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Judicial Determinations With Reference To Uniform Civil Code In India And The Nstitutional Mandate

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Abstract: *The Uniform Civil Code (UCC) remains one of the most debated constitutional aspirations in India, aiming to replace personal laws based on religious customs with a common set of civil laws governing marriage, divorce, inheritance, and adoption. Article 44 of the Indian Constitution lays down the directive principle to secure a UCC for all citizens. However, its implementation has encountered significant resistance due to religious sensitivities and the pluralistic fabric of Indian society. Indian judiciary has played a pivotal role in interpreting and reinforcing the need for a UCC in several landmark judgments, advocating for equality, secularism, and gender justice. Through cases such as Shah Bano, Sarla Mudgal, and Jose Paulo Coutinho, the courts have consistently emphasized the urgency of codifying uniform civil laws. This paper explores the judicial approach to the UCC, examining the constitutional mandate and the challenges posed by religious diversity and political will.*

Key words: Uniform Civil Code, Indian Judiciary, Article 44, Constitutional Mandate, Personal Laws.

Introduction – India's legal and social discourse, the Uniform Civil Code (UCC) has long been a controversial topic. The UCC is based on Article 44 of the Directive Principles of State Policy¹, which envisions it as a way to guarantee equality and harmonize personal laws. A uniform set of laws governing marriage, divorce, inheritance, and other civil matters for all citizens, regardless of faith, is intended to replace the disjointed personal law system.

Gender inequality and legal contradictions have been institutionalized by India's existing personal law system, which is based on religious principles. For example, women are disproportionately harmed by unilateral divorce, polygamy, and unequal inheritance rights. In addition to undermining gender equity, these differences go against the equality and secularism guaranteed by Articles 14 and 15 of the Constitution.² Social cohesion and the establishment of a completely secular state are still hampered by the absence of a UCC.

In a multicultural community like India, a UCC is essential for advancing equality and secularism. It could promote national unity, end discriminatory practices, and harmonize personal laws. However, there are several obstacles in the way of realizing this vision, such as political hesitancy and opposition from religious organizations.³ This essay addresses the socio-political barriers to a UCC's adoption while examining its constitutional foundation and judicial support.

OBJECTIVES –

1. To analyze the role of judicial pronouncements in interpreting and advancing the idea of a Uniform Civil Code in India, particularly in balancing gender justice, equality, and religious freedom.
2. To examine how the judiciary has harmonized the constitutional mandate under Article 44 with fundamental rights, and the implications of such judicial determinations on the feasibility of implementing the Uniform Civil Code.

CONSTITUTIONAL FRAMEWORK - "Article 44 of the Indian Constitution's Directive Principles of State Policy (DPSP) provides the Uniform Civil Code (UCC) with its constitutional legitimacy. According to Article 44, the State would work to ensure that all Indian people have access to a uniform civil code."⁴ The DPSPs represent the framers' vision of social and economic fairness and offer crucial recommendations for governance, despite the fact that they are not legally binding. As a directive principle, "the UCC emphasizes how crucial legal uniformity is to achieving equality and secularism in India's heterogeneous society".

Constitutional provisions : Numerous constitutional articles establish the foundation for the UCC by advocating for equality, secularism, and justice:

- **Article 14:** ensures equality before the law and equal legal protection within the territory of India. The presence of religion-specific personal legislation establishes disparate legal standards for persons according to their faith, thereby contravening the tenets of Article 14.⁵ For instance, the inheritance rights of Muslim women markedly diverge from those of Hindu or Christian women, resulting in inequities in access to justice.

- **Article 15:** This article forbids discrimination based on religion, race, caste, sex, or place of birth. Personal laws, especially those regulating marriage, divorce, and inheritance, sometimes discriminate



against women, hence maintaining gender inequality.⁶ The implementation of a UCC will eradicate such inequities and guarantee equitable treatment for all individuals.

- **Articles 25-28:** collectively protect the right to religious freedom while underscoring the significance of secular administration. Article 25 ensures individuals the liberty to profess, practice, and disseminate religion, while also permitting the State to oversee secular activities linked to religious practices.⁷ The UCC seeks to amend civil laws while respecting fundamental religious practices, thus achieving a balance between personal rights and constitutional principles.

- Although non-justiciable, this article underscores the State's need to create a Uniform Civil Code (UCC) to promote national integration and equality.⁸ The architects of the Constitution designed Article 44 as a progressive instrument for legal reform, guaranteeing that personal laws do not compromise the secular nature of the State".

Indian Law and Secularism - The "Indian Constitution's Preamble declares secularism a core value. Indian secularism respects all religions and maintains official impartiality, unlike Western secularism, which emphasizes church-state separation. This model respects India's cultural and religious diversity while ensuring fair and equal civil laws. Personal laws challenge this foundation by creating a religiously diverse legal system. Muslim law allows polygamy and unilateral divorce, while Hindu law has been altered to forbid both. Allowing religious ideas to determine civil rights undermines secularism in the Constitution".

Judicial interpretations of secularism have strengthened the necessity for a Uniform Civil Code (UCC). In "S.R. Bommai v. Union of India (1994)"⁹, the Supreme Court emphasized that secularism is a basic feature of the Constitution, and the State must remain neutral in matters of religion. The fragmented personal law system, by intertwining religion with civil rights, contradicts this neutrality. A UCC would help separate religion from law in civil matters, strengthening the secular character of the State".

Historical Context and Constituent Assembly Debates - The insertion of "Article 44 into the Constitution was heavily debated in the Constituent Assembly". Advocates such as "Dr. B.R. Ambedkar argued for a Uniform Civil Code (UCC) to promote gender equality and social justice. Ambedkar argued that personal laws frequently perpetuate patriarchy and injustice, and that a universal code would be a constructive step toward modernity and nation-building. Opposition to the UCC in the Assembly was based on concerns about religious freedom and cultural identity. Minority community representatives expressed worry that a UCC would limit their religious freedoms and impose a homogeneous legal framework. Article 44 was placed into the Directive Principles of State Policy as a compromise, emphasizing its importance while acknowledging the political sensitivities of the time".

The UCC and Gender Justice - Women are disproportionately affected by the absence of a Uniform Civil Code, as they frequently experience discrimination under personal laws. For example:

- "Muslim women are subject to unequal inheritance laws and historically faced practices like triple talaq."
- Hindu women, despite the "Hindu Succession (Amendment) Act, 2005,"¹⁰ continue to encounter societal pressures that limit their access to inherited property".
- Christian personal law "previously required women to meet higher thresholds for divorce than men, reflecting inherent gender biases".

A uniform legal framework that ensures equal rights for all individuals, regardless of their gender or religious affiliation, would be established by a UCC. The UCC would uphold the constitutional obligation for equality and justice by ensuring that these imbalances are rectified.

Constitutional Challenges and Role of Judiciary - Implementing "a UCC raises constitutional questions about balancing religious freedom with the principles of equality and secularism. Article 25 protects religious practices, but the judiciary has clarified that this protection does not extend to practices that violate fundamental rights. For example, in *Shayara Bano v. Union of India (2017)*,¹¹ the Supreme Court held that (2002) 8 SCC 481 practices like triple talaq, which undermine gender equality, cannot be justified under the guise of religious freedom."

Similarly, in "*Sarla Mudgal v. Union of India (1995)*,¹² the Court highlighted the contradictions between personal laws and constitutional principles, urging the legislature to enact a UCC. These judgments underscore the judiciary's role in interpreting the Constitution to prioritize equality and justice while respecting religious diversity."

The judiciary has made major contributions to the discussion of the UCC by underlining the discrepancies between personal laws and constitutional principles. Through major decisions, the courts have emphasized the importance of a unified legal framework that ensures equality, secularism, and gender



justice. These examples not only demonstrate the flaws of religion-based personal laws, but also highlight the importance of political action to establish a UCC.

Landmark Cases Advocating for a UCC - “Shah Bano v. Union of India (1985)”¹³ The Shah Bano case became a watershed moment in the UCC debate. Shah Bano, a 62-year-old Muslim woman, sought maintenance under Section 125 of the Criminal Procedure Code (Cr.P.C.) after being divorced by her husband through talaq-e-biddat (triple talaq). The Supreme Court ruled in her favor, holding that Section 125, a secular provision, overrides personal law in matters of maintenance. The Court highlighted the injustice faced by Muslim women under personal law and urged the legislature to implement a UCC to ensure gender justice. The verdict provoked political and religious opposition, resulting in the implementation of the Muslim Women (Protection of Rights on Divorce) Act, 1986, which limited the applicability of Section 125 to Muslim women. Notwithstanding the legislative reversal, the ruling continues to be a fundamental element in judicial advocacy for a UCC”.

“Sarla Mudgal v. Union of India (1995)”¹⁴ the Supreme Court addressed the issue of Hindu men converting to Islam solely to practice polygamy, circumventing the Hindu Marriage Act, 1955, which prohibits polygamy. The Court held that such conversions for ulterior motives violated the spirit of secularism and equality. It reiterated the necessity of a UCC to prevent misuse of personal laws and ensure consistency across communities. Justice Kuldeep Singh’s observations in the case emphasized that the lack of a UCC contributes to legal fragmentation and hinders national integration. The judgment strongly advocated for legislative action to bring about uniformity in civil laws”.

“TMA Pai Foundation v. State of Karnataka (2002)”¹⁵ Although primarily dealing with minority rights in education, the TMA Pai Foundation judgment reinforced the principle that constitutional provisions must prevail over religious practices in matters of public interest. The Court’s interpretation of Article 29 highlighted the balance between individual rights and collective cultural identity, indirectly supporting the need for uniform laws in civil matters. While not directly related to the UCC, the case is significant for its emphasis on constitutional supremacy”.

“Shayara Bano v. Union of India (2017)”¹⁶ in this case marked a historic moment in the fight against gender injustice in personal laws. The petitioner, Shayara Bano, challenged the constitutionality of talaq-e-biddat (instant triple talaq), a practice that allowed Muslim men to unilaterally divorce their wives. The Supreme Court declared the practice unconstitutional, holding that it violated the fundamental rights to equality and dignity under Articles 14 and 21. The judgment emphasized that personal laws cannot contravene constitutional principles. The Court also highlighted the State’s duty to reform personal laws in line with the Constitution, reinforcing the need for a UCC to eliminate discriminatory practices”.

The judiciary has repeatedly underlined the need for personal legislation to be consistent with the principles of the constitution. In “Jorden Diengdeh v. S.S. Chopra (1985),¹⁷ the Supreme Court lamented the lack of uniformity in marriage and divorce laws, advocating for a common code to address inconsistencies. Similarly, in John Vallamattom v. Union of India (2003),¹⁸ the Court declared Section 118 of the Indian Succession Act, 1925, unconstitutional for discriminating against Christians in matters of charitable bequests. These cases reflect the judiciary’s proactive stance in promoting secular and gender-just laws. While the judiciary has played a critical role in highlighting the contradictions in personal laws, it has also acknowledged the limitations of judicial intervention. The courts have repeatedly urged the legislature to take decisive steps toward implementing a UCC, recognizing that such reform requires political will and social consensus”.

Harmonizing Gender Justice and Religious Freedom - The “judiciary’s handling of the UCC highlights the need to strike a careful balance between upholding gender justice and defending religious freedom. Although the right to religious freedom is guaranteed by Articles 25–28, the courts have made it clear that these rights are contingent upon morality, public order, and the fundamental rights guaranteed by the Constitution. For example, the Court ruled in Shayara Bano that religious freedom cannot be used as an excuse to support behaviors that undermine gender equality, such as triple talaq”. The way the courts have interpreted secularism further reflects this equilibrium. Indian secularism places equal regard for all religions in contrast to Western secularism, which calls for a rigid separation of church and state. A UCC, according to the judiciary, would guarantee that civil rules pertaining to “marriage, divorce, inheritance, and maintenance are fair and just while without interfering with fundamental religious customs”.

A strong argument for the UCC’s implementation is made by judicial viewpoints. Historic rulings like “Shah Bano, Sarla Mudgal, and Shayara Bano show the judiciary’s dedication” to preserving the



equality and secularism enshrined in the constitution. These cases demonstrate the necessity for a “single legal framework to solve systemic injustices and reveal the inherent inequities in personal laws”.

Nonetheless, the judiciary has also recognized its limitations, stressing that both legislative action and community consensus are necessary for the passage of a UCC. The courts have strengthened the “constitutional goal of a just and equal society by striking a balance between gender equity and religious freedom”, laying a solid framework for future reforms.

CHALLENGES TO IMPLEMENTATION - Even though Article 44 of the constitution requires India to create a Uniform Civil Code (UCC), there are many obstacles in the way. These difficulties stem from the nation's complex political system, religious freedom issues, and varied sociocultural fabric. This section looks at the main barriers to adopting a UCC, such as political hesitancy, social opposition, worries about the deterioration of culture and religion, and the practical challenges of creating and implementing such a code.

Social Resistance - Deeply ingrained religious and cultural diversity define India's heterogeneous culture. Many cultures view personal laws—which regulate civil concerns like marriage, inheritance, and maintenance—as being fundamental “to their religious identity. The concept of a UCC is sometimes seen as forcing majority norms on minority groups, especially Muslims, who worry that it will undermine their religious freedom. Historical reasons exacerbate this resistance”. Personal laws were established during the colonial era to give communities the autonomy to govern their civil affairs in accordance with religious traditions. Minority groups have widely opposed the UCC because they believe it threatens their cultural distinctiveness and compromises this autonomy.

Political Reluctance - Because of its divisive nature, the UCC has proven to be a politically delicate topic, and successive administrations have been reluctant to pursue its adoption. In order to avoid offending certain vote banks, especially minority communities, political parties frequently steer clear of the UCC.

Furthermore, the UCC has not advanced because to the lack of bipartisan support. Some political parties reject the UCC, arguing that it violates religious freedoms, while others support it as a constitutional requirement. Any meaningful legislative efforts to realize a universal code have been greatly delayed by this lack of political will.

Concerns Over Cultural and Religious Erosion - The idea that the UCC will homogenize distinct cultural traditions is one of the biggest obstacles facing minority and even some majority populations. “Any attempt to amend or replace personal laws is perceived as an infringement on religious freedom by religious communities”, who frequently see them as an extension of their faith.

Muslim personal law, for instance, allows customs that are essential to Islamic doctrine, such as polygamy and particular inheritance laws. Similar to this, tribal communities could see the UCC as a danger to their cultural independence because of their own traditions and customs. Whether real or overblown, these concerns of cultural deterioration have led to strong opposition to the concept of a unified legal system.

Practical Obstacles to the Drafting and Enforcement of a Uniform Commercial Code - It is a complex task to draft a UCC that upholds gender justice and equality while acknowledging India's cultural variety. It is challenging to create a single code that is universally accepted due to the various legal traditions, conventions, and practices across religious and regional groups. For example:

“•While other personal law systems lack comparable reforms, Hindu law has seen substantial changes, such as the Hindu Succession (Amendment) Act, 2005, which grants daughters equal inheritance rights.

• Sharia-based Muslim personal law contains clauses that would be in opposition to a gender-neutral UCC, such as polygamy and unilateral divorce; tribal tribes frequently adhere to customary laws that diverge greatly from written legislation.

• A UCC's enforcement presents additional difficulties. Comprehensive public education and legal awareness efforts would be necessary to ensure compliance among varied communities, especially in rural and neglected areas. Furthermore, the judiciary would have to strike a balance between constitutional values and religious freedoms, which might result in drawn-out court cases and civil discontent”.

Misconceptions and Lack of Public Awareness - The UCC's implementation is further hampered by public misconceptions about it. Instead of seeing the UCC as a way to guarantee equality and justice, many citizens—especially those in minority communities—see it as an assault on their religious identity. These anxieties are frequently stoked by political hyperbole and ignorance of the UCC's fundamental purpose.



There hasn't been enough public education "on the advantages of a UCC, especially its ability to advance gender justice and end discriminatory practices". Implementing a UCC is still a long way off if the public does not comprehend and support it. India's political complexity, religious freedom issues, and sociocultural variety all pose significant obstacles to the adoption of a uniform civil code. Despite its pledge to preserve the constitutional principles of equality, nondiscrimination, and secularism, the UCC faces opposition from a number of sources.

In order to overcome these obstacles, a considerate and inclusive strategy is needed. Public awareness campaigns, phased deployment, and discussions with local and religious leaders could all help allay concerns and foster agreement. Overcoming these challenges would also require judicial assistance and political will. The UCC is nevertheless a crucial step in achieving the constitutional goal of a fair and equal society in spite of these obstacles.

CONCLUDING REMARKS - A revolutionary step toward achieving the constitutional objectives of justice, equality, and secularism is the Uniform Civil Code (UCC). It aims to unify India's disparate personal laws into a unified, just framework and is based on "Article 44 of the Directive Principles of State Policy". The UCC seeks to advance gender justice and national integration by tackling systemic disparities in personal laws, especially those that impact women. Although the judiciary has continuously supported the UCC through seminal decisions like "Shah Bano, Sarla Mudgal, and Shayara Bano", social opposition, political hesitancy, and worries about cultural deterioration are obstacles to its implementation. A staged approach to reform, inclusive discourse, and public education will be necessary to overcome these challenges. In the end, the UCC is not only required by the law but also by morality to create a society in which all people are treated fairly and with dignity, regardless of their gender or faith. Ensuring justice for all and fortifying India's secular fabric depend on its execution.

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2. Id. art. 14, 15.
3. See *Shah Bano v. Union of India*, (1985) 2 S.C.C. 556 (India); *Sarla Mudgal v. Union of India*, (1995) 3 S.C.C. 635 (India); *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1 (India).
4. India Const. art. 44.
5. Id. art.
6. Id. art.
7. Id. art. 25-28.
8. Id. art. 44.
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