



The Indian Journal for Research in Law and Management

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BEYOND UNIFORMITY: A GENDER JUST APPROACH TO UNIFORM CIVIL CODE, MINORITY AUTONOMY AND INTER-FAITH MARRIAGE

-Niraja Ghatak

INTRODUCTION:

The Uniform Civil Code in simple terms refers to a set of laws that govern personal matters of the citizens including marriage, divorce, adoption et cetera. In India, the Uniform Civil Code is provided in Article 44 of the Indian Constitution under Part IV which enumerates Directive Principle of State Policy. Article 44 clearly states, “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.”¹

However, the enactment as well as the non-enactment of the Uniform Civil Code has emerged to be a source of contention in the legal landscape and Indian society. The UCC aims to provide an alternate set of laws by substituting the existing legal system in which different religious communities follow their personal laws in matters of marriage, divorce, inheritance and so on. Critics of Uniform Civil Code represent the central concerns of the minority communities which include the fear of a majoritarian outlook influencing the UCC which may not take into account the practices of the minority communities and dilute their cultural identity. The implementation of

¹ Article 44 in Constitution of India, *Uniform Civil Code for the citizens*, Indian Kanoon



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UCC in Uttarakhand faced criticisms from the minority communities because their customs were not adequately incorporated in the UCC.²

Critics have also highlighted that India's diverse heritage created a pluralistic society characterized by a blend of unique religious and cultural practices that are protected and legalized under the current set of Personal laws enacted in India. And they view UCC as a threat to the existing legal and social pluralism.

On the other hand, Proponents of UCC have argued that it is a tool for formal legal uniformity and national integration. It also streamlines the multiplicity of personal laws which creates ambiguity and complications.

Much less attention is given to whether a UCC actually prioritises gender equality, protection of choice (especially in inter-faith marriages), and procedural fairness across communities, without erasing cultural identities. The debate on the Uniform Civil Code has usually been framed in binary terms as an instrument of formal legal uniformity and national integration or as a threat to minority religious freedom and legal pluralism in matters of marriage, divorce, succession, guardianship and so on. Yet this debate overlooks a more important constitutional question. The real question is not whether India should enact UCC on a national level to promote uniformity but whether UCC actually delivers what it promises which includes gender justice, protecting personal choice in inter faith marriages and promoting procedurally fair civil norms across minority communities without converting legal reforms into cultural assimilation which erases cultural identities and diversity. Therefore, this article analyses these questions and focuses on what UCC actually provides in this context.

² *India's Uniform Civil Code Conundrum*, Drishti IAS (August 17, 2024)



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ON THE QUESTION OF GENDER JUSTICE UNDER UNIFORM CIVIL CODE:

Over the years personal law reforms in India have partially improved women's rights but they have fallen short of delivering full gender equality. Some significant changes have been noted which include, the amendment of the Hindu Succession Act, 1956 which gave daughters coparcenary property rights equal to the sons in a Hindu Joint Family system. However, deep seated patriarchal social customs and agricultural land exemptions in several states did continue to limit actual parity. The practical breach of the amendment of this act was heavily apparent in states of Punjab, Haryana, Himachal Pradesh and Jammu and Kashmir.³

Under Muslim Law, the criminalization of instant triple talaq by the Supreme Court Judgement in Shayara Bano v. Union of India in 2017 through the Muslim Women (Protection of Rights on Marriage Act, 2019) which made this practice void and a criminal offence punishable. While the criminalization of instant triple talaq (talaq-e-biddat) provided relief against arbitrary divorce. This change was met with opposition by Traditional and conservative Muslim Organisations viewing it as direct, unwarranted state and legislative interference in Muslim Personal Law and a breach of the fundamental right of freedom of religion under Article 25-28 of the Indian Constitution.

Traditional and conservative Muslim organizations like All India Muslim Personal law board opposed the legislation. Moreover, issues like polygamy and unequal Quranic-based inheritance shares remain uncoded.

³ Akansha Dubey, *Still a long way for women to inherit land*, Rediff (June 19,2019)



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Amendments have also been made to the Indian Divorce Act, 1872 and Parsi Marriage and Divorce Act, 1936 by removal of archaic gender discriminatory fault grounds for divorce through the Indian Divorce (Amendment) Act, 2001 which took effect on October 3, 2001.⁴

For the Parsi communities, the Parsi Marriage and Divorce Act, 1936 was enacted to replace the discriminatory 1865 act and major gender equalizing reforms such as mutual consent was introduced via the Parsi Marriage and Divorce (Amendment) Act, 1988. These amendments may have made some procedures fairer but patriarchal community practices and gender bias do persist in execution.

Meanwhile, whether a Uniform Civil Code can effectively dismantle these patriarchal norms remains heavily debated. As the current legislative drafts risk replicating existing biases or imposing majoritarian frameworks rather than ensuring true gender justice⁵. Proponents may argue that a gender just Uniform Civil code can eliminate archaic loopholes based on religion, ban polygamy and guarantee absolute equal rights in the arena of marriage, divorce, succession et cetera. Recent state level implementations such as in Uttarakhand have faced criticism for being heavy handed and moralistic for example, mandating the registration of live-in relationships to expand surveillance and criminalizing non registration. among other provisions which have been deemed to carry forward patriarchal and heteronormative assumptions. These provisions raise serious questions about privacy and autonomy rather than resolving patriarchal control. Uniform Civil Code may challenge some patriarchal norms like compulsorily mandating marriage registration and monogamy but it can also reproduce control through institutional machinery if drafted in a punitive or moralising way.

⁴ Hardik Bansal and Srajan Tyagi, *Apostasy under Personal Laws in India*, jlsrjournal (January 12, 2021)

⁵ Divya Uttam Thorat, *Uniform Civil Code : a boon or bane for women's rights in India*, Ipleaders (May 12, 2021)



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ON THE QUESTION OF MINORITY COMMUNITIES AND THEIR RIGHTS:

Many minority communities have expressed major concerns regarding the imposition of UCC. Most notably, within the Muslim Community, critics have represented time and again that their personal laws are integral to their religious identity and cohesion. And they have argued that the imposition of UCC can indeed breach their right to perform cultural practices and their religious autonomy. The Muslim Community further argued that any imposition of UCC must protect their minority rights as provided under the Indian Constitution and must not compromise their distinct cultural identities.

Similarly, the Parsi Community emphasizes on the preservation of their cultural identities and rights which are provided in the Parsi Marriage and Divorce Act, 1936 and Parsi Succession Act, 1865. Resistance to imposition of UCC has been observed because it may not consider the Parsi Customs and traditions adequately.

Within the Christian Community, there have been differing perspectives across denominations. Some are in favour of the UCC because it preserves uniformity and unity and most importantly equality, they also support reforming the Christian Personal laws to remove gender discrimination in inheritance and give equal rights to women on marriage and divorce procedures to bring parity with men. Others have highlighted the significance of preserving Christian Personal law.

The Uniform Civil Code (UCC) model aims to centre more on gender equality and fundamental rights rather than cultural uniformity. It aims to balance individual rights with group identity but it inherently strains minority religious autonomy in many ways. By prioritizing standard rules for



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marriage, divorce and inheritance it does replace distinct community personal laws with a unified state standard. The model prioritizes constitutional equality (Article 14 and 15) over group based religious freedom under Article 25. Which means many traditional or customary minority practices deemed discriminatory are overridden.

Critics and minority groups have argued that this model erases unique legal traditions functioning as legal homogenization disguised as reform. Imposing a single legal framework for matters governed by the personal laws would replace distinct personal laws with a unified state standard and it can promote equal treatment but it also strains minority groups' religious autonomy and rights because it limits the ability of communities to govern family relations according to their own traditions. Minority communities also risk losing autonomy to internally interpret and evolve their own religious jurisprudence because that authority is transferred to secular courts and legislatures.

These perspectives of minority communities signify that UCC in India involves a complicated interplay of religious identity and cultural rights. And while many proponents do favour the enactment of UCC throughout the country of India because these reforms address gender disparities and promote uniformity. There is also a need to protect minority rights under civil laws as guaranteed by the Constitution.⁶

ON THE QUESTION OF INTER-FAITH MARRIAGES UNDER UNIFORM CIVIL CODE:

Current Laws treat Inter-faith marriages through a conflicting framework.

⁶ Numan Khan, *Is UCC the Unity we aspire for in our Diversity*, Jharkhand Judicial academy (Sept 2024)



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Personal Laws require conversion for validity and are not that inclusive and does not accommodate inter-faith marriages without its own set of complexities. Personal laws like Hindu Marriage Act, 1955 and Muslim Personal law do not accommodate inter-faith unions natively, forcing one partner to convert or forgo standard legal protections and inheritance rights.

The Special Marriage Act, 1954 permits inter-faith civil marriages in India without religious conversion and as a secular alternative does permit adults to marry. But one of the biggest drawbacks is that it mandates a 30-day public notice that invites Social Surveillance and harassment. The public notice exposes private details like the residential address of the couple to local registries and families, increasing vulnerability to the kind of harassment they wish to avoid.

On Anti-conversion Laws, multiple states penalize conversions driven by marriage or deemed coercive shifting the burden of proof onto the couple and prompting increased police scrutiny over Consensual unions.

In the light of these facts, a justice oriented UCC can theoretically protect couples and enhance safety if it removed patriarchal and religious norms that obstruct these unions.

However, another perspective also carries equal weight when a UCC is poorly drafted, it can replicate flaws of existing personal laws by imposing mandatory community disclosures, approval rituals and moral policing. For UCC to genuinely strengthen protection, it must prioritize individual autonomy under Article 21 of the Constitution by ensuring complete privacy in civil registration, eliminating intrusive public notification rules and penalising extra-legal social interference which perpetuate honour crimes.

Extra constitutional bodies like Khat Panchayats which are informal village assemblies in parts of Northern and Western India have historically issued decrees against inter caste and inter faith



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marriages. And currently India does not have a distant federal law that criminalizes “honour killings” as a separate category. Perpetrators are prosecuted under provisions of murder and culpable homicide provisions under Bharatiya Nyaya Sanhita, 2023. Cases that involve honour crimes in the face of inter-faith and inter-caste marriages are highly underreported. India’s National Crime Records Bureau began recording honour killings in 2014 and has only recorded 38 cases in its latest report in 2023. A recent case has invigorated this perspective. The Moradabad Honour Killing Case took place in a small village in Uttar Pradesh where bodies of a 19 year old Hindu woman and a 27 year old Muslim man were found to be buried near a riverbank in January, 2026. The current personal laws are failing to protect the inter-faith unions, Hence UCC must incorporate stringent punishments against these crimes and provide adequate protection to Inter-faith couples⁷.

CONCLUSION:

The UCC should be evaluated not merely as an instrument of legal uniformity but as an enforcement of the many Constitutional guarantees and must reconcile equality, dignity, autonomy and religious freedom. A constitutionally defensible UCC would therefore need to be rights-based rather than assimilationist in its enforcement. Its success would depend on whether it ensures substantive gender justice, protects individual choice, intimate and family relations and provides fair and accessible practices across communities without erasing their cultural identity. In this sense, the real measure of UCC lies not in its capacity to standardize civil law but in its ability to advance equal citizenship while preserving constitutional guarantee and rights.

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⁷ Abhishek Dey, *Never imagined this!': Indian village grapples with interfaith couple's killing*, BBC news (February 4, 2026)



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