



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## Uniform Civil Code - Through the Eyes of Citizens

Debalina Roy<sup>a</sup>

<sup>a</sup>Xavier Law School, XIM University, Bhubaneswar, India

Received 09 April 2025; Accepted 10 May 2025; Published 13 May 2025

---

*India is a secular State; no single religion is practised or recognised as the official religion of the nation. The State does not interfere with religious affairs, and in turn, religion must not interfere with the State's effectiveness. India is an essentially diverse nation. Its federal political structure, which divides authority between the central government and the states, also reflects this. In addition to being the cornerstone of Indian culture, religion has a significant impact on the country's politics and social structure. Religion is an integral part of life in India. It is fundamental to all Indian traditions. Due to the diversity prevalent, people of many religions and languages have been ruled by their own unique sets of rules. As a result, different classes of individuals are treated differently under their laws. Decisive efforts to formulate a Uniform Civil Code were made by incorporating Article 44 in the Constitution of India. Over 70 years have passed, yet implementation of the Uniform Civil Code remains a dead letter and seems a far-fetched dream. This research paper discusses the enforcement of the Uniform Civil Code and examines the arguments in favour of and against its implementation. The relationship between the Uniform Civil Code, secularism, and freedom of religion has been analysed. The researcher conducted a pilot study to understand and gauge the views of Indian citizens on the Uniform Civil Code and its implementation. Based on the responses and their findings, an analysis of the public perception of the benefits and drawbacks of the implementation of the Uniform Civil Code has been presented.*

**Keywords:** *uniform civil code, personal laws, religion, implementation, constitution, secular.*

---

## INTRODUCTION

The Home to various religions of the world, India is known as the land of religious tolerance. Since the British ruled India, the concept of a uniform civil code has existed in some form. However, as part of their divide and rule strategy, the British sought to keep Hindu and Muslim personal laws apart even if they wished to codify laws relating to crime, contracts, evidence, and other matters. With the advent of the British, secular Western concepts and beliefs were introduced to India.<sup>1</sup>

There have been attempts to harmonise Indian and Western ideologies and ideas. The Western liberal and democratic movements boosted secular inclinations in India. The Constitution of India provides the right to practise, profess, and promote one's religion, but it also places certain reasonable restrictions on these rights. By establishing that only the vital aspects of religious freedom are protected by the Constitution, the judiciary has attempted to explain the legislative intent. India, a secular nation, accepts the presence of different religions and does not actively support any one of them, singularly. Almost 93 % of Indians identify as members of the religion.<sup>2</sup>

The Constituent Assembly considered the feasibility of personal laws twice: once, when Part III encompassing fundamental rights was adopted into the Constitution, and again, when Article 44 contained in Part IV, which provides for the establishment of a Uniform Civil Code, was under consideration.<sup>3</sup> The State has the power to create a law under Article 25(2) and a Uniform Civil Code under Article 44 to promote social welfare throughout India's territory.<sup>4</sup> In *Mohd. Ahmad Khan v Shah Bano Begum*, the Supreme Court directed the Indian government to investigate the viability of implementing a Uniform Civil Code across all of India.<sup>5</sup>

It is evident that from the very beginning, the uniformising framework of the Constitution and the continued presence of the personal law system clashed conceptually and in actual daily practice. The Supreme Court, through various judgments, has inferred that the time

---

<sup>1</sup> Werner F Menski, *Modern Indian Family Law* (1st edn, Routledge 2001)

<sup>2</sup> Indranil Mukherjee, 'Religion in India: Tolerance and Segregation' (*Pew Research Centre*, 29 June 2021) <<https://www.pewresearch.org/religion/2021/06/29/religion-in-india-tolerance-and-segregation/>> accessed 05 April 2025

<sup>3</sup> Constitution of India 1950, art 44

<sup>4</sup> Constitution of India 1950

<sup>5</sup> *Mohd Ahmed Khan v Shah Bano Begum* (1985) 3 SCR 844

has come for the intervention of the legislature in their matters to provide for a uniform code of marriage and divorce. 70 years since the enforcement of the Constitution, Article 44 remains a dead letter. There is no evidence of any official activity for framing a common civil code for the country. A Uniform Civil Code will help the case of national integration by removing disparate loyalties to laws which have conflicting ideologies. No community is likely to bell the cat by making gratuitous concessions on this issue.

It is the State which is charged with the duty of securing a uniform civil code for the citizens of the country, and, unquestionably, it has the legislative competence to do so. We understand the difficulties involved in bringing persons of different faiths and persuasions on a common platform. But a beginning has to be made if the Constitution is to have any meaning. Inevitably, the role of the reformer has to be assumed by the courts because it is beyond the endurance of sensitive minds to allow injustice to be suffered when it is so palpable.<sup>6</sup>

## RESEARCH QUESTIONS

**The research paper aims to address the following questions:**

1. Whether Article 44 of the Constitution of India reflects a specific legislative intent.
2. Whether there exists a conflict between the Uniform Civil Code and personal laws, and what is its nature and extent.
3. Whether the implementation of the Uniform Civil Code infringes on the freedom of religion of citizens.
4. Whether the implementation of the Uniform Civil Code has significant socio-legal implications.

## HYPOTHESES

1. The enforcement of a Uniform Civil Code in India, as envisioned under Article 44 of the Constitution, is essential for achieving true secularism and equality and does not infringe upon the fundamental right to freedom of religion.

---

<sup>6</sup> *Ms Jordan Diengdeh v SS Chopra* (1985) Supp SCC 704

2. There is widespread public support for implementing the Uniform Civil Code to ensure legal uniformity and gender equality; however, significant gaps in legal literacy and concerns about religious freedom continue to influence public opinion.

## RESEARCH METHODOLOGY

The author has employed a combination of doctrinal and empirical research methodologies. The doctrinal research involved an examination of primary sources such as constitutional provisions, statutory frameworks, and judicial pronouncements pertaining to the Uniform Civil Code.

The doctrinal analysis was further supported by secondary sources such as scholarly commentaries, Law Commission Reports, academic books and journal articles. The empirical research was conducted through an online survey, utilising purposive sampling with exclusive emphasis on Indian citizens.

Furthermore, the study incorporated exploratory and interpretative research approaches, integrating both qualitative and quantitative methods to provide a comprehensive and nuanced analysis. The survey sought to assess the awareness, understanding, and opinions of Indian citizens regarding the implementation of the Uniform Civil Code.

## LITERATURE REVIEW

The debate over the Uniform Civil Code in India has attracted deep academic scrutiny across constitutional, sociological, and political dimensions. A critical reading of significant scholarly works and studies provides a nuanced understanding of the potential and challenges of implementing a UCC in India.

**W. F. Menski, *Modern Indian Family Law* (2001):** W.F. Menski, in his influential work *Modern Indian Family Law*, traces the evolution of personal laws in India and elucidates how colonial authorities codified and maintained religious distinctions, especially in civil matters such as marriage, divorce, and succession. Menski critiques the notion that uniformity in law is synonymous with modernity. He warns that a simplistic importation of Western legal models into India could ignore the complex cultural realities of Indian society.

According to Menski, any meaningful reform must embrace India's legal pluralism rather than seek to eliminate it, as pluralism itself embodies the democratic ethos of the country.<sup>7</sup>

**M.S. Ahmed, Uniform Civil Code: Problems and Prospects (2001):** In Uniform Civil Code: Problems and Prospects, M.S. Ahmed presents a comprehensive discussion on the constitutional foundations and social sensitivities surrounding UCC. Ahmed asserts that while the constitutional vision behind Article 44 is clear, its practical realisation has been obstructed by fears among minority communities regarding erosion of religious identity. He criticises the politicisation of UCC and argues that genuine implementation requires culturally sensitive legal reforms, fostering trust and dialogue among India's diverse populations rather than forceful imposition.<sup>8</sup>

**Abhijay Chakraborty, Uniform Civil Code – A Constitutional Mandate (2020):** Abhijay Chakraborty, in his article Uniform Civil Code – A Constitutional Mandate, highlights the constitutional obligation to enact a UCC to fulfil the principles of equality and secularism enshrined in the Preamble. Chakraborty recognises the UCC as vital for strengthening social justice and gender equality. However, he critiques the delay in its implementation, attributing it to political unwillingness and the risk of alienating minority communities. He argues for a phased, inclusive approach that promotes understanding and consensus-building, warning that any coercive attempt could polarise society even further.<sup>9</sup>

**P. Chonbenthung Humtsoe, India: Uniform Civil Code (UCC) About Personal Law:** Humtsoe examines how personal laws, rooted in religious traditions, often conflict with constitutional principles of equality. He argues that while a UCC could eliminate discriminatory practices, its implementation must be gradual and sensitive. Humtsoe critiques the idea of immediate uniformity, warning that forced changes may trigger resistance. Instead, he proposes phased reforms within existing personal laws as a pragmatic

---

<sup>7</sup> Menski (n 1)

<sup>8</sup> Mohd. Shakeel Ahmed, 'Uniform Civil Code: Problems and Prospects' (Theses, Aligarh Muslim University 2001) <<https://core.ac.uk/download/pdf/144516425.pdf>> accessed 07 April 2025

<sup>9</sup> Abhijay Chakraborty et al., 'Uniform Civil Code – A Constitutional Mandate' (2020) 10 Pen Acclaims <<http://www.penacclaims.com/wp-content/uploads/2020/05/Abhijay-Chakraborty.pdf>> accessed 07 April 2025

pathway toward eventual legal uniformity, emphasising the need for public dialogue and cultural sensitivity.<sup>10</sup>

**Diksha Munjal, Explained | The Uniform Civil Code:** In her article, Diksha Munjal explains the constitutional vision behind the UCC, emphasising that it was intended to unify personal laws across communities while respecting religious freedom. She states that UCC is closely linked to the principles of secularism and gender equality. However, Munjal critiques the political misuse of the UCC debate, cautioning that without genuine public consensus, its enforcement could alienate minority groups. She suggests that meaningful reform must harmonise personal laws without imposing majoritarian values, recommending careful, inclusive legislative action.<sup>11</sup>

## THE UNIFORM CIVIL CODE THROUGH THE LENS OF THE CONSTITUTION OF INDIA

**Interpretation of Civil in Article 44: Why Civil and not Common:** The British administration allowed the personal civil laws of the various Indian communities to remain in civil affairs like marriages, divorces, adoptions, succession, etc.<sup>12</sup> Significantly, it standardised the entire legislative procedure. The Governor-General held complete legislative power due to the Charter Act of 1833.<sup>13</sup> Lord Macaulay, who had been chosen to oversee the Indian Law Commission at the time to codify existing laws, served as its chairman. Consequently, Lord Macaulay's efforts resulted in the first time in India's history that the Indian Penal Code and the Code of Civil and Criminal Procedure were created, making the said Codes effective throughout the entire nation and unifying all Indians under a single system.

---

<sup>10</sup> P Chonbenthung Humtsoe, 'Uniform Civil Code (UCC) In Relation To Personal Law' (*Mondaq*, 28 April 2022) <<https://www.mondaq.com/india/divorce/1187730/uniform-civil-code-ucc-in-relation-to-personal-law>> accessed 07 April 2025

<sup>11</sup> Diksha Munjal, 'Explained | The Uniform Civil Code' *The Hindu* (03 July 2023) <<https://www.thehindu.com/news/national/explained-the-uniform-civil-code/article66105351.ece>> accessed 07 April 2025

<sup>12</sup> Menski (n 1)

<sup>13</sup> Charter Act 1833

Other laws with uniform applicability in the nation were the Indian Evidence Act 1872,<sup>14</sup> the Transfer of Property Act 1882,<sup>15</sup> the Indian Partnership Act 1932,<sup>16</sup> and the Indian Contract Act of 1872,<sup>17</sup> and the aforementioned uniformity code. Yet, States have made several revisions to those Acts, resulting in diverse laws in some areas. The conclusion reached is that UCC is not novel in Indian law and was purposefully preserved under Article 44 of the Constitution for efficient national administration.

Civil law refers to the law governing matters of disputes between particular individuals. Family law is a part of civil law. A civil code is a codification of obligations, property, and family-related private law. On the other hand, the term common code would connote that all laws, whether civil, criminal or other, should be the same and equal for everyone. The Constitution of India, by Article 44, envisages that there will be uniform provisions of law governing personal law areas such as marriage, divorce, maintenance, adoption, guardianship, succession, inheritance, and so on.

The idea is to adopt the distinct features of respective personal laws that are progressive and beneficial, and incorporate them into the Uniform Civil Code. It does not entail imposing customs and rituals of one religion on people of other religions. Thus, it is not a common code, but a civil code.

## DECIPHERING THE LEGISLATIVE INTENT BEHIND ARTICLE 44

Article 44 of the Constitution of India provides for a Uniform Civil Code for the citizens in the following words: *"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."*<sup>18</sup>

This Article indicates that the constitution commands the government to coordinate efforts to address issues now covered by each community's laws. The classic interpretation of Article 44 implies a mandate for introducing a straightforward uniform civil code for all Indians, thereby abolishing the personal law system and streamlining Indian law in this regard.<sup>19</sup>

---

<sup>14</sup> Indian Evidence Act 1872

<sup>15</sup> Transfer of Property Act 1882

<sup>16</sup> Indian Partnership Act 1932

<sup>17</sup> Indian Contract Act 1872

<sup>18</sup> Constitution of India 1950, art 44

<sup>19</sup> Chakraborty (n 9)

The Muslim members of the Constituent Assembly fiercely opposed the proposal. However, the Assembly equally steadfastly rejected the claim that Muslim Personal Law is an unchangeable and integral part of Islamic law. Dr. Ambedkar argued that the state might alter personal laws as a means of promoting social transformation and welfare rather than accepting the idea that personal laws were unchangeable. It should be recalled that Dr. B.R. Ambedkar, the Chairman of the Drafting Committee, said the following when Article 44 was proposed for discussion in the Constituent Assembly.<sup>20</sup>

The Muslims unnecessarily read too much into Article 44. No government can exercise the legislative power in such a manner as to provoke the Muslim community to rise in rebellion; to think it would be a mad government if it did so.<sup>21</sup>

Dr. B. R. Ambedkar highlighted during the Constituent Assembly debates on the draft of Article 44 that the only sphere that did not have a Uniform Civil Code was marriage and succession. It was the objective of those who passed Article 44 into law to change this. As the remainder of the area has been largely, if not entirely, covered by Uniform Civil Codes, Article 44 could only have the various personal laws in mind. However, the modern Indian legal system remains and needs to remain a culture-specific political construct serving an enormous and diverse population in the process of nation-building rather than direct legal regulation of every little human action.

Instead of seeking to fit the massive square peg of litigation into an equally large round hole of uniform family law legislation, supra-modern Indian law today appears to have changed direction. Indian law has now finally abandoned the Western legal axioms of uniformity and rejects the norm that states must have uniform laws to be called modern states. Indian modernity has retained decidedly Indian characteristics.

The complex, federal Indian legal system shows that uniformity of legal provisions is blatantly not a prerequisite for modernity and justice. While India still claims all her different citizens as her own, she continues to recognise that they will live to a large extent on their own terms and by their own rules.

---

<sup>20</sup> Constitution of India 1950, art 44

<sup>21</sup> Tahir Mahmood, *Uniform Civil Code: Fictions and Facts* (India and Islam Research Council 1995)



The Centre recently informed the Supreme Court of its position on the Uniform Civil Code (UCC) and stated that it has a constitutional commitment to uphold it.<sup>22</sup> The Centre responded to the petition by attorney Ashwini Upadhyay by stating that it is an affront to the National Unity for persons of various religions and denominations to adhere to separate property and marriage laws.<sup>23</sup>

According to the centre, upholding the clause of constitutional obligation, Part IV of the Constitution of India is related to Directive Principles of State Policy and creates an obligation upon the State to endeavour to secure for citizens a Uniform Civil Code throughout the country under its Article 44.<sup>24</sup> The purpose of Article 44, according to the petition, is to strengthen the Secular Democratic Republic, as provided in the preamble of the Constitution.<sup>25</sup>

The centre notified the Supreme Court that it had previously sent the matter to the 22<sup>nd</sup> Law Commission, which has already been established but is awaiting the selection of the chairman and other members, citing the constitutional importance of the issue. It has requested that it undertake an assessment of different matters relevant to the Uniform Civil Code and provide recommendations thereto.<sup>26</sup>

The Centre remarked that this provision is provided to effect integration of India by bringing communities on a common platform on matters which are at present governed by diverse personal laws. This Article 44 is based on the concept that in matters of inheritance, right to property, maintenance and succession, there will be a common law. Article 44 divests religion from social relations and personal law.<sup>27</sup>

Article 44 is a part of the DPSP, which means that a court cannot enforce it. However, the courts have the authority to uphold fundamental rights. Additional phrases in the directive principles include particularly endeavour, shall particularly direct its policy, and shall be the

---

<sup>22</sup> Munjal (n 11)

<sup>23</sup> 'Explained: Uniform Civil Code And Centre's Reference To 22<sup>nd</sup> Law Commission' (*Outlook*, 18 January 2024) <<https://www.outlookindia.com/national/explained-uniform-civil-code-centre-to-refer-matters-to-the-22nd-law-commission-news-231010>> accessed 07 April 2025

<sup>24</sup> *In Re Uniform Civil Code* (1985) 3 SCC 537

<sup>25</sup> Vikas Deep Verma, 'The Uniform Civil Code in India: A Quest for Equality and Social Justice' (2023) 6(5) *International Journal of Law Management & Humanities* <<https://doi.org/10.1000/IJLMH.115850>> accessed 07 April 2025

<sup>26</sup> *In Re Uniform Civil Code* (1985) 3 SCC 537

<sup>27</sup> Law Commission, *Uniform Civil Code* (Law Com. No. 22, 2023)

obligation of the state, indicating that the obligation is one of policy rather than one of law.<sup>28</sup> While Article 43 states the state shall endeavour by suitable legislation, that phrase is omitted from Article 44, rendering the legislature's obligation to pass suitable legislation non-compulsory. The Supreme Court in the judgement of *Minerva Mills v Union of India* observed that the Indian Constitution is founded on the bedrock of the balance between Parts III (Fundamental Rights) and IV (Directive Principles). To give absolute primacy to one over the other is to disturb the harmony of the Constitution.<sup>29</sup>

Another interesting constitutional twist is involved here. Article 31C, which was adopted after the 42nd amendment in 1976 by the Indira Gandhi Administration, declares that if a law is created to follow the directive principle, it cannot be challenged in the court of law on the grounds of violation of fundamental rights safeguarded under Articles 14 and Article 19 of the Constitution.<sup>30</sup>

## UNIFORM CIVIL CODE VERSUS PERSONAL LAWS

Personal laws are those that control people according to their caste, religion, faith, and philosophical convictions. These laws were created after careful analysis of religious texts and customs. The regulations governing marriage, divorce, support, adoption, co-parenting, inheritance, succession, the division of family property, guardianship, wills, gifts, charitable donations, etc., are all specifically mentioned in these laws. Both Hindu and Muslim personal laws are founded on their religious writings and scriptures. Hindu personal law is founded on contemporary ideas of justice, equality, conscience, and other ideals as well as ancient scriptures like the Vedas, Smritis, and Upanishads.

The Quran and Sunnah serve as the primary sources for Muslim personal law (which pertains to the sayings of the Prophet Mohammad and his way of life). In addition to the Quran, Muslim personal law is also derived from the Ijma (the consensus of knowledgeable Muslim jurists on legal matters) and Qiyas (analogical deduction). The Bible, customs, reason, and experience all serve as the foundation for Christian personal law.

---

<sup>28</sup> D D Basu, *Commentary on the Constitution of India* (9th edn, LexisNexis 2014)

<sup>29</sup> *Minerva Mills v Union of India* (1980) 1 SCR 206

<sup>30</sup> Constitution (Forty-Second Amendment) Act 1976

A Uniform Civil Code would likely nullify all such codified laws and replace them with one that would apply to all citizens. Personal laws are also frequently contradictory and in conflict, and courts and jurisdictions do not consistently apply them. The uniform Civil Code's introduction aims to address this issue as well. Personal laws protect the various community-based rights of the individual, while the Uniform Civil Code aims to impose a single rule that controls all facets of social life.

Many legislations in India, including the Indian Contract Act<sup>31</sup>, the Civil Procedure Code, the Sale of Goods Act, the Transfer of Property Act<sup>32</sup>, the Partnership Act<sup>33</sup>, and the Evidence Act<sup>34</sup>, are based on the Uniform Civil Code and are applicable all over the country. However, a number of changes to these regulations also made it more varied and situational.

Goa was the only State in which a Uniform Civil Code was applicable by the existence of the Portuguese Civil Code, 1867, until the enactment of the Uniform Civil Code of Uttarakhand Act, 2024. In *Jose Paulo Coutinho v Maria Luiza Valentina Pereira*, the Supreme Court observed that the Portuguese law, which may have had foreign origin, became a part of the Indian laws, and, in sum and substance, is an Indian law. It is no longer a foreign law. Goa is a territory of India; all domiciles of Goa are citizens of India; the Portuguese Civil Code is applicable only on account of the Ordinance and the Act referred to above. Therefore, it is crystal clear that the Code is an Indian law, and no principles of private international law apply to this case. We answer question number one accordingly.<sup>35</sup>

According to legal experts, if the Founding Fathers of the Constitution had intended for personal laws to be progressively repealed, they would have left it entirely up to the parliament. Yet by including personal legislation in the Concurrent List (List III), it has explicitly stated its intentions. The Uniform Civil Code is neither desirable nor possible, according to the 2018 Law Commission Report, which the Government even brought up in its testimony to the apex court.

---

<sup>31</sup> Indian Contract Act 1872

<sup>32</sup> Transfer of Property Act 1882

<sup>33</sup> Indian Partnership Act 1932

<sup>34</sup> Indian Evidence Act 1872

<sup>35</sup> *Jose Paulo Coutinho v Maria Luiza Valentina Pereira* (2019) 20 SCC 1

## DOES THE UNIFORM CIVIL CODE INFRINGE ON FREEDOM OF RELIGION?

I do not understand why religion should be given this vast, expansive jurisdiction to cover the whole of life and to prevent the legislature from encroaching upon that field. After all, what are we having this liberty for? We are having this liberty to reform our social system, which is so full of inequities, so full of inequalities, discrimination and other things, which conflict with our fundamental rights.<sup>36</sup>

**Dr. B.R. Ambedkar:** India is a Secular, Democratic Republic, according to the Preamble of the Indian Constitution. This strongly suggests that there is no official state religion. A religion only regards the relationship between man and God. It implies that a person's regular life should not be impacted by their religion. The objective of a uniform Civil Code and the secularisation process are intricately linked as a cause and an effect. As stated by Judge Jeevan Reddy, Religion is a matter of individual faith and cannot be mixed with secular activities and can be regulated by the State by enacting a law in the case of *S.R. Bommai v Union of India*.<sup>37</sup>

All religions are granted the right to profess and practise their religion under Article 25 of the Constitution of India.<sup>38</sup> Article 26 (b), in addition, allows the right of any religious sect to manage its affairs in matters of religion.<sup>39</sup>

The freedom of a person under Article 25 is constrained by public order, health, and morality and is linked to fundamental rights, but Article 26 reflects community rights and is separate from individual fundamental rights.<sup>40</sup>

The Uniform Civil Code will not infringe Articles 25 and 26 and does not oppose secularism. Article 44 is based on the idea that in a civilised society, there is no essential link between religion and personal law. Laws can control marriage, succession, and similar issues since they are, by their very nature, secular. Pre-mediated distortion is forbidden in all religions. The Uniform Civil Code will not and shall not impact a person's religious rights, particularly

---

<sup>36</sup> Vikas Pathak, 'Ambedkar Favoured Common Civil Code' *The Hindu* (25 March 2016) <<https://www.thehindu.com/news/national/ambekar-favoured-common-civil-code/article7934565.ece>> accessed 05 April 2025

<sup>37</sup> *S.R. Bommai v Union of India* (1994) 3 SCC 1

<sup>38</sup> Constitution of India 1950, art 25

<sup>39</sup> Constitution of India 1950, art 26(b)

<sup>40</sup> *Ibid*

those about maintenance, succession, and inheritance. This implies that under the Uniform Civil Code, a Muslim person will not be compelled to perform *saptapadi*, or a Hindu man will not be asked to pay dower to his wife. Ours is a secular democratic republic. Freedom of religion is the core of our culture. Even the slightest deviation shakes the social construct. But religious practices, violative of human rights and dignity and sacerdotal suffocation of essentially civil and material freedom are not autonomy but oppression. Therefore, a unified code is imperative, both for the protection of the oppressed and for the promotion of national unity and solidarity, the Supreme Court observed in *Mohd. Ahmad Khan v Shah Bano Begum*.<sup>41</sup>

The argument over fundamental rights and a Uniform Civil Code was taken seriously throughout the Constituent Assembly Debates. A vote had been taken to determine if the Uniform Civil Code should be included in the fundamental rights chapter. The provision is outside the purview of fundamental rights, according to Sardar Vallabhbhai Patel, who was in charge of the subcommittee on fundamental rights and set it aside.<sup>42</sup> Since its founding, the current government has actively and vehemently supported the Uniform Civil Code. However, political experts point out that the Uniform Civil Code plan for the current government is more about imposing a Hinduised code than making changes to the law or fulfilling a constitutional need.

Speaking for myself, there are several excellent provisions of the Muslim law understood in its pristine and progressive intendment which may adorn India's common civil code. There is more in Mohammed than in Manu, if interpreted in its humanist liberalism and away from the desert context, which helps women and orphans, modernises marriage and morals, widens divorce and inheritance, stated by Justice Krishna Iyer in *Bai Tahira v Ali Hussain*.<sup>43</sup>

History bears witness to the fact that the court has shown restraint and left the matter in the hands of the legislature's wisdom whenever any provision of a personal law was contested as being unconstitutional because it violated fundamental rights, citing the fact that it involved state practices that the court is not ordinarily interested in.

---

<sup>41</sup> *Mohd. Ahmad Khan v Shah Bano Begum* (1985) 3 SCR 844

<sup>42</sup> Lok Sabha Secretariat, *Constituent Assembly Debates: Official Report* (2014)

<sup>43</sup> *Bai Tahira v Ali Hussain Fissalli Chowthia* (1979) 2 SCR 75

## ARGUMENTS FOR UCC

In recent times, the Uniform Civil Code has been labelled as a political agenda, but it is much more than claimed by the proponents of the Uniform Civil Code. It supports the unification of India by enacting social reforms to promote gender equality. It is possible to view the Uniform Civil Code as being opposed to the idea of polarising politics.<sup>44</sup> Because its adoption might undo the bad deals with the sovereign after the Partition, it would be accurate to view the Code as the conclusion of the saga of India's freedom movement. Its implementation is a step toward integrating and bolstering India's secular beliefs.

By outlawing polygamy, which is now permissible under Islamic law and is extremely unfair and discriminatory to women, the Uniform Civil Code would assure the actual empowerment of women. In the 1950s, Dr. B.R. Ambedkar founded the Uniform Civil Code after pioneering the cause of gender equality. The Code will mark a turning point in the development of Indian law by incorporating the best traditions and bringing them into line with contemporary needs. Given the diversity of India, it is challenging to ignore how the laws of each religion change separately and irregularly. A common, uniform, and effective set of laws governing the civil concerns that plague society will have a significant impact.

By replacing the current mishmash of personal laws with a single set of regulations that apply to everyone, a Uniform Civil Code would streamline the legal system. This would enable all citizens to access and comprehend the law more easily as a result. Because it would apply to everyone equally, it would guarantee consistency in applying the law. As a result, there would be less chance of discrimination or inconsistent execution of the law. It would, thus, guarantee that everyone has the same legal rights and protections and end discrimination based on religion or personal laws.

## ARGUMENTS AGAINST UCC

The universal application of the maxims of modernity often purposefully and systematically overlooks cultural specificities, ethnic diversities, religious pluralism and all kinds of

---

<sup>44</sup> Aditi Narayani and Vasundhara Shankar, 'Uniform Civil Code Can Be the Real Unifying Force in India. Critics Must Think Again' *The Print* (13 May 2022) <<https://theprint.in/opinion/uniform-civil-code-can-be-the-real-unifying-force-in-india-critics-must-think-again/953898/>> accessed 07 April 2025

pluralism.<sup>45</sup> There is supposed to be only one good truth: a belief in a bright future in which law, rather than religion, will be in control of everything. In an enormous and diverse country like India with multiple hybridities, the concept of uniformity is difficult to put into practice. Here, the diversities and pluralities of common men and basic human existence assert themselves most powerfully. The Uniform Civil Code has been considered a threat to India's plurality.

Professor S. P. Sathe, who had taken it upon himself to draft a Uniform Civil Code during the 1980s, ended up expressing his reservations about the feasibility of total legal uniformity. Prof Sathe stated that in the process of compiling all the provisions of the existing personal laws governing different religious communities, he has encountered difficulty in extracting the religious from the non-religious components of these laws. Some extent of plurality may have to be provided for even in a Uniform Civil Code.<sup>46</sup>

The modern Indian legal system appears to be on a thorny road to self-inflicted uniformity that nobody wants to face. The constitutional provision of Article 44 sits there, causing multiple anxieties. Half-hearted tinkering with an optional Uniform Civil Code seems pointless and counterproductive. It appears that the idea of the Constitution framers was that the members of the minority groups would gradually submit voluntarily to a secularised uniform legal system. But time has proved this wrong. Both the secularised Hindu law and the secularised general law appear to be Hindu-centric. Thus, there is tremendous reluctance by members of other religious denominations to follow these supposed secularised laws.

The Special Marriage Act, 1954, can be viewed as a rudimentary Uniform Civil Code. Although this has been applied in some cases, it is otherwise far too little known and not free from flaws. Indian legislators are rightly apprehensive about potential backlashes of new legislation, and the apex court appears to have become afraid of its courage. The aftermath of the Shah Bano<sup>47</sup> Cases has shown the deep divisions of opinion in the country and has raised the question of the feasibility of legal uniformity in a particular way. A step away from legal consistency, the Muslim Women (Protection of Rights on Divorce) Act of 1986 secured

---

<sup>45</sup> Saptarshi Basak, 'Uniform Civil Code: What is it and What are the Arguments Against it?' *The Quint* (18 June 2023) <<https://www.thequint.com/news/politics/uniform-civil-code-what-is-it-what-are-arguments-against-it-explained#read-more>> accessed 05 April 2025

<sup>46</sup> S P Sathe, *Uniform Civil Code: Challenges and Reservations* (Indian Law Institute 1987)

<sup>47</sup> *Mohd. Ahmad Khan v Shah Bano Begum* (1985) 3 SCR 844

rights for divorced Muslim women.<sup>48</sup> The Indian Constitution as a whole recognised, through several provisions, that the people of India were not equal citizens in social reality and that making merely formal declarations about equality would be counterproductive, in addition to making room for the personal law system as part of the official law.

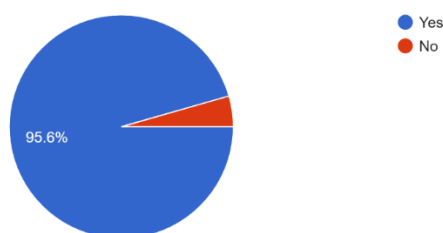
The real people of India seem to show in many forms that the unification of laws, if it entails rash abolition of their traditional patterns of life, is undesirable to them. Comprehensive and forcible unification of personal laws will never be a realistic option.

### **A PILOT STUDY PORTRAYING THE VIEW AND UNDERSTANDING OF THE INDIAN CITIZENS ON THE UNIFORM CIVIL CODE**

The Uniform Civil Code is a contentious topic in India. To assess people's perception of the Uniform Civil Code and garner their opinion on the much-debated issue of the enforcement of the Uniform Civil Code in India, the researcher adopted an exploratory research approach and conducted an online survey employing the method of non-probability sampling, particularly purposive sampling. The survey form was circulated among Indian citizens exclusively, who have completed at least a matriculation level of education. 90 individuals, out of which 62 were male and 28 were female, participated in the survey. The participants from all age groups, ranging from 18 to 71 years, responded to the survey.

The survey participants were from various fields of work, ranging from lawyers, law students, professors, academicians, and psychologists to managers, businessmen, etc. A copy of the survey questionnaire has been attached to this research paper for reference.

Are you aware that currently in India people belonging to different religions are governed by their own set of personal laws related to marriage, divorce, inheritance, adoption, etc.?  
90 responses



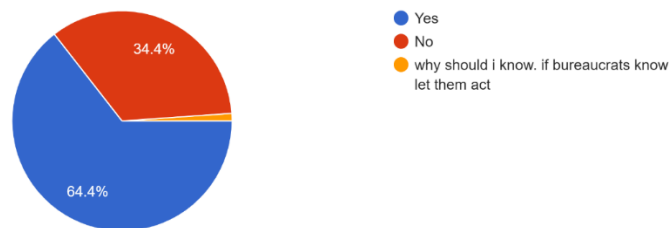
<sup>48</sup> The Muslim Women (Protection of Rights on Divorce) Act 1986



Of the 90 survey participants, an absolute majority, i.e., about 95 % of the respondents, were conscious that personal laws for people of different religions in India are dealt with separately. While a small chunk was not familiar with the fact. It is interesting to note that even individuals who have attained higher education and degrees such as MA and MSc are likewise unaware that the personal law in respect of marriage, divorce, maintenance, inheritance, etc., differs from religion to religion in India.

Did you know that there is a constitutional provision for Uniform Civil Code, i.e., Article 44 of the Indian Constitution which provides that 'the state sh...iform civil code throughout the territory of India'?

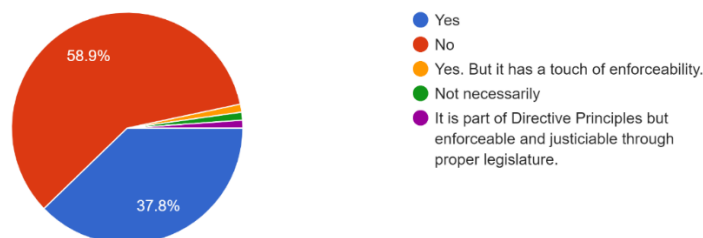
90 responses



About 64% of the participants are aware of the constitutional provision for the Uniform Civil Code in India provision in Article 44 of the Constitution. In contrast, the other 34% did not know of it. A small portion of them felt it did not concern them, and the matter should be left to the bureaucrats. This implies that though people might be literate, but not so legally literate.

Are you aware that Article 44 is a Directive Principle of State Policy (Part IV of the Constitution), which is not enforceable or justiciable?

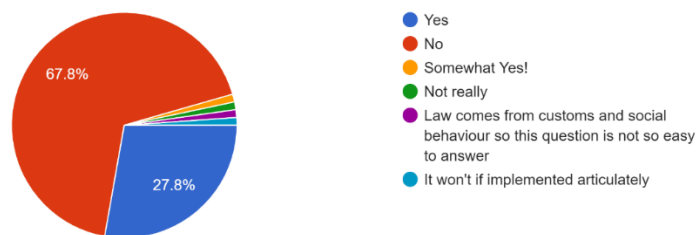
90 responses



A vast number of respondents, nearly 60%, seem to be unaware of the fact that Article 44 is a Directive Principle of State Policy (DPSP) and thus not justifiable in a court of law, while 37% of the participants were aware. A few participants opined that Article 44 has a hint of enforceability and can be enforced through proper legislation.

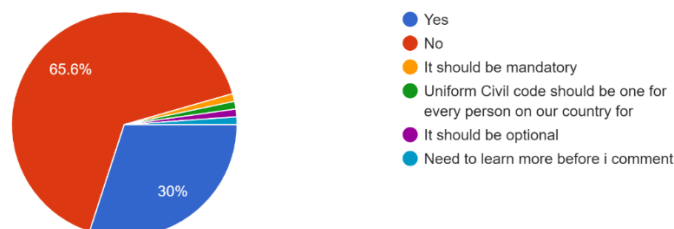
A vast number of people, despite not having adequate knowledge about the topic of the Uniform Civil Code, seem to have very stern views on whether or not it should be implemented in India and its legal, social and political consequences. This speaks to the fact that opinions of people might be influenced by their political affiliations or views of other people, and they have a very shallow understanding of what the Uniform Civil Code really stands for and its various nuances.

In your view, does the concept of a Uniform Civil Code infringe an individual's right to freedom of religion?  
90 responses



The most fundamental concern about the enforcement of the Uniform Civil Code is that it may infringe on an individual's right to freedom of religion guaranteed by the Constitution of India through Articles 25 to 28. About 70% of the participants believe that the Uniform Civil Code does not violate freedom of religion, while 27% of them opine that it does. There is a fear among communities of minority religious denominations that it will violate their religious rights and customs.<sup>49</sup> The view that it will not infringe on the religious rights of people only if it is framed and implemented articulately has been recorded.

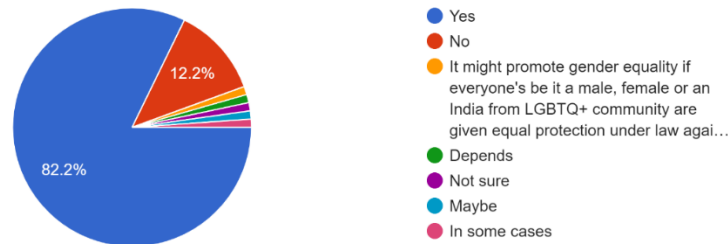
Do you think that the Uniform Civil Code should be optional and not mandatory?  
90 responses



<sup>49</sup> Ahmed (n 8)

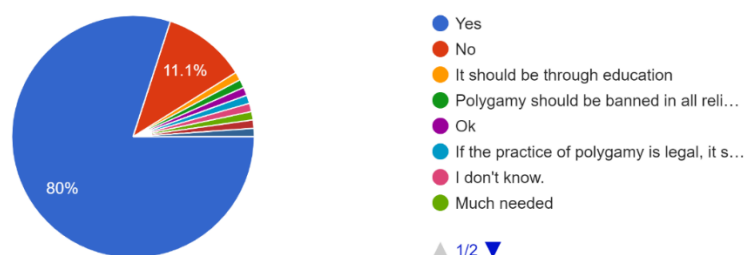
30% of the respondents opine that an option would be feasible, whereas the majority of them, nearly 65%, believe that it should not be optional and should be mandatory for all. The introduction of an optional Uniform Civil Code will increase the diversity of legal rules, and it is thus doubtful whether it can promote uniformity at all, was the majority opinion.

Are you of the view that implementing Uniform Civil Code will enhance gender equality?  
90 responses



The predominant belief among the participants is that implementation of the Uniform Civil Code will promote gender equality, with over 82% of respondents affirming this, 12% rejecting the idea and the rest being unsure of the effect of the Uniform Civil Code on gender equality.<sup>50</sup> Some of the responses recorded even reflected the view that the Uniform Civil Code will ensure equal rights and protection for the LGBTQ+ community.

Under Muslim Law, polygamy is permitted. Do you think Uniform Civil Code should be implemented so as to put an end to the practise of polygamy legally?  
90 responses

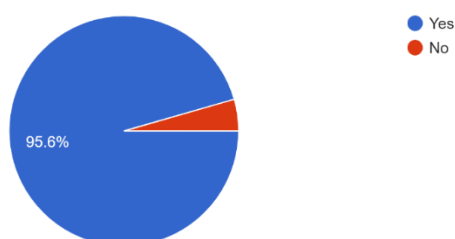


Due to various traditional customs and gender biases that are blatantly present in personal laws, women experience discrimination and other forms of indignity. A vast majority (80%)

<sup>50</sup> 'Without Investment, Gender Equality Will Take Nearly 300 Years: UN Report' (*UN News*, 07 September 2022) <<https://news.un.org/en/story/2022/09/1126171>> accessed 05 April 2025

of the respondents believe that the Uniform Civil Code must be implemented to put an end to the practice of Polygamy, permitted under Muslim Law. 11% of the respondents opined that there is no assurance that the Uniform Civil Code would not involve discrimination. The mass opinion reflects that if some of the traditional religious beliefs and customs are illogical, irrational, and in violation of human rights and dignity, they need to be reviewed, and a new law needs to replace them.

In your view, should there be a uniform age of consent for marriage across all personal laws?  
90 responses



Currently, men and women must be 21 and 18 years old, respectively, to get married. The current standard leads to the patriarchal perception that the bride should be younger. Muslim Law allows children who have not even reached the age of majority to get married, wherein their guardian consents to the marriage. A whopping 90% of the participants are of the view that the age of consent for marriage should be uniform, irrespective of the religious affiliation of the parties. The marriage age should be set at the same level for both men and women is the majority view.

Should all the religions have the common grounds for divorce?  
90 responses



An overwhelming majority (84%) of the respondents are of the view that there should be common grounds for divorce for persons of all religious faiths. While the rest believe that

different religions should have different grounds for divorce by their respective customs, traditions and rules.

People have opined that it is important for the government to first win the confidence of Muslims, or else there could be riots. The people believe that UCC must be formulated and implemented with immediate effect. In making UCC, we can study the laws of France, the USA and Japan. After that, we can use aspects from Arthashastra and Manu, since these texts give laws for human societies as such and do not draw legality from any theology and are thus secular in the modern sense.

On the contrary, Sharia or canonical law derives legality from theology and, as such, gives laws only for particular sections of people, viz Muslims and Christians respectively only and are applicable only for an Islamic or Christian theocratic state as such respectively. Whereas Arthashastra and Manu, and Mahabharata, etc, give laws for all humanity and not just any particular sect, state or community. Hence, the laws of France, USA, Japan, and Artha Arthashastra, Manu Mahabharata Ramayana should form the basis of the Bhartiya UCC.

## **DATA ANALYSIS: UNDERSTANDING PUBLIC OPINION ON UNIFORM CIVIL CODE**

Following the presentation of the survey results, a more detailed analysis of the data sheds greater light on public opinion regarding the Uniform Civil Code.

The analysis of the survey data reveals a largely supportive attitude towards implementing the Uniform Civil Code among Indian citizens. However, it also highlights some important gaps in legal literacy. An overwhelming 95% of the respondents knew that separate personal laws govern different religious communities in India. However, even among those who were highly educated, a small proportion lacked this basic knowledge, indicating that while general awareness exists, legal understanding is not uniform across all educational backgrounds.

When asked about Article 44 of the Constitution, 64% of the participants correctly identified it as the provision relating to the UCC, whereas 34% were either unaware or indifferent towards it, suggesting a limited reach of constitutional literacy. About 60% of the respondents did not know that Article 44 falls under the Directive Principles of State Policy

and is, therefore, non-enforceable in a court of law. This demonstrates a significant lack of understanding about the legal status of UCC and reveals the need for greater public education on the workings of constitutional law.

On the sensitive question of whether the Uniform Civil Code would infringe upon religious freedoms, 70% of the participants believed it would not interfere with the right to practice religion. In comparison, 27% feared that it might. This split indicates that while the majority perceive UCC as compatible with secularism, concerns about cultural and religious autonomy remain alive among a sizeable minority. Moreover, a substantial majority of 65% believed that the UCC should be mandatory rather than optional, reflecting the opinion that a truly uniform civil framework is necessary to achieve equality before the law.

A significant survey finding was the association between UCC and gender equality. Over 82% of respondents believed that the UCC would advance gender justice, with several responses highlighting its potential benefits for women's rights and even LGBTQ+ rights. Furthermore, 80% of the participants supported that implementing UCC would help eliminate discriminatory practices such as polygamy. In comparison, 11% expressed scepticism about whether uniform laws would fully eradicate gender-based inequalities.

There was also near-unanimous agreement on certain specific reforms: 90% of respondents supported the need for a uniform minimum age of marriage, regardless of religion, and 84% favoured establishing common grounds for divorce across all faiths. These strong majorities suggest a clear public preference for harmonising civil matters under one secular framework while allowing religious beliefs to remain in the private domain.

Overall, the survey reflects a broadly positive public sentiment towards implementing a Uniform Civil Code, motivated largely by ideals of gender equality, secularism, and legal clarity. However, it also emphasises the necessity of fostering greater constitutional awareness and addressing the fears of minority communities through transparent, inclusive dialogue before any nationwide implementation.

## **POLICY RECOMMENDATIONS FOR THE IMPLEMENTATION OF THE UCC**

In light of the socio-legal complexities surrounding the implementation of a Uniform Civil Code in India, a gradual, participatory, and inclusive approach is essential. Based on the findings of this study, the following suggestions are proposed. The reform of existing personal laws is a necessary starting point. Efforts should focus on removing discriminatory provisions and aligning progressive elements across different communities. Incremental reform can foster greater public acceptance and reduce resistance.

Introducing a model Uniform Civil Code voluntarily would offer a practical transitional strategy. Providing citizens with the option to adopt a uniform framework could encourage acceptance over time without infringing on community autonomy. The government should initiate widespread public consultations involving religious groups, legal experts, civil society organisations, and minority representatives. An inclusive dialogue process is crucial to address legitimate concerns and prevent the perception of majoritarian imposition.

Public education and legal literacy initiatives are equally important. By raising awareness about the constitutional foundations and objectives of the UCC, misconceptions can be addressed, empowering citizens to engage constructively with the reform process.<sup>51</sup> Any Uniform Civil Code must judiciously balance the protection of fundamental rights with respect for cultural and religious diversity.<sup>52</sup> The aim should not be absolute uniformity, but rather the unification of equitable principles from different traditions to promote justice, gender equality, and national integration. Through such a measured, participatory, and culturally sensitive approach, the constitutional vision of a Uniform Civil Code can be advanced without undermining India's pluralistic identity.

## **CONCLUSION**

India cannot endure a Renaissance about the unification of personal laws because the country is home to many different religions, each with its own distinctive set of laws. Hence, when the traditions are followed, the fight will change from a simple disagreement to a fierce hostility.

---

<sup>51</sup> Constitution of India 1950, art 44

<sup>52</sup> Constitution of India 1950

When it comes to a society like India, where religion defines the way of life, people have difficulty accepting or adapting to changes. People fail to realise that it is religion which is made by human beings and not human beings who are made by religion. There is a fear that laws may destroy the socio-cultural fabric, and a widespread belief that India will resist complete secularisation and unification. The central issue appears to be that the State, despite democratic processes, remains unrepresentative of its people.

A pragmatic solution could involve two steps: first, partial relaxation of uniform legal rules, as seen in England's Motor-Cycle Crash Helmets (Religious Exemption) Act, 1976, which exempts Sikhs from wearing helmets;<sup>53</sup> and second, the State limits its regulation to minimum standards and administrative procedures. India already practices such flexibility through provisions like the Sikhs' right to carry a kirpan and exemptions under Sections 5(iv) and (v) of the Hindu Marriage Act.<sup>54</sup>

Considering that each religion's laws have unique features, forced integration would likely provoke not just discontent but hostility.<sup>55</sup> Therefore, a Uniform Civil Code must balance the protection of fundamental rights with respect for religious diversity and should not serve as a majoritarian tool but rather as a careful synthesis of the best elements from all personal law systems.

---

<sup>53</sup> Motor-Cycle Crash Helmets (Religious Exemption) Act 1976

<sup>54</sup> Hindu Marriage Act 1955, s 5

<sup>55</sup> Humtsoe (n 10)