
UNIFORM CIVIL CODE IN BHARAT: AN ASTEROID OF IMAGINATION OR A BUBBLE OF REALITY

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ABSTRACT

The Uniform Civil Code has been the most contentious and long-standing debate in the history of independent Bharat. The constitution of our country also mentions the Uniform Civil Code. The implementation of the Uniform Civil Code is something which has been envisaged by the makers of our constitution itself. However, at present, our system and the legal jurisprudence of Bharat grapple with apprehension of the socio-political and socio-legal conditions and chaos that the roll-out of a full-fledged Uniform Civil Code may bring. There are challenges of various levels and kinds in bringing a blanket Uniform Civil Code, such as it should be brought in the form of one act and be implemented at a single stroke all over Bharat, or should it be brought in and implemented in various stages. Also, the concern of forced uniformity in the disguise of the Uniform Civil Code has not yet been ruled out. The pros and cons of this issue are topics that everyone discusses or at least considers. This article aims to evaluate the advantages and disadvantages of the Uniform Civil Code as a replacement for the Personal Laws currently governing marriage, adoption, succession or inheritance, and divorce for citizens of Bharat. Also, the issue of the Uniform Civil Code, by virtue of its being a long-standing matter, has become an easy tool for the political parties to cause sectarian divides in the people of Bharat to generate their vote banks. Politics has long derived a good amount of its feed from the issue of the Uniform Civil Code, but a conclusive decision concerning the fate of and facets of UCC in Bharat is still elusive. As a result of this lacuna, debate surrounding the issue of the Uniform Civil Code has been subjected to in-depth and detailed analysis in this article. The article relies on secondary sources of information.

Keywords: Uniform Civil Code, Religion, Personal Laws.

Introduction

Uniform Civil Code, abbreviated as UCC, refers to a system or a set of uniform laws to govern mainly the four major aspects of life of an individual, which are marriage, adoption, succession or inheritance, and divorce. “The Uniform Civil Code (UCC) in India is a proposal to formulate and implement a set of common laws governing personal matters like marriage, divorce, inheritance, adoption, and maintenance for all citizens, irrespective of their religion. The idea of a Uniform Civil Code aims to replace the existing personal laws of various religious communities with a unified set of civil laws applicable to every citizen of India.”¹

These four aspects, in the present settings, are conducted and administered based on the personal laws of every religion. Marriage, adoption, succession, or divorce are so immensely significant in the life of an individual that the religious principles of each religion prescribed a manner and generated a belief system, thereby surrounding the four aspects of an individual's life. So, to a very great extent, the four practices are done by a person based on the dictates of his religion, principles, and belief system laid therein. Also, the freedom provided under Article 25 of the Constitution of India allows the sustenance of religious belief in the conduct and administration of marriage, adoption, succession, and divorce. Our constitutional scheme is such that the unity of the nation is to be preserved, but individual diversity must not face ruthless homogeneity. The concept of “Unity in Diversity”, serving as the root of the Indian democracy, is such a principle that very beautifully articulates and encapsulates a kind of model for setting up a federation that carries oneness or unity, and diversity or plurality hand in hand, in the nation's long walk to development. It is therefore safe to say that we are a nation where national unity has to be ensured, but while giving sufficient expression to cultural diversity and not otherwise curtailing or curbing it.

If one were to frame the list of topics that have remained in the public discourse for active discussion, then the discussion concerning the Uniform Civil Code will, perhaps, be the best contender for the top position. To say in simple language, UCC has never left the central stage for public discussion and debates. But these debates are not just bubbles in the air, they are a classical expression of the confusion of the state of the nation to implement the Uniform Civil Code in Bharat. The starting lines of Robert Frost's legendary poem “*The Road Not Taken*”, which says “*Two roads diverged on the yellow wood, And sorry I could not travel both*”

¹ CSIC.ORG.IN, <https://csic.org.in/uniform-civil-code/>, (Last Visited on 20th July, 2025).

actually perfectly express and demonstrate the great dilemma of the Indian State in deciding the issue of the Uniform Civil Code. The question of implementing UCC, the manner of implementing it, whether it will be a single act or a series, and when it will come into force, or whether we need it at all, or not? These are the questions that have long been the Achilles' heel for the State. Everyone everywhere seems to have some kind of opinion regarding the enforcement of the Uniform Civil Code in Bharat, but the strange or perhaps humorous part of it is that all these discussions are taking place on a legislative enactment that has never been drafted or presented as a bill and thus know one how does it (it will) look like. So, all these everyday conundrums are hallucinatory or baseless? Well, a part of it is yes! Hallucinatory and baseless, but a wide range of discussion is not bogus and baseless, but is a part of a serious attempt and a constant striving towards having what we call the Uniform Civil Code. Let us further delve into the ecosystem that has been created regarding the Uniform Civil Code in our country without actually having an initial draft of it. Unearthing the difficult reality of the great dilemma of the state in implementing the Uniform Civil Code is a process of legal, social, religious, and national considerations. Thus, it is not an easy job for anyone to do this, especially in the context of as diverse and as big as ours, Bharat.

What Does Constitution Say on Uniform Civil Code

“44. Uniform Civil Code for the citizens.—

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.”²

So, this provision falls under Part IV of the Constitution of India, 1950, titled the Directive Principles of the State Policy. It is crucial to understand the nature of the provisions contained in the Directive Principles of the State Policy, to ascertain the amount of compulsion or mandate the quoted provision casts on the government of India as regards the formation and subsequently the enforcement of the Uniform Civil Code in our country. The nature of the Directive Principles of State Policy is very different from the Fundamental Rights contained under Part III of the Constitution. Here is the article of the Constitution that deals with the applicability and enforceability of the Directive Principles of State Policy.

² INDIA CONST. art.44.

“37. Application of the principles contained in this Part.—

The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country, and it shall be the duty of the State to apply these principles in making laws.”³ This article of the constitution creates a significant distinction between fundamental rights and the directive principles of state policy, and this difference is concerning their enforceability by the courts in our country. This article intends for the Directive Principle to be outside the scope of what can be enforced by the country's constitutional courts. The principles laid out in Part IV are such that the Supreme Court or the High Court cannot direct the government to implement them, unlike in the case of a violation of any of the rights under Part III of the Constitution of India. The Supreme Court in the case of the *Minerva Mills vs. the Union of India*⁴ While discussing the points of difference in the Fundamental Rights and the Directive Principles of the State policy, elaborated in a clear manner that amongst the fundamental rights and the Directive Principles of the State Policy, none of the two is superior or inferior to the other, both are equal and intrinsic parts of the Constitution. However, the court shattered the ambiguity and discussed in an unambiguous manner that the Directive Principles of the State Policy are not enforceable by the courts in the country. The court further clarified that in case of any conflict between the two, the constitutional courts of the country must apply the interpretation device of the harmonious construction. The precedence set thereunder has continued to guide the legal jurisprudence of Bharat ever since 1980.

So, what we can draw from the above discussion in respect of our main topic of the Uniform Civil Code, is that the mere presence of Article 44 in the constitution does not place any mandate in the government of Bharat to implement the Uniform Civil Code. This statement will, however, not be completely right in the context of and in the wording of the, Article 37 of the Constitution. This article establishes the non-enforceability of the Directive Principles of the State Policy, but then it places a mandate or duty on the State to ensure the application of these principles in the law-making of the country. This article also declares the Directive Principles of the State Policy as fundamental in the governance of the country.

So, based on this discussion, a question arises with respect to the validity of the codified

³ INDIA CONST. art. 37.

⁴ *Minerva Mills vs. Union of India*, AIR 1980 SC 1789.

personal laws in the country. If the state must ensure the compliance of Directive Principles of the State Policy, in making laws, then the personal laws of different religions, such as the Hindu Marriage Act, 1955⁵ or the Muslim Personal Law (Shariat) Application Act, 1937⁶, etc., then the different civil laws for different religions do not constitute the violation of Article 44 of the Constitution of India. Actually, here sprouts out the biggest problem associated with the Directive Principles of the State Policy. If the state creates such a setting by law-making, which does not comply with the mandate of aligning with the Directive Principles of the State Policy, then the courts cannot ensure its alignment as such. So it is certainly left to the legislature of the country to determine whether it seeks to regulate marriage, adoption, succession, inheritance, and divorce by different personal laws qualified by respective religious principles or by way of a unified or uniform set of laws, referred to as the Uniform Civil Code.

Problems in Implementing Directive Principles of the State Policy.

1. **Amendments to the Constitution:** India may need to change a number of its constitutional laws to enact a UCC. This calls for a great deal of political will and work, which can be challenging to accomplish. The creation of the Uniform Civil Code will require a wide and enormous exercise under Article 386⁷ of the constitution of the country. Enacting something like the Uniform Civil Code will require amending a whole lot of things in the Constitution. And this exercise is not merely arduous but also a double-edged sword.⁸
2. **The Diversity Prevailing in Bharat** – “Religious and cultural diversity of the opposing faction raises a common argument that India is home to multiple religious and diverse cultural practices. Therefore, the idea of U.C.C. is flawed. Argument is basically in ignorant of Entry 5. in List 3 of the 7th Schedule read with article 25. State has been given ample powers under the Constitution to legislate in Personal Laws. Since, Indian States represent several different cultural identities and groups, State legislature shall be the best judge to sieve secular aspects from religious issues. It would not be difficult for the State to implement a Uniform Civil Code reconciling these differences and ensuring equal protection of laws to all. Communities and religious groups expressing pseudo-threat can

⁵ Hindu Marriage Act, 1955.

⁶ Muslim Personal Law (Shariat) Application Act, 1937.

⁷ INDIA CONST. art. 368.

⁸ Ayush Kumar, *Constitutional Aspects Evolving Around Uniform Civil Code: A Critical Analysis*, SOCIETY FOR CONSTITUTIONAL LAW DISCUSSION, (21 July, 2025, 19.39), <https://www.tsclld.com/uniform-civil-code-a-critical-analysis>.

be tackled with extensive publication of government intentions and injecting correct information in the public domain.”⁹

3. **Conflict with Religion:** A Uniform Civil Code may be opposed by numerous religious organizations and leaders on the grounds that it might conflict with their religious rules and practices. The various religious scholars of the country and the religious organizations of the country spanning across various religions might raise their voice and may protest against the dilution of their religious beliefs. The changes that the Uniform Civil Code will bring will, for all practical reasons is going to dilute the importance of the religious principles that the institution of marriage, adoption, succession, and divorce holds at the present. Political and societal tensions may result from this resistance.¹⁰
4. **The Political Challenges:** India being a large country with cultural and religious diversity has always required representations from every nook and corner of the country Regional political parties which stem themselves on the sole vote bank of religious or caste community would definitely create a hindrance in smooth legislation of U.C.C. Since the time is ripe and the stage is already set with citizenry already having achieved sufficient maturity political arguments soaked in vote bank politics will not work in current democratic setup. With an informed citizenry, the politicians must also evolve themselves to cope with new-age challenges and cultural issues.¹¹ Also, the politics in India gets its feed from the factionalism and rifts. The multi-party system in India stimulates different parties to target different audiences alongside the divisions of religion, language, region, caste, social status, etc. And the different political parties tend to convert these audiences into vote banks for their own vested political interests. All these political parties appeal to the desires of these factional vote banks and try to create politics based on the interests of their selected group and thereby keeping well in ignorance, the national interests of the nation of Bharat as a whole.
5. **Public Opinion:** Law-making by the legislative machinery must be the reflection of the present will and opinion of the masses. This especially becomes very important when we are discussing a legislative action of the magnitude of the Uniform Civil Code for the

⁹ LAW TREND, <https://lawtrend.in/uniform-civil-code-challenges-and-future/>, (21 July, 2025).

¹⁰ Ayush Kumar, *Constitutional Aspects Evolving Around Uniform Civil Code: A Critical Analysis*, SOCIETY FOR CONSTITUTIONAL LAW DISCUSSION, (21 July, 2025, 19.39), <https://www.tseld.com/uniform-civil-code-a-critical-analysis>.

¹¹ LAW TREND, <https://lawtrend.in/uniform-civil-code-challenges-and-future/>, (21 July, 2025).

people. Religion, since a very long time back in history, has played the role main identity marker of any individual. So, religion is very strongly and intrinsically connected with the life of the people. It is the base identity of any given individual. And it is a very often observed tendency of the people that they never get ready to face even the slightest of the interruptions in their religious observances. And the Uniform Civil Code is going to do a good rejig in their marriage, adoption, succession or inheritance, and divorce conduct, all of which are presently governed through religiously principled approaches and methods under the codified laws.

Benefits of Having a Uniform Civil Code.

- 1. To encourage Gender Equality In Society:** It is well known that practically all faiths have discriminatory personal laws against women. When it comes to inheritance and succession, men are typically given the upper hand, and this may be said about all the religions. Women have been the historical victims of the prevailing patriarchal notions of human society. And when such oppressive notions take the sanction of the religion, the tyranny thereby unleashed on the women becomes the gravest, as this gives the tyranny a look of rightful conduct. Although how gruesomely unacceptable it may be. Men and women shall be treated equally under a unified civil code to solve this historical wrong that has continued for a long time.
- 2. To promote national cohesion:** Since all Indian citizens are subject to the same criminal and civil laws (except for personal laws), they are already treated equally in court. Everyone will be subject to the same personal laws once the Uniform Civil Code is put into effect. Issues of discrimination, concessions, or special benefits enjoyed by a particular community due to their unique religious personal laws will not be subject to politicization. This will create a more cohesive and unified atmosphere in our country, allowing room for peaceful coexistence and amicable inter-religious relations among all the sections of the Indian society.
- 3. To give every citizen the equality of status:** Common civil and personal laws should apply to all citizens of a secular democratic republic in the contemporary era, regardless of their gender, caste, religion, or other characteristics, as is lacking in the present setting.

- 4. Modernizing and Simplifying Legal Procedures:** The presence of several personal laws complicates the legal system and leads to misunderstandings and inconsistencies, which frequently cause delays in the court system. A UCC would streamline the legal system and make it easy for citizens to understand their rights and responsibilities by simplifying the laws on inheritance, divorce, and marriage. The present system is a great trouble for the administrative ease of the country's legal institutions and courts of law. All these great tussles giving birth to inefficiency can come to an abrupt halt by just replacing the personal laws with an across-the-board formula in the name of the Uniform Civil Code.

Conclusion

The fundamental goal of the UCC is to establish a single, secular set of laws that apply to all Indian citizens, regardless of their religious beliefs, to replace the various personal laws that currently govern various religious communities in India. These laws would cover things like marriage, divorce, inheritance, adoption, and maintenance. The country is presently going through a crucial time when it is a few steps away from stepping into a developed economy. In such a time, a strong and bold response to the differences between various groups adhering to antiquated and chained ideas tethered to pseudo-religious conventions and belief systems is the Uniform Civil Code. In conclusion, it is clear from weighing the many viewpoints that the Uniform Civil Code (UCC) is the best way to address the problems with India's current legal system. Promoting equality and social cohesiveness requires that personal laws be the same for all citizens, regardless of their religious beliefs.