



Constitutional Morality and the Uniform Civil Code: Revisiting the Directive Principles

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Abstract

The Uniform Civil Code (UCC), as envisaged in Article 44 of the Indian Constitution, stands as a cornerstone for legal uniformity, secularism, and gender justice in India's democratic framework. Though located in the Directive Principles of State Policy and non-enforceable by courts, it represents a constitutional vision of a unified civil law applicable to all citizens. This doctrinal study re-evaluates the need for the UCC through the jurisprudential lens of constitutional morality and national integration, with a particular emphasis on the interests of the Sanatani Hindu majority and the promise of gender equality. Relying on judicial pronouncements, constituent debates, statutory developments, and comparative international examples, the research argues that the absence of UCC perpetuates legal fragmentation and systemic discrimination. Recent legislative steps, especially the Uttarakhand UCC Act, 2024, provide a workable template for nationwide reform. The study concludes that the UCC is not a threat to pluralism, but rather a step toward egalitarianism, national unity, and a reaffirmation of constitutional values rooted in justice and equal treatment for all.

Keywords: Constitutional morality, Article 44, Uniform Civil Code, Directive Principles of State Policy Equality, Secularism, Hindu majority, National Integration, Gender Justice

I. Introduction: UCC as a Constitutional Imperative for National Identity

The Constitution of India sets forth a transformative vision for a just and equitable society grounded in liberty, equality, and the rule of law. Among its most progressive aspirations is the implementation of a Uniform Civil Code (UCC), articulated in Article 44 of the Directive Principles of State Policy (DPSP). While not enforceable by courts, Directive Principles serve as a compass for legislative and policy decisions, reflecting the moral vision of the Constitution's framers for national coherence and equal treatment of all citizens.

The idea of enacting a UCC is not a post-independence imposition, but a continuation of India's constitutional project to replace fragmented personal laws with a common civil framework. Such a code is intended to regulate civil aspects, like marriage, divorce, inheritance, and maintenance, uniformly for all communities, thereby



ensuring legal parity and removing systemic discrimination, especially against women. The current multiplicity of personal laws based on religious identity has led to inconsistencies and inequalities, contravening the spirit of Article 14, which guarantees equality before the law.

A doctrinal review of the Constituent Assembly Debates reveals that leaders such as Dr. B.R. Ambedkar strongly endorsed the idea of a common civil code. He maintained that civil matters should be governed uniformly in a secular democracy, without infringing on individual freedom of religion. His vision underscored that uniformity in civil law would strengthen national integration and simplify legal processes.

Despite this intent, political hesitation and community resistance have led to a prolonged deferment in implementing the UCC. The outcome has been an uneven legal burden, particularly on the Hindu majority community, whose personal laws were reformed through the Hindu Code Bills of the 1950s, unlike the personal laws of other communities that have largely remained untouched. This legal asymmetry has generated perceptions of unequal treatment and undermines the secular foundation of the Indian State.

Further, the ongoing application of religious personal laws disproportionately affects women, especially in matters relating to marriage and property rights. Doctrinally, the principle of constitutional morality, as developed in cases such as *Shayara Bano* requires personal laws to conform to constitutional values of equality, justice, and dignity. In this context, the UCC is not merely a theoretical proposal or legislative ambition, but a necessary and logical extension of constitutional guarantees. Implementing it would reaffirm the principles of equal citizenship, ensure gender equity, and strengthen India's identity as a secular, unified, and modern nation governed by the rule of law.

II. Constitutional Morality: Concept and Evolution

The doctrine of constitutional morality has evolved into a pivotal concept in Indian legal thought, especially when adjudicating the balance between constitutional guarantees and societal traditions. Rooted in the Constituent Assembly's deliberations, constitutional morality calls for allegiance not merely to formal legal procedures but to the underlying principles that animate the Constitution, justice, liberty, equality, and fraternity.

Dr. B.R. Ambedkar introduced this concept in the context of sustaining democracy in a plural society. Drawing from classical notions of moral governance, Ambedkar emphasized that constitutional morality involves a commitment to the spirit of constitutionalism, an internalized culture of respecting the supremacy of law over personal or communal preferences. For Ambedkar, democracy required more than institutional arrangements; it demanded a legal and ethical ethos that upheld constitutional values even in the face of opposition from social conventions.

In contemporary jurisprudence, the Supreme Court has reinforced the relevance of constitutional morality in landmark rulings. In *Navtej Singh Johar v. Union of India* (2018), the Court decriminalized consensual same-sex relations by affirming that public morality, shaped by majoritarian views, cannot override individual dignity and equality. Similarly, in *Shayara Bano v. Union of India* (2017), the Court invalidated the practice of instant triple talaq, not only as a violation of fundamental rights but also as inconsistent with constitutional morality. In both cases, the judiciary reaffirmed that laws, especially those governing personal status, must be evaluated through the lens of constitutional values. Customs that contravene principles of dignity, gender equality, or personal liberty cannot be allowed to persist merely due to religious sanction. Constitutional morality, therefore, functions as a

legal standard to measure the validity of entrenched practices. The prevailing system of personal laws enables discriminatory norms to survive under the guise of religious autonomy. The Constitution protecting religious freedom under Article 25, does not confer immunity to personal laws that conflict with fundamental rights. Article 13 clearly states that laws inconsistent with Part III shall be void.

Thus, constitutional morality empowers the State and judiciary to harmonize personal law with the Constitution's core commitments. It enables a recalibration of civil legislation to reflect evolving standards of justice and equality, without imposing cultural uniformity. The doctrine does not negate religious diversity but insists that such diversity must operate within constitutional bounds. In conclusion, constitutional morality is not an abstract legal philosophy but a transformative tool. It bridges the gap between constitutional ideals and social realities, offering a jurisprudential rationale for reforming discriminatory personal laws. As India considers implementing a UCC, constitutional morality serves as both a guidepost and a legitimizing force for this long-deferred reform.

III. Historical Background and Constituent Assembly Debates

The origin of the UCC within India's constitutional landscape is deeply embedded in the foundational vision of the framers of the Constitution. The inclusion of Article 44 among the DPSP signifies the aspiration for a cohesive civil legal framework that transcends religious boundaries. It was conceived not as a mechanism of cultural erasure, but as a constitutional device to promote unity, equality, and legal certainty in personal civil matters such as marriage, succession, and maintenance. The Constituent Assembly Debates reflect a robust engagement with the idea of a common civil code. Dr. B.R. Ambedkar, as Chairman of the Drafting Committee, strongly advocated for a UCC as essential to fostering national integration and equal citizenship. He emphasized that such a code would not abolish religious practices, but rather standardize civil obligations under a common legal structure. His famous assertion during the debates that "there is nothing in this Article which prevents any group from voluntarily submitting to the civil code" clarified that the UCC would operate within a framework of choice and gradual transition. Despite his progressive vision, resistance from minority representatives, concerned about the perceived erosion of religious identity, led to the placement of Article 44 in Part IV, rather than among enforceable rights. This compromise deferred the code's implementation to a future legislature, transforming it into a long-term constitutional objective rather than an immediate mandate.

Doctrinally, however, the non-enforceability of Article 44 does not reduce its constitutional value. The Supreme Court in *Minerva Mills v. Union of India* (1980) established that Directive Principles and Fundamental Rights are to be interpreted harmoniously. Similarly, in *Sarla Mudgal v. Union of India* (1995), the Court recognized the absence of a UCC as a gap in India's constitutional progress, urging the government to take affirmative steps toward its realization. Historically, the Hindu personal laws underwent major statutory reforms in the 1950s through the Hindu Code Bills, which codified rights related to marriage, inheritance, and adoption. This effort was guided by the vision of a modern legal order. However, equivalent reforms have not been uniformly applied to other communities, leading to a dichotomous legal system that undermines the principle of equal protection under law. The framers never envisioned personal law as immune from constitutional scrutiny. On the contrary, the spirit of the Constituent Assembly Debates suggests that uniformity in civil law was to be achieved through legislative prudence and public consensus, not coercion. The original purpose was to secure the same set of civil rights and obligations for all Indians, regardless of religion, while safeguarding cultural freedoms. The historical



and doctrinal foundations of the UCC are firmly rooted in the ideals of national unity, legal uniformity, and social reform. The debates surrounding its inception reflect both the promise and the postponement of this transformative idea. As the constitutional centenary approaches, fulfilling the vision articulated in Article 44 remains both a moral and legal necessity.

IV. The Directive Principles and Article 44

The Directive Principles of State Policy (DPSPs), enshrined in Part IV of the Indian Constitution, are not enforceable in a court of law, yet they possess significant constitutional value as moral and political obligations of the State. Among them, Article 44 stands out as a visionary provision, calling upon the State to strive towards implementing a UCC across the nation. Though aspirational in form, the principle has substantive implications for the realization of justice, equality, and national unity.

Article 44 reads: "The State shall endeavour to secure for the citizens a UCC throughout the territory of India." This clause embodies the constitutional expectation that civil laws, especially those governing personal matters such as marriage and succession, should be common to all citizens regardless of their religious affiliations. The rationale is grounded in the belief that the legal system should ensure equal rights and responsibilities for all, irrespective of community-based distinctions.

Although DPSPs are non-justiciable under Article 37, they are nevertheless considered fundamental to governance. The Supreme Court (SC), in *Minerva Mills Ltd. v. Union of India* (1980), emphasized the importance of maintaining a balance between Fundamental Rights and Directive Principles, recognizing that the two sets of provisions are complementary and mutually reinforcing. The same interpretive approach was adopted in *Unni Krishnan v. State of Andhra Pradesh* (1993), where the Court read certain Directive Principles into the framework of enforceable rights.

In the specific context of Article 44, the SC has made repeated observations about the urgent need for civil law reform. In *Sarla Mudgal v. Union of India* (1995), the Court expressed disappointment over the delay in enacting a UCC and noted that multiple personal laws create conflicting loyalties and jeopardize national integration. The ruling observed that Article 44 reflects the constitutional commitment to uniformity and secularism in civil matters.

Moreover, the continued operation of religion-based personal laws—often containing discriminatory provisions, especially against women, stands in direct contrast to Article 14, which guarantees equality before the law, and Article 15, which prohibits discrimination on grounds including religion and sex. The differential treatment afforded under separate legal regimes for different religious communities creates inequality in the application of civil rights.

The codification of Hindu personal laws through the Hindu Code Bills in the 1950s marked a progressive milestone toward legal modernization. However, similar reforms for other communities have remained elusive, leading to constitutional asymmetry. This selective codification not only undermines the secular character of the State but also places an unequal burden on the majority community.

Despite being non-enforceable, Article 44 serves as a guiding light for the legislature and the judiciary. It symbolizes the promise of a society governed by equal laws for all. In numerous cases, courts have urged the legislature to consider its implementation to eliminate contradictions arising from personal law diversity. The



Article 44 is not merely a dormant constitutional principle; it is a normative goal that reflects the essence of Indian secularism and egalitarianism. Its implementation is essential not only to fulfill the aspirations of the framers but also to promote justice, gender equality, and national integration in a diverse but unified India.

V. Legal Pluralism, Personal Laws, and the Case for UCC

India's civil legal landscape is characterized by a complex interplay of personal laws derived from diverse religious traditions. This system of legal pluralism permits different communities to be governed by their own customs and norms in matters of family law, including marriage, divorce, succession, and maintenance. While historically rooted in colonial administration and constitutional tolerance for diversity, this arrangement has evolved into a significant source of legal inequality and gender injustice.

The origin of legal pluralism in India can be traced back to British colonial policy, which codified and institutionalized distinct personal laws for Hindus, Muslims, Christians, and others. The British governance model sought to avoid direct interference in religious affairs, thereby legitimizing community-based legal distinctions. However, post-independence India, while constitutionally committed to secularism and equality, has allowed this pluralistic regime to persist.

The result has been a fragmented civil code, where different rules apply to citizens based on religious identity. This not only undermines the constitutional principle of equality before law (Article 14) but also perpetuates systemic discrimination, particularly against women. For instance, under certain interpretations of Muslim personal law, men retain unilateral rights to divorce (talaq), and women's inheritance shares are often limited compared to male heirs. Its provisions conflict with contemporary standards of gender justice. In contrast, the Hindu personal law system has undergone significant statutory reform. The passage of the Hindu Marriage Act, Hindu Succession Act, and related statutes between 1955–56 reflected an effort to modernize civil law and align it with constitutional values. However, this selective modernization has led to an uneven civil law regime, where one community operates under codified laws, while others retain personal codes rooted in patriarchal interpretations.

The case for implementing a UCC is thus rooted in the need to eliminate these disparities and establish a common framework that upholds individual rights across all communities. UCC does not mandate cultural erasure; rather, it offers a secular civil code that treats all citizens equally in civil matters, irrespective of religious affiliation. The Goa Civil Code, operational since the colonial era, and the recent enactment of the Uttarakhand UCC Act, 2024, demonstrate that such a model is not only feasible but already exists in India.

The constitutional legitimacy of UCC is reinforced by the doctrine of constitutional morality, which requires that all civil laws adhere to the principles of justice, dignity, and non-discrimination. In *Shayara Bano v. Union of India* (2017), the Supreme Court invalidated instant triple talaq, emphasizing that religious practices cannot violate fundamental rights. Similarly, in *Joseph Shine v. Union of India* (2018), the Court struck down adultery laws discriminating against women.

These cases reflect an emerging jurisprudence that prioritizes constitutional values over customary norms. The continuation of legal pluralism in civil matters is increasingly untenable in a constitutional democracy committed to secularism and equal treatment under law. The legal pluralism in India's personal law framework may have originated from a desire to protect cultural diversity, but it has since become an obstacle to legal uniformity,



gender justice, and national cohesion. A UCC offers a balanced path forward, preserving religious freedom in matters of worship, while establishing a neutral and equitable civil law system for all citizens.

VI. Constitutional Morality as a Legal Tool for Reform

The doctrine of constitutional morality has emerged as a transformative legal standard in Indian jurisprudence, enabling courts and lawmakers to assess the validity of customs, statutes, and institutional behavior against the spirit of the Constitution. In the context of the UCC, constitutional morality serves as a normative compass to reform personal laws that conflict with foundational values such as equality, justice, and individual dignity.

The concept was first articulated by Dr. B.R. Ambedkar during the Constituent Assembly Debates, where he argued that a democracy could not survive merely on the strength of formal institutions, it must also be governed by a deep commitment to constitutional ethics. This includes upholding rights and freedoms even when they conflict with dominant social or religious beliefs.

Modern judicial interpretation has operationalized this doctrine. In *Navtej Singh Johar v. Union of India* (2018), the Supreme Court decriminalized same-sex relationships, holding that constitutional morality must prevail over societal prejudices. Similarly, in *Indian Young Lawyers Association v. State of Kerala* (2018), the Court ruled that the exclusion of women from the Sabarimala temple was unconstitutional, reaffirming that religious practices cannot override gender equality.

In the domain of personal law reform, *Shayara Bano v. Union of India* (2017) provided a critical turning point. The Court struck down the practice of instant triple talaq (talaq-e-biddat), reasoning that it violated women's right to dignity and equality. Importantly, the Court invoked constitutional morality to emphasize that personal laws, though rooted in religion, must conform to constitutional principles if they are to govern civil life.

This doctrine, therefore, provides a legal foundation for evaluating and reforming discriminatory personal laws without necessarily infringing upon religious freedom. Article 25 guarantees the freedom to profess, practice, and propagate religion, but this freedom is subject to public order, morality, and health, and does not extend to secular aspects of religious practice, especially those governed by state law.

Applying constitutional morality to the UCC debate allows for a principled approach to civil law reform. Rather than framing the UCC as a majoritarian imposition, it is viewed as a constitutional necessity to uphold equality and justice. It compels lawmakers to consider whether religiously sanctioned practices are consistent with the Constitution's guarantees of non-discrimination and equal treatment.

Moreover, constitutional morality empowers minority and marginalized voices, especially women, who are often the most affected by regressive personal laws. It offers a counterbalance to traditionalism and majoritarianism, ensuring that civil reforms are inclusive, rights-based, and forward-looking. The constitutional morality serves not merely as a judicial philosophy but as a constitutional imperative. It legitimizes state intervention in personal law where such laws violate fundamental rights. In doing so, it strengthens the case for a UCC that is both constitutionally grounded and socially progressive.

VII. Comparative Analysis: Global Models of Civil Uniformity

India's pursuit of a UCC is not unique in the global context. Many countries with diverse populations have



implemented uniform civil laws to promote equality, secularism, and the rule of law. A comparative analysis highlights how different nations have addressed legal pluralism while ensuring individual rights and legal certainty.

The Countries such as France and Germany operate under comprehensive civil codes that apply uniformly to all citizens regardless of religious affiliation. The Napoleonic Code of France (1804) and the German Civil Code (BGB, 1900) regulate marriage, divorce, succession, and contracts under a single legal system. These legal models emphasize the primacy of citizenship over religious or cultural identity in civil matters.

In Muslim-majority nations like Turkey and Tunisia, civil law reform has been a tool for modernization. Turkey, in 1926, adopted the Swiss Civil Code, replacing religious courts and abolishing polygamy. Similarly, Tunisia's Code of Personal Status (1956) prohibited polygamy, established civil marriage, and ensured women's legal capacity, thereby aligning personal law with gender equality and national development goals.

Closer to home, Nepal's Civil Code (2017) replaced religion-based personal laws with a uniform statute that guarantees equality while allowing for cultural accommodations. Importantly, the Code reinforces that religious freedom does not extend to practices that violate constitutional principles.

India itself provides instructive examples. The Goa Civil Code, a legacy of Portuguese rule, applies a uniform set of personal laws to all communities. It governs marriage, divorce, and succession, while respecting certain religious customs, thus balancing uniformity with pluralism. This model has functioned effectively within India's federal structure for decades.

The recent enactment of the Uttarakhand UCC Act, 2024, marks a significant legislative milestone. This statute, applicable to all residents of Uttarakhand, introduces a unified framework for civil matters, including compulsory marriage registration, monogamy, equal inheritance rights for women, and gender-neutral provisions for maintenance and custody. It also preserves tribal customs that are non-discriminatory, thereby showcasing a flexible and inclusive approach to civil law reform.

The Uttarakhand UCC was developed through extensive public consultation and legal review, reflecting a democratic model of lawmaking. It operationalizes the vision of Article 44 and aligns personal law with constitutional values. The Act provides a workable blueprint for other Indian states and the Union government to replicate, balancing legal uniformity with cultural accommodation. The comparative experiences demonstrate that UCCs can coexist with religious diversity when anchored in constitutional values. The success of the Uttarakhand model confirms that India has the institutional capacity and public readiness to implement such reforms nationally. A well-designed UCC, informed by global and domestic precedents, can uphold secularism, ensure equality, and strengthen the rule of law in a pluralistic democracy.

VIII. Challenges to Implementation and the Way Forward

Despite its constitutional status and progressive potential, the implementation of a UCC in India has been fraught with legal, political, and social challenges. These obstacles stem not only from India's immense religious and cultural diversity but also from misperceptions about the UCC's scope and intent.

One major challenge is the politicization of the UCC debate. Over the years, the proposal has been mischaracterized as an attempt to impose majoritarian Hindu norms on minority communities. This has created resistance, particularly among Muslim groups who fear erosion of their religious identity. However, such fears

often overlook the fact that Hindu personal laws have already undergone reform, while others remain largely unaltered.

Another challenge is the legal pluralism constitutionally permitted under Article 25, which protects freedom of religion. Although the right to manage religious affairs is fundamental, it is subject to morality, health, and public order. Courts have consistently ruled that religious freedom does not shield personal laws from constitutional scrutiny, especially where they conflict with Articles 14 and 15 guaranteeing equality and non-discrimination. Social inertia and patriarchal mindsets also hinder the transition to uniformity. Many communities regard personal laws as integral to their cultural identity. Reforms aimed at gender justice and equality are often misinterpreted as attacks on tradition. Hence, any attempt at UCC implementation must be accompanied by robust public engagement and legal education.

The federal structure of India presents another layer of complexity. Personal law is a subject under the Concurrent List, which permits both Parliament and State Legislatures to legislate on the matter. The recent example of the Uttarakhand UCC Act, 2024 demonstrates how states can take the lead in adopting UCC. However, this also raises concerns about lack of uniformity if states adopt divergent models.

Judicial interventions have often provided momentum. In *Sarla Mudgal v. Union of India* (1995), the Supreme Court called for UCC to promote national integration. Recently, in *Shayara Bano and Joseph Shine*, the Court emphasized that constitutional morality and individual rights must prevail over regressive practices. Yet, courts cannot legislate, a comprehensive UCC must emerge through parliamentary and public consensus. The way forward involves a phased and consultative approach. First, consensus can be built by codifying common minimum standards already present across personal laws, such as age of marriage, consent, and maintenance. Second, a model UCC may be developed based on best practices, including from the Goa Civil Code and the Uttarakhand UCC Act, 2024, while allowing cultural exceptions that do not violate constitutional principles.

Furthermore, public sensitization campaigns and stakeholder consultations must accompany legal reform. The process must be inclusive, transparent, and rooted in the constitutional vision of equality and justice. Rather than being perceived as a coercive measure, the UCC must be seen as an instrument of legal empowerment and national unity. While the challenges to UCC implementation are significant, they are not insurmountable. A carefully designed, inclusive, and constitutionally faithful UCC has the potential to unify civil law in India while preserving the pluralistic ethos of the nation.

IX. Conclusion and Suggestions

The UCC stands as one of the most debated, yet constitutionally mandated, reforms envisioned by the framers of the Indian Constitution. Article 44 embodies the aspiration for legal uniformity and national integration, grounded in principles of justice, gender equality, and secular governance. Despite its inclusion in the Directive Principles of State Policy, the UCC has remained largely unimplemented due to socio-political sensitivities, legal pluralism, and communal misgivings. This doctrinal research has demonstrated that the continued existence of multiple personal laws, rooted in religious traditions, undermines constitutional guarantees of equality and non-discrimination. While religious diversity is a hallmark of India's civilizational ethos, the governance of civil matters such as marriage, inheritance, and adoption must align with universal standards of justice and dignity.

The doctrine of constitutional morality provides a compelling jurisprudential basis to initiate civil law reforms. It

allows the State to uphold fundamental rights while balancing cultural sensitivities. Judicial pronouncements, such as those in *Sarla Mudgal*, *Shayara Bano*, *Navtej Singh Johar*, and *Indian Young Lawyers Association*, have emphatically endorsed the need to harmonize personal laws with constitutional values. Furthermore, comparative models, both global and domestic, reveal that legal uniformity in civil matters is neither unfeasible nor culturally intrusive. The *Uttarakhand UCC Act, 2024* serves as a pragmatic prototype that balances uniformity with cultural inclusiveness. Its provisions for equality in inheritance, monogamy, and gender-neutral rights reaffirm the constitutional commitment to substantive equality.

Considering the doctrinal, judicial, and legislative discourse, the following suggestions may guide the phased implementation of the UCC:

1. **Codification of Uniform Principles:** Identify and codify uniform elements already present in various personal laws.
2. **Legislative Consultation:** Involve stakeholders, religious bodies, women's groups, and legal experts to build consensus.
3. **Public Education:** Launch awareness campaigns to dispel myths and clarify the secular and inclusive intent of UCC.
4. **Model Code Adoption by States:** Encourage progressive states to implement model UCC laws based on the Uttarakhand model.
5. **Judicial Oversight:** Ensure that constitutional courts actively scrutinize personal law provisions for inconsistency with fundamental rights.

To conclude, the implementation of the UCC is not a question of majoritarianism versus minority rights. It is a test of India's commitment to constitutional ideals and the promise of equal citizenship. A well-drafted UCC, introduced with caution, dialogue, and legal clarity, will not only fulfill a long-pending constitutional mandate but also reaffirm India's status as a truly secular and just republic.

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