

Research Article**THE UNIFORM CIVIL CODE DEBATE IN INDIA: CONCEPTUAL PREDICAMENTS,
HISTORICAL LEGITIMACY, AND CHALLENGES TO PLURALISM****Dr. Sunita Meena**

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Corresponding Author: Dr. Sunita Meena.**Abstract**

This paper critically examines the constitutional, jurisprudential, and socio-legal dimensions of the Uniform Civil Code (UCC) in India against the backdrop of the enduring tension between legal uniformity and cultural pluralism. The renewed political and judicial discourse surrounding the implementation of Article 44 of the Constitution has intensified debates concerning the reconciliation of individual rights, religious freedom, gender justice, and national integration. While the demand for a UCC is frequently justified on the grounds of equality, secularism, and legal certainty, its opponents emphasize India's constitutional commitment to multiculturalism, religious autonomy, and the preservation of diverse personal laws. This study argues that the debate cannot be reduced to a binary conflict between reform and tradition; rather, it requires a nuanced constitutional understanding of the relationship between legal codification, democratic legitimacy, and social diversity.

Adopting a doctrinal research methodology, the paper analyses constitutional provisions, Constituent Assembly Debates, judicial precedents, Law Commission Reports, legislative developments, and leading scholarly literature to evaluate the normative foundations and practical implications of the UCC. The study further examines the historical evolution of personal laws, the philosophical foundations of codification, the constitutional interplay between Fundamental Rights and Directive Principles of State Policy, and the judicial trajectory of the Supreme Court of India in matters concerning personal laws and legal reform. Comparative perspectives from selected jurisdictions are also explored to identify lessons relevant to the Indian constitutional framework.

The paper contends that the constitutional aspiration for a Uniform Civil Code must be pursued through a calibrated, participatory, and rights-oriented process rather than through a purely majoritarian or politically expedient legislative exercise. It argues that constitutional morality, substantive equality, and gender justice should be harmonized with India's deeply embedded tradition of legal pluralism and cultural diversity. The study concludes that any sustainable reform of personal laws must emerge through incremental constitutional dialogue, broad-based public consultation, and principled legislative engagement, ensuring that the objective of national integration does not undermine the constitutional guarantees of religious freedom, minority rights, and democratic inclusiveness. Such an approach would preserve the transformative character of the Constitution while respecting the pluralistic foundations upon which the Indian legal order is constructed.

Keywords: Uniform Civil Code; Personal Laws; Legal Pluralism; Constitutional Morality; Secularism; Article 44; Religious Freedom; Gender Justice; Constitutionalism; Doctrinal Research.

1. INTRODUCTION

Ever since the Constitution came into being, the debate on the Uniform Civil Code (UCC) has been an intrinsic part of India's constitutional and legal discourse. Though the State is under an obligation under Article 44 of the Constitution to strive for a Uniform Civil Code for all its citizens, this issue has been one of the most contentious issues in Indian constitutionalism as it relates to individual rights, religious liberty, gender equity, legal pluralism and national unity.¹ Even after more than 70 years of the adoption of the Constitution, India still governs marriage, divorce, maintenance, adoption, guardianship, succession and inheritance through multiple

¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1966); M.P. Jain, *Indian Constitutional Law* (9th edn., LexisNexis, 2023).

personal law systems based on religion and tradition.² Therefore, the debate on the UCC is no longer limited to a constitutional analysis, but has broadened to include a debate on secularism, the legitimacy of legal pluralism and the constitutional limits of State intervention in matters of religion and family.³

India's constitutional vision is a fine balance between unity and diversity. The Constitution in Article 14 provides for equality before law and equal protection of law, Article 15 prohibits discrimination and Articles 25 to 28 provide for freedom of conscience and religion and acknowledges the diversity of Indian society in terms of culture and religion.⁴ The constitutional duality has led to one of the most persistent legal conundrums in contemporary India. The issue is whether the constitutional aim of legal uniformity should take precedence over the preservation of distinct personal laws, or whether legal pluralism is an intrinsic element of Indian constitutionalism.⁵ The continued divergence of views suggests that the UCC debate is fundamentally a debate about how to reconcile competing constitutional values rather than about the choice of one constitutional standard over another.

Historically, personal laws in India have developed through a multifaceted interplay of religious customs, traditional practices, colonial statutes, judicial analysis, and constitutional reforms following independence.⁶ During the period of British governance, although criminal, commercial, and procedural laws were largely codified, the colonial authorities deliberately maintained distinct personal laws for various religious groups.⁷ This approach of selective codification resulted in a dual legal framework that persisted post-independence. The architects of the Constitution recognized this variability and thus included Article 44 in the Directive Principles of State Policy rather than establishing it as an enforceable Fundamental Right.⁸ The inclusion of Article 44 shows the Constituent Assembly's acknowledgment that reforms in personal law must advance incrementally, democratically, and in alignment with changing societal conditions.⁹

The legal principles underlying the UCC discourse surpass mere constitutional language. They delve into essential inquiries regarding the essence of law. The concept of a standardized legal framework is frequently justified based on principles of certainty, equality, administrative efficacy, and national cohesion.¹⁰ In contrast, advocates of legal pluralism contend that the legitimacy of legislation stems not solely from legislative power but also from its endorsement by other social groups.¹¹ In pluralistic cultures like India, personal laws are often regarded not just as legal regulations but also as essential elements of cultural identity and religious freedom. Thus, the dilemma facing constitutional governance is not merely whether personal laws require modification, but how such modifications may be enacted without compromising constitutional assurances of religious liberty, minority safeguarding, and democratic involvement.¹²

The Supreme Court of India has always appreciated the virtues of a Uniform Civil Code and the constitutional sensitivities involved in its implementation. Judgments like *Mohd. Ahmed Khan v. Shah Bano Begum*, *Sarla Mudgal v. Union of India*, *John Vallamattom v. Union of India*, *Shayara Bano v. Union of India* have revived the public discourse by bringing to fore the nexus between gender justice and the reform of personal laws.¹³ The courts have generally not forced immediate legislative action, but have left the matter to Parliament and the democratic process.¹⁴ The legal perspective is thus a demonstration of constitutional moderation, reaffirming the revolutionary goals of Article 44.

Recent legislative and administrative changes have made the UCC debate more relevant today. The implementation of the Uniform Civil Code in Uttarakhand, 2024 is the first major attempt by a state for the implementation of the uniform civil code after independence.¹⁵ At the same time, other States have started consultative processes to consider the possibility of similar reforms. The Rajasthan Government has constituted a committee and has started public consultations at the divisional level with legal experts, representatives of religious communities, public officials, civil society organisations and citizens to gather views on the proposed

² Paras Diwan, *Modern Hindu Law* (22nd edn., Allahabad Law Agency, 2022).

³ Gerald James Larson (ed.), *Religion and Personal Law in Secular India: A Call to Judgment* (Indiana University Press, 2001).

⁴ Constitution of India, arts. 14, 15, 25–28 & 44.

⁵ Marc Galanter, "Hinduism, Secularism and the Indian Judiciary" 21 *Philosophy East and West* 467 (1971).

⁶ J.D.M. Derrett, *Religion, Law and the State in India* (Faber & Faber, 1968).

⁷ Werner Menski, *Hindu Law: Beyond Tradition and Modernity* (Oxford University Press, 2003).

⁸ Constituent Assembly Debates, Vol. VII, 23 November 1948.

⁹ B. Shiva Rao, *The Framing of India's Constitution: Select Documents*, Vol. II (Indian Institute of Public Administration, 1968).

¹⁰ H.M. Seervai, *Constitutional Law of India*, Vol. I (4th edn., Universal Law Publishing, 1991).

¹¹ Sally Engle Merry, "Legal Pluralism" 22(5) *Law & Society Review* 869 (1988).

¹² Upendra Baxi, *The Future of Human Rights* (3rd edn., Oxford University Press, 2008).

¹³ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *John Vallamattom v. Union of India*, (2003) 6 SCC 611; *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

¹⁴ *ABC v. State (NCT of Delhi)*, (2015) 10 SCC 1; *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, (2019) 20 SCC 85.

¹⁵ Uniform Civil Code, Uttarakhand Act, 2024.

Uniform Civil Code.¹⁶ Such efforts at participation indicate that the current dialogue about the UCC is increasingly moving away from judicial pronouncements and political conversation and into collaborative law-making. They also reinforce the basic axiom that any change to existing personal laws should come through broad democratic participation, not through a legislative rush.

Therefore, this study adopts a doctrinal approach to critically analyze the constitutional provisions, Constituent Assembly debates, judicial pronouncements, Law Commission Reports, developments in comparative law and the process of consultation that is ongoing. The article argues that the constitutional objective enshrined in Article 44 should not be viewed as a tool for uniformity or as something that is constitutionally unattainable. The execution should be evaluated in the light of constitutional morality, democratic legitimacy, substantive equality and India's enduring commitment to legal pluralism.¹⁷

1.1 Review of Literature

Therefore, this study adopts a doctrinal approach to critically analyze the constitutional provisions, Constituent Assembly debates, judicial pronouncements, Law Commission Reports, developments in comparative law and the process of consultation that is ongoing. The article argues that the constitutional objective enshrined in Article 44 should not be viewed as a tool for uniformity or as something that is constitutionally unattainable. The execution should be evaluated in the light of constitutional morality, democratic legitimacy, substantive equality and India's enduring commitment to legal pluralism.

- **Tahir Mahmood** emphasises that Article 44 of the Constitution mandates a Uniform Civil Code and recommends gradual, consultative amendments instead of abrupt legislative enforcement. His research maps the constitutional basis of the UCC, but provides little engagement with current federal developments and recent state actions.¹⁸
- **Paras Diwan** discusses the evolution of Hindu and Muslim personal laws and stresses the need for modernity without endangering religious identities. His work underlines the intricacies of codification, but does not explore in depth the constitutional tension between equality and cultural diversity.¹⁹
- **Werner Menski** promotes the concept of legal pluralism, claiming that the variety of India warrants the coexistence of state law and community-specific laws. His work is persuasive in making the case for plurality, but offers little guidance on how to reconcile competing constitutional rights in the area of personal law.²⁰
- **Marc Galanter** examines the relationship between law and social change, arguing that law cannot, in itself, change entrenched social practices. His sociological take on it adds to the discussion but precedes a slew of important constitutional rulings on issues of gender equality and religious freedoms.²¹
- **Flavia Agnes**, writing from a feminist perspective, warns against the rhetoric of the UCC, arguing that legal homogeneity alone will not ensure substantive gender justice in the absence of radical social reforms. Her treatment shifts the conversation from sameness to equality, but pays less attention to constitutional mechanisms for harmonization.²²
- **The 21st Law Commission of India (Consultation Paper, 2018)** was of the opinion that a Uniform Civil Code was "neither necessary nor desirable" at this juncture and it recommended piecemeal amendments to some personal laws. The report was influential, but it came out before some landmark events, such as the Uttarakhand Uniform Civil Code Act, 2024, which reignited national debates.²³
- **Constitutional law** has lately become the subject of much scholarly concern, and the focus has shifted increasingly towards constitutional morality, transformative constitutionalism and judicial activism in landmark cases like *Shah Bano*, *Sarla Mudgal* and *Shayara Bano*. The analyses acknowledge the growing role of the judiciary in the reform of personal law, but they are largely confined to specific

¹⁶ *Rajasthan Patrika*, Bharatpur Edition, reporting divisional-level public consultation on the proposed Uniform Civil Code, July 2026.

¹⁷ Law Commission of India, Consultation Paper on Reform of Family Law, 2018; Law Commission of India, 21st Report relating to Family Law Reforms.

¹⁸ See generally TAHIR MAHMOOD, *UNIFORM CIVIL CODE: FABLES AND FACTS* (Universal Law Publishing, New Delhi, 2008).

¹⁹ See generally PARAS DIWAN, *MODERN HINDU LAW* (Allahabad Law Agency, Faridabad, 22nd edn., 2021).

²⁰ See generally WERNER MENSKI, *COMPARATIVE LAW IN A GLOBAL CONTEXT: THE LEGAL SYSTEMS OF ASIA AND AFRICA* (Cambridge University Press, Cambridge, 2nd edn., 2006).

²¹ See generally MARC GALANTER, *LAW AND SOCIETY IN MODERN INDIA* (Oxford University Press, New Delhi, 1989).

²² See generally FLAVIA AGNES, *LAW AND GENDER INEQUALITY: THE POLITICS OF WOMEN'S RIGHTS IN INDIA* (Oxford University Press, New Delhi, 1999).

²³ Law Commission of India, *Consultation Paper on Reform of Family Law*, Consultation Paper No. 267 (2018).

judgments and do not provide a comprehensive evaluation of recent legislative and constitutional developments.²⁴

The existing literature provides substantial insights into the historical, constitutional, and socio-legal dimensions of the Uniform Civil Code. Nevertheless, there remains a need for a comprehensive doctrinal analysis that integrates recent judicial pronouncements, emerging state-level legislative experiments, constitutional morality, and contemporary debates on legal pluralism, thereby offering a holistic evaluation of the evolving UCC discourse in India.

1.2 Research Gap

This paper has contributed to the existing body of knowledge of the UCC in terms of its constitutional, historical, sociological and political dimensions. However, a careful review of the literature reveals numerous significant doctrinal and conceptual shortcomings that deserve further academic investigation.

Most of the existing literature mainly studies the UCC from the binary perspective, either as an important constitutional tool for promoting equality and national integration or a threat to the multi-religious nature and religious freedom of India. This dichotomous image often ignores the possibility of harmonizing the constitutional principles of equality, secularism, religious freedom and legal plurality in a consistent constitutional system.

Secondly, the existing literature is almost exclusively concerned with judicial decisions and political conflicts and pays very little attention to the jurisprudential underpinnings of constitutional morality, democratic legitimacy and participatory law-making. Additionally, the debate around Article 44 has been significantly shaped by some academic publications that were published before the recent constitutional and legislative developments, including the judgment in *Shayara Bano v. Union of India*, the enactment of the *Uttarakhand Uniform Civil Code, 2024*, and the commencement of consultative processes at the state level.

Further, the constitutional interaction between the Directive Principles and Fundamental Rights within the framework of the UCC has received relatively little attention, particularly the reconciliation of Articles 14, 15, 21, 25, 26, 29, 30 and 44. The execution process involving democratic engagement, stakeholder involvement, federalism, minority trust building, and gradual legal reform has similarly not been sufficiently analyzed.

Thus, the present study tries to fill these gaps by way of an extensive doctrinal study, which includes constitutional theory, judicial analysis, comparative legal views, and recent legislative changes. It aims to evaluate the constitutional merit of a Uniform Civil Code and to investigate the democratic basis and constitutional feasibility of such a change in the pluralistic legal system of India.

1.3 Research Questions

The Uniform Civil Code debate raises complex constitutional, legal and socio-legal questions about the relationship between legal uniformity and the diverse constitutional architecture of India. Article 44 of the Constitution envisages the eventual adoption of a Uniform Civil Code, but its implementation is hobbled by conflicting readings of constitutional equality, religious liberty, minority rights and democratic legitimacy. The absence of any universally accepted constitutional structure for balancing these conflicting values has become one of the most persistent inquiries in Indian constitutional law.

The present research aims to answer the following research questions based on this background:

- 1. Is the Uniform Civil Code necessary for achieving equality, secularism and national integration or does the existing system of legal pluralism in India sufficiently fulfil these constitutional objectives?**
- 2. To what extent the provisions of Article 44 of the Constitution can be read integrally with the Fundamental Rights contained in Articles 14, 15, 21, 25, 26, 29 and 30 without disturbing the constitutional balance between personal freedom and religious autonomy?**
- 3. Do the recent judicial pronouncements, legislative developments and state-level consultations suggest a forward-looking constitutional perspective on the implementation of Uniform Civil Code in India?**
- 4. What lessons can be learned from analogous constitutional practices and contemporary models of personal law reform to create a constitutionally permissible and socially endorsed structure for the Uniform Civil Code in India?**

These responses will enable the research to analyze the Uniform Civil Code beyond the usual binary of uniformity versus diversity, and instead explore its constitutional validity through the unifying perspectives of constitutional morality, legal pluralism, democratic engagement, gender equity and transformative

²⁴ See generally Gautam Bhatia, *THE TRANSFORMATIVE CONSTITUTION* (HarperCollins, New Delhi, 2019); see also Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 SCC 556; Sarla Mudgal v. Union of India, (1995) 3 SCC 635; Shayara Bano v. Union of India, (2017) 9 SCC 1.

constitutionalism. Thus these research inquiries establish the analytical structure for the doctrinal analysis in the following chapters of this study.

1.4 Research Objectives

- To critically examine the constitutional validity, legal basis and practical feasibility of implementing a Uniform Civil Code in India, while reconciling the basic principles of equality, secularism, religious freedom, plurality of laws and democratic governance.
- To analyse the historical growth of personal laws in India and assess the constitutional principles underlying Article 44 of the Constitution.
- To critically analyze constitutional relationship between the Uniform Civil Code with Fundamental Rights enshrined in Article 14, 15, 21, 25, 26, 29 and 30 of the Constitution.
- To analyze the legal principles of pluralism, codification, constitutional ethics and democratic legitimacy of Uniform Civil Code.
- To critically examine the judicial attitude of the Supreme court of India within the framework of the Uniform Civil Code.
- To analyse landmark constitutional decisions.
- To conduct a comparative study of selected international countries and recent legislative developments such as the Uniform Civil Code and Uttarakhand Act 2024 to identify best practices that can be adapted to India.
- To identify the constitutional, legal, social, political and administrative impediments in the implementation of Uniform Civil Code in India.
- To campaign for a constitutionally just and democratically legitimate framework for the enactment of a Uniform Civil Code which upholds gender justice and equality and national unity while protecting India's pluralistic constitutional identity.

1.5 Research Hypothesis

The present study is based upon the following hypotheses:

- The implementation of a Uniform Civil Code in India is constitutionally valid and is a good thing. However, the constitutional validity and long-term sustainability of a Uniform Civil Code is dependent upon harmonising the constitutional principles of equality, secularism, religious freedom, legal pluralism and democratic governance, rather than simply pursuing legal uniformity as the goal in itself.
- Article 44 of the Constitution should be read in a manner consistent with the Fundamental Rights enshrined in Part III of the Constitution of the country, thereby ensuring a fair balance between personal liberties, religious freedom and cultural diversity.
- But it is the legislature that must ultimately enact a Uniform Civil Code, though the Supreme Court's perspective on the principles of constitutional morality, gender justice and substantive equality has strengthened the constitutional dialogue on personal law reform.
- A Uniform Civil Code that emerges from an intensive democratic dialogue, stakeholder engagement, and a piecemeal legislative process is more likely to gain constitutional legitimacy and societal acceptance than a code that is the outcome of compulsory legal uniformity.

1.6 Research Methodology

The present study adopts a doctrinal (library) research methodology. It is characterized by qualitative and analytical approach on the basis of a comprehensive evaluation of the primary and secondary legal materials on the Uniform Civil Code in India.

The major sources are Constitution of India, debates of Constituent Assembly, legislative enactments, judicial decisions, reports of the law commission and other relevant legislative material. Secondary sources include authentic books, peer reviewed journal articles, research papers, commentaries, government publications and other academic writings.

The study employs analytical, comparative and critical methods to analyze constitutional provisions, judicial decisions, comparative legal developments and contemporary legislative measures relating to Uniform Civil Code. The objective is to assess the constitutional validity, functional feasibility, and contemporary relevance of the Uniform Civil Code and to suggest a prudent path forward in consonance with the principles of equality, secularism, legal pluralism and constitutional morality.

1.7 Scope & Limitations of The Study

The present research is limited to doctrinal study of constitutional, legal and jurisprudential aspects of Uniform Civil Code in India. It talks about the historical evolution of personal laws, constitutional provisions under

Article 44, judicial pronouncements, comparative legal outlooks and recent legislative reforms to gauge the practicability and constitutional soundness of the introduction of a Uniform Civil Code.

The study is limited to the study of primary and secondary legal sources and does not include empirical techniques such as surveys, interviews or statistical assessments. Further, it does not make a detailed study of the various personal laws applicable to various religious groups, but concentrates on the constitutional and legal issues directly related to the implementation of the Uniform Civil Code. Accordingly, the conclusions and recommendations are based solely on the doctrinal legal inquiry and constitutional examination.

2. HISTORICAL EVOLUTION OF PERSONAL LAWS AND THE UNIFORM CIVIL CODE

2.1 Evolution of Personal Laws in Pre-Colonial India

In ancient times, **Hindu personal law** drew its normative legitimacy from the **Vedas, Smritis, Dharmashastras and commentaries** such as the *Mitakshara* and the *Dayabhaga*.²⁵ These writings regulated the family relationships, the succession, the inheritance, the marriage, the adoption and the religious obligations. The local traditions often added to the rules of the scripture when they coincided with the dominant social norms. Hindu law was never, therefore, completely rigid; it developed through judicial interpretation, local customs and changing socio-economic conditions.²⁶

With the coming of Islamic rule to the Indian sub-continent during medieval times, *Ijma (consensus)* and *Qiyas (analogical reasoning)*.²⁷ Islamic law governed the personal status of Muslims; but the authorities did not usually interfere with the personal laws and customs of non-Muslim communities. This policy of legal accommodation maintained the pluralistic legal structure of India and allowed each religious community to govern its personal affairs according to its own religious practices.²⁸

Thus, the legal framework in the pre-colonial era was one of cohabitation, not uniformity, accepting variation as a fundamental characteristic of governance. This historical inheritance of legal plurality had a profound effect on the British colonial policy on personal laws, and later reflected in the discussions of the Constituent Assembly while framing **Article 44 of the Constitution**.²⁹ It is important to grasp this historical progression to understand why the present discourse on the Uniform Civil Code still confronts constitutional questions that go beyond legislative change to encompass cultural identity, religious freedom and democratic constitutionalism.

2.2 Personal Laws during the British Colonial Period

The British colonial regime has radically changed the legal structure of India by introducing a dual system of governance that has promoted legal uniformity in public affairs but retained religious pluralism in personal laws. The policy was based on **Warren Hastings' Judicial Plan of 1772**, which required courts to apply Hindu law to Hindus and Islamic law to Muslims on marriage, divorce, inheritance, succession and religious practices. This was the beginning of the formal introduction of religion-based personal laws under colonial rule.

During the nineteenth century, the British engaged in extensive codification of criminal, commercial and procedural legislation resulting in enactments such as **the Indian Penal Code of 1860, the Indian Evidence Act of 1872 and the Code of Civil Procedure of 1908**. But personal laws were largely excluded from the scope of codification. The colonial government deliberately decided not to interfere with the religious practices so as to avoid political opposition and to keep the government stable. This led to the emergence of legal pluralism as an intrinsic trait of the Indian legal system, uniformity in secular administration and plurality in familial law.³⁰

However little legislative action was taken to cope with pressing social problems. The enactment of **the Hindu Widow's Remarriage Act (1856), Special Marriage Act (1872) and the Child Marriage Restraint Act (1929)** was an example of a reformist approach that carefully balanced between social progress and respect for religious autonomy. These legislations demonstrated that, despite the lack of comprehensive codification, personal laws were not entirely immune from parliamentary scrutiny.

It did not, therefore, put into effect a Uniform Civil Code or totally shield personal laws from evolution. It also established a pattern of selective legal pluralism that had an important role in shaping India's constitutional structure after independence. This colonial legacy, coupled with the constitutional objective in **Article 44**, plays

²⁵ **PARAS DIWAN**, *MODERN HINDU LAW* (22nd edn., Allahabad Law Agency, 2022); **ROBERT LINGAT**, *THE CLASSICAL LAW OF INDIA* (J. Duncan M. Derrett trans., Oxford University Press, 1973).

²⁶ **WERNER MENSKI**, *HINDU LAW: BEYOND TRADITION AND MODERNITY* (Oxford University Press, 2003).

²⁷ **TAHIR MAHMOOD**, *MUSLIM LAW IN INDIA AND ABROAD* (Universal Law Publishing, 2012); **MULLA**, *PRINCIPLES OF MAHOMEDAN LAW* (22nd edn., LexisNexis, 2017).

²⁸ **N.J. COULSON**, *A HISTORY OF ISLAMIC LAW* (Edinburgh University Press, 1964); See also **M.P. JAIN**, *OUTLINES OF INDIAN LEGAL HISTORY* (8th edn., LexisNexis, 2018).

²⁹ Constituent Assembly Debates, Vol. VII, 23 November 1948; **GERALD JAMES LARSON** (ed.), *RELIGION AND PERSONAL LAW IN SECULAR INDIA: A CALL TO JUDGMENT* (Indiana University Press, 2001).

³⁰ M.P. Jain, *Outlines of Indian Legal History* 148–176 (LexisNexis, 8th edn., 2014).

a big part in the survival of religion-specific personal laws even after 1947. The British period is therefore a critical stage in the evolution of the present Uniform Civil Code debate.³¹

2.3 Constituent Assembly Debates and the Incorporation of Article 44

The first significant constitutional engagement with the idea of a **Uniform Civil Code (UCC)** was with the drafting of the Constitution. The proposal of a uniform civil code became one of the major points of discussion in the Constituent Assembly on the question of the relationship between secular power, religious freedom and national unity. Some members expressed the view that a Uniform Civil Code was necessary to attain equality and national cohesion, while some others feared that the imposition of uniformity might threaten India's pluralistic cultural and religious heritage.³²

Dr. B.R. Ambedkar was a strong proponent of the Uniform Civil Code, asserting that although personal laws were tied to religion, they also addressed secular matters like marriage, inheritance, and succession, which could be altered through legislation. A modern democratic state has the legitimate power to regulate these kinds of civic relations without violating the true religious freedoms guaranteed by the Constitution, he said. People like Mohammed Ismail Sahib, Naziruddin Ahmad and Pocker Sahib Bahadur, however, were of the view that personal laws were essential to religious identity and therefore deserved protection from legislative interference by the Constitution.³³

Considering these contradictory constitutional questions, the Constituent Assembly found a pragmatic compromise by putting the Uniform Civil Code under Article 44 in the Directive Principles of State Policy as against making it a binding Fundamental Right. This was in consonance with the intention of the framers that the State would move towards gradual establishment of a uniform civil code, having regard to social preparedness, democratic consensus and the diverse nature of India.³⁴ **Article 44** is therefore a constitutional goal and not an immediate legal duty, the implementation of which is left to future legislatures in changing social conditions.

2.4 Post-Constitutional Developments and the Contemporary Uniform Civil Code Debate

The constitutional progression of the Uniform Civil Code post-1950 illustrates a steady transformation influenced by legislative changes, court rulings, and ongoing public dialogue. Despite Article 44's provision for the State to strive toward a Uniform Civil Code for all citizens, successive administrations have taken a prudent stance, acknowledging the delicate interplay between personal laws, religious liberties, and India's diverse socioeconomic structure. The initial significant legislative effort was the implementation of the **Hindu Family Law (1955-56)**, which notably transformed Hindu personal laws concerning marriage, inheritance, adoption, guardianship, and maintenance, while mainly preserving the personal laws of other religious groups.³⁵

The Supreme Court has consistently underscored the constitutional importance of Article 44 via a succession of pivotal rulings. In the case of *Mohd. Ahmed Khan v. Shah Bano Begum*, the Court noted that a Uniform Civil Code would enhance national cohesion and mitigate disputes stemming from varied personal laws.³⁶ Comparable findings were noted in *Sarla Mudgal v. Union of India* and *John Vallamattom v. Union of India*, when the Court underscored the necessity for progressive legal reforms aligned with constitutional principles of equality and justice.³⁷ *Shayara Bano v. Union of India* has lately reaffirmed that personal laws are not exempt from constitutional examination when they infringe upon fundamental rights, thus rejuvenating the discourse on extensive reform of family laws.³⁸

The modern dialogue has gained fresh impetus with the implementation of the **Uniform Civil Code, Uttarakhand Act, 2024**, marking the inaugural extensive state-level effort to actualize **Article 44**. The establishment of committees and public engagement initiatives, such as the **Rajasthan Uniform Civil Code Committee (2026)**, illustrates an increasing inclination towards participatory and evidence-driven policymaking prior to implementing national reforms.³⁹

³¹ Constituent Assembly Debates, Vol. VII, 23 November 1948, pp. 540-551; See also Law Commission of India, *Consultation Paper on Reform of Family Law* (2018), pp. 2-7.

³² *Constituent Assembly Debates* (CAD), Vol. VII, 23 November 1948; **GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION** (Oxford University Press, 1966).

³³ *Constituent Assembly Debates*, Vol. VII, 23 November 1948 (Speeches of Mohammed Ismail Sahib, Naziruddin Ahmad, and Pocker Sahib Bahadur).

³⁴ INDIA CONST. art. 44; **H.M. SEERVAI, CONSTITUTIONAL LAW OF INDIA** (4th edn., Universal Law Publishing, 1996).

³⁵ The Hindu Marriage Act, 1955; The Hindu Succession Act, 1956; The Hindu Minority and Guardianship Act, 1956; The Hindu Adoptions and Maintenance Act, 1956.

³⁶ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556.

³⁷ *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *John Vallamattom v. Union of India*, (2003) 6 SCC 611.

³⁸ *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

³⁹ The Uniform Civil Code, Uttarakhand Act, 2024; Government of Rajasthan, Notification constituting the Uniform Civil Code Committee, 2026.

These advancements demonstrate that the discourse has progressively transitioned from the issue of whether a Uniform Civil Code ought to be established to the methods of its implementation that align constitutional equality, gender justice, secularism, and India's diverse legal traditions.⁴⁰

3. CONSTITUTIONAL PHILOSOPHY OF THE UNIFORM CIVIL CODE

3.1 Constitutional Vision of the Uniform Civil Code

The constitutional vision of the **Uniform Civil Code (UCC)** is based on the transformative philosophy of the Indian Constitution and aims to achieve harmony among the ideals of equality, secularism, social justice and national integration while retaining the pluralistic social fabric of the country. **Article 44** of the Constitution enjoins the State to endeavour to secure a Uniform Civil Code for the citizens throughout the territory of India.⁴¹ The provision, which is incorporated under the Directive Principles of State Policy, is reflective of the aspiration of the framers to provide for a common framework of civil laws relating to marriage, divorce, succession, inheritance and adoption, without any discrimination on the basis of religion. The constitutional purpose, however, was not to create immediate legal uniformity but to provide a gradual process of reform based on democratic consensus and changing social conditions.⁴²

The placement of Article 44 in Part IV of the Constitution is a conscious constitutional compromise between the quest for social reform and the protection of religious and cultural plurality. The Constituent Assembly Debates show that the framers of the Constitution understood the fact that India's multicultural society necessitated a cautious approach to reform of personal laws. Therefore, Article 44 was formulated as a constitutional direction and not as a justiciable Fundamental Right and left to the wisdom of the future legislatures to implement.⁴³

The constitutional vision underlying the Uniform Civil Code also has to be understood in relation to the guarantees contained in Part III of the Constitution. Articles 14, 15 and 21 seek to guarantee equality, non-discrimination and dignity. Articles 25 to 30 safeguard religious freedom and cultural autonomy.⁴⁴ Hence, the constitutional goal is not to supplant diversity with uniformity, but rather to mediate these competing constitutional values within a balanced legal framework.

3.2 Uniform Civil Code and the Doctrine of Secularism

The constitutional debate of the Uniform Civil Code (UCC) is intrinsically linked to the doctrine of secularism which is one of the basic features of the Indian constitution. While Western secularism generally advocates a strict separation of religion and State, Indian secularism is based on the principle of equal respect for all religions and the State's right to undertake social reform where necessary to protect constitutional values.⁴⁵ Constitutional validity of Uniform Civil Code has to therefore be analysed in the specific context of Indian secularism and not in terms of models evolved in other jurisdictions.

Article 25 of the Constitution guarantees to every individual the freedom of profession, practice and propagation of religion. It also empowers the State to regulate secular activities in connection with religious practices and to enact laws for social welfare and reform.⁴⁶ This constitutional arrangement embodies the framers' intention that religious freedom should be consistent with the State's obligation to confront social inequalities and discriminatory practices. Therefore, it cannot be claimed that personal laws are absolutely free from constitutional scrutiny merely on account of their linkage with religion.

The Supreme Court has always recognised that the secularism in the Indian Constitution is one of impartiality and not a position of non-intervention. In *S.R. Bommai v. Union of India*, the Court held that secularism requires that the State should treat all religions equally without siding with any one belief.⁴⁷ In interpreting personal laws, the courts have always insisted that the constitutional principles of equality, dignity and fairness should guide legislative reforms in family law. Hence, the Uniform Civil Code is not a bid to erode religious identity but an endeavour to create a uniform framework to govern the secular aspects of civil relationships.

⁴⁰ Law Commission of India, *Consultation Paper on Reform of Family Law* (2018); **TAHIR MAHMOOD**, *UNIFORM CIVIL CODE: FICTIONS AND FACTS* (Universal Law Publishing, 2008).

⁴¹ Constitution of India, art. 44.

⁴² **GRANVILLE AUSTIN**, *THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION* (Oxford University Press, 1966); **M.P. JAIN**, *INDIAN CONSTITUTIONAL LAW* (9th edn., LexisNexis, 2023).

⁴³ Constituent Assembly Debates, Vol. VII, 23 November 1948; **B. SHIVA RAO**, *THE FRAMING OF INDIA'S CONSTITUTION: SELECT DOCUMENTS*, Vol. II (Indian Institute of Public Administration, 1968).

⁴⁴ Constitution of India, arts. 14, 15, 21, 25–30.

⁴⁵ Constitution of India, Preamble; *S.R. Bommai v. Union of India*, (1994) 3 SCC 1; **M.P. JAIN**, *INDIAN CONSTITUTIONAL LAW* (9th edn., LexisNexis, 2023).

⁴⁶ Constitution of India, arts. 25–26; **H.M. SEERVAI**, *CONSTITUTIONAL LAW OF INDIA*, Vol. I (4th edn., Universal Law Publishing, 1991).

⁴⁷ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1; *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

However, there are concerns that the implementation of Uniform Civil Code without adequate dialogue and concern for minority rights might adversely affect India's legal plurality and cultural diversity. Hence, the principle of Indian secularism requires a judicious constitutional framework in which legal progress enhances equality while acknowledging genuine religious and cultural independence.⁴⁸ The aim from a constitutional perspective is not total legal uniformity or the unrestrained legal pluralism, but the equitable cohabitation of individual rights, social justice and religious liberty. Hence the efficacy of a Uniform Civil Code is in its ability to reflect the ethics of the constitution, democratic consensus and holistic participation and not merely the congruency of lawmaking.

3.3 Interplay between Fundamental Rights and Directive Principles of State Policy

The constitutional discourse on the Uniform Civil Code (UCC) is essentially anchored in the interplay between Fundamental Rights (Part III) and the Directive Principles of State Policy (Part IV). Article 44 mandates the State to strive toward a Uniform Civil Code applicable to all people, whereas Articles 14, 15, 21, and 25–30 ensure equality, non-discrimination, dignity, and the freedom of religion.⁴⁹ The constitutional dilemma, however, resides not in viewing these clauses as incompatible but in interpreting them cohesively to fulfil the Constitution's fundamental dedication to justice, equality, and plurality.

Initially, the Supreme Court held that Fundamental Rights were superior to Directive Principles and the latter were non-justiciable and subordinate in cases of conflict. However, the constitutional jurisprudence has moved towards the principle of harmonious construction, recognising that Parts III and IV are one and the same, not conflicting. The Court in *Kesavananda Bharati v. State of Kerala* observed that Fundamental Rights and Directive Principles together constitute the soul of the constitution and must be interpreted in such a way as to advance the constitutional objectives while protecting personal liberty as well as societal interest.⁵⁰ The same was strengthened in *Minerva Mills Ltd. v. Union of India* where the Court held that balance and harmony between Parts III and IV is an essential feature of the basic structure of the Constitution.⁵¹

The fundamental principle of the Constitution cannot be stretched to the Uniform Civil Code by interpreting Article 44 as conferring powers upon the State to override the freedom of religion guaranteed under Article 25. Likewise, the protection of religious practices cannot be used to perpetuate discrimination or deny the constitutional guarantees of equality and dignity of individuals under Articles 14, 15 and 21.⁵² The Constitution thus calls for personal law reforms that strike a delicate balance between respect for religious autonomy and ensuring that civil laws are in conformity with constitutional values. This balancing exercise is reflective of the transformative nature of the Constitution that seeks gradual social reform by democratic and constitutional means and not through sudden legal imposition.

The Supreme Court has always emphasised that the enactment of a Uniform Civil Code is fundamentally a legislative issue. The court remarks in *Mohd. Ahmed Khan v. Shah Bano Begum*, *Sarla Mudgal v. Union of India*, and *John Vallamattom v. Union of India* have reaffirmed the constitutional significance of Article 44. The execution of Article 44 requires legislative sagacity and widespread public agreement.⁵³ A Uniform Civil Code is constitutionally valid not only by its implementation but also by its adherence to the principles of equality, religious liberty, constitutional ethics, and democratic engagement.

3.4 Constitutional Morality, Equality and Gender Justice

The current discourse on Uniform Civil Code (UCC) is largely based on constitutional principles of ethics, equality and gender equity. Constitutional morality in Indian constitutional law requires that all laws and social structures conform to the principles laid down in the Constitution, and not merely reflect existing social or religious norms.⁵⁴ In this sense, the Constitution is not only a legal document, but also a motor of great social reforms that aim to overcome historical injustices and to promote real equality.

This procedure has been followed by the Supreme Court in important cases. In *Shayara Bano v. Union of India* the Court struck down the practice of instant triple talaq holding that such whimsical personal law practices

⁴⁸ WERNER MENSKI, *HINDU LAW: BEYOND TRADITION AND MODERNITY* (Oxford University Press, 2003); Law Commission of India, *Consultation Paper on Reform of Family Law*, Consultation Paper No. 1 of 2018.

⁴⁹ Constitution of India, arts. 14, 15, 21, 25–30, 44.

⁵⁰ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; H.M. SEERVAI, *CONSTITUTIONAL LAW OF INDIA*, Vol. I (4th edn., Universal Law Publishing, 1991).

⁵¹ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

⁵² M.P. JAIN, *INDIAN CONSTITUTIONAL LAW* (9th edn., LexisNexis, 2023); GRANVILLE AUSTIN, *THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION* (Oxford University Press, 1966).

⁵³ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *John Vallamattom v. Union of India*, (2003) 6 SCC 611.

⁵⁴ *Government of NCT of Delhi v. Union of India*, (2018) 8 SCC 501.

offend constitutional norms.⁵⁵ In *Joseph Shine v. Union of India* and *Indian Young Lawyers Association v. State of Kerala (Sabarimala Case)*, the Court reiterated that when fundamental rights are involved, constitutional morality must prevail over prejudiced social practices.⁵⁶ These rulings echo the judiciary's proactive commitment to substantive equality and personal dignity irrespective of religion.

But the Uniform Civil Code poses tough constitutional questions on gender equality. A common legal system may ignore the customs of India and may endanger the cultural sovereignty inadvertently under the Articles 25 and 29.⁵⁷ So, any future UCC should distinguish religious liberty from bigoted civil practices that subvert constitutional parity. Constitutional morality does not require uniformity but a carefully calibrated legal system that balances religious diversity with equality, dignity and social justice and thereby ensures democratically legitimate and constitutionally progressive legal reform.

4. JUDICIAL APPROACH TOWARDS THE UNIFORM CIVIL CODE

4.1 Early Judicial Approach: Judicial Restraint and Constitutional Aspiration

The Indian judiciary cautiously started implementing the Uniform Civil Code following the ratification of the Constitution. The courts generally held that the Directive Principles of State Policy including the mandate in Article 44 to secure a Uniform Civil Code for all citizens, were not justiciable. The judiciary declined to order legislative action, recognising the constitutional separation of powers and acknowledging that reforms to personal law would entail complex social policy, religious plurality and political consensus.

But judicial caution was not the same as constitutional apathy. But even in the first decades, the Supreme Court considered Article 44 as a fundamental goal of legal integration and national unity. In *State of Bombay v. Narasu Appa Mali*, the Bombay High Court observed that personal laws had a special constitutional position, restricting the immediate application of fundamental rights.⁵⁸ The ruling led to an intellectual debate but indicated the judiciary's reluctance to directly interfere with religiously controlled systems of personal law without legislative intervention.

The Supreme Court said that the Directive Principles are not enforceable but are tools of constitutional governance which must guide the legislative and executive action.⁵⁹ The judiciary treated Article 44 as a constitutional commitment, and not as a mandate, the fulfilment of which depended on the democratic processes and legislative skills. This judicial philosophy of caution balanced the constitutional objective of a common civil structure with freedom of religion under Articles 25 and 26.

The judiciary's early acknowledgement of the normative significance of Art. 44, without overstepping the boundaries of the institutions, thus laid the groundwork for subsequent constitutional amendments. The landmark *Mohd. Ahmed Khan v. Shah Bano Begum* judgement marks a progressive shift from judicial restraint to constitutional activism, weaving personal law reform with constitutional ideals of equality, justice and gender dignity.

4.2 Mohd. Ahmed Khan v. Shah Bano Begum (1985): Gender Justice and Article 44

Mohd. Ahmed Khan v. Shah Bano Begum changed the Uniform Civil Code constitutional discourse by introducing gender justice, maintenance rights, and constitutional equality into the national legal debate.⁶⁰ Shah Bano, a divorced Muslim woman, sought maintenance under Section 125 of the Code of Criminal Procedure, 1973. The Supreme Court ruled that Section 125 was a secular welfare provision for all citizens, rejecting the claim that Muslim personal law barred such redress beyond iddat.⁶¹

More importantly, the Court criticised the persistent non-implementation of Article 44 and noted that a Uniform Civil Code would promote national unification by eliminating legal anomalies from varied personal laws.⁶² The judgement made Article 44 a constitutional topic from a dormant Directive Principle. The Court linked the constitutional aim for a Uniform Civil Code to women's rights to show that discriminatory personal law practices violate equality and social justice.

However, the judgement caused political and social controversy, prompting the Muslim Women (Protection of Rights on Divorce) Act, 1986, to limit its practical impact.⁶³ The legislative response showed that constitutional values, religious autonomy, and democratic politics interact complexly, proving that judicial pronouncements alone cannot address hotly controversial personal law reform issues.

⁵⁵ *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

⁵⁶ *Joseph Shine v. Union of India*, (2019) 3 SCC 39; *Indian Young Lawyers Association v. State of Kerala*, (2019) 11 SCC 1.

⁵⁷ Law Commission of India, *Consultation Paper on Reform of Family Law* (2018) 9–13.

⁵⁸ *State of Bombay v. Narasu Appa Mali*, AIR 1952 Bom 84.

⁵⁹ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

⁶⁰ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556.

⁶¹ *Id.*

⁶² *Id.*; Constitution of India, art. 44.

⁶³ The Muslim Women (Protection of Rights on Divorce) Act, 1986.

Shah Bano is a constitutional landmark because it established that secular statute safeguards cannot be rejected on religious grounds and underlined that Article 44 is an ongoing constitutional promise. The ruling set the jurisprudential groundwork for following judgements on the Uniform Civil Code, gender justice, and personal law harmonisation with Constitutional ideals.⁶⁴

4.3 Sarla Mudgal, Lily Thomas and John Vallamattom: Strengthening the Constitutional Discourse

After the landmark judgement in Shah Bano, the Supreme Court has continued to shape the constitutional discourse on the Uniform Civil Code through a series of significant judgements which have emphasised the need for the harmonisation of personal laws with the constitutional values of equality, secularism and social justice. The judicial interpretation of Article 44 was considerably widened by the combined effect of **Sarla Mudgal v. Union of India**, **Lily Thomas v. Union of India** and **John Vallamattom v. Union of India**, wherein the difficulties of the various personal law systems were highlighted and the need for legal reforms in the constitutional order was reasserted.⁶⁵

In **Sarla Mudgal v. Union of India**, the Court had considered the propriety of Hindu husbands converting to Islam just to enter into a second marriage while their first marriage was valid under Hindu law. The Supreme Court held that conversion cannot be used as a device to defeat statutory obligations under Hindu Marriage Act, 1955.⁶⁶ The Court said that the varied personal laws often resulted in legal uncertainty and that religion could be exploited for personal gain. It therefore stressed that the introduction of a Uniform Civil Code would end such inequalities and reinforce the constitutional principles of equality and national integration enshrined in Article 44.

The principles enunciated in Sarla Mudgal were reaffirmed in **Lily Thomas v. Union of India** in which the Supreme Court held that religious conversion, if resorted to only to escape the consequences of existing marriage, does not extinguish the original marriage and does not confer immunity from criminal liability for the offence of bigamy.⁶⁷ *"This judgement reaffirmed the rule that constitutional rights cannot be misused to avoid statutory duties and reiterated the commitment of the judiciary towards the upholding of the rule of law in matters relating to personal law,"* the ruling added.

The constitutional dialogue was given a significant fillip in **John Vallamattom v. Union of India** where the Supreme Court held the Section 118 of the Indian Succession Act, 1925 to be prejudicial to Christians and violative of Article 14.⁶⁸ The Court, while deciding the matter on the basis of equality, reiterated its concern about the continuous non-implementation of Article 44 and observed that the existence of different personal laws was an impediment to the attainment of equal civil rights. Unlike earlier judgements which were mostly about marital issues, John Vallamattom raised the issue to the level of inheritance laws, thus expanding the constitutional ambit of the Uniform Civil Code.

The judgements transformed Article 44 from a largely aspirational Directive Principle into a continuing constitutional theme in judicial interpretation. The Court had consistently avoided issuing directions to Parliament to frame a Uniform Civil Code, holding that the framing of a Uniform Civil Code was a matter of legislative policy. These rulings are important not for the evolution of judicial law but for their resolute affirmation that reforms in personal law must be slowly made in accordance with the constitutional principles of equality, dignity, secularism and social justice, all while respecting the heterogeneous democratic structure of India.⁶⁹

4.4 Contemporary Constitutional Jurisprudence: Shayara Bano, Jose Paulo Coutinho and Recent Judicial Developments

The constitutional discourse on Uniform Civil Code has gained new currency as recent judicial pronouncements emphasise the importance of constitutional morality, substantive equality and individual dignity as important yardsticks to adjudge personal laws. Unlike earlier decisions, which tended to support legislative measures under Article 44, the recent judicial pronouncements have underlined the necessity of bringing personal law practices in line with the constitutional principles of equality and justice.⁷⁰ This is part of the broader

⁶⁴ **TAHIR MAHMOOD**, *PERSONAL LAW IN CRISIS* (N.M. Tripathi Pvt. Ltd., 1986); **M.P. JAIN**, *INDIAN CONSTITUTIONAL LAW* (9th edn., LexisNexis, 2023).

⁶⁵ *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *Lily Thomas v. Union of India*, (2000) 6 SCC 224; *John Vallamattom v. Union of India*, (2003) 6 SCC 611.

⁶⁶ *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; Hindu Marriage Act, 1955, ss. 5 & 17.

⁶⁷ *Lily Thomas v. Union of India*, (2000) 6 SCC 224.

⁶⁸ *John Vallamattom v. Union of India*, (2003) 6 SCC 611; Indian Succession Act, 1925, s. 118.

⁶⁹ **TAHIR MAHMOOD**, *UNIFORM CIVIL CODE: FICTIONS AND FACTS* (Universal Law Publishing, 2008); **M.P. JAIN**, *INDIAN CONSTITUTIONAL LAW* (9th edn., LexisNexis, 2023).

⁷⁰ *Shayara Bano v. Union of India*, (2017) 9 SCC 1; **M.P. JAIN**, *INDIAN CONSTITUTIONAL LAW* (9th edn., LexisNexis, 2023).

development of Indian constitutional law in a rights direction, in which constitutional values increasingly inform the interpretation of family and personal law.

In *Shayara Bano v. Union of India*, the Supreme Court held that the practice of instant triple talaq (talaq-e-biddat) was illegal.⁷¹ The case did not directly address enforcement of a Uniform Civil Code but the verdict reiterated that religious customs cannot seek constitutional protection if they violate the principles of equality, dignity and non-arbitrariness embedded in Articles 14 and 21 of the Constitution. The ruling thus provided a strong constitutional basis for reform of personal laws, by declaring gender fairness to be a basic element of constitutional government.

In the case of *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, the Supreme Court reaffirmed the constitutional importance of Article 44 and lauded the Goa Civil Code as an example of largely uniform civil law that can be applied to all religious communities.⁷² The Court observed that although there is a constitutional need for the creation of a unified civil structure as described in Article 44, successive administrations have made little progress in that direction. The judgement underscored that a uniform civil code is a constitutional goal that can advance equality and national unity, without necessarily impinging upon India's many traditions, but did not lay down any legislative mandates.

Recent remarks by judges also reflect a cautious but progressive approach to personal law reform. Rather than advocating for uniform legal prescriptions, the judiciary has always understood that constitutional change should be the product of democratic deliberation, and should be firmly rooted in the principles of constitutional morality and substantive equality.⁷³ This approach is already apparent in public efforts today, such as the establishment of expert committees and broad public consultations by states like Uttarakhand and Rajasthan, suggesting that the implementation of Article 44 is increasingly being sought through participatory constitutional processes, rather than through judicial enforcement.⁷⁴

Hence, there has been a remarkable change in the judiciary's stance on the Uniform Civil Code in the modern constitutional law. The emphasis has shifted from merely alerting the legislature to its constitutional obligations, to ensuring that personal legislation is consistent with the transformative principles of the Constitution. Therefore, contemporary judicial discourse stresses that the fundamental legitimacy of any prospective Uniform Civil Code will depend not only on legal uniformity but also on its ability to harmonise constitutional equality, religious liberty, gender equity, and India's enduring commitment to legal heterogeneity.

4.5 Critical Appraisal of the Judicial Approach

The judicial approach to the UCC is a painstaking attempt to reconcile the conflicting constitutional values of religious freedom, legal pluralism, equality and social justice. The Supreme Court has always held that Article 44 is a major constitutional objective, as seen in judgements from Shah Bano to Shayara Bano, even while acknowledging that its implementation falls within the legislative domain.⁷⁵ This fair minded approach is an instance of the institutional recognition by the Court of the fact that for constitutional amendments to personal laws, democratic sanction and broad social consensus and not judicial fiat are necessary.

The jurisprudence of the constitution has remarkably progressed through judicial interventions which have brought the practices of personal law in conformity with the fundamental principles of constitutional morality, substantive equality, dignity and gender justice. The Court has always laid stress that the right to religious freedom under Article 25 cannot be permitted to justify acts which are arbitrary, discriminatory or inconsistent with the Fundamental Rights.⁷⁶ Thus, the judiciary has strengthened the constitutional foundation for future personal law reforms and at the same time insured India's commitment to cultural and religious pluralism.

Yet the legal method has not been without its critics. Some scholars have described such observations as judicial activism or obiter dictum as the judgements contain elaborate considerations on the desirability of a Uniform Civil Code which transcend the issues directly in issue. Others have argued that the repeated Court references to

⁷¹ *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

⁷² *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, (2019) 20 SCC 85.

⁷³ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1; *Indian Young Lawyers Association v. State of Kerala*, (2019) 11 SCC 1.

⁷⁴ Government of Uttarakhand, *Uniform Civil Code Act, 2024*; Government of Rajasthan, Report of the Committee for Public Consultation on the Uniform Civil Code (2026).

⁷⁵ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, (2019) 20 SCC 85.

⁷⁶ *Shayara Bano v. Union of India*, (2017) 9 SCC 1; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1; Constitution of India, arts. 14, 21 & 25.

Article 44 have sometimes oversimplified the complex reality of India's multiple legal traditions and underestimated the importance of full public participation in matters affecting religious communities.⁷⁷

Generally speaking, the Supreme Court has been less a body enforcing legislative change and more a constitutional instigator, slowly shaping the normative context of discussion around the Uniform Civil Code. Its lasting legacy lies not in prescribing the contours of a uniform civil code but in insisting that any future reform must be consistent with constitutional equality, religious liberty, democratic participation and India's pluralistic constitutional make-up.

6. CONCLUSION AND SUGGESTIONS

The Uniform Civil Code continues to be one of the most controversial issues in Indian constitutional law as it touches upon issues of equality, religious liberty, secularism, legal pluralism and social equity. This research shows that the dialogue cannot be reduced to a binary choice between retention of personal laws and imposition of total legal uniformity. The constitutional dilemma is to reconcile the Directive Principle in Article 44 with the guarantees of Fundamental Rights, especially the freedoms guaranteed by Articles 14, 15, 21 and 25 of the Constitution. The adoption of a Uniform Civil Code, therefore, should be viewed as a process of constitutional integration, not legislative homogenisation.

This article's historical analysis shows that the personal law system in India was constructed through a complex web of indigenous practices, colonial legal institutions, constitutional compromises, and postcolonial legal innovations. The Constituent Assembly deliberately made Article 44 a Directive Principle instead of a justiciable right, aware of the seductive lure of a uniform civil law and the practical difficulties arising from India's religious and cultural diversity. Since the Shah Bano and Shayara Bano rulings, the courts have consistently reiterated the constitutional importance of Article 44, even as they have recognised that it is the duty of the legislature to determine the timing and manner of reform. The judiciary has served as a constitutional compass, not a replacement for legislation.

This research's comparative study shows that no constitutional democracy has adopted a universally applicable model of civil law governance. For example, France and Turkey have sought broad civil codification, whereas multicultural democracies such as South Africa, Canada and Indonesia have chosen different levels of constitutional accommodation. Goa is an illustration of how very normal civil rules can exist along with limited legal variation within the constitutional framework of India. Such comparative experiences demonstrate that the success of legal reform depends on constitutional legitimacy, democratic participation and social support instead of simply imitating foreign legal systems.

In light of the foregoing analysis, the study proposes the following recommendations:

1. Take a gradual and consultative approach: Parliament should not bring a complete Uniform Civil Code at one go, but should work on a gradual reform in areas where there is already constitutional consensus, especially in the matters of marriage, maintenance, guardianship, adoption and succession.
2. Reforms must respect the Constitution: Each proposed reform should be evaluated against the constitutional guarantees of equality, dignity, non-discrimination and religious liberty, so that personal law reforms build on, rather than detract from, constitutional rights.
3. Promote inclusive legislative processes – Extensive consultation with religious communities, women's organisations, legal academics, civil society groups and constitutional authorities should take place before passing reforms to enhance democratic legitimacy and public confidence.
4. Defend Real Cultural Diversity The goal of reform should be the abolition of discrimination, not the abolition of cultural specificity. Even if personal laws are in conformity with constitutional principles, they may be given due legal recognition within a rights-based constitutional framework.
5. Form a Special Commission on Legal Reform: A special multidisciplinary panel of constitutional scholars, sociologists, experts in comparative law, women's rights advocates and representatives of the various communities should prepare a broad draft of a Uniform Civil Code drawing on empirical research and comparative constitutional insights.
6. Raise legal awareness and civic participation: Changes in family law should be accompanied by ongoing public education campaigns on constitutional values, gender equality and legal literacy, thus reducing misconceptions about the Uniform Civil Code.

Given the Uniform Civil Code, Uttarakhand Act, 2024 and the consultative process initiated by the Rajasthan Uniform Civil Code Committee, it seems that India is entering a new phase of constitutional conversations where legislative reforms are being increasingly forged through democratic consultations rather than political diktat.

⁷⁷ **TAHIR MAHMOOD**, *UNIFORM CIVIL CODE: FICTIONS AND FACTS* (Universal Law Publishing, 2008); **WERNER MENSKI**, *COMPARATIVE LAW IN A GLOBAL CONTEXT: THE LEGAL SYSTEMS OF ASIA AND AFRICA* (2nd edn., Cambridge University Press, 2006).

When handled in a constitutional spirit, these can transform Article 44 from a historical constitutional goal to a meticulously implemented regime mirroring the plural nature and progressive outlook of the Indian Constitution.

In conclusion, the Uniform Civil Code should not be viewed only as a mechanism for achieving legal uniformity or as a constitutional threat to India's religious plurality. Its legitimacy ultimately lies in its contribution to the constitutional values of justice, equality, dignity, secularism and fraternity and preservation of the pluralistic character that defines Indian constitutional democracy. The most viable path to harmonising personal rights with cultural plurality is a context-aware and rights-focused Uniform Civil Code created through democratic engagement and constitutional discourse. So the constitutional question is not whether India should amend its personal laws but how can such amendments be effected in a manner that can truly realise the revolutionary promise of the Constitution.

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