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EDITORIAL ANALYSIS

# Uniform Civil Code — Beyond Uniformity to Justice

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# Uniform Civil Code — Beyond Uniformity to Justice

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## INTERVIEW ANGLE

*"The UCC debate frames uniformity and minority rights as opposites — but is the real question not uniformity vs diversity, but rather which standards of justice should be the baseline for all personal law systems?"*

## THE CORE ARGUMENT

Recent judicial observations have renewed pressure for implementing a Uniform Civil Code across India. This editorial argues that while the aspiration for a UCC is constitutionally grounded, a **blanket uniformity approach risks harming the very communities it claims to empower** — particularly Muslim women. The better path is gradual, piecemeal harmonisation of personal laws that incorporates the most progressive elements from each tradition.

## CONSTITUTIONAL MANDATE AND POLITICAL REALITY

### Article 44: A Directive, Not a Command

The Uniform Civil Code is enshrined in **Article 44** of the Constitution as a Directive Principle of State Policy — it directs the state to “endeavour to secure for the citizens a uniform civil code throughout the territory of India.”

Crucially, DPSPs are **non-justiciable** — they cannot be enforced by courts. But they represent constitutional aspirations. The Supreme Court has repeatedly remarked that the UCC remains an “unfulfilled constitutional mandate.”

### The Fundamental Rights Tension

Against Article 44 stands **Article 25** — the right to freely profess, practice, and propagate religion — and **Article 29** — the right of minorities to conserve their distinct culture. Personal law, for most communities, is inseparable from religious and cultural identity.

The constitutional tension is real: the same document that mandates a UCC also protects the diversity that a UCC would curtail.

## THE MUSLIM WOMEN QUESTION

### What UCC Proponents Argue

Supporters argue a UCC would:

- End triple talaq practices (already legislatively banned by the Muslim Women (Protection of Rights on Marriage) Act, 2019)
- Ensure equal inheritance rights for Muslim women (currently 1/2 of male share under Hanafi law)
- Provide equal divorce rights comparable to Hindu women under Hindu Marriage Act, 1955

### The Counter-Argument: Where Muslim Women Could Lose

A carefully drafted UCC that uses Hindu personal law as the default template could paradoxically harm Muslim women in areas where Islamic personal law is more progressive:

- **Mehr (dower):** A mandatory payment from husband to wife — no equivalent exists in Hindu law
- **Maintenance during iddat:** Guaranteed financial support post-divorce — though limited in duration
- **Property rights:** In some interpretations, Muslim women have stronger rights to pre-marital assets

The risk is a UCC that achieves uniformity at the level of the **lowest common denominator** rather than the highest standard of justice.

## THE PIECEMEAL HARMONISATION MODEL

### What It Proposes

Instead of a single sweeping code, reform personal laws incrementally:

- 1 **Codify uncodified customs** — many tribal and community-specific practices are still unwritten; codification alone would improve women's rights
- 2 **Progressive inheritance** — amend all personal laws to provide equal inheritance, beginning with the most egregious disparities
- 3 **Uniform age of marriage** — already achieved through Prohibition of Child Marriage (Amendment) Act

- ④ **Uniform adoption rights** — Muslim families still cannot adopt under the Juvenile Justice Act's more streamlined framework

## International Examples

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- **Turkey (1926):** Rapid UCC implementation via secular revolution — effective but through authoritarian imposition
- **France:** Civil Code applies uniformly but religious communities retain ceremonial (non-legal) traditions
- **India's own success:** Special Marriage Act, 1954 — a voluntary UCC for those who choose civil marriage across religion — demonstrates that a non-coercive path is possible

## UPSC MAINS RELEVANCE

**GS2 — Polity/Governance:** Constitutional provisions (Article 44, 25, 29), Supreme Court observations on UCC (Shah Bano, Sarla Mudgal, John Vallamattom cases), personal law reform.

## UPSC RELEVANCE

State shall endeavour to secure a Uniform Civil Code for citizens

### ARTICLE 25:

Freedom to profess, practice, propagate religion (subject to public order, morality, health)

### ARTICLE 29:

Right of minorities to conserve distinct language, script, culture

### SHAH BANO CASE (1985):

SC held Muslim women entitled to maintenance under CrPC Section 125; Parliament reversed via Muslim Women (Protection of Rights on Divorce) Act 1986

### MUSLIM WOMEN ACT, 2019:

Criminalised instant triple talaq; 3 years imprisonment

### SPECIAL MARRIAGE ACT, 1954:

Enables inter-religious civil marriage; voluntary UCC framework

### MEHR (MAHR):

Mandatory gift/payment from groom to bride under Islamic marriage law; not present in Hindu/Christian personal law

### UCC IN INDIA SO FAR:

Only Goa has a UCC — inherited from Portuguese Civil Code (Goa Civil Code, 1870)

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