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Statewise Uniform Civil Codes and the Federal Dilemma: Fragmentation in the Pursuit of Uniformity

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ABSTRACT

This article critically examines the new phenomenon of state-initiated Uniform Civil Codes (UCCs) in India with regard to their federal and constitutional implications. Even as Article 44 of the Constitution contemplates a UCC for the goal of national integration, recent experience most dramatically in Uttarakhand suggests a state-led, decentralized initiative. By a doctrinal examination of constitutional provisions and court rulings, the research queries if such dispersed application is consonant with the tenor of consistency or defeats the larger aim of legal unification. In terms of analogy to Goa's present civil code and its incorporation as part of a plural legal scheme, the essay contends that state-level UCCs may create further legal fragmentation and dilute India's federal equilibrium. It warns against politicization of reforms to personal law and demands a harmonized but plural national framework respectful of diversity without legal chaos. Finally, the paper promotes a centrally deliberated model that can provide constitutional congruence and prevent further aggravation of regional legal asymmetries.

Keywords: *Uniform Civil Code, Federalism, Indian Constitution, Family Law, Secularism.*

I. INTRODUCTION

The Uniform Civil Code (UCC) has been the most controversial constitutional directive in India, sitting at the crossroads of legal uniformity, religious freedom, and federalism. Article 44 of the Indian Constitution², which encourages the state to pass a UCC, is the vision of legal uniformity in the fields of marriage, divorce, succession, and adoption. Its implementation, however, is controversial considering differential personal laws for diverse religious communities and reconciling gender justice with religious and cultural diversity. While its proponents feel that a UCC would unify conflicting personal laws and provide equality, its critics fear the danger of top-down legal uniformity that eliminates cultural diversity. The question is at the heart of the legal landscape: can India pass a UCC without violating the federal

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² INDIA CONST. art. 44.

structure and minority rights, or a state-by-state incremental strategy more realistic?

Article 44 is a Directive Principle of State Policy (DPSP)³, a non-justiciable but directive principle of administration. In *Minerva Mills v. Union of India* (1980)⁴, the Supreme Court held that DPSPs should be balanced against Fundamental Rights, but not at their expense. That poses a problem: a draconian UCC can conflict with religious freedom under Article 25⁵, which guarantees freedom to practice and propagate religion. Still, courts have also indicated that personal laws cannot be permitted to pre-empt fundamental rights, as held in *John Vallamattom v. Union of India* (2003)⁶, where the Supreme Court struck down discriminatory legislation in Christian personal law on inheritance. Though referred to in the Constitution, UCC has been a political, and not legislative, agenda. It has been referred to in Supreme Court judgments, as in *Sarla Mudgal v. Union of India* (1995)⁷, where the Court urged its passage to prevent legal disputes due to religious conversions to polygamy. Recently, in *Shayara Bano v. Union of India* (2017)⁸, the Supreme Court held triple talaq unconstitutional but left the larger picture of personal law reforms to Parliament. The cases indicate the judiciary's continued nudging for gender-just legal reforms but leaving implementation of UCC to the legislature.

One of the biggest hurdles to the enforcement of UCC is the federal character of India. Marriage, divorce, and succession are Concurrent List matters under Article 246⁹, and both the Parliament and state legislatures can pass legislation. This has led to a pluralistic legal order, with a few states having personal law variations. Goa, for instance, is usually described as a successful UCC, governed by the Portuguese Civil Code of 1867¹⁰. But Goa's so-called UCC is not uniform, Hindus continue to be allowed bigamy under customary law, laying bare the weaknesses of a wholly uniform law. The problem of state sovereignty in personal laws is also promoted by Article 371¹¹, granting special protection to some states, particularly the Northeast. Nagaland and Mizoram are two states which have resisted with great zest a national UCC, citing their customary laws. This throws up a legal question: would a nationally administered UCC override state legislation, or would Article 254¹² (the repugnancy clause) allow states to maintain their personal laws if accorded Presidential assent? The principle in *Hoechst*

³ INDIA CONST. Part IV.

⁴ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India).

⁵ INDIA CONST. art. 25.

⁶ *John Vallamattom v. Union of India*, (2003) 6 SCC 611 (India).

⁷ *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635 (India).

⁸ *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India).

⁹ INDIA CONST. art. 246.

¹⁰ Portuguese Civil Code, 1867 (as applicable in Goa, India).

¹¹ INDIA CONST. art. 371.

¹² INDIA CONST. art. 254.

Pharmaceuticals Ltd. v. State of Bihar (1983)¹³ is that states can be allowed to maintain divergent personal laws even under a national UCC, subject to protection under the Constitution.

Efforts at imposing uniformity in personal laws have in the past met social resistance, especially when seen to target a particular community. The Shah Bano case (1985)¹⁴ is an example, where the Supreme Court's grant of maintenance rights to a divorced Muslim woman under Section 125 of the CrPC¹⁵ sparked a political storm. Parliament's reaction was to pass the Muslim Women (Protection of Rights on Divorce) Act, 1986¹⁶, which essentially overrode the ruling. This incident highlights the political susceptibility of UCC, where legal reforms are open to reversal by legislation if public support is not first obtained. The opposition to abrupt legal changes makes the case for a gradual, state-led UCC all the more strong. India's history has seen incremental personal law reforms, like the Hindu Code Bills of the 1950s¹⁷, which modernized Hindu family laws step by step. More recently, the Hindu Succession (Amendment) Act, 2005¹⁸, granted equal inheritance rights to daughters without ruffling religious feathers. These instances indicate that piecemeal codification of personal laws may be more feasible than one, all-encompassing UCC.

Given the legal complexities and social subtleties, an alternative approach would be a Model UCC where the federal government sets a legal model that can be adopted by states with variations. This is the approach in the Model GST Law¹⁹, where states were free to pass taxation laws. But unlike GST, personal laws are deeply embedded in religious identity, and therefore a one-size-fits-all approach is legally and politically unthinkable. A state-by-state UCC would balance universal principles like gender equality without ignoring regional variations, drawing a lesson from France's Napoleonic Civil Code²⁰ that allowed local legal exceptions in its application. The UCC controversy is not just about legal uniformity but federalism, minority rights, and social acceptability as well. Abrupt, top-down UCC would evoke political and legal resistances, while a gradual, state-led formula allows legal adaptation and public acceptance. The imperative of gender justice cannot be questioned, but so is the imperative of upholding India's pluralist social fabric. Instead of a rigidly imposed UCC, a hybrid model that offers

¹³ *Hoechst Pharmaceuticals Ltd. v. State of Bihar*, (1983) 4 SCC 45 (India).

¹⁴ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556 (India).

¹⁵ Code of Criminal Procedure, 1973, § 125 (India).

¹⁶ Muslim Women (Protection of Rights on Divorce) Act, 1986, No. 25, Acts of Parliament, 1986 (India).

¹⁷ Hindu Marriage Act, 1955; Hindu Succession Act, 1956; Hindu Minority and Guardianship Act, 1956; Hindu Adoptions and Maintenance Act, 1956 (India).

¹⁸ Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India).

¹⁹ The Central Goods and Services Tax Act, 2017, No. 12, Acts of Parliament, 2017 (India).

²⁰ Code Napoléon, 1804 (France).

uniformity in core legal principles while allowing state autonomy may offer a constitutional and politically acceptable middle ground.

II. FEDERALISM AND PERSONAL LAWS: A CONSTITUTIONAL ANALYSIS

The interaction between federalism, personal laws, and the state's role in India is a fine balance of constitutional precepts, legislative authority, and judicial interpretations. While the Indian Constitution envisions a unified legal code of civil affairs, it also accommodates India's pluralistic societal nature by enabling personal laws to be regulated according to religious and customary rules. Such co-existence gives rise to questions of first principles over whether a Uniform Civil Code (UCC) can be enforced across the nation or if it can be framed by state-by-state versions recognizing regional diversities. The Seventh Schedule of the Constitution,²¹ where powers are divided between the Union government and State governments in legislation, is central to determining this balance. Because laws of marriage, divorce, and succession find a place in the Concurrent List (Entries 5 and 3),²² Parliament as well as State Legislatures have powers to address such matters. This has given rise to cases where states have shown a high degree of autonomy in governing personal laws, which highlights the current decentralized arrangement of personal law administration in India.

The Goa Civil Code²³ case is most often quoted as a precedent for a state-level uniform law. Inherited from its colonial Portuguese history, Goa's uniform personal law covers all communities regardless of religion. But on closer inspection, Goa's UCC as it is called is not so uniform, Goan Hindus continue to be allowed bigamy in certain circumstances, showing that even a codified civil law can be flexible enough to allow customary practices. Further, prior to the abrogation of Article 370²⁴, Jammu and Kashmir had different domicile and inheritance laws, again providing evidence that states have long wielded legislative powers over personal laws in their respective areas. These examples set the context for a key question: whether personal laws should continue to be governed by states to reflect regional diversity or whether a national UCC should override these differences to enforce legal uniformity.

Judicial decisions on federalism and personal laws offer useful insights on this issue. In *State of Karnataka v. Union of India (1977)*²⁵, the Supreme Court noted that state autonomy must not risk national unity, i.e., while states would be free to promulgate their own personal laws, they

²¹ India Const. sch. VI.

²² India Const. sch. VII, entries 3 & 5.

²³ The Goa Civil Code, 1867 (as applicable in Goa post-1961) (India).

²⁴ India Const. art. 370 (abrogated by The Constitution (Application to Jammu and Kashmir) Order, 2019).

²⁵ *State of Karnataka v. Union of India*, (1977) 4 S.C.C. 608 (India).

must be in consonance with larger constitutional principles. The landmark case of *S.R. Bommai v. Union of India* (1994)²⁶ reaffirmed that federalism is a part of the basic structure of the Constitution preventing arbitrary central intervention in state matters. But this does not give states unfettered freedom in regulating personal laws, as in *State of Kerala v. N.M. Thomas* (1976)²⁷, where the Court acknowledged that states have the right to legislate affecting specific communities but subject to constitutional constraints. These decisions collectively suggest that while a UCC would be appreciated in principle, its implementation should be responsive to India's federal nature by allowing states to regulate personal law reforms in consonance with local social and cultural realities.

The tension between constitutional assurances of equality and justice and religious personal law has been a recurring theme in judicial discourse, with courts again and again asking whether religious personal law must yield to constitutional assurances of equality and justice. The clash was illustrated by the *Mohd. Ahmed Khan v. Shah Bano Begum* (1985) case²⁸. The Supreme Court ruled that a Muslim woman also had a right to maintenance under Section 125 of the CrPC²⁹, stressing how secular law guaranteeing social justice had to override religious personal law. The politically unpopular consequences led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986³⁰, de facto reversing the verdict. This indicated the complexity of personal law reform, judicial efforts to ensure gender justice are opposed when perceived to intrude on religious identity.

The same issues were raised in *Sarla Mudgal v. Union of India* (1995)³¹, where the Court considered the issue of bigamy and conversion in religion for the purpose of marriage. The judgment held that a Hindu man was not permitted to convert to Islam just to remarry without cancelling the first one under Hindu law, reaffirming that personal laws were not to be used as a tool of avoiding legal obligations. The same was reaffirmed again in *Lily Thomas v. Union of India* (2000)³², which held that conversion in religion should not be used as a legal loophole to avoid the effects of a previous marriage. These judgments reflect the judiciary's increasing trend towards uniformity in the laws of marriage while at the same time ensuring that religious conversions are not used as a tool of avoiding legal obligations.

Aside from marriage and divorce, the judiciary has undertaken the responsibility of making

²⁶ *S.R. Bommai v. Union of India*, (1994) 3 S.C.C. 1 (India).

²⁷ *State of Kerala v. N.M. Thomas*, (1976) 2 S.C.C. 310 (India).

²⁸ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556 (India).

²⁹ The Code of Criminal Procedure, No. 2 of 1974, § 125, India Code (1974).

³⁰ The Muslim Women (Protection of Rights on Divorce) Act, No. 25 of 1986, India Code (1986).

³¹ *Sarla Mudgal v. Union of India*, (1995) 3 S.C.C. 635 (India).

³² *Lily Thomas v. Union of India*, (2000) 6 S.C.C. 224 (India).

secular legal principles supreme over personal law issues in other areas too. In *John Vallamattom v. Union of India* (2003)³³, the Supreme Court struck down Section 118 of the Indian Succession Act³⁴, limiting Christian inheritance rights, upholding the principle that personal laws have to be in line with constitutional notions of equality. Again, in *Shabnam Hashmi v. Union of India* (2014)³⁵, the Court ruled that adoption has to be treated as a secular right and not one based on religious personal laws, a step towards legal uniformity in family law. Such judgments portray a judicial tendency towards uniformity of personal laws but also portray the limitations of judicial intervention. The courts can at best address particular legal disparities on an ad-hoc basis, while overall personal law reforms are subject to legislative intervention.

Although the constitutional and legal framework for a UCC is solid, imposing a uniform law across the country could potentially erase the distinctive tradition, practices, and customary laws of the various tribal and minority communities. India's tribal communities, for instance, have had customary legal systems governing inheritance, marriage, and property rights traditionally. These are not bodies of law but a part of their social identity and imposing a UCC upon them could lead to the marginalization of these groups. The Sixth Schedule of the Constitution³⁶ itself recognizes this diversity since it extends special protection to some tribal areas. If a formal UCC would override such protection, it would lead to the homogenization of legal norms over indigenous legal traditions, and hence marginalize these groups.

The same apprehensions follow religious minorities, who have so far turned to personal law in order to maintain their distinctive cultural identity. If a UCC, lacking adequate protections for religious and customary law, is enforced, it would likely create the impression that the more powerful legal culture is being imposed on smaller societies, leading to resentment and social strife. The same has been the case in earlier examples, the *Shah Bano* ruling, which was followed by a backlash following community-specific reform being enforced as a fear of cultural dilution. If a national UCC is built in the absence of democratic participation on the part of all communities, it has a likelihood of being seen as a tool of cultural assimilation rather than one of legal evolution.

With these intricacies, the question remains: whether states can be allowed to go on administering personal laws or whether there has to be a national code. Judicial precedents

³³ *John Vallamattom v. Union of India*, (2003) 6 S.C.C. 611 (India).

³⁴ The Indian Succession Act, No. 39 of 1925, § 118, India Code (1925).

³⁵ *Shabnam Hashmi v. Union of India*, (2014) 4 S.C.C. 1 (India).

³⁶ India Const. sch. VI.

suggest that reforms in personal law have to balance with constitutional guarantees, but also acknowledge the challenge of the federal character of India. A decentralized strategy of letting states try out uniform civil codes but being sensitive to local diversities can perhaps provide a realistic alternative to an absolute national UCC. Such a strategy, however, has to ensure that basic principles of equality, justice, and gender neutrality are adhered to by all the states so as not to produce legal disparities.

The courts, parliament, and civil society will play a crucial role in shaping the fate of personal law reforms in India. Though a UCC can introduce legal certainty and augment gender justice, its implementation must be designed with the greatest of care so as to address constitutional compulsions and cultural sensitivities. Instead of imposing a hard, all-India UCC, a hybrid model, in which centre legal principles are applied uniformly but states can have some cultural and customary variations could be a more constitutionally viable and politically viable option. This will retain the substance of legal uniformity without diluting the pluralistic character of Indian society so that legal reforms are not merely constitutionally necessitated but socially sustainable as well.

III. GOA'S UNIFORM CIVIL CODE: A CASE STUDY

The Goa Civil Code is the only example of an existing Uniform Civil Code (UCC) in India and a special case study of feasibility of uniform personal laws in a plural society. Unlike the remaining part of India, where religion-based personal laws rule family relations, Goa continues with the application of the Portuguese Civil Code of 1867³⁷, which works uniformly across all communities. This practice continued after the annexation of Goa to India in 1961 and is thus exceptional and not precedent for application countrywide.

One of the most striking aspects of Goa's legal system is its uniformity in marriage, divorce, and inheritance laws. All marriages are considered contracts, and property acquired during the marriage is jointly owned. Assets are divided equally on divorce, and economic insecurity especially for women is avoided. Nevertheless, despite being quoted as a model for the UCC, Goa's legal system has glaring loopholes. Hindu men are still allowed to indulge in bigamy under some customary conditions, which belies arguments for uniformity. Moreover, even though Muslim personal law is not officially in operation in Goa, some customary practices continue unofficially. These loopholes show that Goa is not a genuine UCC but a regionally uniform system with religious exceptions. Thus, if India were to implement a national UCC, it

³⁷ The Portuguese Civil Code, 1867 (Port.).

would require a system with absolute legal uniformity without these loopholes.

Judicial dicta have recognized Goa's position in the UCC discourse. In *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira* (2019)³⁸, the Supreme Court recognized Goa's uniform personal law regime as a model. Likewise, in *ABC v. The State (NCT of Delhi)* (2015)³⁹, the Court emphasized gender-neutral personal laws. These cases, however, refer to the need to address prevailing inequalities in Goa's scheme rather than adopting it in its entirety as a national UCC model.

A comparison with the foreign models of reform of personal law offers further insights. Tunisia, being a Muslim nation, incorporated progressive reforms of personal law effectively by banning polygamy and granting gender equality in marriage and divorce⁴⁰. Turkey, under Mustafa Kemal Atatürk, replaced religious personal laws with a civil code drawn from the European models, offering uniformity to all communities.⁴¹ These examples are evidence that slow legal reforms work to introduce uniformity without coercive or premature imposition. Unlike Goa, where the system was inherited and not intentionally built, these nations intentionally reformed their legal systems to adapt to the principles of equality and secularism in the modern world. Although uniformity is beneficial, implementation of a national UCC in India is difficult. Personal laws evolved differently in various locations, and religious resistance has already stalled reforms, as happened in the backlash against the *Shah Bano* judgment (1985)⁴². Federalism is also a concern. Since personal laws are placed on the Concurrent List, the Centre and the states both play a legislative role. A centrally enacted UCC could be felt as an erosion of state autonomy, in contrast to federal principles enunciated in *S.R. Bommai v. Union of India* (1994)⁴³. Where there is an opt-out by some states, variations in personal laws could continue to exist, and there is a problem under Article 14's right to equality.⁴⁴

With these issues, a state-led legal uniformity approach may be more feasible than a nationally regulated UCC. In contrast to inheriting uniformed laws in Goa, participatory law reform would be required for other states. Phased, gradual adoption of UCC-like principles starting with marriage registration, inheritance, and property law could ease transition. Gradual reforms in these areas have indeed been implemented in some states. Allowing states to develop legal systems at their own pace would reduce resistance and make it more acceptable to the public.

³⁸ *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, (2019) 20 SCC 85.

³⁹ *ABC v. State (NCT of Delhi)*, (2015) 10 SCC 1.

⁴⁰ Tunisia's Personal Status Code, 1956 (Code du Statut Personnel, Tunisia).

⁴¹ Turkish Civil Code, 1926 (Turkey) (inspired by Swiss Civil Code).

⁴² *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556 (India).

⁴³ *S.R. Bommai v. Union of India*, (1994) 3 S.C.C. 1 (India).

⁴⁴ India Const. art. 14.

Moreover, uniformity should not come at the cost of cultural eradication. An inflexible, one-size-fits-all national UCC may neglect indigenous and tribal customary laws, which have become entrenched under Indian jurisprudence for decades. Instead, legal reform must reconcile uniformity with India's pluralism by providing legal protection while protecting cultural identities.

Uttarakhand's recent move to introduce a state-level UCC is a modern illustration of how legal uniformity can be sought within India's federal framework. The Uttarakhand Uniform Civil Code of 2024⁴⁵ is the first state-backed codification of uniform personal laws since independence. It covers all communities and enacts gender-neutral inheritance, mandatory marriage registration, and provisions for limiting polygamy and instant divorce. This effort illustrates the viability of gradual state-sponsored reform, in support of the contention that states should lead legal uniformity efforts before a national UCC is even contemplated. Yet, its viability in law is questionable, with issues of legislative competence under the Concurrent List potentially being raised. Further, whether it is an emulable model for plural states with diverse cultural dynamics is questionable. Still, Uttarakhand's UCC is a step from theoretical debate to legislative proposal, offering a crucial case study for future uniformity efforts.

Public consciousness and legal awareness will be essential to any successful transformation. Goa's system functioned because of continuity, but other states would require mass legal awareness before they can apply uniform laws. Without public support, coercive imposition can be counterproductive, similar to with previous attempts at personal law reform.

Therefore, although Goa is a good case study, it is an imperfect UCC model. Its contradictions underscore the necessity of a well-thought-out national framework that guarantees actual legal homogeneity. Rather than unadulterated replication, India can learn from foreign models that reformed personal law successfully without losing sight of social realities. By allowing states to bring in UCC-like reforms in phases and involving communities in the process, India can approach a more equitable and legally fair framework one that ensures equality without losing sight of the nuances of its federal and cultural context.

IV. STATE-SPECIFIC UNIFORM CIVIL CODES AND THEIR CONSTITUTIONAL VIABILITY

One of the most controversial political and legal issues in India is the institution of a Uniform Civil Code (UCC) at the national or state level. While its supporters believe that it is necessary

⁴⁵ Uttarakhand Uniform Civil Code, 2024 (India) (State-level legislation).

to ensure equality before the law and national integration, its opponents believe that it would destroy India's pluralistic nature and the federal system. The debate is highly polarized, with the right-wing viewing the UCC as a measure towards legal homogenization and social integration and the left-wing opposing it as a tool that would eliminate cultural diversity and encroach upon state autonomy.

One of the most serious criticisms of the UCC is that it promises to homogenize India's rich legal tradition by imposing one insensitive legal code on India's religious and tribal communities. India's personal laws have evolved under a system of legal pluralism, under which Hindus, Muslims, Christians, Parsis, and other religious communities have been regulated by their respective laws in the context of marriage, divorce, and inheritance. Tribal communities, on the other hand, have their own traditions which cannot be accommodated within mainstream legal systems, and a rigid UCC could jeopardize their traditional systems of governance. Critics argue that rather than ushering in equality, an insensitive UCC could lead to legal and cultural alienation.⁴⁶

Federalism is another issue of major concern. Personal laws are in the Concurrent List of the Constitution, entrusting legislative powers on the Centre and the states on the subject. While Goa has been termed as a beacon of a UCC, its civil code was a relic of colonial Portuguese rule and has been carried forward due to continuity and not as the result of a state-led project. Other states, however, have no such baggage of colonial rule and may find a centrally enforced UCC an encroachment into legislative space. Since states like Tamil Nadu and West Bengal have fought against central incursion into the area of personal law in the past, a top-down imposition can lead to resistance and introduce legal contradictions instead of harmonizing them. This was enunciated in *S.R. Bommai v. Union of India* (1994)⁴⁷, which reaffirmed that federalism is part of the basic structure of the Constitution and warned against excessive centralization of powers.

Apart from legal niceties, political agendas in the UCC debate cannot be ruled out. The Bharatiya Janata Party (BJP) has been the strongest champion of a UCC, but its interest has been more in reforming Muslim personal laws with a resultant silence on regressive Hindu practice. Abolition of triple talaq in *Shayara Bano v. Union of India*(2017)⁴⁸ was presented as a step necessary to advance gender justice, but there has been no such sense of urgency

⁴⁶ Werner Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa* 539-541 (Cambridge Univ. Press, 2d ed. 2006).

⁴⁷ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India).

⁴⁸ *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India).

demonstrated about eliminating discriminatory Hindu practice like kanyadaan or temple entry restrictions. Even in Hindu law, there are disparities. The 2005 amendment to the Hindu Succession Act⁴⁹ gave daughters coparcenary rights in family property equal to those of men, but some customary laws continue to exclude rights to women as inheritance. If the purpose of a UCC is gender justice, its critics claim, reform has to be applied equally to all religious groups and not selectively to one.

A second legal objection to an immediate UCC is that social and legal change is best secured when it develops organically in society and not by state fiat. The Hindu Code Bill,⁵⁰ resisted in the 1950s, was ultimately accepted because it developed through widespread debate and gradual adjustment and not by immediate government decree. Likewise instead of imposing a UCC, the state could encourage internal change within religious communities by offering incentives for progressive interpretations of personal law. For example, instead of abolishing Muslim inheritance law entirely, legal literacy programs could promote voluntary adoption of gender-equitable practices, as reformist approaches sought in Tunisia⁵¹ and Turkey.⁵²

Resistance to the UCC also stems from apprehensions that it would be employed as an instrument of majoritarianism. It is viewed by many as part of the larger Hindu nationalist agenda of the RSS to reshape India's legal and cultural landscape in Hindu-centric terms. If one community perceives that its traditions are being disproportionately targeted while another continues to enjoy its privileges, the equality before the law principle would be undermined. This apprehension is most widespread among religious and tribal minorities, who fear that the legal system would be employed to repress their identity rather than protect their rights.

But the objections to the UCC are met by its proponents with the emphasis that legal uniformity is essential to promoting national integration. They argue that a number of legal systems based on religion are not required and only work to promote communal identities at the cost of a national identity. The United States⁵³, France⁵⁴, and Turkey⁵⁵ have one civil law for all their citizens, and the proponents of the UCC argue that India, being a secular democracy, should follow the same principle. They argue that personal laws are remnants of colonial-era divide-and-rule policy and must be replaced with a common legal system that promotes the ideals of

⁴⁹ Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India).

⁵⁰ The Hindu Code Bills, 1955–1956 (India).

⁵¹ Tunisia's Personal Status Code, 1956 (Code du Statut Personnel, Tunisia).

⁵² Turkish Civil Code, 1926 (Turkey) (inspired by Swiss Civil Code).

⁵³ United States Code (U.S.C.) – 1 U.S.C. § 1 (2021) (for general applicability of federal laws).

⁵⁴ Code Civil [C. civ.] (Fr.) (French Civil Code, 1804).

⁵⁵ Turkish Civil Code, No. 743 (1926) (Turk.) (adopted from the Swiss Civil Code).

secularism and equality.

One of the strongest arguments in favor of the UCC is that it can end gender discrimination on the basis of a number of personal laws. Women belonging to all religious denominations are still subject to legal disadvantages with regard to marriage, divorce, and inheritance. While Shayara Bano spoke out against triple talaq, Muslim women also enjoy discriminatory inheritance rights over their male counterparts. Hindu women have similarly been denied coparcenary rights, and even after the 2005 amendment⁵⁶ to alter this, social as well as legal obstacles continue to remain. A UCC could ensure that all citizens, regardless of religion, are subject to the same law and are compelled to observe the same duties, thus not allowing gender differentials to be asserted under the veil of religious freedom.

Legal fragmentation is also referred to as a problem by the proponents of UCC. When states follow different interpretations of personal laws, differences in law hinder governance and create confusion. Whether the rights of one person to inheritance or the validity of his/her marriage are based on his/her religion or the state in which he/she resides is a controversial topic. Because criminal and contract laws apply to all citizens equally, proponents claim that personal laws must be the same to treat all equally in the eyes of the law.

But the real challenge is reconciling legal uniformity with cultural diversity. Politically impossible to have a centrally implemented UCC, but state-by-state implementation may be a more accommodative option. Some states have already begun personal law reforms, such as compulsory registration of marriage and reform of inheritance law for gender equality. Gradual reform through a state-by-state UCC, implemented through democratic consensus and not political diktat, could be possible while maintaining India's federalism.

Lastly, the debate on UCC is not really about standardizing law but synthesizing India's diversity into one legal framework. The key to the success of a UCC, whether national or state initiative is its enforcement. If reform of law by participation is the approach, then it can promise equality and certainty of law. But if an attempt is made as an apparatus of political majoritarianism, it can broaden fault lines within society and may not result in integration. The issue lies in creating a uniform law rather than making it one that all the communities feel as a fair and just system and not a means of forced assimilation.

V. CHALLENGES IN IMPLEMENTING A STATEWISE UCC

State-level implementation of a Uniform Civil Code (UCC) is a complex legal, constitutional,

⁵⁶ Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India).

and socio-political issue. Although the Concurrent List provides the states with the authority to enact personal laws, a piecemeal strategy can result in conflicting legal frameworks, political resistance, and issues of constitutional nature. State wise UCC success rests within the judicial interpretation, federalism, and relationship between uniformity and cultural diversity.

Article 14⁵⁷ provides for equality before the law and prohibits arbitrary classification, but state-by-state UCC is troubling in the context of differential treatment by law of states. If a state follows a UCC and another has personal laws, fundamental rights may vary depending on residence. A Muslim woman in Goa, where there is a UCC, may have varying legal rights in the context of marriage and inheritance compared to a Muslim woman in Uttar Pradesh, where Sharia-based personal laws prevail. Such disparity would be contested as against equality because citizens in different states would not be governed by a single legal regime. The question, then, is: Can difference caused by varying UCCs be justified under Article 14?

Judicial precedents indicate changing attitudes towards personal laws and constitutional review. In *Shri Krishna Singh v. Mathura Ahir* (1979)⁵⁸, the Supreme Court reaffirmed state autonomy in enacting personal laws, affirming the doctrine that they fall outside the purview of the challenge of fundamental rights. Recent decisions, however, indicate a change. In *Indian Young Lawyers Association v. State of Kerala* (2019)⁵⁹, the Court struck down gender discrimination in religious practice, indicating a readiness to subject personal laws to constitutional review. If a state wise UCC results in inconsistency, it may result in judicial review to ascertain whether such laws meet the test of equality and non-discrimination.

A broken-down implementation of civil law among states poses practical and jurisdictional challenges. If each state develops its own UCC, inconsistencies may arise in laws of marriage, divorce, inheritance, and succession. A married couple under a UCC state's law may struggle to enforce their rights in a non-UCC state. Similarly, inheritance rights may vary, leading to uncertainty in law and forum shopping, where parties shift to states with desired personal laws. The problem goes deeper in multi-state cases, cases involving property over jurisdictions with differing inheritance laws may result in disagreement over applicability of law. This goes against the very principle of uniformity, and it presents a simple contradiction: Can a UCC ever be "uniform" if its applicability is state-dependent?

Judicial hesitancy to intervene into personal laws is a part of the complexity. In Ahmedabad

⁵⁷ The Constitution of India, art. 14.

⁵⁸ *Shri Krishna Singh v. Mathura Ahir*, (1979) 1 SCC 715.

⁵⁹ *Indian Young Lawyers Association v. State of Kerala*, (2019) 11 SCC 1.

Women Action Group v. Union of India (1997)⁶⁰, the Court refused to rule on discriminatory aspects of Muslim personal law, taking the position that legislative action was the proper avenue for reform. Similarly, in *State of Bombay v. Narasu Appa Mali* (1952)⁶¹, the Bombay High Court ruled that personal laws were not "laws" under Article 13⁶², beyond challenge on grounds of fundamental rights. But the course of action of the Court has not been consistent, its ruling in *Shayara Bano v. Union of India* (2017)⁶³ invalidated instant triple talaq on constitutional grounds. This inconsistency raises a question over the legal status of a statewide UCC would it be ultra vires if challenged on grounds of intruding into religious freedoms or Union powers? Would courts recognize legislative discretion, or would they invalidate personal laws inconsistent with fundamental rights?

The political matrix contributes to the complexity, with the absence of inter-state consensus guaranteeing non-uniform implementation. BJP-governed states will insist on UCCs, but opposition-governed states like Kerala and Tamil Nadu will resist it, calling it a political imposition and not one of legal reform. This can result in selective enforcement, with some implementing UCCs and others resisting them in toto. Religious minorities such as Muslims, Christians, and Parsis have feared that a UCC will impose majority values on their personal laws instead of guaranteeing neutrality. Even Goa's much-quoted UCC model has exceptions bigamy is allowed to Hindu men in certain circumstances, indicating selective application. If states implement UCCs according to their political convenience, it will be contrary to the very essence of religious freedom under Articles 29⁶⁴ and 30⁶⁵. This raises a larger question, can some states use the UCC to homogenize laws for Hindu traditions and thus undermine minority rights instead of guaranteeing genuine uniformity?

A fragmented UCC also risks perpetuating gender inequalities rather than eliminating them. Divorce, maintenance, and inheritance in law remedies would be state-dependent, leading to inequalities rather than eliminating them. A Muslim divorced woman in a UCC state might get alimony under a uniform law, but a Muslim divorced woman in a non-UCC state would be governed by the Muslim Women (Protection of Rights on Divorce) Act, 1986⁶⁶. Once more, Khasi inheritance laws favor daughters, while Muslim personal laws permit polygamy. In the event of continued selective implementation of UCC, gender-based legal inequalities may

⁶⁰ Ahmedabad Women Action Group v. Union of India, (1997) 3 SCC 573.

⁶¹ State of Bombay v. Narasu Appa Mali, AIR 1952 Bom 84.

⁶² The Constitution of India, art. 13.

⁶³ Shayara Bano v. Union of India, (2017) 9 SCC 1.

⁶⁴ The Constitution of India, art. 29.

⁶⁵ The Constitution of India, art. 30.

⁶⁶ Muslim Women (Protection of Rights on Divorce) Act, 1986.

persist rather than being eliminated. The *John Vallamattom v. Union of India* (2003)⁶⁷ case, in which the Supreme Court held discriminatory inheritance provisions of the Indian Succession Act to be unconstitutional, illustrates the risk of fragmented rights. Without a national norm, a statewise UCC risks perpetuating inequality rather than promoting gender justice.

Although federalism permits the states to enact personal laws, a state-by-state UCC system risks legal inconsistencies, political resistance, and judicial invalidation. Ambiguity about whether personal laws are to be governed on the basis of constitutional values makes the project susceptible to judicial challenge. A hybrid solution of a Model UCC by the central government with optional adoption by the states according to local requirements offers an escape in gradual reforms without a top-down strategy. Gradual reform of the current personal laws, selective amendments introducing gender justice without encroaching on religious freedom is another alternative. In the absence of common societal consensus and some judicial guidelines, a piecemeal UCC can generate more legal controversies than solutions, and a phased and harmonized strategy is a better alternative.

VI. THE WAY FORWARD: A BALANCED APPROACH

The imposition of a Uniform Civil Code (UCC) in India is a matter of controversy, particularly in the context of India's federal polity and diverse personal laws. Rather than imposing uniformity abruptly, more realistically, the process of reform would be codification and regularization of personal laws and only thereafter move ahead towards a UCC. The 185th Law Commission Report (2002)⁶⁸ and the 2018 Consultation Paper on Family Law Reform⁶⁹ suggested incremental codification instead of abrupt imposition. These reports recognized that precipitate implementation would lead to legal and social resistance, as in the wake of *Mohd. Ahmed Khan v. Shah Bano Begum* (1985)⁷⁰, where judicial intervention in Muslim personal law led to legislative overruling in the shape of the Muslim Women (Protection of Rights on Divorce) Act, 1986⁷¹. Phased implementation, as in the instance of the Hindu Code Bills (1955-56)⁷², which reformed Hindu personal laws step by step, is a feasible precedent. The *State of Bombay v. Narasu Appa Mali* (1952)⁷³ case also highlights that personal laws are outside the scope of Article 13⁷⁴ and should be reformed legislatively and not by sudden judicial

⁶⁷ *John Vallamattom v. Union of India*, (2003) 6 SCC 611.

⁶⁸ Law Commission of India, 185th Report on Review of the Indian Evidence Act, 1872 (2002).

⁶⁹ Law Commission of India, Consultation Paper on Reform of Family Law (2018).

⁷⁰ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556.

⁷¹ Muslim Women (Protection of Rights on Divorce) Act, 1986.

⁷² Hindu Marriage Act, 1955.

⁷³ *State of Bombay v. Narasu Appa Mali*, AIR 1952 Bom 84.

⁷⁴ The Constitution of India, art. 13.

intervention. Even in *S.R. Bommai v. Union of India* (1994)⁷⁵, the Supreme Court cautioned against excessive central interference in the affairs of the states, reaffirming the argument that personal law reforms should evolve through a federal and consultative process.

A hybrid approach, balancing state flexibility and uniformity, can offer a compromise to legal harmonization. A Model UCC, laying down basic legal norms with specific provisions to be adopted by states, would offer uniformity and cultural sensitivity. Those areas which require uniformity are the age of marriage, rights of inheritance, rights of maintenance, and uniform grounds for divorce. A uniform minimum age of marriage for all communities would curb loopholes for child marriages, while equal inheritance rights to men and women would put an end to gender discrimination in succession law. Maintenance under Section 125 of CrPC,⁷⁶ upheld in *Shah Bano*⁷⁷, already offers a secular framework, demonstrating that gender justice is possible without abolition of personal laws entirely. But some provisions like marriage rituals, customary divorces within constitutional limits, and laws of adoption have to offer scope for state flexibility. Tribes and indigenous peoples, for instance, have some marital and inheritance customs which must be preserved while being in harmony with constitutional ideals of gender equality.

The GST analogy, employed to promote a uniform legal code, is defective in the case of UCC. The GST was an economic reform, driven by revenue incentives at the state level, and buttressed by Article 246A⁷⁸, which grants exclusive taxing powers to the Centre. Personal laws, however, fall in the Concurrent List, and Centre and states may both pass legislation on matters such as marriage, divorce, and inheritance. A more apt precedent is the Hindu Code Bills, which permitted incremental legal reforms with regional variations in view. The Sarkaria Commission (1983)⁷⁹ has suggested greater inter-state coordination on sensitive legal reforms, a principle which could be invoked to introduce UCC. The judgment in *S.R. Chaudhuri v. State of Punjab* (2001)⁸⁰, which emphasized cooperative federalism in national policy-making, also encourages consensus rather than unilateral imposition.

Federal bodies like the Inter-State Council under Article 263⁸¹ can facilitate Centre-state interaction to draft a Model UCC, in the style of GST negotiations. The Council can be a forum where states bargain taking up provisions of UCC according to domestic requirements and legal

⁷⁵ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

⁷⁶ Section 125 of the Code of Criminal Procedure, 1973.

⁷⁷ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556.

⁷⁸ The Constitution of India, art. 246A.

⁷⁹ Sarkaria Commission Report, 1983.

⁸⁰ *S.R. Chaudhuri v. State of Punjab*, (2001) 7 SCC 126.

⁸¹ The Constitution of India, art. 263.

traditions. The parliamentary scrutiny role also cannot be overlooked. The last serious discussion on UCC took place during the Constituent Assembly deliberations in 1948-49⁸², and there has been no systemic legislative scrutiny since then. Forming a Joint Parliamentary Committee (JPC)⁸³ on UCC, as has been done for the Personal Data Protection Bill, will provide a wiser and regionally informed policy framework. A special committee can examine state-by-state legal differences, take up issues of gender justice, and provide phased implementation.

The judiciary's role in UCC reform must be one of direction and not dictation. Though playing an essential role in curtailing discriminatory practices, the courts have refrained from enforcing a uniform code through judicial decrees. In *Indira Nehru Gandhi v. Raj Narain* (1975)⁸⁴, the Supreme Court established that policymaking is the function of the legislature and reaffirmed the doctrine of separation of powers. Likewise, in *Shayara Bano v. Union of India* (2017)⁸⁵, the Court declared Triple Talaq as unconstitutional but postulated with precision that more comprehensive personal law reforms are to be left to Parliament. The *Keshav Madhav Menon v. State of Bombay* (1951)⁸⁶ case also clarified that personal laws must evolve through legislative mechanisms and not by judicial decrees. Although courts can signal discrepancies in personal laws, they must refrain from judicial overreach and respect legislative supremacy in policymaking.

India's constitutional setup demands careful treatment of Centre-state legislative authority in personal law. Article 246⁸⁷ makes both governments competent to pass family laws, and unilateral centralization of UCC would be constitutionally questionable. Article 44⁸⁸ mandating a UCC remains a Directive Principle of State Policy (DPSP) rather than a valid right. Any attempt to make UCC mandatory would be opposed constitutionally unless accompanied by clarificatory amendments of legislative authority. Putting Article 44 through constitutional amendments would assist in achieving a stronger mandate for uniform personal laws without deranging the federal equilibrium.

The adoption process of UCC must be realistic, eschewing sudden imposition and yet ensuring progressive legal reform. Codification and revision of personal laws, eschewing gender discrimination without doing away with cultural practices overnight, would be the first step. A mixed model where key principles of law are common but permit the states to amend according

⁸² The Constituent Assembly Debates, Vol. VII (1948-49).

⁸³ Joint Parliamentary Committee Report on the Personal Data Protection Bill, 2021.

⁸⁴ *Indira Nehru Gandhi v. Raj Narain*, (1975) Supp SCC 1.

⁸⁵ *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

⁸⁶ *Keshav Madhav Menon v. State of Bombay*, AIR 1951 SC 128.

⁸⁷ The Constitution of India, art. 246.

⁸⁸ The Constitution of India, art. 44.

to local requirements would be the best option. The judiciary can still detect contradictions in personal laws but eschew policy legislation to Parliament. Parliamentary scrutiny by a JPC⁸⁹ would provide a democratic, informed process, and mechanisms such as the Inter-State Council can help build federal consensus. A model of consensual legal change, with phased reforms being inclusive and sensitivity to local conditions, and not coercive central legislation, would be the most prudent way of moving towards the implementation of a Uniform Civil Code in India.

VII. CONCLUSION

Uniform Civil Code (UCC) is a lofty but contentious legal reform, born under Article 44⁹⁰ of the Indian Constitution but constrained by federalism (Articles 245-246)⁹¹ and religious freedom (Articles 25-26)⁹². While thought to be a step towards gender justice and legal uniformity, its implementation has to be made sensitive to India's diversity. The past legal reforms such as Hindu Code Bill⁹³, Shah Bano judgment⁹⁴, and Triple Talaq⁹⁵ ban show that gradualism is more fruitful than coercive enforcement. A strict, one-size-fits-all strategy is neither practicable nor legally viable.

Judicial precedents refer to the intricacies of adopting the UCC. Goa's Common Civil Code, much-quoted as an example, is open to religious exemptions and hence not a perfect precedent for implementation across India. The Sarla Mudgal⁹⁶, Shayara Bano⁹⁷, and Shah Bano⁹⁸ landmark judgments indicate a judicial bias toward uniformity, but courts have been hesitant to introduce a uniform UCC, acknowledging that comprehensive personal law reforms are legislative. Statewise implementation can introduce legal disparity, where coordination between Inter-State Council (Article 263)⁹⁹ may be necessary to create uniformity across jurisdictions.

A composite model of UCC is an equitable solution. Central government may set guiding principles on marriage, divorce, inheritance, and maintenance, and leave cultural variations to be defined by states within constitutional parameters. This provides uniformity without coercion. A three-pronged approach can help in implementation: (1) Codification of existing

⁸⁹ Joint Parliamentary Committee Report on the Personal Data Protection Bill, 2021.

⁹⁰ *INDIA CONST. art. 44.*

⁹¹ *INDIA CONST. arts. 245-246.*

⁹² *INDIA CONST. arts. 25-26.*

⁹³ Hindu Marriage Act, No. 25 of 1955, India Code (1955).

⁹⁴ Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 SCC 556 (India).

⁹⁵ Shayara Bano v. Union of India, (2017) 9 SCC 1 (India).

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⁹⁷ Shayara Bano v. Union of India (2017) 9 SCC 1 (India).

⁹⁸ Mohd. Ahmed Khan v. Shah Bano Begum (1985) AIR 1985 SC 945 (India).

⁹⁹ *INDIA CONST. art. 263.*

personal laws to eliminate gender bias, (2) Pilot runs in states such as Goa, Uttarakhand etc. to test feasibility, and (3) Gradual national implementation based on state experiences.

The wider implications of a UCC are far-reaching. If properly implemented, it could bring personal laws in line with constitutional equality, creating a jurisprudential basis for future legal reforms on adoption laws, LGBTQ+ marriage rights, and tribal customary laws. But a hasty, unstructured implementation can unleash religious tensions and legal conflicts. The goal must be balance, not coercion, India's constitutional aspiration of uniformity must be balanced with federal diversity and social realities. A progressive, well-framed UCC can modernize personal laws while being true to constitutional values, securing equality under the law without infringing religious and cultural autonomy. The answer is in gradual, inclusive, and consensus-based legal reform, not sudden legislative overreach.

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