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The Matrimonial Property and Uniform Civil Code: Equal Spousal Rights beyond Religious Differences in India

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ABSTRACT

Matrimonial property laws in India are divided along religious lines, leading to significant disparities in spousal rights and inadequate financial safeguards for women. The personal legal systems applicable to different religious communities—such as those followed by Hindus, Muslims, Christians, and Parsis—vary significantly in how they acknowledge a woman's role within the marital relationship, frequently overlooking unpaid domestic work. As a result, many women face financial insecurity following divorce or the death of a spouse, despite their essential contributions to the household.

The Indian Constitution's Article 44 aims to establish a Uniform Civil Code for marriage property, promoting gender neutrality and transcending religious borders. Treating marriage as a cooperative economic venture can promote equitable property distribution and uphold constitutional values of equality and non-discrimination.

Recent developments at the state level provide practical models for reform. Goa's Portuguese-influenced civil code enforces a community property regime and equal inheritance. Uttarakhand's UCC Act, 2024, introduces joint ownership of marital property and abolishes gendered coparcenary rights. Maharashtra's legislative proposal further signals growing political momentum for uniform civil law reform.

Even though there are expected challenges like cultural resistance, political issues, and complex administration, a well-planned system for handling property in marriage can help. It should be based on constitutional principles and learn from new state-level examples. This system can bridge the gap between promises of equality in the constitution and people's real-life economic situations. The goal is to secure equal rights for couples, regardless of faith, and promote gender equality in India's civil laws.

Keywords: Uniform Civil Code, Matrimonial Property Rights, Gender Justice, Equal Inheritance, Spousal Equality

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I. INTRODUCTION

The rules governing marriage, divorce, and property rights in India are intricately woven into religion personal laws, creating a disjointed legal system that frequently upholds female discrimination. The issue of marital property, or how assets gained after marriage are held, managed, and distributed, is one of the most disregarded parts of this system. Even while women are essential to the upkeep of homes, their contributions especially those that take the form of unpaid domestic work remain legally invisible. Women are now widely economically vulnerable as a result, particularly in situations involving divorce or separation.

The lack of a gender-equal legal framework for marital property underlines the urgent need for legislative reform. The proposed Uniform Civil Code (UCC) under Article 44 of the Indian Constitution aims to integrate personal laws and provide equal property rights for spouses from all faith communities. The UCC has been contested for its impact on religious autonomy and national cohesion, but its potential to promote gender justice, particularly in property rights, has garnered little scholarly or policy attention.

This paper investigates the potential of the Uniform Civil Code as a legal mechanism for securing fair and equal property rights between spouses in India. It evaluates the shortcomings of current personal law systems, engages with constitutional principles and feminist legal theory as drivers of reform, and explores the feasibility of constructing a gender-equitable matrimonial property system within a secular legislative framework.

Concept of Matrimonial Property in India

In a marital relationship, both partners contribute—whether through income generation, caregiving, or managing the household—to the creation of shared assets and the overall stability of family life .However, many women now face an unsettling reality as a result of the adoption of divorce legislation. Although these laws offer a legitimate way for women to leave violent or unpleasant marriages, they frequently put them in vulnerable financial positions. This vulnerability results from current legal traditions that generally acknowledge the husband as the only legitimate owner of family property, ignoring the wife's non-monetary contributions during the marriage.

II. CONSTITUTIONAL FOUNDATIONS OF A UNIFORM CIVIL CODE

Under Article 44 of the Constitution lays down the directive for the state to work toward the establishment of a Uniform Civil Code (UCC), stating that the government shall "strive to provide citizens with a uniform civil code across the entire nation. This provision reflects the

constitutional aspiration to move beyond religion-based personal laws in matters such as matrimonial property, aiming instead for equal legal treatment of all citizens. The Constitution's architects envisioned that legal uniformity would address discriminatory consequences arising from parallel personal law systems that govern marital property arrangements across different communities.

Although unenforceable in nature, the Directive Principles of State Policy continue to influence the formulation of laws, including those aimed at reforming matrimonial property rights. Article 44, in particular, advocates for uniformity in civil laws concerning marriage, divorce, and property rights. The constitutional vision underlying this provision calls for matrimonial property laws to be grounded in the principles of equality and justice, rather than being dictated by religious identity. This approach aims to ensure that women from all communities are afforded equal economic safeguards within marriage and upon its dissolution.

The directive nature of Article 44 reflects the constitutional commitment to gradual reform in matrimonial property laws. While the provision allows for incremental implementation, it establishes a clear constitutional goal of achieving uniformity in spousal property rights. This constitutional directive lends normative support to legislative initiatives aimed at reforming matrimonial property laws, ensuring that such efforts are consistent with the broader constitutional ideals of fairness and equal treatment.

III. OVERVIEW OF INDIAN PERSONAL LAWS AND PROPERTY RIGHTS

In the Indian legal system, matters related to marriage and divorces are regulated by Divergent personal legal frameworks that vary according to the religious affiliation of the individuals involved. Each community—be it Hindu, Muslim, Christian, or Parsi—follows its own legal framework concerning spousal rights, maintenance, and the handling of property. However, these laws generally do not define or codify the concept of matrimonial property, nor do they provide for its division at the time of divorce. The emphasis remains largely on maintenance and alimony, with little attention given to the Fair allocation of marital property during the marriage.

A. Hindu Law

The Hindu Marriage Act, 1955 does not contain a detailed statutory scheme for the For the distribution of matrimonial assets following divorce. Its primary focus lies in providing for maintenance and alimony rather than addressing the ownership or distribution of assets accumulated during the course of the marriage. Section 24 allows either spouse without

sufficient independent income to seek interim maintenance during ongoing matrimonial proceedings. Section 25 empowers the court to grant permanent alimony, either as a lump sum or through periodic payments, based on the financial circumstances and conduct of the parties involved.

These provisions are compensatory in nature and determined at the court's discretion. They do not treat marriage as an economic partnership, nor do they establish any legal mechanism for the equitable distribution of property acquired during the marriage.

Section 27 of the Act makes a limited reference to property, permitting the court to make orders concerning property that was gifted at or around the time of marriage and is jointly owned by both spouses. However, this clause is narrowly interpreted and applies only to such jointly held wedding-related gifts. It does not extend to assets acquired during the marriage, nor does it presume joint ownership. Consequently, any property registered in the name of one spouse—most often the husband—is legally presumed to belong solely to that individual, regardless of the other spouse's financial or domestic contributions.

The Hindu Succession Act 1956, which governs inheritance among Hindus, also does not address the concept of property acquired during marriage as a shared estate. It deals with succession to ancestral and self-acquired property upon death but does not recognize the homemaker's role in wealth accumulation during marriage. As a result, women—especially those engaged in unpaid domestic labor—often face economic hardship after divorce or widowhood, with no legal entitlement to property they helped sustain.

Although Indian courts have occasionally acknowledged the value of a homemaker's contributions in other legal contexts, such as compensation claims or maintenance awards, there is no binding precedent or statutory provision under Hindu law that conceptualizes marriage as a shared economic enterprise. The absence of clear legal provisions reveals a critical need for reform in matrimonial property laws that uphold the constitutional guarantees of equality Article 14 and non-discrimination Article 15, while recognizing the diverse contributions of both spouses.

B. Muslim Law

In India, Muslim personal law—governed by the Muslim Personal Law Shariat Application Act, 1937 and based on Sharia principles—does not acknowledge matrimonial property as a jointly owned estate.. Upon divorce, a Muslim woman is entitled to receive her **mehr** (dower), maintenance during the **iddat** period, and any personal belongings or gifts explicitly given to

her. However, she has no legal entitlement to property acquired by her husband during the marriage unless it was formally gifted or transferred to her name.

This legal framework adheres to a **strict individual ownership model**, where each spouse retains exclusive rights over their own property, regardless of the other's financial or domestic contributions. As a result, women—particularly those engaged in unpaid domestic labor—often face economic insecurity after divorce, with no statutory mechanism to claim a share in the assets accumulated during the marital relationship. This gap highlights the pressing need for a gender-equitable legal regime that acknowledges marriage as an economic partnership and ensures fair distribution of property—potentially through the implementation of a **Uniform Civil Code**.

C. Christian and Parsi Law

Christian and Parsi personal laws in India do not recognize the concept of matrimonial property as a jointly owned estate between spouses. The **Indian Divorce Act, 1869**, which governs Christian marriages, includes provisions for *alimony pendente lite* under Section 36 and for *permanent alimony* under **Section 37**. However, it lacks any statutory mechanism for dividing property acquired during the marriage or for acknowledging joint ownership of assets.

Similarly, the **Parsi Marriage and Divorce Act**, **1936** provides for maintenance and alimony but does not address the issue of property division upon divorce. Both legal frameworks focus primarily on financial support rather than equitable distribution of marital assets. As a result, women—especially those who have contributed through unpaid domestic labor—are often left without any legal claim to property accumulated during the marriage.

This absence of statutory recognition for shared ownership under Christian and Parsi laws reflects a broader systemic gap. It highlights the need for a gender-neutral and religion-neutral legal framework, such as a Uniform Civil Code, that treats marriage as an economic partnership and ensures fair and equitable distribution of assets upon dissolution.

IV. GENDER JUSTICE AND THE NEED FOR REFORM

Despite legal provisions for maintenance and alimony under various personal laws, divorced women in India face profound economic hardship due to the absence of a comprehensive statutory framework for equitable division of matrimonial property. The current legal structure creates a fundamental gap between maintenance provisions and actual property rights, leaving women—particularly homemakers—without any claim to assets accumulated

during marriage, while the Hindu Marriage Act provides for maintenance under Section 25 but lacks provisions for automatic property division, and Muslim personal law offers limited maintenance through *mehr* and *nafaqah* without recognizing women's claims to jointly acquired property.

Studies consistently demonstrate that even when women are awarded maintenance, the amounts are often insufficient to maintain their pre-divorce standard of living, irregularly paid due to enforcement challenges, or repeatedly contested in court by ex-husbands seeking reduction or termination of payments. The maintenance model treats women as dependents rather than equal partners in the economic enterprise of marriage, fundamentally undermining their financial autonomy and security, particularly for homemakers who have dedicated their productive years to domestic responsibilities and child-rearing, thereby sacrificing independent career development and income generation capabilities.

Research evidence reveals that many divorced women are compelled to return to their parental homes or depend on extended family support, with National Family Health Survey data indicating that a significant percentage faces downward economic mobility, falling below the poverty line despite having lived comfortably during marriage.

This economic insecurity forces women to endure abusive marriages rather than face financial destitution, perpetuating cycles of domestic violence and gender inequality, while the traditional joint family property structures ensure that women have no legal claim to property they helped create through their domestic labor, highlighting the systemic failure of matrimonial property laws and necessitating a shift toward recognizing matrimonial property rights as distinct from maintenance obligations through implementing a Uniform Civil Code that establishes equitable property division mechanisms regardless of religious affiliation.

A) Feminist Legal Perspectives on Unpaid Domestic Labor

Feminist legal scholarship has consistently highlighted the economic value of unpaid domestic labor performed by women throughout their marriages. This includes household management, childcare, eldercare, and emotional labor that enable male partners to pursue career advancement and property accumulation. Despite contributing significantly to family wealth creation through their unpaid work, women receive no recognition or compensation for these contributions under current matrimonial property laws.

The feminist critique emphasizes that traditional property law frameworks are based on malecentric models that equate contribution with monetary earnings, systematically devaluing women's non-monetary contributions. This approach ignores the reality that domestic labor and caregiving are essential economic activities that would otherwise require paid service providers. The failure to recognize unpaid domestic work as economic contribution reinforces gender hierarchies and perpetuates women's economic dependence.

Feminist legal theory advocates for a broader understanding of economic contribution that includes domestic labor, emotional support, and social reproduction activities. This perspective challenges the traditional separation between public and private spheres, arguing that women's work within the home creates economic value that should be recognized in property distribution. The feminist framework calls for matrimonial property laws that acknowledge the interdependence of paid and unpaid work in creating family wealth.

1. Equal Contributions in Marriage

Modern matrimonial property reform requires recognizing marriage as a collaborative economic relationship, where both partners contribute—whether through income, caregiving, or household management—to the creation of shared assets. This partnership model acknowledges that marital success depends on the combined efforts of both partners, whether through income generation, domestic management, or caregiving responsibilities. The economic partnership approach ensures that property division reflects the collaborative nature of wealth creation within marriage.

The partnership model challenges the traditional breadwinner-homemaker dichotomy by recognizing that both roles are essential for family economic stability. When one spouse focuses on career development while the other manages domestic responsibilities, both contributions enable the family's overall economic success. This interdependence means that property accumulated during marriage should be viewed as jointly created wealth rather than individual achievement.

V. EMERGING DOMESTIC MODELS OF UNIFORM CIVIL CODE IN INDIA

Although the implementation of a Uniform Civil Code (UCC) at the national level has remained largely aspirational, recent legislative initiatives by individual states indicate a growing shift toward legal uniformity in personal matters. Goa has long stood as a historical exception, applying a Portuguese-influenced civil code that recognizes community property and equal inheritance across all religions. More recently, states like Uttarakhand have enacted comprehensive UCC legislation, and Maharashtra has initiated discussions around similar reforms. These emerging models reflect a growing recognition that fragmented personal laws fail to ensure gender justice, particularly in the realm of matrimonial property rights. By introducing secular, gender-neutral frameworks for marriage, divorce, and property division,

these state-level initiatives offer valuable blueprints for broader national reform.

A) Goa's Civil Code:

Goa represents a unique exception in India's matrimonial property landscape, having retained a Portuguese-influenced civil code that predates the country's independence and the subsequent adoption of religion-based personal laws. "The Goan Civil Code, formally known as the *Código Civil Portugues*, was enacted in 1867 and continues to govern matrimonial property relations for all residents of Goa regardless of their religious affiliation. This uniform legal framework operates on the principle of community property, where assets acquired during marriage are considered jointly owned by both spouses, providing a practical model for how matrimonial property rights can function under a unified civil code system."

Goa's Civil Code enforces a detailed community property system for married couples, under which any wealth or assets accumulated during the marriage are presumed to be jointly owned, with each spouse entitled to an equal 50% share. This legal structure significantly reshapes the rules around matrimonial property by mandating **mutual consent** for any transaction involving shared assets. Neither spouse can independently sell, mortgage, or otherwise dispose of such property without the explicit agreement of the other. Importantly, this framework applies uniformly to all married couples in Goa—regardless of religious background—ensuring consistent treatment of matrimonial property rights across Hindu, Muslim, Christian, and other communities.

The matrimonial property under Goa's system includes all assets acquired during the marriage through either spouse's efforts, encompassing real estate, business interests, professional practices, financial investments, and modern assets like intellectual property rights and digital holdings. The code distinguishes between community matrimonial property and separate property owned before marriage or received as individual gifts, ensuring that pre-marital assets remain individual while marital acquisitions are subject to joint ownership rules. This comprehensive approach to matrimonial property extends beyond traditional physical assets to include employment benefits, pension rights, and professional goodwill developed during marriage.

1) Model for National Matrimonial Property Reform

Goa's Civil Code demonstrates that uniform matrimonial property laws can function effectively across diverse religious communities, having operated successfully for over 150 years without generating communal tensions or religious conflicts over property rights. The system's success in treating matrimonial property identically for all couples regardless of religion provides concrete evidence that uniform civil codes can establish equal spousal property rights while respecting religious diversity. This track record offers a practical model for implementing nationwide matrimonial property reforms through the UCC.

Goa's matrimonial property regime offers a transferable model, with clearly defined procedures for registering, managing, and dividing marital assets. Its structure can be adapted at the national level while upholding essential principles of gender equity and equal spousal entitlements. The system's approach to matrimonial property disposal through joint consent and judicial oversight provides a balanced framework that protects both spouses' interests while allowing for efficient resolution of property disputes. The proven effectiveness of this matrimonial property regime in addressing contemporary challenges, combined with its demonstrated ability to maintain social cohesion across religious lines, positions Goa's Civil Code as the most viable model for implementing uniform matrimonial property laws throughout India under a comprehensive UCC framework.

B) Uniform Civil Code Of Uttarakhand Act, 2024

The Uttarakhand Uniform Civil Code Act, 2024 represents a landmark development, being the first state-level legislation in India to establish uniform matrimonial property rights applicable to all religious groups.. This landmark law eliminates religious distinctions in spousal property rights, establishing a unified framework that ensures equal inheritance and property division mechanisms for all married couples regardless of their faith background.

The Act introduces revolutionary reforms to matrimonial property management by abolishing the traditional coparcenary system that historically denied women equal rights in ancestral property. Under this new legal structure, any assets accumulated during the course of marriage are presumed to be jointly owned, granting each spouse an equal 50% share. In contrast, ancestral property is governed by inheritance rules that apply equally to sons and daughters, regardless of gender. This shift plays a crucial role in reducing the economic insecurity faced by women in marital relationships by securing their property rights, even in the absence of direct financial contributions.

The legislation's approach to gender justice represents a paradigm shift by recognizing domestic labor, childcare, and family management as legitimate economic contributions worthy of property rights. This recognition validates women's unpaid labor and ensures they receive tangible economic benefits for their domestic contributions, fundamentally altering the economic dynamics of marriage and family property distribution. The Act provides crucial economic protection by creating a legal safety net that prevents economic abandonment

following divorce or widowhood.

Implementation of the UCC Act establishes a unified judicial system where civil courts replace the previously fragmented network of religious tribunals and personal law courts. This standardized approach ensures consistent application of matrimonial property laws across all communities while reducing complexity and delays in dispute resolution. The framework includes comprehensive procedures for property registration, disposal, and distribution that require joint consent for significant asset transactions.

Uttarakhand's successful implementation of the UCC Act provides a practical template for national uniform civil code legislation, demonstrating that comprehensive matrimonial property reforms can gain political acceptance and social support when properly designed. The Act's framework for joint ownership requirements, equal inheritance provisions, and standardized dispute resolution mechanisms offers a replicable model that addresses fundamental gender equality issues while maintaining social harmony across diverse religious communities.

C) Maharashtra's UCC Proposal: Political Intent and Future Possibilities

Maharashtra's proposed Uniform Civil Code represents a significant political development in India's evolving civil law landscape, though it remains in the preliminary stages as a legislative proposal rather than enacted law. The bill has garnered substantial political support from the ruling coalition, positioning Maharashtra as potentially the second state to implement comprehensive UCC legislation following Uttarakhand's pioneering example. The proposal indicates growing political momentum for uniform civil code implementation across major Indian states.

The Maharashtra UCC proposal's potential scope for matrimonial property reform closely mirrors Uttarakhand's framework, suggesting standardized approaches to spousal property rights, inheritance equality, and joint asset management across religious communities. While specific provisions remain under development, the proposal signals Maharashtra's intent to address matrimonial property disparities through uniform legislation that could significantly impact property rights for millions of couples in India's second-most populous state.

The Maharashtra proposal's significance extends beyond state boundaries, contributing to broader national discourse on UCC implementation and demonstrating increasing political feasibility of uniform civil laws. As a proposal rather than enacted legislation, it represents the growing political will to address matrimonial property inequalities while serving as a potential catalyst for other states to consider similar legislative initiatives, thereby advancing the national conversation on comprehensive civil code reform.

VI. CHALLENGES AND PROSPECTS OF NATIONAL UCC IMPLEMENTATION

A nationwide implementation of the Uniform Civil Code in India would face substantial challenges rooted in the country's religious and cultural diversity. Religious communities may resist standardized matrimonial property laws that conflict with traditional personal law systems, potentially leading to social tensions and political opposition. Constitutional concerns regarding religious freedom under Articles 25–28 and minority rights could give rise to legal challenges, while the practical difficulty of harmonizing vastly different inheritance systems, marriage customs, and property regimes would require extensive legislative drafting and judicial interpretation.

Administrative hurdles would also be significant. Implementing uniform matrimonial property laws across India's federal structure would necessitate coordination between central and state governments, retraining of judicial personnel, and the establishment of new legal procedures. Rural areas with limited legal infrastructure may struggle to adopt standardized property registration and dispute resolution systems. Moreover, resistance from religious institutions and traditional community leaders—who currently exercise authority over matrimonial matters—could further complicate implementation.

Despite the anticipated challenges, implementing a national Uniform Civil Code holds significant promise for promoting gender equality and broader social justice. Standardized matrimonial property laws would help dismantle discriminatory norms embedded in existing personal law systems by ensuring equal inheritance rights for women and acknowledging unpaid domestic work as a valuable contribution. A unified legal structure would also simplify the legal landscape, improve judicial efficiency, and offer consistent economic safeguards to spouses across all religious and cultural backgrounds.

VII. CONCLUSION

The quest for matrimonial property rights through a Uniform Civil Code represents a fundamental shift toward establishing equal spousal rights that transcend religious boundaries in India. The constitutional mandate of Article 44, reinforced by judicial pronouncements emphasizing gender equality, provides the legal foundation for transforming matrimonial property laws from fragmented religious systems into a unified framework that prioritizes gender justice over traditional patriarchal structures.

The diverse landscape of current matrimonial property laws across Hindu, Muslim, Christian,

and Parsi communities reveals stark inequalities that economically disadvantage women through discriminatory inheritance practices, unequal property rights, and failure to recognize domestic labor as a valuable economic contribution. These disparities create systematic economic vulnerability for women, particularly in post-divorce situations, highlighting the urgent need for comprehensive reform that recognizes marriage as an economic partnership deserving of equal treatment for both spouses.

Emerging domestic models demonstrate the feasibility and transformative potential of implementing a uniform civil code in India. While Goa's Portuguese-influenced civil code acknowledges community property, Uttarakhand UCC Act, 2024 offers a contemporary template for addressing modern matrimonial property challenges through equal inheritance rights, the abolition of discriminatory coparcenary systems, and the recognition of domestic labor contributions. Maharashtra's proposed UCC further signals the growing political momentum for uniform civil laws across major Indian states.

The path forward requires acknowledging that cultural resistance and political hesitation, while significant, cannot indefinitely delay the constitutional promise of gender equality in matrimonial-property rights. The successful implementation of the uniform civil code legislation depends on progressive judicial interpretation, sustained political commitment, and recognition that true gender justice in marriage requires economic equality that transcends religious identity.

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