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# Uniform Civil Code: Is the Time Ripe?

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G S GOKUL<sup>1</sup>

## ABSTRACT

*The Uniform Civil Code (UCC), envisaged under Article 44 of the Indian Constitution as part of the Directive Principles of State Policy, has long been a subject of debate and constitutional aspiration. The provision, though non-justiciable, reflects the framers' vision of ensuring legal uniformity in personal matters across all communities to strengthen national integration and gender justice. Despite repeated judicial exhortations in landmark cases such as Mohd. Ahmed Khan v. Shah Bano Begum and Sarala Mudgal v. Union of India, the UCC remains unrealised due to persistent social, political, and religious apprehensions. The resistance, rooted in the Constituent Assembly Debates, primarily concerns cultural diversity, minority fears of majoritarian imposition, and the perceived conflict between personal laws and religious freedom under Article 25. This paper critically examines these arguments alongside justifications for the UCC, highlighting its role in securing equality under Articles 14 to 18, rectifying gender-based discrimination, and advancing social reform. It also assesses contemporary challenges and proposes a phased, consensual approach, echoing Dr. B.R. Ambedkar's recommendation for gradual acceptance before universal enforcement. The study concludes that while societal readiness remains contested, a well-intentioned and inclusive UCC is imperative for realising constitutional ideals of secularism, equality, and justice.*

**Keywords:** Uniform Civil Code, Article 44, Constitutional Law, Secularism, Gender Justice, Personal Laws, Religious Freedom, Directive Principles of State Policy, Social Reform, Equality.

## I. INTRODUCTION

"The state shall endeavour to secure for the citizens a uniform civil code throughout the territory of India".<sup>2</sup>

This is what Article 44 (Article 35 as in the Draft Constitution<sup>3</sup>) of the Constitution of India calls for. Yes, this comes within the Directive Principles of State Policy, a simple suggestion from the makers of the Constitution of India to the future lawmakers of our country, no more enforceable than a command of the mediator in a mediation<sup>4</sup>. Yet, the amount of resistance this

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<sup>2</sup> The Constitution of India, Art. 44

<sup>3</sup> Constituent Assembly Debates, Tuesday, 23rd November 1948 (CAD Vol VII, Pg- 538, 540-552)

<sup>4</sup> The Supreme Court has created a well-settled law through its decisions vis. *ABK Singh v. Union of India* (AIR

article received in the Constituent Assembly<sup>5</sup> is enough to show how people felt about it from its inception. Even today, the conception has not changed because even mainstream writers think “the idea of achieving common Indian identity through UCC is undesirable because Indian identity is itself plural and a synthesis of differing views coupled with regional cultures and identities”<sup>6</sup>

The Uniform civil code, if enacted will deal with the personal laws of all religious communities relating to marriage, divorce, adoption, custody of children inheritance, succession to property, etc<sup>7</sup>. which are all secular in the character of the Indian state<sup>8</sup> and to enhance fraternity and unity among citizens<sup>9</sup> by providing them with a set of personal laws which incorporates the basic values of humanism.<sup>10</sup> The UCC also aims to overcome the particularistic and often reactionary aspects of the personal laws of various religious communities.<sup>11</sup> The objective thus is also to bring social reform and uplift the status of women.<sup>12</sup> The UCC is eminently desirable in the interest of the modernisation of society and for a common system of Justice for all.<sup>13</sup>

It is poignant to note that the Judiciary, through V Y Chandrachud J., while deciding *Mohd. Ahmed Khan v. Shah Bano Begum*<sup>14</sup> observed that—

“It is a matter of regret that Article 44 of our constitution has remained a dead letter.... It provides that the state shall endeavour to secure a uniform civil code for the citizens throughout the territory of India. There is no evidence of any official activity in framing

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1981 SC 298), followed by *Waman Rao v. Union of India* (AIR 1982 SC 232) and *Griha Kalyan Kendra Workers' Union v. Union of India* [(1991)1 SCC 611] that the Directive Principles of State Policy and Fundamental rights ought to be harmoniously constituted and whenever possible fundamental Rights should be adjusted in their ambit so to give effect.

<sup>5</sup> Kumar, N. (2024). Uniform Civil Code: Examining the Obstacles to Putting UCC into Effect. *LawFoyer Int'l J. Doctrinal Legal Rsch.*, 2, 1061.

<sup>6</sup> See Bhikhu Parekh, “The Constitution as a Statement of Indian Identity” in Rajeev Bhargava (ed.), *Politics and Ethics of the Indian Constitution* (Oxford University Press, New Delhi, 2008). And Singh AP, ‘UTILITY OF UNIFORM CIVIL CODE.’ (2017) 59 *Journal of the Indian Law Institute* 178

<sup>7</sup> Bral, A. (2024). Women and Personal Laws: A Need for Uniform Civil Code. *LawFoyer Int'l J. Doctrinal Legal Rsch.*, 2, 1000.

<sup>8</sup> Singh, J. P. (2010). Problems of India's changing family and state intervention. *The Eastern Anthropologist*, 63(1), 17-40.

<sup>9</sup> Bagde, S. (2022). A Doctrinal Study of Uniform Civil Code (UCC) and Personal Laws. *Issue 4 Indian JL & Legal Rsch.*, 4, 1.

<sup>10</sup> Singh, C. K., & Kumar, M. (2022). The Uniform Civil Code Debate in India: Conceptual Predicaments, Historical Legitimacy, and Challenges to Pluralism. *Chanchal Kumar Singh & Mritunjay Kumar, The Uniform Civil Code Debate in India: Conceptual Predicaments, Historical Legitimacy, and Challenges to Pluralism V SML. L. REV*, 12.

<sup>11</sup> Ahmed, S., & Ahmed, S. (2006). Uniform Civil Code (Article 44 of the Constitution) A Dead Letter. *The Indian Journal of Political Science*, 545-552.

<sup>12</sup> Nassa, S. (2023). The Debate over Uniform Civil Code (" UCC") and Its Significance for India as a Secular Democracy. *Indian J. Integrated Rsch. L.*, 3, 1.

<sup>13</sup> Ahmed & Ahmed, ‘UNIFORM CIVIL CODE (ARTICLE 44 OF THE CONSTITUTION) A DEAD LETTER’ (2006) 67(3) *Indian Journal of Political Science* 545

<sup>14</sup> 1985 2 SCC 556

a Uniform 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 that have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions on this issue.”

The Supreme Court of India once again, in a historic case of *Sarala Mudgal, President Kalyani v. Union of India*<sup>15</sup> stressed the need for a Uniform Civil Code. The apex court has reminded the Government of India of its imperative duty to implement a uniform civil code for both the protection of the oppressed and the promotion of national unity and integration.<sup>16</sup>

Though there is hardly any change in the apprehension of the general public<sup>17</sup>, there are visible proactive steps on the part of the public authority.<sup>18</sup> This can be evidenced by the fact that a UCC bill was proposed twice, in November 2019 and March 2020. However, it was withdrawn both times without introduction in the parliament.<sup>19</sup>

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<sup>15</sup> AIR 1995 SC 1531

<sup>16</sup> DC Manooja, ‘UNIFORM CIVIL CODE: A SUGGESTION’ (2000) 42(2/4) Journal of the Indian Law Institute 448

<sup>17</sup> Kumar, N. (2024). Uniform Civil Code: Examining the Obstacles to Putting UCC into Effect. *LawFoyer Int'l J. Doctrinal Legal Rsch.*, 2, 1061.

<sup>18</sup> Kapoor, V., & Singh, R. K. (2024). Uniform Civil Code & Its Importance. *LawFoyer Int'l J. Doctrinal Legal Rsch.*, 2, 11. The Uttarakhand Uniform Civil Code Act (hereinafter “UCC Act”) marks a significant step toward operationalizing Article 44 of the Constitution by introducing a codified, religion-neutral legal framework governing marriage, divorce, succession, maintenance, adoption, and guardianship for all communities in the state, while exempting Scheduled Tribes to preserve cultural autonomy. The Act mandates compulsory registration of marriages irrespective of religion, a provision endorsed by the Supreme Court in *Seema v. Ashwani Kumar* for its role in preventing child marriage and bigamy, and prescribes monogamy, uniform minimum marriage age (21 for men and 18 for women), and consent as essential conditions of marriage. It abolishes polygamy and provides gender-neutral grounds for divorce, including cruelty, desertion, mutual consent, and irretrievable breakdown, aligning with judicial observations in *Naveen Kohli v. Neelu Kohli*. In matters of succession, the Act ensures equal inheritance rights for sons and daughters, thereby eliminating patriarchal disparities entrenched in personal laws and affirming constitutional guarantees under Articles 14 and 15, consistent with the ruling in *Vineeta Sharma v. Rakesh Sharma*. Furthermore, it creates a uniform regime for maintenance obligations and prescribes secular norms for adoption and guardianship, granting equal rights to both parents, echoing principles recognized in *Githa Hariharan v. Reserve Bank of India*. By severing personal laws from religious identity, the Act reinforces the Supreme Court’s position in *John Vallamattam v. Union of India* that personal law is not synonymous with religious freedom under Article 25. These reforms directly respond to historical concerns raised during the Constituent Assembly Debates and reiterated in scholarly discourse, particularly fears relating to diversity, majoritarianism, and societal readiness, through a calibrated approach that confines application to a single state, incorporates exemptions, and adopts gender-just, secular norms rather than replicating any religious code. Although apprehensions of majoritarian bias persist due to contemporary political narratives, the Act remains substantively neutral and represents a gradualist strategy, consistent with B.R. Ambedkar’s view that public acceptance must precede universal application

<sup>19</sup> Ranwa, S. Uniform Civil Code: An Essential Need for Secularism of India.

## II. ARGUMENTS AGAINST THE ENFORCEMENT OF UCC

Mohammed Ismail Saheb<sup>20</sup>, Naziruddin Ahamed<sup>21</sup>, Pooker Sahib Bahadur<sup>22</sup>, Hussain Imam<sup>23</sup>, and many others strongly expressed their feeling in the Constitutional Assembly against bringing such a provision into the Constitution. They focused on four main points on why such an inclusion will affect the concept of secularism that the Constitution is trying to secure.

To begin, India is a country with diverse ethnic and cultural backgrounds<sup>24</sup>. Its diversity can be easily identified even by the stark geographical differences that spread along the length and breadth of our country<sup>25</sup>. This leads us to the primary question: Can a single law accommodate the wishes and aspirations of the entire population of our country?<sup>26</sup> The process of secularisation in India, though not negligible, is yet far slower and more torturous<sup>27</sup>. And no law, however ideal, can become acceptable if it alienates people and ignores social realities. A law has to be socially rooted to be acceptable.<sup>28</sup>

Further, India is a Hindu-majority country, and obviously, the minorities are worried that their culture and ethos might get overshadowed by the outcry of the majority<sup>29</sup>. Their major concern is what ensures that the new law that deals with their personal life will be an inclusive one and will not be something that imposes unfamiliar principles<sup>30</sup>.

Adding to this, they feel that personal law and religious freedom are one and the same<sup>31</sup>. Hence, by preventing them from exercising their personal laws as directed by their religion, it appears as if their freedom of religion, which is a fundamental right guaranteed under Article 25 of the

<sup>20</sup> Mohamed Ismail (Madras) argued for an exemption respecting personal laws and moved a proviso stating that “any group, section or community of people shall not be obliged to give up its own personal law”. His remarks are recorded in Volume VII, pp. 548-549.

<sup>21</sup> Naziruddin Ahmad (West Bengal) expressed concern about the state's ability to override religiously grounded civil laws, urging a gradual approach. This speech appears in Volume VII, p. 551.

<sup>22</sup> Mahboob Ali Baig Sahib Bahadur (Madras) contended that Muslim personal laws pertaining to succession, marriage, and divorce are rooted in religion and must be protected. His remarks are on Volume VII, p. 552.

<sup>23</sup> Hussain Imam voiced a forceful critique, describing the uniform code as potentially tyrannous and unsuitable for a vast, diverse society. He called for postponement until India achieved socioeconomic and educational readiness. His detailed intervention is captured in Volume VII, pp. 548–570, within which his remarks are located.

<sup>24</sup> Chakrabarty, D. (2013). *Modernity and Ethnicity in India: Reflections on ‘Culture’s in Between’*. In *Multicultural States* (pp. 91-110). Routledge.

<sup>25</sup> Majumder, P. P. (1998). People of India: Biological diversity and affinities. *Evolutionary Anthropology: Issues, News, and Reviews: Issues, News, and Reviews*, 6(3), 100-110.

<sup>26</sup> Kapoor, V., & Singh, R. K. (2024). Uniform Civil Code & Its Importance. *LawFoyer Int'l J. Doctrinal Legal Rsch.*, 2, 11.

<sup>27</sup> Vanaik, A. (1997). *The furies of Indian communalism: Religion, modernity, and secularization*. Verso.

<sup>28</sup> Ahmed & Ahmed, ‘UNIFORM CIVIL CODE (ARTICLE 44 OF THE CONSTITUTION) A DEAD LETTER’ (2006) 67(3) *Indian Journal of Political Science* 545

<sup>29</sup> Sikandar, M. (2023). Populism in the World's Largest Democracy: Whither Minority Rights in India?. *UW Austl. L. Rev.*, 51, 274.

<sup>30</sup> See Raz, J. (1971). Legal principles and the limits of law. *Yale. LJ*, 81, 823.

<sup>31</sup> Sharma, V., Malik, A., & Kaur, H. (2023). REALTIONSHIP BETWEEN PERSONAL LAWS AND RELIGIOUS FREEDOM IN INDIA. *Panjab University Law Review*, 62(2).

Constitution of India, is curtailed<sup>32</sup>. Obviously, it is a well-established principle that fundamental rights stand at a higher pedestal when compared to any law in the country<sup>33</sup>, let alone the Directive Principles of State Policy.<sup>34</sup> So, will the Uniform Civil Code ensure the protection of their religion?

Above all, the most startling contention was that raised by Mr. Hussain Imam. He said that the time was not ripe enough for such an adventure on the part of the government of India<sup>35</sup>. People need to be educated first before they can be brought under a single law that might be alien to them<sup>36</sup>. They should be able to comprehend that, though the law they are following is against the principle taught to them, it is the justice of the nation that the said law is trying to secure.<sup>37</sup>

### III. JUSTIFYING THE UNIFORM CIVIL CODE

Even after seven decades of Independence, it feels like we are still in the same position as we were back then - personal laws regarding marriage and succession continue to be dealt with by the uncodified strands of law that differ for different communities.<sup>38</sup> Upon closer evaluation of the Constituent Assembly Debates, the first three concerns were properly addressed, and the fourth one was partially dealt with by Dr. B.R. Ambedkar, with the help of passionate arguments from K.M. Munshi and others in the Constituent Assembly itself.<sup>39</sup>

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<sup>32</sup> Mustafa, F., & Sohi, J. S. (2017). Freedom of religion in India: current issues and supreme court acting as clergy. *BYU L. Rev.*, 915.

<sup>33</sup> De Villiers, B. (1992). Directive principles of state policy and fundamental rights: The Indian experience. *South African Journal on Human Rights*, 8(1), 29-49.

<sup>34</sup> Granville Austin famously described the Fundamental Rights and the Directive Principles of State Policy as forming the “conscience of the Constitution,” emphasizing that the framers intended them to be complementary rather than antagonistic (GRANVILLE AUSTIN, *THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION* 50 (1966)). According to Austin, while Fundamental Rights provide enforceable individual freedoms and legal remedies, Directive Principles outline the social and economic goals necessary to transform India into a welfare state, creating a framework for socio-economic democracy. He characterized their relationship as a form of “harmonious construction,” asserting that the true realization of constitutional governance lies in balancing civil-political liberties with social and economic justice. Austin wrote that the Directive Principles were “aimed at furthering the goals of the Revolution through legislation,” and that Fundamental Rights without corresponding social reforms would remain hollow promises. This interpretation highlights Austin’s belief that the Constitution enshrined a dual strategy of liberty and social reform, requiring cooperation rather than conflict between these two sets of provisions.

<sup>35</sup> Ratnaparkhi, M. S. (1997). *Uniform civil code: An ignored constitutional imperative*. Atlantic Publishers & Dist.

<sup>36</sup> Kapoor, V., & Singh, R. K. (2024). Uniform Civil Code & Its Importance. *LawFoyer Int'l J. Doctrinal Legal Rsch.*, 2, 11.

<sup>37</sup> Constituent Assembly Debates, Tuesday, 23rd November 1948 (CAD Vol VII, Pg- 538, 540-552)

<sup>38</sup> Rautenbach, C., & Wiese, M. (2024). The evolution of family law: judicial recognition of the diversity of modern marriage-like relationships in South Africa and beyond. In *Research Handbook on Family Property and the Law* (pp. 139-157). Edward Elgar Publishing.

<sup>39</sup> Debates on Draft Article 35 (later Article 44), Constituent Assembly Debates, Vol. VII, Debate of Nov. 23, 1948, Ambedkar’s assurance of voluntary adoption (“the Code shall apply only to those who make a declaration that they are prepared to be bound by it”), and K.M. Munshi’s emphatic support for gradual, consensual reform rather than imposition, rejecting the notion that civil code infringes on religious freedom, and advocating for national unity and gender equality. [Indian Express, *How Constituent Assembly debated Uniform Civil Code* (UCC), Nov. 23, 1948 (quoting Ambedkar and Munshi)]

Regarding the diversity point, Pan India laws were already in existence and were being successfully implemented as and when the Constitutional Assembly Debates were taking place on this Article. Ambedkar cited that the Civil Procedure Code, the Indian Penal Code, and many other laws were all tested and proved examples of pan-India laws.<sup>40</sup> They found acceptance amongst all the diverse communities of our country. Considering Hindu and Muslim principles of morality, we can clearly see that most of these provisions, which we find relevant to a civil society in these laws, couldn't even be enacted. This includes providing equal opportunity to women and equal opportunity to all, a fundamental right that our constitution is trying to secure. Thus, a pan-India law on reasonable grounds will receive acceptance even if it is against religious principles. As pointed out by Akhilendra Pratap Singh, the idea of UCC owes its origin to the concept of a common national identity.<sup>41</sup> To support this, he relies upon the observation given by K.M. Munshi in the Constituent Assembly-<sup>42</sup>

“[T]here are many factors - and important factors - which still offer serious dangers to our national consolidation, and it is very necessary that the whole of our life, so far as it is restricted to secular spheres, must be unified in such a way that as early as possible, we may be able to say, Well, we are not merely a nation because we say so, but also in effect, by the way we live, by our personal law, we are a strong and consolidated nation.”

The legislative interference in the colonial as well as post-colonial period has, if not entirely, but surely to a great extent, modified the legal framework of personal laws. It has caused a convergence of the personal laws to ideals of equality laid down in the Indian Constitution, thereby making them similar to each other in many aspects. An illustration that justifies the latter claim comes from the comparison of the present legal framework of personal laws concerning the issue of divorce.<sup>43</sup> Hence, we can say that we are already on the path to an amalgamated legislation catering to the needs of all. Yet these are just fragments that need unification and national collective identification. According to D C Manooja, the various instances of discrimination in personal laws are as follows:

1. The Muslim law allows polygamy, but the Hindu, Christian, and Parsee laws do not.<sup>44</sup>

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<sup>40</sup> Constituent Assembly Debates, Vol. VII, 548–552 (Nov. 23, 1948) (statement of B.R. Ambedkar highlighting the existence of Indian Penal Code, Code of Civil Procedure, and other pan-India legislations)

<sup>41</sup> Singh AP, ‘UTILITY OF UNIFORM CIVIL CODE.’ (2017) 59 Journal of the Indian Law Institute 178

<sup>42</sup> K.M. Munshi, 7 Constituent Assembly Debates at 11 (Nov. 23, 1948)

<sup>43</sup> Singh AP, ‘UTILITY OF UNIFORM CIVIL CODE.’ (2017) 59 Journal of the Indian Law Institute 178

<sup>44</sup> Ansari, A. H., & Ahmed, K. H. W. M. H. (2011). Legal and Social Viability of Polygamy: An Analysis. *Journal of Islam in Asia (E-ISSN 2289-8077)*, 8, 397-414.

2. The definition of marriage under Muslim law indicates that the female witness is not equivalent to the male witness.<sup>45</sup>
3. Marriage under Muslim law is a civil contract, while under Hindu law, even today, marriage is regarded as a sacramental union, though only partially.<sup>46</sup>
4. Muslim males are allowed extra-judicial divorce, but Hindu, Christian, and Parsee males, as well as females, can obtain divorce only through the court.<sup>47</sup>
5. Muslim females can get a divorce only through the court of law on specified grounds. The same is the position of Hindu, Christian, and Parsee females.<sup>48</sup>
6. Under Muslim law, a husband's apostasy from Islam results in the automatic dissolution of a Muslim marriage, though the wife's apostasy does not. Under Hindu law, a spouse converting to another religion confers on the other spouse a right to sue for divorce. The same is the position under Parsee law. Under Christian Law, apostasy does not affect the marriage, but where the apostate husband has married again, the wife gets the right to sue for divorce.
7. Under Muslim law, a divorced wife is not entitled to any maintenance except for the iddat period<sup>49</sup>. The Hindu, Christian, and Parsee law permits maintenance for a divorced wife till her death or remarriage.
8. Under Muslim law, a divorced wife cannot marry her previous husband without her being remarried to some other man who has pronounced divorce on her or has died after consummation of marriage. No such condition exists under Hindu, Christian, and Parsee Law.
9. Under Muslim law, a daughter inherits half of the share of a son.
10. Under Muslim law, a person cannot dispose of more than 1/3 share of his property by will, but other personal laws do not impose any such limitation. In the case of joint

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<sup>45</sup> Ahmad, N. (2011). Comment Women's Testimony in Islamic Law and Misconceptions: A Critical Analysis. *Religion & Human Rights*, 6(1), 13-23.

<sup>46</sup> Witte, J. (2012). *From sacrament to contract: Marriage, religion, and law in the Western tradition*. Presbyterian Publishing Corp.

<sup>47</sup> Vatuk, S. (2019). Extra-Judicial Khul' Divorce in India's Muslim Personal Law. *Islamic Law and Society*, 26(1-2), 111-148.

<sup>48</sup> Carroll, L. (1997). Muslim women and 'Islamic divorce' in England. *Journal of Muslim Minority Affairs*, 17(1), 97-115.

<sup>49</sup> This concept has under a landmark change due to the intervention of the Supreme Court through its decisions. *Vis Mohd. Ahmed Khan v. Shah Bano Begum and others* (1985) 2 SCC 556, *Mohd Abdul Samad vs The State of Telangana* (2024 INSC 506). In the latter case, the Supreme Court held *that divorced Muslim women can seek maintenance from their ex-husbands under Section 125 of the Code of Criminal Procedure (CrPC) [sec 144 of BNSS]. This right is in addition to the rights under the Muslim Women (Protection of Rights on Divorce) Act, 1986.*

family property among Hindus, one can only dispose of his share by will and not the whole of the joint family property.

11. A female under Mitakshara law is not a Coparcener. A coparcenary consists of only male members. Such a system is not available in other personal laws even after the passing of the Hindu Succession Act, 1956.<sup>50</sup>
12. Muslim law recognises acknowledgement of paternity and thus clears the legitimacy of the child, while others do not recognise the same.
13. Muslim, Christian law, and Parsee laws do not recognise adoption of a child, while Hindu law permits adoption.
14. Under Muslim law, a child born is deemed to be legitimate if born within a particular period of separation of spouses (after divorce or otherwise), which varies from 10 months to 4 years. The courts in India have refused to recognise the Hanafi law, which permits two years of separation, as it cannot happen in the natural course of events. Hindu, Christian, and Parsee laws do not confer legitimacy if the separation period is more the 270-280 days.<sup>51</sup>

The second point against bringing a Uniform Civil Code as raised in the Constituent Assembly regarding the Hindu influence in a law of such kind though could be easily countered at the time of the Constitutional Assembly Debates by stating that even Hindu laws were different in different aspects (this can be understood from followers of two different texts vis. Mitakshara and Dayabhaga) and additionally, a non-Hindu concept might be adopted if that is found to be appropriate. Hence, laws were enacted, taking the best, and they do not necessarily need not align with any religious ideology. It is something that society finds to be appropriate at the relevant time that gets adopted as a law and implemented.

However, this is of concern at present. Primarily because of the ideologies followed by the present Union Government. There is a growing concern that the ethos of a single community might be imposed upon the entirety of the nation. Several acts on the part of the Government have fueled this concern even more. The inaugural ceremony of the Central Vistas stands as a testimony to this point.

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<sup>50</sup> The condition has changed following the 2005 Amendment of the Hindu Succession Act 1956. The Hindu Succession Act of 1956 was enacted to give women greater rights and bring uniformity to inheritance laws. The 2005 Amendment to the Act gave women equal rights to property as sons in a Hindu family. The Supreme Court *Prasanta Kumar Sahoo & Ors. Vs. Charulata Sahoo & Ors. (2023 INSC 319)* clarified that the *Hindu Succession (Amendment) Act, 2005 gave daughters the same rights as sons in coparcenary property*

<sup>51</sup> DC Manooja, 'UNIFORM CIVIL CODE: A SUGGESTION' (2000) 42(2/4) *Journal of the Indian Law Institute* 448

From the standpoint of personal laws and religious freedom, we can see, not only from what was presented by Ambedkar but also from the repeated iterations on the part of the Supreme Court, that there is no connection between religious freedom and personal laws. In *John Vallamattan v. Union of India*<sup>52</sup>, a three-Judge Bench expressed regret for the non-enactment of the Common Civil Code. It also stated that Article 44 is based on the premise that there is no necessary connection between religion and personal law in a civilised society.

In addition, marriage registration was something that received no support in the Constitutional Assembly Debates. It was shown as an example that might not receive acceptance among the public. However, the Supreme Court Decision in *Seema v. Ashwani Kumar*<sup>53</sup> that all marriages must be registered irrespective of the ethos of the parties imparted several benefits in the society, which include-

1. Prevention of child marriages
2. Checking bigamy and polygamy
3. Ensure rights under marriages, like maintenance and custody
4. Deter husbands from deserting their wives.

Despite repeated outcries on the part of the judiciary to bring in a Uniform Civil Code, it remains a distant reality. However, after deciding several cases on similar lines and focusing on the need for UCC<sup>54</sup>. The apex court has refrained from directly engaging with the issue by referring to it as a matter that falls within the purview of the legislature.<sup>55</sup>

From this argument, it is clear that the implementation of a UCC can in no way hinder the implementation of Fundamental rights guaranteed under Article 25. In fact, with the non-implementation of Article 44 of the Constitution, Articles 14 to 18 are being violated, which provide for the Right of equality and the prohibition of discrimination on the grounds of sex and religion. Many personal laws relating to marriage, inheritance, guardianship, divorce, adoption, and property relations in all communities are unjust, especially to women.<sup>56</sup>

A sharp distinction must be drawn between religious faith and belief and religious practices. What the state protects is religious faith and belief. If religious practices turn counter to public

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<sup>52</sup> AIR 2003 SC 2903

<sup>53</sup> AIR 2006 SC 1158

<sup>54</sup> Mohd. Ahmad Khan v. Shah Bano Begum, AIR 1985 SC 945; *Jorden Diengdeh v. S.S. Chopra*, AIR 1985 SC 935; *Smt. Sarla Mudgal v. Union of India*, AIR 1995 SC 1531

<sup>55</sup> *Ahmedabad Women Action Group v. Union of India*, (1997) 3 SCC 573, the court refused to entertain the writ petitions by observing that it is an issue of state policy with which the court will not ordinarily have any concern.

<sup>56</sup> Ahmed & Ahmed, 'UNIFORM CIVIL CODE (ARTICLE 44 OF THE CONSTITUTION) A DEAD LETTER' (2006) 67(3) Indian Journal of Political Science 545

order, morality, or health, or a policy of social welfare upon which the state has embarked, then the religious practices must give way for the good of the people of the state as a whole. The state is empowered to legislate concerning social reform under Article 25 (2) (b) even though it may interfere with the right of citizens to freely profess, practice, and propagate religion. Therefore, this legislation does not contravene Article 25(i) of the Constitution.<sup>57</sup>

Much misapprehension prevails about bigamy in Islam. Ironically, Islamic countries like Syria, Tunisia, Morocco, Pakistan, Iran, etc, have codified the personal law where the practice of polygamy has been either totally prohibited or severely curtailed to check the misuse and abuse of this obnoxious practice. The tragedy is that a secular country like India is lagging in bringing such legislation to the fore.<sup>58</sup>

#### IV. POINT-TO-POINT COMPARISON OF UCC OF UTTARAKHAND 2024 AGAINST LEGACY DIFFERENCES FLAGGED BY D C MANOOJA

<b>Legacy difference flagged</b>	<b>What the UCC (Uttarakhand) does (section/Rule)</b>	<b>Status</b>	<b>Notes / If still a gap, practical unification fix</b>
Muslim law allows polygamy; Hindu/Christian/Parsi don't	Conditions for marriage” (Part I, Ch 1) + uniform dissolution regime: marriage is monogamous in effect; extrajudicial/parallel dissolutions invalid; court decree required for divorce (ss. 25 & 29).	Rectified	The Code's requirement that dissolution be only as per the Code (s. 29) collapses the space for polygamy/parallel unions; the government/press also clarifies an explicit ban.
Female witness not equal to male witness	Marriages are recognised by registration, not religious-law witness rules (Part I, Ch 2, ss. 6–15).	Rectified in practice	Because legal validity stems from civil registration, rather than ceremony-specific witness rules. A clarifying rule could state “no

<sup>57</sup> DC Manooja, 'UNIFORM CIVIL CODE: A SUGGESTION' (2000) 42(2/4) Journal of the Indian Law Institute 448

<sup>58</sup> Ahmed & Ahmed, 'UNIFORM CIVIL CODE (ARTICLE 44 OF THE CONSTITUTION) A DEAD LETTER' (2006) 67(3) Indian Journal of Political Science 545

(Muslim law)			gender hierarchy in witnesses” for solemnization memos.
Marriage is a contract in Muslim law; a sacrament (partly) in Hindu law	UCC treats marriage as a civil status, uniformly regulated; same grounds, same forum, same effects (Part I generally; ss. 21–34).	Rectified	Uniform regime (restitution, judicial separation, divorce, maintenance) replaces divergent conceptual bases.
Muslim males: extra-judicial divorce; others: court only	Divorce only by court decree (s. 25); no dissolution by custom/usage/personal law (s. 29). Penalties for contravention (s. 32).	Rectified	Explicitly shuts the door on talaq/other extra-judicial methods; reportage also notes bans on triple talaq/halala.
Women of all communities: divorce only via court on limited grounds	Both spouses have equal right to seek divorce on uniform grounds (s. 25).	Rectified	Grounds include adultery, cruelty, desertion, conversion, mental disorder, etc. (consistent summaries)
Apostasy: automatic dissolution (husband) in Muslim law; different effects elsewhere	Conversion is a ground for divorce, not automatic dissolution (s. 25, read with s. 29).	Rectified (policy-aligned)	Harmonises outcome across communities: conversion empowers petition; court controls decree.

Muslim divorced wife: maintenance only for iddat; others: till death/remarriage	Maintenance pendente lite (s. 33) and permanent alimony & maintenance (s. 34) by court order; Rules 2025 set registration/appeal handling.	Rectified	Court-set maintenance replaces iddat-only ceiling.
Halala (nikah halala) condition for remarriage in Muslim law; none in others	Dissolution only under the Code (s. 29) + penal clause for contraventions (s. 32). Govt statements highlight ban on halala.	Rectified	Criminal-law style deterrence via s. 32.
Daughter inherits ½ of son in Muslim law	Gender-equal intestate succession; Class-I heirs (incl. spouse(s), children, parents) take equal shares; removes older asymmetries. (s. 49 & Sched. -2; explanations).	Rectified	Multiple explainers and analyses confirm equal shares for sons and daughters.
Muslim testamentary cap: max 1/3 by Will	UCC's testamentary chapter gives ordinary testamentary freedom (subject to Code's scheme); no 1/3 cap retained. (Part-II Wills & Legacies TOC; scheme)	Rectified	Contemporary explainers note the shift away from faith-specific limits.
Mitakshara: female not a coparcener	UCC removes Hindu-specific coparcenary/ancestral vs	Rectified	(Note: at the national level, daughters are already coparceners post-2005/SC in Vineeta Sharma;

(pre-2005)	self-acquired distinctions for intestacy; gender-equal line of succession.		UCC further standardises across faiths.)
Acknowledgment of paternity is recognised in Muslim law; others vary	UCC secures the legitimacy of children of void/voidable marriages (s. 31), easing proof/status issues across communities.	Substantively rectified	For complete uniformity, the State could add an explicit civil presumption/acknowledgement rule tied to registration/evidence.
Adoption is not recognised in Muslim/Christian/Parsi, and Hindu law permits	Not covered in the UCC text; scope centres on marriage/divorce, succession, live-in, registration & wills. Authoritative summaries omit adoption	Gap	Fix: Enact a short State adoption chapter that cross-applies JJ Act processes to all residents, or adopt a uniform state procedure for intra-state adoptions irrespective of religion
Legitimacy window for post-separation births differs (10 months–4 years under schools of Muslim law; 270–280 days elsewhere)	UCC prioritises civil legitimacy (s. 31) and a uniform succession/maintenance framework; it does not replicate school-specific gestational presumptions.	Rectified in effect / Partial	Fix: Add an Evidence-style presumption (e.g., birth within 280–300 days of dissolution presumed legitimate unless rebutted by proof) to eliminate ambiguity across communities.

Table 1

## V. CONCLUSION- A PLAUSIBLE REMEDY

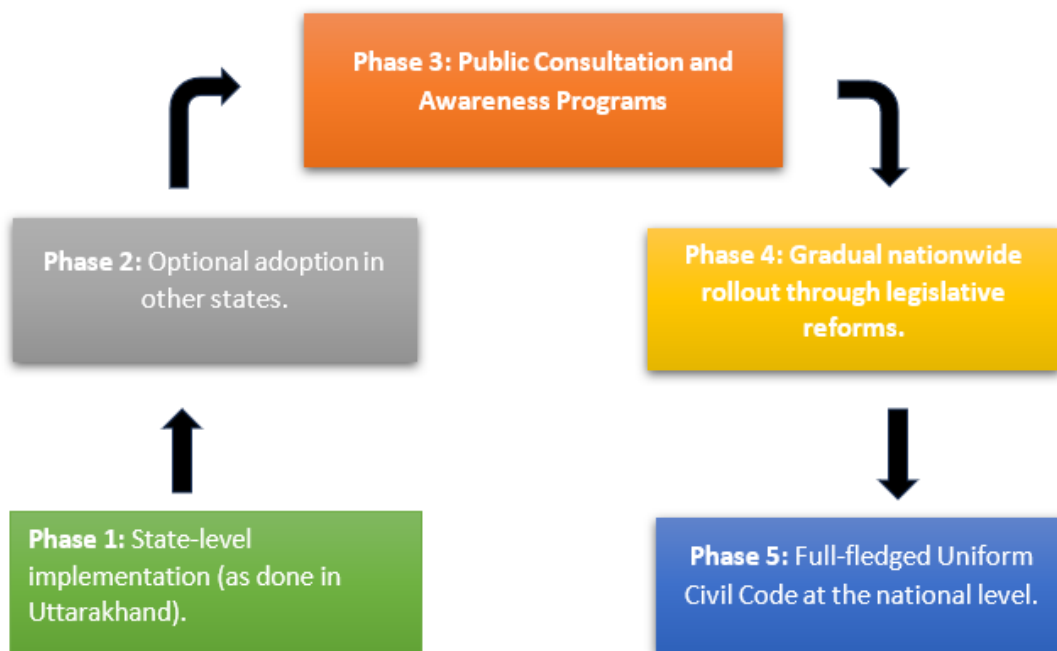


Fig. 1- Phased solution for implementing the Uniform Civil Code

Now, regarding the final and the most important question- is the time ripe? Is society ready to accept a Uniform Civil Code? To answer the first question, it has been since the day India got its independence. To the latter, India will never be ready, and the seven-decade-long history stands as a testament.

However, Dr. B R Ambedkar in the Constitutional Assembly itself has suggested a remedy for this. The Uniform Civil Code must gain acceptance among the public before it can become enforceable. So, in its initial stage, it shall only apply to those who are ready to accept it, rather than having a universal application. The same way a fish is introduced into a new environment.<sup>59</sup> This is something already been experimented with in the introduction of the Hindu Code Bill. Even though Dr. Ambedkar's code was built on the principles of gender justice, he could not persuade the government to get the Hindu Code Bill passed in one go. So, it was split up and passed piecemeal during the period 1955-1956. Marriage (1955), Succession (1956), Minority and Guardianship (1956), and Adoption and Maintenance (1956).<sup>60</sup> According to Mahatma Gandhi, "Law by itself could only be a pointer and a guide."<sup>61</sup> Hence, once the UCC is created, it will be upon the people to emanate an ethos that

<sup>59</sup> Constituent Assembly Debates, Tuesday, 23rd November 1948 (CAD Vol VII, Pg- 538, 540-552)

<sup>60</sup> L Seth, 'A Uniform Civil Code: towards gender justice' (2005) 31(4) India International Centre Quarterly 40

<sup>61</sup> Ibid 25

will justify both the rights of equality and the right to religious freedom. Change is inevitable, and a Uniform Civil Code is always welcome, but the change must be gradual. Additionally, when it comes to matters like the Uniform Civil Code, the intention on the part of the government must be genuine and bona fide, i.e., the betterment of the public. Their only aim must be to enforce constitutional principles in society.

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