

# Uniform Civil Code

Uniform Civil Code (UCC) is a proposal to replace India's personal laws, which are based on the scriptures and customs of each major religious community in the country, with a common set of laws governing every citizen. Enshrined as a directive principle under Article 44 of the Indian Constitution, the UCC has been a subject of intense debate, reflecting India's diversity and secular ethos. The framers of the Constitution envisioned the UCC as a means to ensure national integration and gender equality.

## Historical Context and Constitutional Provisions

The notion of a Uniform Civil Code in India dates back to the colonial era. The British administration, while codifying laws, refrained from interfering with personal laws, which governed aspects like marriage, divorce, inheritance, and adoption. Post-independence, the Constituent Assembly debated the need for a UCC. Dr. B.R. Ambedkar, the principal architect of the Constitution, argued that a UCC was essential for national unity and the emancipation of women from patriarchal customs. However, due to opposition from members who feared it would infringe upon religious freedoms, the UCC was included in the Directive Principles of State Policy under Article 44, thereby making it non-justiciable but guiding the state in making efforts towards its implementation.

Article 44 states, "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." While this provision reflects the aspiration of the framers, the implementation of a UCC remains contentious due to India's pluralistic society.

## Judicial Pronouncements

The Indian judiciary has played a critical role in interpreting the necessity and scope of the UCC. In **Mohd. Ahmed Khan v. Shah Bano Begum (1985)**, the Supreme Court highlighted the need for a UCC to ensure that personal laws do not contravene fundamental rights. The Shah Bano case, involving a Muslim woman's right to maintenance, sparked a nationwide debate and underscored the conflict between personal laws and gender justice.

The **Sarla Mudgal v. Union of India (1995)** case further emphasised the urgency of a UCC. The Supreme Court, in this case, addressed issues of bigamy among Hindu men who converted to Islam to marry again without divorcing their first wives. The Court reiterated that a UCC is necessary to resolve conflicts arising from diverse personal laws and to ensure equality before the law, as guaranteed by Article 14 of the Constitution.

In the more recent **Jose Paulo Coutinho v. Maria Luiza Valentina Pereira (2019)**, the Supreme Court urged the government to take steps towards implementing the UCC, pointing out that despite the passage of over seven decades since the adoption of the Constitution, the vision of Article 44 remains unfulfilled.

## Scholarly Opinions

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Scholars and legal experts are divided on the UCC. Proponents argue that a UCC is essential for ensuring equality and justice. They contend that personal laws often discriminate against women, and a uniform code would harmonise these laws with constitutional principles of equality and non-discrimination. Scholars like Flavia Agnes have pointed out that many personal laws, rooted in religious traditions, perpetuate gender inequality and social injustice. A UCC, they argue, would provide a consistent legal framework that upholds the rights of women and marginalised communities.

Conversely, critics argue that the imposition of a UCC could undermine cultural diversity and religious freedoms. They caution that a uniform law may not be able to accommodate the variations of various religious practices and could lead to social unrest. Scholars like Tahir Mahmood advocate for reforms within personal laws rather than a complete overhaul, suggesting that progressive changes within religious frameworks could achieve the objectives of gender justice and equality without disrupting social harmony.

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### Contemporary Debates and Challenges

The debate over the UCC is deeply intertwined with issues of secularism, national integration, and minority rights. Advocates for the UCC argue that a common civil code would foster national unity and strengthen India's secular fabric. They point to the example of Goa, which follows a common civil code irrespective of religion, as a model for the rest of the country.

However, the challenges to implementing a UCC are manifold. The diversity of India's population, with its myriad religious and cultural practices, makes the formulation of a uniform law complex. There is also significant opposition from religious groups who view the UCC as an encroachment on their religious autonomy. The politicisation of the issue further complicates consensus-building, with different political parties and interest groups having divergent views on the necessity and scope of the UCC.

### Conclusion

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The Uniform Civil Code represents an aspirational goal enshrined in the Indian Constitution, aiming to ensure equality and justice for all citizens. While the judiciary has consistently highlighted the need for a UCC, its implementation remains a contentious issue due to India's pluralistic society and the delicate balance between individual rights and cultural diversity. The path towards a UCC requires careful deliberation, inclusive dialogue, and a phased approach that respects the sentiments of all communities while upholding constitutional values of equality and justice.

