Article 44 from the cold storage where it is lying since 1949. The Governments - which have come and gone — have so far failed to make any effort towards "unified personal law for all Indians". The reasons are too obvious to be stated. The utmost that has been done is to codify the Hindu law in the form of the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, the Hindu Minority and Guardianship Act, 1956 and the Hindu Adoptions and Maintenance

⁹ *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.

¹⁰ Siddharth Singh, *Unraveling the Uniform Civil Code (UCC): Evolution, implications, and challenges in contemporary India*, 67 Crim. L.J. 4-1-13-452 (2024), <https://www.criminallawjournal.org/article/67/4-1-13-452.pdf>.

Act, 1956 which have replaced the traditional Hindu law based on different schools of thought and scriptural laws into one unified code. When more than 80% of the citizens have already been brought under the codified personal law there is no justification whatsoever to keep in abeyance, anymore, the introduction of "uniform civil code" for all citizens in the territory of India."

The Supreme Court highlighted the inconsistencies in personal laws, which allowed individuals to exploit religious conversions for personal benefit. It stressed that the lack of a UCC resulted in legal ambiguity and gender discrimination, particularly disadvantaging Hindu wives who found themselves unprotected under the law. The Court urged the legislature to take action to implement a common civil code, ensuring equal legal standards for all citizens, regardless of religion. The judgment reinforced the idea that personal laws should not be manipulated to escape legal responsibilities and that a UCC would promote equality and fairness in marital laws.

IV. THE GOA MODEL

The only Indian state with a type of UCC is Goa. Even after Goa was annexed in 1961, the Goa Family Law—which had its roots in the Portuguese Civil Code—remained in effect.¹¹ King Luiz Augusto Rebello da Silva established the Portuguese Civil Code of 1867, which was later expanded to include Goa and other Portuguese foreign territories in November 1869.¹² Its 2538 articles have undergone numerous legislative revisions over the years, adding legislation pertaining to marriage, child protection, divorce, civil registration, civil procedure, and other relevant topics.

"Civil law recognizes and specifies such rights and corresponding duties; ensures and protects the enjoyment of rights and the performance of duties; lays down the circumstances in which a citizen may be disabled from exercising rights and the manner in which such disability may be overcome," is the definition of civil law's function. It is important to remember that it "ordered safeguarding in favour of the gentile Hindus of Goa, without distinction of Old and New Conquests, their special and peculiar usages and customs reviewed and codified by this decree" in a separate decree dated December 16, 1880, under Article 9. There is a lesson for us in there somewhere; a Christian Catholic Government situated in Lisbon, ordering the protection of the customs and practices of its Hindu subjects, residing in faraway Goa on the Indian sub-continent. And this happened about 140 years ago.

¹¹ Lawrence, B. B and Karim, A. 2007. *On Violence: A Reader*. Duke University Press. pp. 265-267.

¹² Government of Goa, 2018. Portuguese Civil Code, 1867, Panaji. [<https://indiacode.nic.in/bitstream/123456789/8312/1/ocrportuguesecivilcode.pdf>].

The Supreme Court drew attention to the Goa Family Law in September 2019, when it observed in *Jose Paulo Coutinho vs Maria Luiza Valentina Pereira*:¹³

“21. However, Goa is a shining example of an Indian State which has a uniform civil code applicable to all, regardless of religion except while protecting certain limited rights. It would also not 5 (1985) 2 SCC 556 6 (1995) 3 SCC 635 be out of place to mention that with effect from 22.12.2016 certain portions of the Portuguese Civil Code have been repealed and replaced by the Goa Succession, Special Notaries and Inventory Proceedings Act, 2012 which, by and large, is in line with the Portuguese Civil Code. The salient features with regard to family properties are that a married couple jointly holds the ownership of all the assets owned before marriage or acquired after marriage by each spouse. Therefore, in case of divorce, each spouse is entitled to half share of the assets. The law, however, permits pre-nuptial agreements which may have a different system of division of assets. Another important aspect, as pointed out earlier, is that at least half of the property has to pass to the legal heirs as legitimate. This, in some ways, is akin to the concept of ‘coparcenary’ in Hindu law. However, as far as Goa is concerned, this legitimate will also apply to the self acquired properties. Muslim men whose marriages are registered in Goa cannot practice polygamy. Further, even for followers of Islam there is no provision for verbal divorce.”

However, despite all the positive elements of the Goa UCC Model, it is not free from its own criticisms.¹⁴

V. ARGUMENTS IN FAVOUR OF THE UNIFORM CIVIL CODE (UCC)

A society like ours which is governed by a democratic, secular and socialist constitution which aims to establish an equal and equitable society wherein every individual is to be seen, perceived and treated as an equal. The law must treat equals equally and unequals unequally, such is concept of true equality as enshrined under our Constitution

A. Promoting Gender Equality and dismantling Patriarchal systems

The main argument in favour of implementing the Uniform Civil Code, a code that brings about uniformity in personal laws ensuring uniformity in gendered laws. Women have been disadvantaged across all religions in some manner or the other and such personal laws prove to be detrimental to a democratic and just society where a woman is as much a citizen as any

¹³ Jose Paulo Coutinho v. Maria Luiza Valentina Pereira, (2019) 20 SCC 85.

¹⁴ Read Law Commission, Goa. 2012 . Reports of Law Commission, March 05. [<http://goalawcommission.gov.in/CHAIRMAN'S%20MONOLOGUE.pdf>]; Almeida, A. 2016. Goa's Civil Code Shows That Uniformity Does Not Always Mean Equality, The Wire , August 08. [<https://thewire.in/law/goas-uniform-civil-code-is-not-the-greatest-model-to-follow>].

other man or sex. Sunni and Shia Muslim women inherit only half of the inheritance that their male counterparts receive, Christian women too under the Indian Succession Act receive one-third of the property even though their sons and daughters are entitled to equal shares. Parsi law too, despite several amendments has imbibed in it, blatant discrimination against women, going as far as imposing restrictions with regard to inheritance on Parsi women who choose to marry outside their faith. This also applies to non-Parsi women marrying into a Parsi family. However, such discrimination is not limited to Parsi, Muslim and Christian faiths, the Hindu Succession Act too, even after amendments and Supreme Court judgements remain to be inherently discriminatory against women.

B. Simplification of Legal Processes

Having a uniform civil code shall also bring about simplicity and clarity in legal matters and reduce the confusion and often legal complexity caused by having multiple laws for different faiths. A UCC may also spearhead societal social change by trashing old, archaic and arbitrary laws and customs and bring in laws consistent with modern contemporary principles of justice.

VI. CHALLENGES TO THE IMPLEMENTATION OF A UCC

A. Dearth of Data

There is a lot of controversy regarding the implementation of a UCC, especially in a country whose foundation is on the basis of diversity, where our forefathers chose to be inclusive through diversity. While Hindus compose close to 79% of the population, there is no exact data on the number of religions in India which further must halt the introduction of a UCC. Such implementation can be equated to putting the cart before the horse as our lawmakers have very little to no idea as to who they are drafting the law for. There is also little to no data on the number of castes, sub castes and tribes owing to the lack of a census. A population census was due in 2021 but could never be completed due to a COVID lockdown. A caste census is still under heavy debate with the Opposition demanding one and the Government refuting it.

B. Misusing Ambedkar's views on the UCC

The Bharatiya Janta Party (BJP) has advocated for a UCC since its conception in the 1980s and has also used Ambedkar's statements on the possibility of having a UCC for India as they were in the affirmative. However, the BJP's perception and subsequent implementation differs greatly from that of Dr Ambedkar's. The BJP's UCC requires strict compliance and is

completely involuntary in nature. It is assertive in nature and carries with it additional complications, whether it be consolidation of the Hindu identity or a systematic marginalization of minority groups, whether religious, tribal or caste-based.

“It [Article 35] does not say that after the Code is framed the State shall enforce it upon all citizens merely because they are citizens.” He also said it is “perfectly possible” that the future Parliament may in the beginning make a provision that the Code shall apply only to those who declare that they are “prepared to be bound by it”. In other words, initially, “the application of the Code may be purely voluntary.” This statement of Dr Ambedkar’s, points to a very important facet of implementation regarding the UCC that he wished to imbibe in the Constitution, as a sort of disclaimer or caution. The disclaimer being the ‘voluntary’ nature of the UCC which merely encouraged participation but did not force it. He believed that such a code simply could not be forced down the throats of the Indian people and must be accepted by them wholeheartedly. His vision of the UCC was one where it would co-exist along with other personal laws wherein people would *voluntarily choose to follow the UCC* for seeking legal recourse to issues that would normally be governed by a personal law (such as the Hindu Succession Act or the Sharia). The BJP has often used Dr Ambedkar’s comments on the UCC as they were in the affirmative but they have also very conveniently forgotten about the asterisk that came with it.

C. Voluntary Implementation or Imposition?

If History has taught us anything, enforcing a law that the people are not ready to accept can have dire consequences- social unrest, communal disharmony and even civil war. The racial segregation laws in the United States that were enforced contrary to public opinion during the 1950s and the 1960s were met with huge backlash, civil disobedience and march ins. Although Uttarakhand’s UCC has invited much backlash, none of it has been anything which seems to erupt communal disharmony between communities. This still does not mean that there are no feelings of exclusivity amongst minorities. The Muslims especially feel that the Hindu (majority) legal framework is being imposed on them. A fatal flaw in the UCC implementation in Uttarakhand was *the lack of or no consultation* by the Government with the minority groups who were and are likely to be more affected by such a code.

D. Inconsistent Implementation: Lack of Uniformity

The Uttarakhand UCC is testament to the fact that the current government aims to bring about a different Code for each State/Union Territory within the confines of the Country. Article 44 of the Directive Principles of State Policy (DPSP) reads, “The State shall endeavour to secure

for the citizens a uniform civil code throughout the territory of India.”¹⁵ The clause uses singular terms to describe the UCC, pointing to it being one code that would apply throughout the territory of India. By introducing different codes in different states, the Government is contradicting its own claims of the Uniform Civil Code ensuring harmony and unity by bringing in uniformity.

E. Lack of Parliamentary Debate

Debates regarding the drafting and nature of a UCC in India in both houses of the Indian Parliament have been very limited, with the opposition vehemently opposing the very introduction of a UCC and the BJP not opening the floor for constructive debate. Introducing codes, especially of such a nature which may influence the religious, legal, social and custom practices of the country simply cannot be passed without proper debate and discourse in Parliament. Even though there has been debate on the UCC as an abstract concept, the core characteristics of a UCC and what they would and should look like have not been discussed or put forward in Parliament.¹⁶

F. Selective and Targeted Implementation

The Uttarakhand UCC carries with it the grave allegation of it being selective and targeted towards laws concerning certain religious minorities. It fails to address and correct the gender discrepancies within the Hindu Undivided Family (HUF) tax benefits as the HUF comprises all persons descending from a common male ancestor, deeply embedded in age-old patriarchal setups.¹⁷ The Law Commission of India too in a 2018 consultation paper/report suggested abolishing the tax benefits under this law as it would mean a massive increase in tax collection for the Central Government¹⁸. The UCC has failed to address such aspects of Hindu personal law which further alienates the minorities of the country as they are left to feel unequal and not treated equally by law. It also does not offer any recourse to the issue of bigamy within hindu marriages. Contrary to public opinion and well-established law, Hindus have been found to indulge more in bigamous practices than other faiths in the country with Muslims clocking in at number two.¹⁹

¹⁵ India Const. art. 44, available at <https://www.indiacode.nic.in>.

¹⁶ Alok Prasanna, *Reigniting 'Debate' on India's Uniform Civil Code*, East Asia Forum (Aug. 24, 2023), <https://eastasiaforum.org/2023/08/24/reigniting-debate-on-indias-uniform-civil-code/>.

¹⁷ Dushyant Arora, *Hindu Undivided Family a Loophole in Uniformity*, The New Indian Express (July 5, 2023), <https://www.newindianexpress.com/opinions/2023/Jul/05/hindu-undivided-family-a-loophole-in-uniformity-2591741.html>.

¹⁸ Sunil Dhawan, *Tax Saving Tool HUF May Cease to Exist: Law Commission Proposes to Abolish It*, The Economic Times (Sept.19,2018),<https://m.economictimes.com/wealth/personal-finance-news/tax-saving-tool-huf-may-cease-to-exist-law-commission-proposes-to-abolish-it/articleshow/65856948.cms>.

¹⁹ Divya A., *Bigamy: An Issue of One Too Many*, The Times of India (Sept. 13, 2009),

G. Political Agenda or Genuine Attempt?

The UCC was tabled and introduced in the Uttarakhand Parliament at a very opportune time, months before the Lok Sabha Elections which were scheduled in July 2024. This further throws light on the UCC being more of a tool to further political interests than to address the issues it supposedly aims to solve. Chief Minister, Uttarakhand, Mr Pushkar Dhami termed it a historical move to ensure uniformity in religious practices and bring about gender equality.²⁰

H. Gender Inequality within the Uttarakhand UCC

The age of marriage under the Uttarakhand UCC has been fixed at 21 for men and 18 for women. The Prohibition of Child Marriage (Amendment) Bill, 2021, which was introduced in Lok Sabha on December 21, seeks to increase the minimum age of marriage of females to 21 years from the current 18 years²¹. The Uttarakhand UCC completely disregards this tabled bill. There is fear amongst the minority communities that such a law might affect their customs and practices but it is essential to ensure equality between both the sexes.

I. Introduction amidst a communally tense backdrop

India in 2024 alone, witnessed a steep rise in cases of communal disharmony and riots with an 84% increase.²² Added to this the increase in the number of hate speeches given (mostly by our politicians, with the Prime Minister and the Home Minister clutching the gold medal in this regard), a staggering 74% increase has been noted in 2024 with a total of 1,165 instances recorded. 98.5% of these hate speeches were made against people of the muslim faith, data shows.²³

J. Burden of Pendency on the Judiciary

Having separate UCCs for different States not only defeats the purpose of having a uniform code that runs throughout the territory of India but it also puts immense pressure on an already overburdened Judiciary, especially the Supreme Court.²⁴ The Supreme Court shall not only

<https://timesofindia.indiatimes.com/bigamy-an-issue-of-one-too-many/articleshow/5004493.cms>.

²⁰ TOI News Desk, *Uniform Civil Code Implemented in Uttarakhand: Rules Released, Portal Launched*, The Times of India (Jan. 27, 2025), <https://timesofindia.indiatimes.com/india/uniform-civil-code-implemented-in-uttarakhand/articleshow/117595906.cms>.

²¹ K. Suresh, *Raising Legal Age of Marriage for Women: The Law, The Reasons and The Criticism*, 4 Acta Sci. Women's Health 2 (2022), <https://actascientific.com/ASWH/pdf/ASWH-04-0331.pdf>.

²² *India Witnessed 84% Rise in Communal Riots in 2024: Report*, The New Indian Express (Jan. 28, 2025), <https://www.newindianexpress.com/nation/2025/Jan/28/india-witnessed-84-rise-in-communal-riots-in-2024-report>.

²³ *India's Supreme Court Considers Uniform Civil Code*, BBC News (Apr. 2, 2025), <https://www.bbc.com/news/articles/cpwx9942x72o>.

²⁴ Krishnadas Rajagopal, *Supreme Court's Pendency Crosses 82,000 Despite Full Force of 34 Judges Most of the Time in Past Two Years*, The Hindu (Aug. 31, 2024), <https://www.thehindu.com/news/national/supreme-courts-pendency-crosses-82000-despite-full-force-of-34-judges-most-of-the-time-in-past-two->

have to deal with cases of the past being governed by personal laws but also new cases governed by the UCC. Adding to this, the Supreme Court shall also have to deal with separate UCCs of different States and Union Territories of India resulting in an elephantine proportion of judicial backlog and legal confusion.

K. Curtailing of freedoms under UCC

The provision within the Uttarakhand UCC which makes it mandatory for unmarried couples to register their live-in relationships sparks debate on the purpose and objective of the provision. Even though it aims to legally recognise the rights of live-in couples, it also puts interfaith couples at risk of further alienation and subsequent violence. Many argue it curtails the citizens' right to privacy. The Uttarakhand High Court had invited petitions from those who were/are aggrieved by the UCC, aiming to provide judicial recourse and solutions to problems created by the UCC.²⁵ This proved to be in vain as the Uttarakhand HC dismissed a petition which sought to portray the live-in relationship rule as an invasion of privacy calling it to be bizarre.²⁶ What the Hon'ble court failed to address was the process of registering such a relationship is subject to religious leaders, community leaders and landlords of a particular area also accepting the relationship in its wholesome. This invites unnecessary scrutiny, particularly for interfaith couples as their personal details (including place of residence) are required for registration. Non-compliance with the law is also punished with fines being mandated, not only on couples but the leaders/landlords who fail to comply with the law.

VII. CONCLUSION

While the implementation of a Uniform Civil Code (UCC) is not beyond the realm of possibility in India, its execution must be democratic, inclusive, and aligned with the secular principles of the Constitution. A well-structured census—encompassing caste, religion, gender, and other socio-economic indicators—is an essential first step to ensure that the UCC is tailored to address real inequalities rather than being driven by political expediency. Furthermore, a **post-implementation review** is equally necessary to assess its impact and effectiveness over time.

years/article68590487.ecc.

²⁵ Sparsh Upadhyay, *'Those Affected May Approach Us in Case of Any Action by Authorities': Uttarakhand HC on Pleas Against UCC*, LiveLaw (Feb. 14, 2025), <https://www.livelaw.in/high-court/uttarakhand-high-court/affected-individuals-approach-any-action-uttarakhand-high-court-pleas-against-uniform-civil-code-283947>. Live Law+7Live Law+7Live Law+7

²⁶ Pankul Sharma, *'You Are Brazenly Living Together Without Marriage. What Privacy Is Invaded?': Uttarakhand HC to UCC Petitioner*, The Times of India (Feb. 18, 2025), <https://timesofindia.indiatimes.com/city/dehradun/you-are-brazenly-living-together-without-marriage-what-privacy-is-invaded-hc-to-ucc-petitioner/articleshow/118334647.cms>.

The current trajectory of UCC implementation raises serious concerns. Instead of fostering national unity, the selective approach by individual state governments—such as in Uttarakhand and Gujarat—undermines the very principle of uniformity. Personal laws have traditionally been under the purview of Parliament, and allowing states to legislate on such a fundamental issue risks legal fragmentation and judicial chaos.²⁷ Additionally, the involvement of vigilante groups and politically charged rhetoric threatens to deepen societal divisions rather than bridge them.

For the UCC to truly serve its purpose, it must not be weaponized as a tool of majoritarianism. The absence of meaningful debate, lack of opposition involvement, and the failure to build consensus cast doubt on the genuine intent behind its implementation. Instead of being a symbol of forced homogeneity, the UCC should be a product of careful deliberation, reflecting the constitutional vision of equality, justice, and secularism.

As envisioned by the framers of the Indian Constitution—particularly Dr. B.R. Ambedkar—a truly just and effective UCC would be one that is free from political agenda, respects India's diversity, and is rooted in necessity (voluntary implementation) rather than imposition. The challenge, therefore, lies not in whether a UCC should exist, but in how it is framed, debated, and ultimately implemented. A Uniform Civil Code of the people, by the people and for the people.

²⁷ *Gujarat to Form Panel for UCC Implementation*, The Times of India (Oct. 30, 2022), <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-to-form-panel-for-ucc-implementation/articleshow/95173221.cms>.