



UNIFORM CIVIL CODE IN INDIA: HISTORICAL EVOLUTION, CONSTITUTIONAL DEBATE AND CONTEMPORARY RELEVANCE

Dr Rashmi Sharma

Paper Received date

05/05/2026

Publishing Date

10/05/2026

DOI

<https://doi.org/10.5281/zenodo.20927054>



Abstract

The issue of the Uniform Civil Code (UCC) in India has remained one of the most debated constitutional and socio-legal questions since Independence. It concerns the possibility of replacing religion-based personal laws with one common set of civil rules applicable to all citizens in matters such as marriage, divorce, succession, inheritance, guardianship and adoption. The debate over the UCC reflects a larger tension between equality and diversity, individual rights and group identity, and constitutional morality and religious autonomy. This paper studies the concept and meaning of the Uniform Civil Code and traces the historical evolution of civil law in India from pre-Vedic and Vedic civilisation to the Mauryan and Gupta periods, followed by the advent of the Mughals, and finally the British colonial legal system, which formalised separate personal laws for different religious communities. The paper then examines the post-independence constitutional position, the development of reformed personal laws, and the judicial discourse surrounding the UCC, particularly through landmark decisions such as Mohd. Ahmed Khan v. Shah Bano Begum and Sarla Mudgal v. Union of India. It also analyses the concept of secularism as a Western idea and its adaptation in the Indian constitutional context. The paper argues that while the UCC is often seen as a tool for equality, gender justice and national integration, its implementation in India requires a balanced approach that respects pluralism, minority rights and constitutional values. The issue is not merely whether India should adopt a Uniform Civil Code, but how such a code can be framed in a manner that is inclusive, just and consistent with the democratic character of the Constitution.

Keywords- Uniform Civil Code, Personal Law, Secularism, Shah Bano, Sarla Mudgal, Article 44, Family Law, Constitutional Law, Gender Justice, Legal Pluralism

Introduction

India is a country of immense diversity, marked by multiple religions, languages, customs and traditions. This pluralism is also reflected in its legal system, especially in the area of



personal law. Unlike criminal law, contract law or procedural law, which generally apply uniformly to all citizens, personal law in India differs according to religious community. Thus, marriage, divorce, maintenance, inheritance, guardianship and adoption are governed by different legal rules for Hindus, Muslims, Christians, Parsis and certain tribal communities.

The concept of a Uniform Civil Code (UCC) seeks to replace these religion-based personal laws with one common civil law applicable to all citizens irrespective of faith. The constitutional basis of this idea lies in Article 44 of the Constitution of India, which directs the State to endeavour to secure a Uniform Civil Code throughout the territory of India. However, the matter remains controversial because it involves not only legal reform but also questions of religious freedom, minority rights, secularism, gender justice and national integration.

The debate on the UCC cannot be understood without examining the historical development of civil law in India. Civil law in India has evolved over centuries through customary practices, Dharmashastric norms, Islamic legal traditions, colonial codification and post-independence constitutional reform. The present paper attempts to study this evolution and to critically analyse the contemporary legal and constitutional debate surrounding the Uniform Civil Code.

Objectives of the study

1. To explain the meaning and scope of the Uniform Civil Code in India.
2. To trace the development of civil law in pre-Vedic and Vedic civilisation.
3. To examine the nature of civil law during the Mauryan and Gupta periods.
4. To analyse the impact of the Mughal period on Indian civil law.
5. To study the role of the British colonial administration in codifying and crystallising separate personal laws.
6. To understand the post-independence constitutional position and the reform of personal laws in India.
7. To examine the concept of secularism in its Western form and its adaptation in India.
8. To discuss important judicial decisions such as Shah Bano and Sarla Mudgal and their relevance to the UCC debate.
9. To analyse the present demand for a Uniform Civil Code and the issues surrounding its implementation.

Research Methodology

This paper is based on doctrinal and analytical research methodology. It relies on secondary sources such as books, journal articles, constitutional provisions, statutory materials and judicial decisions. The study is descriptive in tracing the historical development of civil law, and analytical in examining the constitutional and judicial debates on the Uniform Civil Code.



Relevant case laws and legislative developments have been used to understand the legal position and the policy implications of the UCC in India.

Meaning and scope of uniform civil code

A Uniform Civil Code refers to a common body of civil laws governing personal matters for all citizens without discrimination based on religion. It is generally understood to cover marriage and divorce, maintenance and alimony, succession and inheritance, adoption and guardianship, and family relations and related civil obligations. The UCC does not seek to interfere with religious worship, rituals or matters of faith as such. Its focus is on civil relationships that have legal consequences. The idea is that all citizens, irrespective of religion, should be subject to the same civil rules in family matters, thereby promoting equality, justice and uniformity.

Development of civil law in pre-vedic and vedic civilisation

In pre-Vedic society, law existed primarily in the form of customary rules and tribal practices. Social relations were regulated by family, clan and community traditions rather than by codified legal texts. During the Vedic period, the concept of Dharma emerged as the foundation of social order. Dharma included notions of duty, morality, righteousness and law. Civil and family relations came to be guided by religious and customary norms reflected in the Vedas, Dharmasutras, Smritis and later Dharmashastras. The Vedic and post-Vedic legal tradition recognised the family as a patriarchal unit, marriage as a sacrament, inheritance rules based on lineage and ritual duties, and a close relationship between religion and legal obligations.

Civil law during the Mauryan Empire

The Mauryan Empire marked a significant stage in the development of governance and legal institutions in ancient India. The Arthashastra, attributed to Kautilya, provides valuable insight into the legal and administrative system of the period. The Mauryan legal framework recognised Dharma, Vyavahara, Charitra and Rajashasana as sources of law. This indicates that law during the Mauryan period was not purely religious. The state played an active role in dispute resolution and administration, and civil matters such as property disputes, contracts, debt, marriage and inheritance were governed by a combination of custom, dharma and royal authority.

Civil law during the Gupta Empire

The Gupta period is often described as a phase of consolidation of Brahmanical legal and social ideas. During this period, the Dharmashastra tradition became more influential in regulating family and property relations. Civil law during the Gupta period involved greater reliance on Smritis and commentaries, reinforcement of the patriarchal joint family structure, recognition of customary practices and strengthening of inheritance and succession rules under Brahmanical law.



Advent of Mughals and their impact on Civil Law

The arrival of Muslim rulers in India introduced Islamic legal traditions into the Indian legal system. During the

Delhi Sultanate and later the Mughal Empire, Shariat-based principles became relevant in matters concerning

Muslims, especially in family law. Islamic law influenced marriage, divorce, dower, maintenance, inheritance and waqf. At the same time, the Mughal period did not eliminate pre-existing Hindu norms. Instead, a system of legal pluralism developed, where Muslims were often governed by Islamic law in personal matters, while Hindus continued to follow their own customs and Dharmashastric principles.

British rule in India and the crystallisation of personal laws

The British colonial period was the most decisive phase in the formation of the modern Indian legal system. The British introduced uniform laws in criminal law, civil procedure, contract law and evidence, but they retained religion-based personal laws in family matters. Under colonial administration, courts applied Hindu law to Hindus and Muslim law to Muslims in matters of inheritance, marriage and religious customs. In doing so, the British transformed fluid customs and scriptural traditions into more rigid legal systems, thereby crystallising separate personal laws.

Post-independence position and development of modified personal laws

At Independence, India inherited a plural system of personal laws. The framers of the Constitution placed the Uniform Civil Code in Article 44 as a Directive Principle of State Policy. Post-independence India reformed Hindu personal law through the Hindu Marriage Act, Hindu Succession Act, Hindu Minority and Guardianship Act and Hindu Adoptions and Maintenance Act. However, India did not adopt a common civil code and instead continued with separate but partially reformed personal laws.

Secularism: western concept and Indian adaptation

In Western constitutional thought, secularism generally refers to a separation of church and state. Indian secularism, however, developed in a multi-religious context and is based on equal respect for all religions, state neutrality and state intervention for social reform where necessary. The UCC debate is therefore often framed as a question of whether secularism in India requires one common civil law or can coexist with multiple personal laws.

Landmark judicial decisions and the UCC debate

Shah Bano Case: In *Mohd. Ahmed Khan v. Shah Bano Begum* (1985), the Supreme Court held that a divorced Muslim woman could claim maintenance under Section 125 of the Code of Criminal Procedure. The judgment revived the debate on Article 44 and the UCC and highlighted the issue of gender justice within personal laws.



Sarla Mudgal Case: In *Sarla Mudgal v. Union of India* (1995), the Supreme Court held that a Hindu husband could not escape the offence of bigamy by converting to Islam for the purpose of a second marriage. The Court strongly emphasised the need for a Uniform Civil Code to prevent misuse of personal laws.

Contemporary demand for uniform Civil Code

The demand for a Uniform Civil Code is supported on grounds of equality before law, gender justice, national integration and legal certainty. At the same time, critics express concern about minority rights, cultural autonomy, diversity and the possibility of majoritarian bias. Therefore, the debate is not merely about uniformity, but about achieving justice while respecting India's plural social structure.

Conclusion

The Uniform Civil Code remains one of the most complex issues in Indian constitutional law because it involves the interaction of history, religion, equality, secularism and legal reform. The development of civil law in India shows that the country has evolved through multiple layers of legal diversity. The British played a major role in formalising separate personal laws, and post-independence India continued with a plural system while reforming some parts of personal law. Cases such as *Shah Bano* and *Sarla Mudgal* highlight the need to reconcile personal law autonomy with constitutional values. A Uniform Civil Code, if adopted, must be inclusive, consultative, gender-just and consistent with constitutional principles.

Bibliography

1. Books: Mulla, Principles of Hindu Law; Mulla, Principles of Mohammedan Law; Paras Diwan, Family Law in India; H. M. Seervai, Constitutional Law of India; Nandini Chavan & Qutub Jehan Kidwai, Personal Law Reforms and Gender Empowerment; J. Duncan M. Derrett, Religion, Law and the State in India.
2. Statutes: Constitution of India; Hindu Marriage Act, 1955; Hindu Succession Act, 1956; Hindu Minority and Guardianship Act, 1956; Hindu Adoptions and Maintenance Act, 1956; Muslim Personal Law (Shariat) Application Act, 1937; Muslim Women (Protection of Rights on Divorce) Act, 1986; Code of Criminal Procedure, 1973.
3. Cases: *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635; *Lily Thomas v. Union of India*, (2000) 6 SCC 224; *Danial Latifi v. Union of India*, (2001) 7 SCC 740.