

Uniform Civil Code and Gender Justice: A Constitutional Perspective

Neha Pal

(PhD Research Scholar)

Department of Continuing Education and Extension

University of Delhi

Email: neha.pal0017@gmail.com

Abstract

The debate surrounding the Uniform Civil Code (UCC) represents one of the most complex constitutional questions in India, particularly in relation to gender justice and equality. Article 44 of the Indian Constitution directs the State to endeavour to secure a uniform civil code for all citizens; however, the coexistence of religion-based personal laws continues to regulate matters such as marriage, divorce, maintenance, inheritance, and adoption (Basu, 2023). While these personal laws were historically preserved to respect cultural autonomy and religious diversity, several of their provisions have been criticised for perpetuating gender-based inequalities and patriarchal norms (Agnes, 1999; Sen, 2012). This paper examines the constitutional vision of the Uniform Civil Code through the lens of gender justice and substantive equality. It analyses how differential personal laws often result in unequal protection of women's rights across religious communities, thereby creating a tension between constitutional guarantees of equality and the preservation of religious freedom (Menski, 2003). By engaging with constitutional provisions such as Articles 14, 15, 21, and 44, the study explores whether a uniform legal framework can serve as an effective mechanism for ensuring gender equality while respecting India's pluralistic social structure. The paper also critically evaluates key judicial pronouncements including *Mohd. Ahmed Khan v. Shah Bano Begum* (1985), *Sarla Mudgal v. Union of India* (1995), *Shayara Bano v. Union of India* (2017), *Danial Latifi v. Union of India* (2001), and *John Vallamattom v. Union of India* (2003), which have significantly shaped the discourse on personal laws and gender justice. Using a doctrinal and analytical methodology, the study argues that gender justice must remain central to any discussion on the UCC rather than framing it solely as an instrument of national integration or legal uniformity. The paper concludes that although the Uniform Civil Code holds the potential to advance constitutional equality and women's empowerment, its implementation must be gradual, inclusive, and sensitive to India's cultural diversity (Dhagamwar, 1989). A rights-based and gender-sensitive framework rooted in constitutional morality is essential to ensure that the UCC becomes a transformative instrument for substantive equality rather than a mechanism of cultural imposition.

Keywords: Uniform Civil Code, Gender Justice, Indian Constitution, Personal Laws, Constitutional Morality, Women's Rights, Substantive Equality

1. Introduction

The debate on the Uniform Civil Code (UCC) occupies a central position in Indian constitutional discourse. Article 44 of the Constitution, placed within the Directive Principles of State Policy, directs the State to endeavour to secure a uniform civil code for all citizens throughout the territory of India (Basu, 2023). The provision reflects the aspiration of the framers to bring legal uniformity in civil matters such as marriage, divorce, maintenance, inheritance, and adoption. Despite this constitutional directive, India continues to follow a system of religion-based personal laws, under which different communities are governed by distinct legal frameworks (Menski, 2003). Hindu, Muslim, Christian, and Parsi personal laws regulate family relations and succession matters according to religious traditions. While these laws were preserved to respect India's cultural and religious diversity, they have increasingly been criticised for perpetuating gender inequalities (Agnes, 1999). Women across communities often face discriminatory provisions relating to divorce, inheritance, guardianship, and maintenance. Such provisions frequently reflect

patriarchal assumptions about gender roles within the family and limit women's autonomy and economic security (Sen, 2012). This creates a tension between personal laws and constitutional guarantees of equality and dignity. The Constitution of India guarantees equality before law under Article 14, prohibits discrimination on grounds of sex under Article 15, and protects the right to life and dignity under Article 21 (Seervai, 2018). When personal laws operate in a manner that undermines these rights, questions arise regarding their compatibility with constitutional values. In this context, the Uniform Civil Code has emerged as an important constitutional debate. The central issue is not merely legal uniformity but the possibility of ensuring gender justice and substantive equality within India's pluralistic social framework (Dhagamwar, 1989).

1.1 Theoretical Framework: Feminist Constitutionalism and Gender Justice

Feminist constitutionalism provides an important analytical framework for understanding the relationship between constitutional law, gender equality, and social transformation. It examines how legal institutions and constitutional structures may reproduce gender hierarchies while simultaneously offering tools for challenging discrimination (Agnes, 1999). Within the Indian constitutional framework, feminist scholarship emphasises that equality must move beyond formal legal guarantees and address structural inequalities that shape women's lived experiences (Sen, 2012). The Indian Constitution incorporates several transformative principles that resonate with feminist constitutionalism. Articles 14, 15, and 21 collectively establish a normative framework that recognises equality, dignity, and personal autonomy as core constitutional values (Seervai, 2018). Feminist constitutional theory argues that these provisions must be interpreted in a manner that dismantles patriarchal norms embedded within legal and social institutions, including family law. Personal laws governing marriage, divorce, maintenance, and inheritance have historically reflected patriarchal assumptions about gender roles (Menski, 2003). Feminist scholars argue that such laws often regulate women's bodies, labour, and property within the framework of male authority and family control (Agnes, 1999).

Consequently, the persistence of gender-biased personal laws raises important constitutional questions regarding the compatibility of these legal regimes with the guarantees of equality and dignity. From the perspective of feminist constitutionalism, the Uniform Civil Code should not merely aim to standardise legal rules across communities. Instead, it should function as a transformative instrument that eliminates discriminatory practices and ensures substantive equality for women (Sen, 2012).

2. Constitutional Framework of the Uniform Civil Code

2.1 Article 44 and the Vision of the Constituent Assembly

Article 44 reflects the long-term constitutional goal of establishing a common civil law for all citizens. During the Constituent Assembly debates, Dr. B.R. Ambedkar clarified that the provision was intended as a gradual reform rather than an immediate imposition (Basu, 2023). The placement of Article 44 within the Directive Principles indicates that while the goal is constitutionally significant, its implementation depends on social consensus and legislative action. The Constitutional Framework of the Uniform Civil Code (UCC) is primarily based on the relationship between Article 44, which directs the State to endeavour to secure a Uniform Civil Code for all citizens, and the Fundamental Rights guaranteeing equality, non-discrimination, dignity, and personal liberty. Article 44 is contained in Part IV—Directive Principles of State Policy; therefore, it is not directly enforceable by courts, but it represents an important constitutional objective for legislative policy.

The constitutional foundation of the UCC is further strengthened by Articles 14, 15 and 21. Article 14 guarantees equality before law and equal protection of laws, Article 15 prohibits discrimination, including discrimination on the ground of sex, and Article 21 protects life and personal liberty, including the constitutional values of dignity and individual autonomy. These provisions are particularly significant from the perspective of gender justice, because personal laws relating to marriage, divorce, maintenance, inheritance and guardianship can directly affect women's rights and status.

The Constituent Assembly also discussed the UCC in the context of balancing individual rights, religious freedom and India's social diversity. The constitutional approach was not simply to impose immediate uniformity, but to leave scope for gradual legal reform and democratic consensus. Thus, Article 44 must be understood alongside the constitutional commitment to religious freedom under Articles 25–28.

Consequently, the constitutional framework of the UCC involves a delicate balance between equality and religious freedom, individual rights and community autonomy, and legal uniformity and cultural pluralism. A constitutionally legitimate UCC should therefore not merely create identical rules for everyone; it should promote substantive equality, gender justice, dignity and individual autonomy while remaining sensitive to India's pluralistic character. In this sense,

the UCC can become a transformative constitutional instrument rather than merely a mechanism for legal uniformity (Basu, 2023; Seervai, 2018; Dhagamwar, 1989)

2.2 Fundamental Rights and Gender Equality

The constitutional commitment to gender justice is embedded in several fundamental rights:

- * Article 14 – Equality before law
- * Article 15 – Prohibition of discrimination on grounds of sex
- * Article 21 – Right to life and dignity

These provisions collectively establish a framework that requires laws to respect equality and individual autonomy (Seervai, 2018).

3. Gender Justice and Personal Laws

3.1 Patriarchal Bias in Personal Laws

Patriarchal bias in personal laws refers to legal provisions and practices that historically reflect male-dominated social structures and unequal gender roles within the family. In areas such as marriage, divorce, maintenance, inheritance, guardianship, and property rights, certain personal-law provisions have been criticised for giving men greater authority or economic security than women. Such inequalities can restrict women's autonomy, dignity, and decision-making power and reinforce traditional gender hierarchies. Flavia Agnes argues that personal laws have often operated within broader patriarchal social structures, affecting women's rights and access to justice (Agnes, 1999). Similarly, Menski highlights the complex relationship between personal law, tradition, and social change (Menski, 2003). From a Feminist Constitutionalism perspective, these inequalities must be addressed through Substantive Equality, rather than merely formal equality, ensuring equal rights, dignity, and autonomy for women (Sen, 2012)

Across different religious communities, personal laws have historically reflected patriarchal structures (Menski, 2003). Discriminatory provisions include:

- Unequal grounds for divorce
- Restrictions on women's right to maintenance
- Limited inheritance rights
- Male-centric guardianship rules

Such provisions often reinforce gender hierarchies and limit women's participation in social and economic life (Agnes, 1999).

3.2 Substantive Equality as a Constitutional Mandate

The concept of substantive equality goes beyond formal equality by recognising historical and structural disadvantages faced by women (Sen, 2012).

The Indian Constitution seeks to transform social relations by addressing systemic discrimination (Seervai, 2018). Therefore, legal reforms must ensure not only equal treatment but also equitable outcomes.

A gender-just Uniform Civil Code must therefore eliminate discriminatory practices while safeguarding women's dignity and autonomy.

4. Judicial Interventions and the UCC Debate

The judiciary has played a crucial role in shaping the discourse on personal laws and gender justice (Baxi, 1980).

Shah Bano Case

The Supreme Court in *Mohd. Ahmed Khan v. Shah Bano Begum* (1985) held that a divorced Muslim woman is entitled to maintenance under Section 125 of the Criminal Procedure Code. The Court emphasised the need for a Uniform Civil Code to remove legal inconsistencies.

Sarla Mudgal Case

In *Sarla Mudgal v. Union of India* (1995), the Court held that conversion to Islam for the purpose of contracting a second marriage constituted an abuse of personal laws.

Shayara Bano Case

The Supreme Court in *Shayara Bano v. Union of India* (2017) declared the practice of instant triple talaq unconstitutional for being arbitrary and violative of Articles 14 and 21.

Additional Important Cases

In *Danial Latifi v. Union of India* (2001), the Court interpreted the Muslim Women Act in a manner consistent with gender justice by ensuring long-term maintenance for divorced Muslim women.

In *John Vallamattom v. Union of India* (2003), the Court struck down discriminatory provisions in Christian succession law and reiterated the importance of a Uniform Civil Code.

5. Cultural Diversity and Constitutional Morality

Opposition to the UCC often arises from concerns about cultural pluralism and minority rights (Dhagamwar, 1989). However, the doctrine of constitutional morality requires that cultural practices conform to fundamental rights (Seervai, 2018).

The Supreme Court has repeatedly held that traditions cannot justify discrimination, particularly against women.

6. Contemporary Developments

The contemporary debate on the Uniform Civil Code (UCC) has increasingly shifted towards questions of gender justice, substantive equality, individual autonomy, and constitutional morality. A major recent development is the implementation of the Uniform Civil Code in Uttarakhand, which came into effect on 27 January 2025. Uttarakhand became the first Indian state to implement a comprehensive UCC covering matters such as marriage, divorce, maintenance, inheritance, succession, adoption, and live-in relationships. The accompanying Uniform Civil Code, Uttarakhand, Rules, 2025 provide procedures for implementing these provisions and emphasise equality and consistency across communities (Government of Uttarakhand, 2025).

From the perspective of gender justice, this development is significant because a common legal framework can potentially reduce discriminatory practices and strengthen women's rights in family and property matters. At the same time, contemporary UCC discourse raises concerns regarding religious freedom, cultural diversity, privacy, minority rights, and individual choice. Therefore, the constitutional challenge is to achieve equality without creating cultural imposition. A gender-sensitive UCC should focus on eliminating patriarchal discrimination while preserving legitimate diversity. The present debate consequently requires a rights-based, inclusive, consultative, and constitutionally balanced approach, in which legal uniformity becomes a means of achieving dignity, equality, autonomy, and substantive gender justice, rather than an end in itself (Basu, 2023; Dhagamwar, 1989; Government of Uttarakhand, 2025)

7. Conclusion

The Uniform Civil Code (UCC) represents an important constitutional aspiration towards equality, justice, and a common framework of civil rights. However, its constitutional significance should not be understood merely in terms of legal uniformity or national integration. From the perspective of gender justice, the real objective of the UCC should be to eliminate discriminatory and patriarchal practices within personal laws and to ensure substantive equality, dignity, autonomy, and equal legal protection for women.

The constitutional framework under Articles 14, 15, 21 and 44 provides a strong foundation for harmonising personal laws with the principles of equality and individual dignity. At the same time, Articles 25–28 remind us that any reform must remain sensitive to religious freedom, cultural diversity, and minority rights. The judicial interventions in Shah Bano, Sarla Mudgal, Danial Latifi, John Vallamattom, and Shayara Bano demonstrate that personal laws cannot remain completely insulated from constitutional values when they affect fundamental rights and gender equality.

The recent implementation of the Uniform Civil Code in Uttarakhand has further transformed the UCC from a predominantly theoretical constitutional aspiration into an area of practical legal experimentation. It also provides an opportunity to examine how uniform civil regulation can address gender-based inequalities while responding to concerns relating to privacy, diversity, and individual autonomy.

Therefore, this study argues that a gender-just UCC should not seek uniformity for its own sake. Rather, it should be designed as a transformative constitutional instrument that removes structural discrimination, strengthens women's rights, and promotes substantive equality. Its formulation and implementation should be gradual, inclusive, consultative, rights-based, and consistent with constitutional morality. Ultimately, the success of the UCC should be measured not by how uniformly it regulates different communities, but by how effectively it guarantees equal citizenship, dignity, autonomy, justice, and meaningful empowerment for every individual, particularly women, within India's pluralistic constitutional democracy.

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