



GLOBAL MODELS OF UNIFORM CIVIL CODES AND THEIR RELEVANCE FOR INDIA: A COMPARATIVE LEGAL ANALYSIS

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Abstract

The issue of the Uniform Civil Code in India is still at the fore in constitutional law. It is a question which balances between individual freedom, religious laws, and equal treatment under the law. To that end we may look to what other countries do, take for example France, Turkey, Switzerland, and Israel. France has the Napoleonic Code, Turkey the Swiss civil law, Switzerland which balances national and local control, and Israel which uses a mix of legal methods. Each has what India can learn from in terms of what works and what does not.

In the Indian constitution Article 44 puts forth the idea of a Uniform Civil Code which we see courts have been very much a part of via their important judgments in cases like that of Shah Bano, Sarla Mudgal, Danial Latifi, and John Vallamattom which in fact have shaped the discussion. Also it is not just a legal issue we are dealing with here but social, political and religious issues as well. In the case of Goa's Civil Code we see what may happen when you attempt to bring in uniformity into a very diverse country like India.

India may take a slow but open and adaptive approach in putting a UCC in place. It has to hold to constitutional principles and at the same time be mindful of India's diversity. Gender equality, full

participation of all and better public outreach is what is key. India should not adopt another country's model. Instead it should draw from around the world and put together a UCC which is just for Indian society.

Keywords: Uniform Civil Code, Comparative Legal Systems, Personal Laws in India, Constitutional Law, Legal Reforms and Pluralism

Global Models of Uniform Civil Codes and Their Relevance for India: A Comparative Legal Analysis

This paper investigates the application of Uniform Civil Codes (UCCs) in other nations and synthesizes lessons India can learn from such international experience. Through an examination of how Turkey applied the Swiss Civil Code, France adopted the Napoleonic Code¹, Switzerland used a decentralized approach², and Israel utilized the mixed legal system, the research presents major patterns and issues that come with UCC reforms.

Turkey's and France's experiences show the advantages of homogeneity in secularizing and modernizing legal systems and demonstrate the tendency for traditional groups to resist. Switzerland's model shows how local autonomy can be combined with national standards to contain diversity, while Israel's mixed system highlights the challenges of balancing two or more legal systems.

The paper advises that India pursue a phased, consultative, and flexible strategy for enacting its UCC. It proposes accommodating regional differences, involving a wide range of stakeholders, and maintaining efficient public education and constant assessment. Through an examination of these overseas models, India can make a UCC that supports legal uniformity while valuing its pluralistic cultural and religious environment.

[1] French Civil Code (Code Napoleon), 1804.

[2] Swiss Civil Code, 1912; see Husa, Jaakko, *A New Introduction to Comparative Law*, Hart Publishing, 2015.



Introduction

The Uniform Civil Code (UCC) refers to a suggestion for one unified code of civil laws that would be applicable to all Indian citizens equally, regardless of their religion. The idea is to achieve a uniform system of legal provisions governing personal issues like marriage, divorce, inheritance, and adoption in place of the present multiple personal laws that differ depending on religious communities.

Personal laws were first brought into operation in the British Raj, primarily for the Muslim and Hindu subjects. The British did not want the opposition of the community leaders and did not further meddle with this domestic sphere. The Indian state of Goa, which was divided from the British India under colonial rule in the erstwhile Portuguese Goa and Daman, shared a common family law by the name of the Goa civil code and thus was the sole state in India with a uniform civil code until 2024. Post independence in India, Hindu code bills were brought which primarily codified and reformed personal laws in some sects of Indian religions like Buddhists, Hindus, Jains and Sikhs but not Christians, Jews, Muslims and Parsis.

Historical debate of UCC in India

Under British governance, personal laws were mainly religious, with various communities adhering to their respective legal traditions. The British created some uniform laws for general matters but retained personal laws for matters such as marriage and inheritance. When India became independent in 1947, the Constitution embraced a pluralistic framework in as much as various religious communities could regulate matters of individual concern in accordance with their respective laws. The idea was to respect India's heterogeneity of culture and religion.

The concept of a UCC has its origins in the Constituent Assembly discussions of 1948 when it was incorporated as a Directive Principle of State

Policy under Article 44. But because of strong opposition from religious and cultural groups, the provision was rendered non-justiciable. The controversy re-emerged in 1985 with the Shah Bano case, when the Supreme Court awarded alimony to a divorced Muslim woman under Section 125 of the Criminal Procedure Code. The judgment was opposed by orthodox Muslim groups, and they brought the Muslim Women (Protection of Rights on Divorce) Act, 1986, which basically overruled the verdict. Subsequently, in *Sarla Mudgal v. Union of India* (1995), the Court reiterated the need for a UCC for national integration. More recently, the 21st Law Commission's 2018 Consultation Paper stated that a UCC is not necessary nor desirable at present, rather promoting reforms in current personal laws.

Constitutional Framework

Article 44 of the Indian Constitution provides that "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." This command expresses the goal of having uniformity in civil laws but is not enforceable as law.

Evolution of personal laws in India

India's present legal framework encompasses a number of personal laws, for example, Hindu Marriage Act (1955), Muslim Personal Law (Shariat) Application Act (1937), and the Indian Christian Marriage Act (1872). These address marriage, divorce, inheritance, and adoption as per religious philosophy reflects India is extremely diverse therefore different religion are being covered by different sets of personal laws since ancient times. Since ancient times, personal laws have been inextricably linked with religious heritage. Hindu personal laws, as emanating from texts like the Manusmriti³, governed elements of marriage, inheritance, and family life under the direction of caste categorizations. Similarly, Islamic legal traditions, brought in with the spread of Islam from the 7th

[3] Manusmriti, Chapter 9. See Patrick Olivelle (trans.), *Manu's Code of law*, Oxford University Press, 2005.



century CE, were codified over the provisions of the Quran and Sharia law related to matters of Muslim matrimony, divorce, and inheritance.

During the social rule, the British East India Company and latterly the British Raj espoused a policy of non-interference with the particular law systems, therefore allowing different communities to save their religious customs while, on the other hand, constituting picky reforms. Some aspects of the particular law were codified by the British, like the Hindu Marriage Act of 1955 and the Hindu Succession Act of 1956, which tried to contemporize and regularize legal processes within the Hindu community. Likewise, Islamic legal principles, which were ranged with the arrival of Islam in the 7th century CE, were codified on the base of the Quran and Sharia principles of Muslim marriage, divorce, and heritage. In social times, the British East India Company and latterly the British Raj followed a policy of non-interference with particular law, allowing any communities to follow religion but choosing picky reforms as well.

Why there's need for UCC?

The Uniform Civil Code (UCC) is decreasingly seen as necessary in India for several compelling reasons. originally, the being legal frame is fractured, with particular laws varying significantly across different religious communities. This inconsistency in laws, similar as those regarding marriage, divorce, and heritage, results in unstable treatment under the law and inconsistencies. A UCC aims to fix this by establishing one livery set of laws for all citizens, hence promoting legal equivalency and thickness. National concinnity and social integration are also strong motorists for a UCC. By reducing legal distinctions on grounds of religion, a UCC could promote lesser harmony and a common identity among India's multilateral population. Although the rollout of a UCC will need to be approached cautiously in regard to India's religious and artistic

diversity, it can also attune legal practices and advance a unified legal system.

Gender Justice and the UCC debate in India

Gender justice is a central issue in the debate around the UCC. particular laws in India frequently distinguish against women be it in terms of heritage, divorce rights, or conservation. The Shah Bano case in 1985 was a turning point, as it stressed how separated Muslim women were denied alimony under religious law. Though the Supreme Court awarded her conservation under Section 125 CrPC, the Parliament responded with the Muslim Women (Protection of Rights on Divorce) Act, 1986, which weakened the ruling. In Dania Latifi v. Union of India, the Court upheld the indigenous validity of the 1986 Act but interpreted it to still allow for fair and reasonable provision. More lately, the Shayara Bano v. Union of India case led to the criminalization of triple talaq, showcasing judicial activism for women's rights within the frame of particular laws. nevertheless, a gender-just UCC, developed through wide discussion and sensitive to artistic plurality, can be a tool of commission rather than duty. also, the difference in heritage rights among women of different persuasions reveals the need for adjustment. Hindu daughters only gained equal coparcenary rights in 2005. Muslim women still face limitations in heritage and divorce conservation, and Christian women historically entered unstable protection under old succession laws. The current mosaic of particular laws, while embedded in tradition, frequently undermines indigenous guarantees of equivalency under Article 14 and quality under Article 21. The UCC could serve as a vehicle to exclude similar inconsistencies by icing that gender is no longer a determinant of legal access and fairness.

Goa's Civil Code

Goa is widely cited as a model state in which there is a UCC. The Goa Civil Code, grounded on the Portuguese Civil Code of 1867⁴, governs all

[4] Portuguese Civil Code, 1867, as extended to Goa and modified under the Goa, Daman and Diu Administration Act, 1962.



communities on an equal footing with regard to marriage, divorce, and succession. Unlike other Indian states, Goa does not allow the enforcement of separate religious personal laws in these matters.

But a closer look reveals that the Goa Civil Code does not always follow the secular or the egalitarian principles that it is said to have. For instance, while it legalizes marriages being registered and promotes monogamy in civil marriages, it also allows religious usages to control other areas, such as divorce, dowry, and inheritance rights. Certain provisions give a Hindu husband the right to marry a second wife under certain conditions, and Catholic marriages are regulated by Canon Law in certain ways.

Additionally, the Goa code inheritance rules are not entirely gender-neutral. Although the community property system is progressive, it also makes provision for patriarchal interpretations within the process of succession and division. Additionally, the Goa model does not have uniform divorce standards in communities, and procedural delay tends to cause disparity in legal outcomes.

While the Goa model proves that a uniform legal code can be administratively feasible, its success is partly due to the state's unusual demographic character, literacy rate, and the legacy of its Portuguese colonial law tradition. Its detractors have claimed that even the Goa code itself still retains vestiges of gender discrimination such as prejudiced property rights in some types of marriage. It is thus not replicable at the national level without considering India's sheer diversity. Far from a direct model, the Goa Civil Code is an incomplete experiment a case study that provides restricted lessons in administration but not a perfectly replicable model of law. Its most valuable contribution is proving that legal homogeneity is no myth in India, but its failures show that any UCC for the nation will have to be infinitely more inclusive, gender-balanced, and context-sensitive.

Tribal Autonomy and UCC

India's indigenous fabric recognizes the oneness of tribal communities, particularly in the Northeast. Article 371A and 371G of the Constitution give special protections for Nagaland and Mizoram, conserving their customary laws. The Sixth Schedule further protects independent regions with legislative powers over land, marriage, and heritage. These provisions are not emblematic they are based upon decades of social history and the reality that ethnical communities have distinct systems of justice, marriage customs, and property heritage. To stamp these customs with a centralized UCC pitfalls driving wide legal resistance and artistic disaffection. For instance in states like Meghalaya and Nagaland, ethnical councils frequently arbitrate family controversies grounded on oral traditions. The top-down imposition of statutory laws in similar spaces could lead to community counterreaction, legal confusion, and indeed indigenous action. Indigenous women, while occasionally disadvantaged under customary law, may not profit automatically from a UCC unless it's drafted with extreme perceptivity to their lived realities. A UCC that does not engage with tribal women's voices pitfalls immortalizing the same top-down rejection it aims to break. Any public position UCC must thus regard for these indigenous guarantees. A flexible frame that allows state-specific adaptations, or exempting certain regions, might be necessary to maintain harmony and gender equality.

How other countries put their UCC into place and what India could learn.

There are very few nations that have a Uniform Civil Code, or regulations that bear resemblance to UCC. Among these nations as well, the regulations that govern Uniform Civil Code do not remain uniform and there are remarkable differences.

Let us talk about France, a nation where UCC was first introduced in 1804. There was always been divide between far right and liberals, France followed the



Napoleonic Code⁵ in 1804, which gave a common set of civil laws to the entire nation. The Code was a radical reform that replaced the mess of local laws with one coherent legal structure. It promoted secularism and equality under the law, removing religious intervention from individual affairs.

French focus on secularism in its code civil guaranteed equal application of personal laws regardless religious backgrounds. For India, embracing a secular philosophy in its UCC can harmonize personal laws while abiding by the religious diversification of the country. The success of codification in France highlights the importance of creating a clear and comprehensive legal framework to replace fragmented personal laws.

Another nation that we could look up to is Turkey. In 1926, Turkey embraced the Swiss Civil Code as part of its modernization reforms initiated by Mustafa Kemal Atatürk⁶. The action substituted the Ottoman Islamic system of law with a secular civil code dealing with marriage, divorce, and inheritance among other aspects of personal affairs. The adoption by Turkey of a modern, secular civil code provides an example of how a broad legal reform can bring personal laws into line with modern values and practices. India could adopt a phased process of adapting modern principles in its UCC, dealing with traditional practices as well.

The decentralized pattern of civil law in Switzerland offers a unique model by combining a standardized national legal system with extensive regional autonomy. The Swiss Civil Code, effective since 1912, establishes minimum norms of civil matters like family law and property, and cantons can bring forth special provisions to address local variations. Such equilibrium between homogeneity and regional autonomy has nurtured legal stability and social cohesion. To India, adhering to a similar model would ensure an identical legal foundation with a UCC while

leaving room for inter-regional variations in accordance with its disparate cultural and religious texture.

Israel's system uses a mixed model under which religious law applies to issues of personal status like marriage and divorce and civil law applies to everything else. Although this system makes religious pluralism easier, it produces contradictions and inequalities and has encouraged calls for reform. For India, the Israeli experience underscores the importance of achieving a wise balance between respect for cultural and religious traditions and following legal consistency in a UCC. Maintaining equity and uniformity in resolving diverse issues of the communities will be crucial in successful integration. France, Turkey, Switzerland, and Israel's experience with their own legal codes is instructive for India as it mulls over having its own UCC. Comparative Analysis and Recommendations for India Regarding the Implementation of a Uniform Civil Code (UCC). A cross-country comparison of various UCC implementations in other countries yields several salient patterns and lessons applicable to India:

Uniformity vs. Diversity

Others such as Turkey and France have implemented UCCs in an effort to standardize laws and ensure secularism. Adopting the Swiss Civil Code and Napoleonic Code respectively, Turkey and France developed standardized legal frameworks that secularized and modernized their legal structures. This ensured uniformity and legal certainty. Nonetheless, it encountered opposition from those who were used to traditional or religious law, which shows the hassles of blanket legal reforms.

Decentralization and Regional Autonomy

Switzerland's system of integrating a federal civil code and substantial cantonal independence offers an

[5] Code Napoleon, 1804. See Jean-Louis Halpérin, *The French Civil Code*, Oxford University Press, 2006.

[6] Turkish Civil Code (Türk Medeni Kanunu), 17 Feb 1926, modelled largely after the *Swiss Civil Code* of Dec. 10, 1907, SR 210 (Switz.), adopted by Turkey in Law No. 743, Feb. 17, 1926 (Turk.).



avenue for the balance of uniformity with diversity at the local level. Through this method, Switzerland has managed to uphold a single legal standard while being inclusive of regional differences and supporting social stability and integration.

Mixed Legal Systems

Israel's model, in which religious law controls personal status matters and civil law controls other domains, also demonstrates the intricacy of bringing together several legal systems. The system can accommodate religious heterogeneity but result in contradictions and demands for reform. The Israeli case suggests that if personal status law has to be blended into a comprehensive UCC, it must be done carefully to prevent disparities and simplify legal procedures.

Critiques Against UCC Ground-Level Fears

Though seemingly positive, the UCC has faced criticism for having the potential to abolish religious and cultural identities. Minority groups are concerned that a UCC would be a vehicle of majoritarian domination. For instance, the customary law-based tribal communities of Northeast India are concerned that they would lose the distinctive socio-legal texture. Muslim people feel that UCC is the imposition of Hindu values. Feminist thinkers are also not one in their opinion, some believe that UCC would strengthen women of all faiths and others oppose the imposition of UCC without intra-community reforms.

Judicial Commentary on UCC

Indian courts have been stressing the desirability of a Uniform Civil Code from the very beginning. In **Sarla Mudgal v. Union of India (1995)**⁷, in which validity of second marriage was challenged after conversion in which court held that it is void the Court also cited the case of **Mohd. Ahmed Khan v. Shah Bano Begum**

(1985)⁸ wherein the Court highlighted the importance of Article 44 of Constitution of India, 1950 (COI) which said that the State shall endeavour to secure uniform civil code throughout the country. A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies. 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. There is no justification whatsoever in delaying indefinitely the introduction of a uniform personal law in the country.

In **John Vallamattom v. Union of India (2003)**⁹, the Court invalidated discriminatory enactments in the Indian Succession Act, holding that Section 118 prohibiting Christians from leaving charitable bequests was in contravention of Article 14, 15, 16, 25 and 26 of the Indian Constitution. The ruling reaffirmed that personal laws must be tested on constitutional lines and principles of equality.

Previously, in the path-breaking **Mohd. Ahmed Khan v. Shah Bano Begum (1985)**, The Court adjudged in the favour of Shah Bano Begum and directed the appellant to pay Rs 10,000 as maintenance. The Court in this landmark judgment added maintenance right of Muslim women under Section 125 of the CrPC and said that the husband has the obligation to maintain the women after the Iddat period. Although the judgment precipitated political opposition and legislative overruling, due to which it was overturned in the future.

The judiciary itself has entered the realm of procedural reform. In **Danial Latifi v. Union of India (2001)**¹⁰, The Supreme Court ruling ensured the constitutional validity of the Muslim Women (Protection of Rights on Divorce) Act, 1986, and at the same time, protected

[7] *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.

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

[9] *John Vallamattom v. Union of India*, (2003) 6 SCC 611.

[10] *Danial Latifi v. Union of India*, (2001) 7 SCC 740.



the rights of Muslim women so that they are not deprived of maintenance benefits equal to the benefits accrued to women from other religions under Section 125 of the Criminal Procedure Code, 1973. It balanced the personal law with constitutional rights, reaffirming the principles of equality and right to life in the Indian Constitution. It was deemed by the court to minimize the effect of the 1986 Shah Bano judgment reversals.

In other judgments and public statements, the judiciary has underlined that absence of a UCC paralyses the country's vision for equality and concord. But it has also exercised self-restraint by not compelling Parliament to legislate in this delicate field, recognizing the socio-political sensitivities involved.

Recommendations for India

1. Phased Implementation: India can adopt a Uniform Civil Code (UCC) in a phased manner. The phased implementation will facilitate addressing opposition and making allowances for adjustments based on feedback. The process may begin with less controversial elements and move step by step towards more controversial elements to permit ease of integration and acceptance.

2. Inclusive Consultation: Consultation with different communities, religious groups, and stakeholders is of the greatest significance. An inclusive consultation process has the potential to resolve conflicts, reach a consensus, and make the Uniform Civil Code (UCC) culturally and religiously sensitive and also ensure legal uniformity. The process can reduce resistance and form greater support for the reform.

3. Flexibility and Adaptability: The UCC should be made flexible and adaptable to suit evolving societal norms and cultural diversity. Drawing a lesson from France's persistence of the Napoleonic Code and Switzerland's regional variations, India's UCC can

have provisions for periodic review and amendment to adapt to emerging needs and concerns.

4. Ensuring Uniformity with Regional Diversity: Having a national UCC structure that allows regional diversions may be practical. This would be consistent with India's multifaith and multicultural makeup while offering one law across the country. Regional autonomy, like that of Switzerland's cantonal system, could be used to blend uniformity with local needs.

5. Public Awareness and Education: An effective public education campaign must be undertaken to inform the people of the benefits and consequences of the Uniform Commercial Code (UCC). Proper information and clear, comprehensible information can dispel myths and gain acceptance to the reform.

In brief, India can learn from other countries by embracing a phased, consultative, and flexible approach in implementing the Uniform Civil Code (UCC). Uniformity without compromising regional and cultural pluralism and through public education and continuous scrutiny will be the path to effective reform of the legal system of India.

Critiques Against UCC Ground-Level Fears

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Conclusion

The adoption of a Uniform Civil Code (UCC) in India is a complex and daunting exercise that may recast the country's legal landscape as well as provide more

^[11] Faizan Mustafa in *Central Hall, The Wire*, "Justice for All, Not One Law for All: What the

Constitution Says on Uniform Civil Code" (Sept 1, 2024).



harmony to personal laws. Insights from the experiences of other countries that have adopted UCCs present lessons for India on how India might undertake this challenging task.

Turkey and France have demonstrated the value of a unified legal code in secularizing and modernizing legal systems, but also illustrate the need to overcome resistance from religious and conservative quarters. The Swiss decentralized model of balancing national norms with regional self-determination is a promising choice in balancing regional diversity with legal uniformity.

On the other hand, Israel's hybrid legal system highlights difficulties of combining several legal traditions and the necessity of precise reform to prevent contradiction and disparity.

For India, these global experiences recommend a number of important strategies. Phased introduction of the UCC can enable handling of resistance and scope for modifications on the basis of feedback. Consensus-building consultations among various stakeholders are required to build up consensus and ensure that the UCC is resilient with respect to local culture and religion but promotes legal equality. The UCC should be written with enough flexibility to accommodate shifting moralities of society, and incorporating components of regional autonomy will work towards striking a balance between uniformity and diversity on the local level. Efficient monitoring systems and good public education efforts will become critical to facilitating successful incorporation of the UCC and its continued relevance in the future. By studying these foreign models and carefully synthesizing its own pluralistic environment, India can design a UCC that fosters uniformity with consideration for its own rich religious and cultural heritage. Achieving the balance will be the touchstone in ensuring a just, balanced, and integrated legal system for all its citizens.
