

# Uniform Civil Code Implementation: Challenges And Implications in Indian Diversity

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## ABSTRACT

While the concept of a UCC promises to foster national integration and equality, its implementation in a diverse and pluralistic society like India is fraught with challenges and implications. One major challenge lies in reconciling the deeply ingrained religious sentiments and practices with the concept of a uniform code. Another challenge is the lack of consensus among political and religious groups, leading to protracted debates and hindering legislative progress. This research paper explores some of the key challenges and implications associated with the implementation of UCC in India like Religious diversity, Legal Pluralism, Societal Implications etc. After the challenges, this paper will also cover UCC in global level and how it is working efficiently in context of other countries. It will minorly focus on the benefits of implementation and how it will provide an edge to India in development of the society. It will also focus on the relation of Politics with this concept as issue of a UCC has been highly politicized in India. Political Parties often approach the topic with caution, considering the potential impact on their vote banks. The paper concludes with some of the suggestions which might be suitable for India in implementation of UCC in its diverse society.

**Keywords:** Uniform Civil Code, Pluralistic Society, Religious affiliations, Religious diversity, vote bank.

## 1. WHAT IS UCC IN INDIA: EXPLORING FEW ASPECTS

The Uniform Civil Code in India is a proposal to replace personal laws based on religious scriptures and customs with a common set of laws applicable to all citizens irrespective of their religion. It is essential to understand the historical context and the reasons behind the actual demand for UCC in India. During British colonial rule, different communities in India were governed by their respective personal laws based on religion and customary practices. The British administration followed a policy of non-interference in matters of personal laws, which led to the continuation of diverse legal systems. Indian Christian Marriage Act of 1872, which regulated matters related to Christian marriage. After gaining independence in 1947, India inherited this system, resulting in a lack of uniformity in family and personal laws. A number of legal reform initiatives have been launched throughout the years with the goal of bringing personal laws into compliance with contemporary notions of justice, equality, and human rights.

Implementing the UCC in India might be considered unconstitutional too as Article 25 provides the right for practicing any religion but also Article 44 of the Directive Principles of State Policy in the Constitution explicitly states that the state shall endeavor to secure for its citizens like a Uniform Civil

Code throughout the territory of India. One of the primary arguments in favor of UCC is the promotion of gender equality. Personal laws in India, especially those related to marriage, divorce and inheritance, often discriminate against woman. Like, the triple Talaq case, in which the practice included in Muslim Personal Act was declared unconstitutional in 2017 by Supreme Court as it violated the fundamental rights of woman.

Having UCC would also simplify the legal system by reducing the complexity arising from the coexistence of multiple personal laws. It would lead to a more straightforward and accessible legal framework for all citizens. However, its crucial to note that the demand for a UCC has faced opposition from various religious groups who argue for the preservation of their distinct personal laws. Now, in the American context, the major difference between Indian and Western Socialism is that Western Socialism have a complete separation of Politics from religion whereas Indian Socialism allows relation of Politics with religion as government making policies for minor groups etc.

## 2. CHALLENGES IN IMPLEMENTATION

The implementation of the Uniform Civil Code in India encounters significant challenges stemming from religious complexities and resistance from diverse religious communities. India, known for its cultural and religious diversity, has personal laws governed by different religions, including Hinduism, Islam, Christianity and others. Some major challenges are –

**Resistance from different religious communities for UCC in India** – Resistance is particularly pronounced in communities that fear a dilution of their distinct cultural and legal traditions. The Muslim Community, governed by the Sharia Law, has been a focal point of resistance. The fear of diluting Islamic principles and the apprehension that a UCC might impact minority rights within the broader framework fuel this resistance. Moreover, the issue of majoritarian imposition adds another layer of complexity. The Hindu majority's support for the UCC might be viewed with suspicion by religious minorities, leading to heightened resistance. Muslims are now opposing the latest modifications to the UCC's implementation in Assam, as the chief minister of Assam has taken action to end underage weddings by abolishing the Muslim Marriage Act.

**Political challenges** – The 22<sup>nd</sup> Law Commission of India took up the idea of UCC and sought opinions on its implementation in India which led to debates and criticism by many writers and legal workers. Implementation requires a strong political will and leadership. Policymakers need to navigate through the diverse political landscape and take decisive actions, often risking potential backlash from different interest groups. But this is where the problem lies. Political parties often align their stances based on religious lines to secure support from specific religious communities. Advocating for UCC might be perceived as a risk, potentially alienating certain voter bases.

**Legal Challenges** – The question of having UCC in India has led to many articles regarding India moving towards majoritarianism in which the Hindu Community will lead the Civil Code and this imposes a certain threat in implementation of UCC in India. Also, many believe that UCC will directly infringe the freedom of religion mentioned in the Indian Constitution. The interpretation and application of existing personal laws based on religion vary. People being in the habit of following their laws will find it difficult to follow a same civil code which will not be based on their religion. This means that there is lack of awareness and education in many regions about the aspects of Uniform Civil Code in India.

**Doctrinal Differences** - In India, several religious communities have created their own laws based on their own set of beliefs. They could object to the establishment of a UCC if they believe that it will compromise their traditions and religious freedom. Muslim organizations, for instance, have long opposed a UCC, claiming that it would conflict with Islamic Shariah law, which governs Muslims' personal affairs. Certain Hindu organizations contend that the unification and uniqueness of Hindu personal laws will be compromised by the establishment of a UCC. Hindu personal laws now govern things including marriage, divorce, inheritance, and adoption; these groups support the preservation of Hindu traditions and practices in these areas.

**Mixed Public Opinion** - India's public views on the Uniform Civil Code (UCC) are as varied as the nation itself. It is evident from several polls and research that the UCC provokes a variety of responses, many of which are impacted by political opinions, socioeconomic background, religious affiliation, and degree of education. Numerous polls show that people's opinions of the UCC are mixed. A sizeable minority opposes the UCC, seeing it as an attack on religious freedom and cultural variety, even if a sizable section of the public favors its adoption as a step toward gender equity and national unity. Religious differences frequently cause this split, with minority groups expressing greater hostility to the UCC than does the dominant society. There is a need for extensive public awareness and education regarding the UCC. Misinformation or lack of understanding can contribute to resistance, making it essential to communicate the rationale and benefits of a uniform civil code effectively.

Navigating and addressing these challenges is a great task for the government as it requires a nuanced approach, involving extensive dialogue, education and a commitment to upholding constitutional principles. However, there are many arguments which are in favor of implementing UCC in India including Law Commission, News Articles etc.

### 3. LEGAL IMPLICATIONS AND VIEWS ON UCC

There are many arguments made by the public in favor of UCC as it might foster gender equality, secularism and also protect woman's rights. These arguments include –

**By Law Commission of India** - The UCC's goal is to define family rules for all communities, not to impose religious conformity. It is a common misconception propagated by many Muslim organizations that the community will have to abandon its Islamic practices and beliefs.

Even after child marriage was outlawed, religious communities continued to perform marriage and burial customs. It is imperative to eradicate any cultural practice that perpetuates gender inequality and proclaims male domination.

For instance, the Muslim Personal Law (Shariat Application Act), 1937, permits polygamy, despite the fact that it is prohibited for women. Nonetheless, Muslims who are married under the Special Marriage Act are exempt from the Muslim Personal Law.

**Article by Prof. Hameed Chendamangalloor** - Undoubtedly, India needs a fair and impartial Uniform Civil Code (UCC). It needs to be a secular code that is impartial toward all religions. The Constitution's Directive Principles of State Policy need to serve as the foundation for the code. The idea that it infringes upon religious freedom is nonsensical. Across many communities, the implementation of a uniform civil code will advance justice and equality for all genders.

**Simplifies laws** that are currently divided according to religious views; with the UCC, all citizens would be subject to the same civil law, regardless of their faith.

**Numerous rulings from the courts:** The Supreme Court of India has rendered a number of significant

rulings that explicitly call for the adoption of the Uniform Civil Code in India.

*Shah Bano Begum v. Mohd. Ahmed Khan* (1985): The right of a Muslim woman to collect maintenance from her former spouse under Section 125 of the CrPC was maintained by the Supreme Court in this particular instance. Discussions over the applicability of personal laws to issues pertaining to marriage, divorce, and maintenance were triggered by the ruling. The Court made a statement on the necessity of a Uniform Civil Code to deal with these problems.

In the 1995 case *Sarla Mudgal v. Union of India*, the Supreme Court addressed the problem of bigamy in relation to conversions to Islam intended to enter into a second marriage.

**Gender Justice:** Religious and customary rules tend to favor males more than women. Personal law and religion are two separate fields: In *S.R. Bommai v. Union of India*, the Supreme Court affirmed that while secular activities can be governed by the State via the enactment of laws, religion remains a matter of personal faith and cannot be combined with them.

**Encourage national unity:** Laws that cater to many religious sects encourage communalism. A single, secular rule regulating several facets of private affairs would foster a sense of unity and patriotism.

#### 4. POLITICAL IMPLICATIONS OF UCC

In the majority of civil cases, Indian laws—such as the Sale of Goods Act, the Indian Contract Act, and the Code of Civil Procedure—follow a standard code. Even under these secular civil laws, variation exists. The term "personal laws" is part of the **Federal System of the Constitution**; if the framers had meant a UCC, they would have placed this topic in the Union List, which would have given Parliament exclusive control over personal laws. Given that the Supreme Court of India ruled that federalism is the fundamental framework of the Indian constitution, it would be debatable if the federal government of India implied the UCC without the approval of each state. The notion of UCC is strongly opposed by several states, including Karnataka, which makes national implementation challenging.

**Opposing the nation's diversity:** There has been doubt as to how personal laws could ever be uniform in a democratic nation as different as India.

**Absence of national agreement:** UCC remains a contentious political issue. Numerous organizations continue to support the rights of minorities, and a large number of religious rights. Nonetheless, there are still a lot of important discussions going on in India, most of them are political in nature and have little social weight. However, the Law Commission is already investigating the numerous petitions for "gender and religious neutral legislation" that are submitted with the High Court and Supreme Court of India, which they have declined to consider.

#### 5. GENDER & SOCIETAL IMPLICATIONS OF UCC IMPLEMENTATION

**Gender Equality:** A UCC seeks to provide equal rights for men and women by doing away with the gender differences seen in numerous personal laws. Equal treatment for women in areas such as inheritance, divorce, and marriage would help create a more just and equitable legal system. According to the Center, UCC can end the mistreatment of Muslim women. Despite the fact that polygamy is legal in Islam, 1.9% of Muslim women and 1.3% of Hindu women, respectively, reported having been in a polygamous marriage, according to the National Family Health Survey 2019–2021.

**Personal law abolition:** The most direct result of implementing the UCC would be the creation of legal uniformity, which would replace various personal laws with a unified body of civil laws that would be applicable to every citizen.

This would guarantee that people are held to the same legal norms in areas like marriage, divorce, inheritance, and adoption, irrespective of their religious background.

**Impact on Minority populations:** Under a consistent legal framework, minority populations may voice fears that their autonomy as a culture and religion may be violated. Attaining acceptance and support for the UCC requires ensuring that minority rights are protected and attending to their concerns.

**Perplexity about infringement of fundamental rights:** According to the state, equality is guaranteed under Articles 14 and 15. It forbids the state from treating its inhabitants differently based on their faith as well as their sex. However, rights based on community are guaranteed under Articles 29 and 30. The issue is made worse by the fact that Article 25 guarantees both the freedom of conscience and the right to practice one's faith. However, it should be acknowledged that the "right to religion" as defined by Article 25 is not unqualified. It is governed by morals, decency, and public order. This thereby opens the door for government interference with religious rituals.

**Social Harmony:** By easing tensions brought on by disparate personal laws, the development of a unified civil code might promote social harmony. By fostering a feeling of unity and common identity, a UCC may lessen intercommunity disputes that have their roots in legal disputes.

**Dependency on the UCC process:** The UCC can advance if it follows the previously established guiding principles. If it used as a political instrument to isolate any community, then it will, however, only exacerbate the sense of marginalization felt by vulnerable groups, especially by religious minorities who have been the target of Hindutva politics, which undermines social cohesion and national integrity.

**Legal Simplification:** The replacement of several personal laws with one all-inclusive UCC would result in a simplification of the legal system. This might simplify legal procedures and promote legal clarity, efficiency, and accessibility for the general public.

**Possibility of riots and protests:** The biggest risk or consequence of the UCC's implementation might be riots and demonstrations as it could result in the rights of various minorities and their religious traditions being violated. Because of the concept's lack of knowledge, misinterpretations may occur, which might spark demonstrations against it given that India is primarily seen as a Hindu nation.

UCC must so avoid discrimination against any community and take into account all relevant factors before putting it into practice in order to combat this.

The effects of UCC implementation in India include political dynamics, legal problems, influence on minority populations, legal uniformity, gender equality, societal harmony, challenges to cultural customs, and the necessity of substantial educational activities. To address these ramifications and guarantee a fair and equitable transition to a uniform civil code, a sophisticated and inclusive strategy is required.

## 6. HOW UCC WORK AT GLOBAL LEVEL?

A rare example of the Uniform Civil Code in operation is found in the small Indian state of Goa, which is located on the country's western coast. All Goans, regardless of their religious affiliation, are subject to the Goa Civil Code, often referred to as the Goa Family Law. This code, which has been in place since Goa's 1961 merger into India, is a holdover from the Portuguese Civil Procedure Code, which was established during Portuguese control. The marriage, divorce, and succession laws are governed by the unified Goa Civil Code. Regardless of the gender of the child, it permits an equal distribution of income and property between a husband and wife as well as between parents and children.<sup>1</sup>

<sup>1</sup> [What is the Uniform Civil Code that exist in Goa? - Law Insider India](#)

As it gets ready to become the first state in India to embrace the Uniform Civil Code (UCC), Uttarakhand is about to make history. The state government is planning to hold a special session after Diwali to approve the UCC Bill, which would be a dramatic break from the several personal laws that now regulate people according to their religious affiliations and a step towards legal uniformity and gender equality.<sup>2</sup>

**France and Germany:** Globally, a number of Western nations have enacted some sort of Uniform Civil Code. As the basis for private law in France, for example, the country has a Civil Code, often known as the Napoleonic Code. It addresses topics including contract, family, and property law. Similar to this, Germany has a civil code known as the Bürgerliches Gesetzbuch that controls property rights as well as personal and family law.<sup>3</sup>

**Tunisia:** It should be emphasized that UCC can exist in various nations in different forms. For example, gender equality exists in Tunisia with regard to family and marriage legislation, but there is no national UCC that covers all topics.

**America:** There is no implementation of UCC in America because the country adheres to Western Socialism, a decentralized form of government in which each state is free to enact its own laws. However, there is a clear separation of church and state, and no particular religion is the subject of special legislation.

## 7. CONCLUSION

India, which has the biggest population in the world, is known for its unique and incredibly diverse culture. Nevertheless, as castes within religions continue to discriminate in India, it may not be a smart idea to implement the Uniform Civil Code at this time. It is evident from the Finance Commission's advice that the government should address gender equality in the faiths themselves before concentrating on enacting a Uniform Civil Code in Indian society. This might be a very good, nonviolent approach to deal with UCC's effects in India. Although the Uniform Civil Code has many positive effects on society, including easier administration, reduced discrimination, gender equality, and the protection of women's rights, it also has the potential to undermine people's religious beliefs. To put such a code into effect, Parliament will need to make significant constitutional amendments, and because many people are ignorant of the idea, national education and awareness campaigns are needed.

There are other facets to the dispute surrounding the UCC, including political, theological, and cultural ones. There are several legal and constitutional obstacles to overcome before a UCC can be implemented in India, necessitating a delicate balancing act between advancing equality and upholding religious freedom. The constitution places restrictions on the judiciary's power, therefore the legislative is largely responsible for putting a UCC into effect. In the future, a wider social shift that upholds the values of justice and equality while honoring the vast diversity of India's cultural and religious landscape will be necessary for the effective implementation of the UCC, in addition to political will and legislative changes.

Therefore, India now lacks the necessary changes within its religion and is not ready to implement a Uniform Civil Code. India must first establish religious equality before implementing the UCC.

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<sup>2</sup> Saurabh(November 14<sup>th</sup>, 2023) Uttarakhand to become first state to adopt UCC in India. Retrieved from: [Uttarakhand To Become The First State To Adopt The Uniform Civil Code \(UCC\) \(adda247.com\)](https://adda247.com/uttarakhand-to-become-first-state-to-adopt-the-uniform-civil-code-ucc/)

<sup>3</sup> [Uniform Civil Code In Foreign Countries: Its Evaluation From The Perspective Of India \(legalserviceindia.com\)](https://legalserviceindia.com/uniform-civil-code-in-foreign-countries-its-evaluation-from-the-perspective-of-india/)

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