

International Human Rights and the Uniform Civil Code in India

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Gaurav Pratap Singh

Research Scholar
Department Of Political Science
M.J.P.R.U. University
Bareilly, U.P., India

Manmeet Kaur

Professor
Department Of Political Science
M.J.P.R.U. University
Bareilly, U.P., India

Abstract

The current paper examines how the international human rights frameworks are coming together with the idea to introduce a Uniform Civil Code in India. Though India has ratified major human rights treaties and subscribes to the constitutional ideals of equality and non-discrimination, due to high demographic diversity, the personal laws in the country have created inconsistencies in the country. Through a scrupulous textual critique, the paper illustrates that mechanisms like Universal Declaration of Human Rights, Convention on the Elimination of All Forms of Discrimination Against Women, and the International Covenant on Civil and Political Rights require states to ensure the security of the civil rights on an even-handed footing, and how India could follow up on a Uniform Civil Code to meet its international obligations.

Keywords

Demographic, Convention, Universal, Scrupulous.

Introduction

The recent controversy on whether India should have a Uniform Civil Code (UCC) has focused on the issues of gender justice, equality of laws, and propaganda of the human rights. A normative basis of such a reform can be provided by the international human rights law, which requests the states to remove inherently discriminatory personal laws that do not support the rights developed through such legal instruments as the Universal Declaration of Human Rights, the Convention on the Elimination of all Forms of Discrimination Against Women and the International Covenant on Civil and Political Rights. However, even with clear constitutional mandate of equality provisions in Article 14, 15, and 21 and the directive in Article 44 to provide a UCC, the personal laws in India remain discriminatory especially against women.

Objective of study

The objective of this paper is to examine how the international human rights frameworks are coming together with the idea to introduce a Uniform Civil Code in India.

Review of Literature

International Legal Framework

1 Universal Declaration of Human Rights, 1948

The United Nations General Assembly adopted a universal declaration of human rights issued on 10 December 1948, which forms part of the history of human rights development. Though unconsidered as the binding law, it sets a global norm the individual rights and freedoms are to be secured.

Key Articles relevant to Uniform Civil Code and gender equality

Article 1: *"All human beings are born free and equal in dignity and rights."*

This emphasizes the universality of equality and lays the ethical foundation for laws that treat all citizens equally, regardless of gender or religion.

Article 2: *"Everyone is entitled to all the rights and freedoms... without distinction of any kind, such as race, colour, sex, language, religion..."*

This article reinforces the idea that legal systems, including personal laws, must not discriminate based on gender or religion.

Article 16(1)-(3):

"Men and women of full age... have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution."

This explicitly supports the notion of equality in marriage and family life, which is often undermined by gender-biased personal laws in India.

The values that are expressed through this discourse indicate the need of a Uniform Civil Code in the Indian context, so that the personal laws, the attitude to marriage, divorce and inheritance, will be freed of discrimination, on the basis of gender and religious affiliation.

Main Text

Documented cases summary Table

Sl. No.	Case Title & Citation	Year	Relevant UDHR Article(s)	Core Issue / Theme	Key Judgment Summary
1	Maneka Gandhi v. Union of India, AIR 1978 SC 597	1978	Art. 3 (Right to Life), Art. 13 (Freedom of Movement)	Passport impoundment and personal liberty	The Supreme Court held that "right to life and personal liberty" under Article 21 of the Indian Constitution must be interpreted in line with international human rights principles, including UDHR.
2	Francis Coralie Mullin v. Administrator, Union Territory of Delhi, AIR 1981 SC 746	1981	Art. 3 (Life), Art. 5 (Freedom from Cruel Treatment)	Rights of prisoners and humane treatment	The Court held that life under Article 21 includes the right to live with dignity and humane conditions, drawing upon UDHR norms.
3	Apparel Export Promotion Council v. A.K. Chopra, AIR 1999 SC 625	1999	Art. 1 (Dignity), Art. 23 (Right to Work)	Sexual harassment and gender equality	The Court upheld the principles of gender dignity and workplace safety for women, interpreting Indian law through the lens of UDHR and CEDAW.
4	Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180	1986	Art. 25 (Right to Adequate Living), Art. 23 (Right to Work)	Right to livelihood of pavement dwellers	The Court held that the right to life includes the right to livelihood, resonating with UDHR's social and economic rights.
5	National Legal Services Authority (NALSA) v. Union of India, AIR 2014 SC 1863	2014	Art. 2 (Non-Discrimination), Art. 7 (Equality Before Law)	Recognition of transgender persons' rights	The Court invoked UDHR's universal equality principles to recognize transgender persons as "third gender," ensuring dignity and equal protection.

Table: India and the Universal declaration of Human Right, 1948

2 International Covenant on Civil and Political Rights, 1966

The ICCPR is an international document that came into force in 1976 after its ratification by the United Nations. The document aims at securing civil and political rights on the global scene. India accepted ICCPR in 1979 so that India has undertaken to convert its clauses into domestic laws of India.

Two key articles relevant to Uniform Civil Code and gender justice are:

Article 23:

"The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. Men and women... have the right to marry and to found a family..."

This article recognizes the equal rights of men and women in family matters and supports legal frameworks that ensure non-discriminatory personal laws.

Article 26:

"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law..."

Equitable treatment under the law is a fundamental objective in any legal system, and prohibiting discrimination based on sex, religion, or birth is essential to achieving this

aim. The concept of personal law is thus understood in scholarly literature as secular, consistent, and gender-neutral legislation.

India must reform its personal laws, which are rooted in specific religions, discriminate against women, and do not conform to international human rights standards. The Uniform Civil Code aims to achieve this objective by standardizing family law across all traditions.

Documented cases summary Table

S. No.	Case Title & Citation	Year	Issue Involved	Relevant ICCPR Article(s)	Judicial Observation / Use of ICCPR	Outcome / Key Principle Established
1	D.K. Basu v. State of West Bengal, AIR 1997 SC 610	1997	Custodial violence, unlawful arrest, and detention	Article 9(1) & 9(5) – Right to liberty and compensation for unlawful arrest	Supreme Court referred to ICCPR provisions to justify compensation for custodial abuse and mandated detailed arrest guidelines.	Strengthened safeguards for detainees; recognized compensation as a constitutional remedy.
2	People's Union for Civil Liberties (PUCL) v. Union of India, (1997) 1 SCC 301	1997	Telephone tapping and surveillance violating privacy	Article 17 – Protection against arbitrary or unlawful interference with privacy	ICCPR cited as persuasive authority to interpret Article 21 (Right to Life and Personal Liberty).	Recognized right to privacy as implicit in Article 21 and established procedural safeguards for surveillance.
3	Naz Foundation v. Government of NCT of Delhi, 160 DLT 277 (Delhi HC)	2009	Constitutionality of criminalizing same-sex relations	Articles 17, 26 – Privacy and non-discrimination	The Delhi High Court used ICCPR as interpretive support to align domestic law with international human rights standards.	Struck down Section 377 IPC to the extent it criminalized consensual adult relations (later affirmed in Navtej Johar).
4	Selvi & Ors. v. State of Karnataka, (2010) 7 SCC 263	2010	Involuntary narco-analysis, polygraph and brain-mapping tests	Articles 7, 10, and 14 – Protection from degrading treatment and right to fair trial	The Court invoked ICCPR norms prohibiting compulsion and cruel treatment to interpret Article 20(3) and Article 21.	Held that involuntary scientific tests violate personal liberty and dignity; reaffirmed protection from self-incrimination.
5	Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1	2017	Recognition of right to privacy as a fundamental right	Article 17 – Right to privacy and protection from arbitrary interference	Supreme Court relied on ICCPR to elaborate privacy as a global human right embedded within Article 21.	Declared the Right to Privacy a fundamental right under the Constitution.
6	Navtej Singh Johar v. Union of India, (2018) 10 SCC 1	2018	Decriminalization of consensual same-sex relations (Section 377 IPC)	Articles 17 & 26 – Right to privacy and equality before law	The Court cited ICCPR principles on dignity, equality, and privacy to affirm rights of sexual minorities.	Section 377 read down; upheld equality, dignity, and privacy of LGBTQ+ persons.

Table: Major India judicial decision reflecting principles of the International Covenant on Civil and Political Rights (ICCPR, 1966)

3. Convention on the Elimination of All Forms of Discrimination against Women, 1979

The Convention on the Elimination of All Forms of Discrimination against Women was enacted by the United Nations General Assembly in 1979 and became effective in 1981. Its objective is to eliminate all forms of prejudice against women in both private and public spheres.

India signed the Convention on the Elimination of All Forms of Discrimination against Women on 9 July 1993, committing to adhere to globally recognized principles of gender equality. Nevertheless, the country issued a formal reservation regarding several selections it deemed incompatible with its religiously based personal laws.

Reservations Explained

Article 5(a)

This article obligates State Parties to:

"Alter the social and cultural behaviors of men and women to eradicate biases rooted in the notion of either sex's inferiority or superiority..."

India's Reservation:

India stated that it could not guarantee immediate compliance with this article due to the **sensitivity of religious and cultural practices**, which are often protected under **personal law** frameworks.

Articles 16(1) and 16(2)

These provisions mandate equal rights for women and men in all aspects concerning marriage and family relations, including:

The same right to enter marriage,

Equal rights during and after marriage,

Equal rights in decisions related to children, property, divorce, etc.

The reservation of India is a matter of the congruence of the proposed measures with its pluralistic legal system, including the personal laws with the distinction on religious grounds. Uniformity of standards in family matters, it contended would trample on the existing religious protection the Indian Constitution provided.

Implication of Reservations

CEDAW applies to the Indian legal system, but reservations to the system are resisted (on the personal laws governing activities in domain of family, inheritance, and succession).

Polygamy (permitted under Muslim law)

Inheritance and guardianship disparities

Unequal divorce rights in various communities

The United Nations Committee on the Elimination of Discrimination against Women has strongly protested at the reservations that India has made on the CEDAW convention commenting on the fact that these reservations are standing in the way of creating a uniform legal framework on the national basis that encompasses the international standards of universal human rights. The issues that the committee was concerned with focused on the fact that personal laws including the laws governing family relations were still in the same room as these standards. CEDAW Committee has thus once again urged India to abandon these reservations and to amend the personal laws in a manner that they will promote the equality between genders actively.

Even though some Indian commentators managed to present the reservations over the requirements of complying with the provisions of the Convention on the Elimination of all Forms of Discrimination against Women, India still has the duty to comply with the main points in the Convention. The basis of such obligation is put in the explicit recognition, contained in Article 2 of CEDAW, that discrimination against women is a violation of fundamental rights of flanking onto the express recognition in Article 16 of the Convention that women participate, with men in right of taking part in public life, on an equal basis.

Another and more militant action is to have under Article 5(a) and 16(1) 16(2) of the Convention on the Elimination of All Forms of Discrimination against Women the state of reservation and remain legally bound to protect the ultimate, unjustifiable standards of the Convention. This is the responsibility of eliminating gender discrimination and efficiently promoting legal equality in any field of life.

Article 2 – Obligation to Eliminate Discrimination in Law and Practice

This article mandates that states must:

"Expediently implement a policy aimed at eradicating prejudice against women through all suitable measures..."

In Indian context, academic study requires a careful re-examination, modification or abolishment of discriminatory laws in existences which limit rights of women. Special

consideration should be made to personal law that historically did not give women equal opportunities to resources and rights.

This area of study cuts across the aspects of marriage, divorce, alimony and inheritance and every situation where the personal laws come into conflict with gender rights.

Article 15 – Equality before the Law

"States Parties shall grant women equal legal status to that of males..."

The given provision grants an equal legal competence to women and grants them the same rights in civil affairs as men do.

Any normative rule system that is based on religion and limits the scope of women (whether it evokes limitations on property rights, absolves one-sided divorce, or institutionalizes escorts) is considered a violation of international human rights obligations

Judicial Significance: The Indian judiciary has become more and more reliant on CEDAW article 15 for interpreting the lacunae in the constitution, especially in relation to two principles subtly contained in articles 14 and 15 of the constitution (equality before the law and the prohibition of discrimination on the basis of sex, race, caste, religion, descent or place of origin) in explicit view to promote gender equality.

3. Article 16 – Equality in Family and Marriage

"States Parties shall take all requisite measures to eliminate discrimination against women in all matters related to marriage and family relations..."

Although India has partially denounced the article 16 of the convention, the so broad of its intentions stipulated in the article will still remain under the guidance of the regulatory frame of treaty interpretation. The State of India cannot ignore the obligation that it would have to mitigate discriminatory practices with respect to issues of marriage, divorce, inheritance and custody of child.

Judicial Recognition: In the constitutional debate, judicial recognition is a very important tool of moving gender justice. The most important ruling of this case is the judgment of the Supreme Court in Shayara Bano v. This relationship can be seen through the case of the Union of India (2017), which overthrew the custom of triple talaq and expressly referred to the equality constituted in the Constitution using Articles 14 and 21 as well as referring to what India had to do to comply with the commitments of CEDAW.

The current volume of essays is a critique of the gender bias in many of the personal laws in India and it includes the case law in favor of the Uniform Civil Code that may be one way wherein women can obtain universal rights wherein the religious boundaries have been overouverture.

Documented cases summary Table

S. No.	Case (Year & Citation)	Core Issue / Link to UCC	CEDAW Relevance / Use by the Court	Judicial Outcome / Significance for UCC
1	Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945	Maintenance rights of divorced Muslim women under Section 125 CrPC vs. Muslim Personal Law.	Though pre-CEDAW ratification, later interpretations link its reasoning with CEDAW's non-discrimination principle (Articles 1, 2, 15). The Court emphasized equality and secular protection under Article 44 (UCC).	Landmark case advocating gender justice beyond personal law; triggered UCC debate. Cited as aligning with CEDAW's spirit after 1993 ratification.
2	Sarla Mudgal v. Union of India, (1995) 3 SCC 635	Hindu husband converting to Islam for second marriage — conflict between personal laws.	The Court called for UCC to end gender and religious inequality in marriage laws. CEDAW's equality mandate supports this rationale.	Strong judicial endorsement for UCC implementation to secure women's equality and protection from personal law exploitation.
3	Vishaka & Ors. v. State of Rajasthan, AIR 1997 SC 3011	Sexual harassment at workplace — lack of legislative protection.	Court directly invoked CEDAW and General Recommendation No. 19 (1992), applying international law principles within domestic constitutional framework (Articles 14, 15, 21).	Established "Vishaka Guidelines." Demonstrated that international conventions (CEDAW) can supplement constitutional rights—supports approach for UCC as gender-equality measure consistent with international commitments.
4	Githa Hariharan v. Reserve Bank of India, (1999) 2 SCC 228	Gender discrimination in guardianship laws under Hindu Minority and Guardianship Act, 1956.	Although not explicitly citing CEDAW, judgment reflects CEDAW's call for equality in family relations (Article 16). The Court read gender-neutral interpretation consistent with India's treaty obligations.	Reinforced equality in family law, indirectly supporting uniform personal laws consistent with gender justice and CEDAW obligations.
5	Danial Latifi v. Union of India, (2001) 7 SCC 740	Challenge to Muslim Women (Protection of Rights on Divorce) Act, 1986.	Court balanced personal law with constitutional equality principles and interpreted Act to ensure <i>fair and reasonable provision</i> — consistent with CEDAW Articles 2(f) and 16(1)(c).	Upheld Act but expanded women's rights through liberal interpretation; exemplified judicial harmonization of personal law with international gender equality norms (CEDAW), aligning with UCC ideals.
6	John Vallamattom v. Union of India, (2003) 6 SCC 611	Discriminatory provision in Indian Succession Act affecting Christians.	The Court referred to equality principles in light of international human rights standards including CEDAW, emphasizing uniformity across personal laws.	Declared Section 118 unconstitutional; reinforced constitutional secularism and equality in personal law inheritance — strengthening argument for UCC.
7	Shayara Bano v. Union of India, (2017) 9 SCC	Triple Talaq (Instant Divorce) and gender justice under Muslim Personal Law	Though CEDAW not directly cited, the Court's reasoning mirrors CEDAW Article 16(1)(c) (equality in marriage and family). Government and amicus submissions referred to India's CEDAW obligations.	Declared instant triple talaq unconstitutional; advanced CEDAW's goal of eliminating discrimination in family life — major UCC-aligned ruling.
8	Joseph Shine v. Union of India, (2018) 2 SCC 189	Section 497 IPC (Adultery) — gender discrimination in criminal law.	Court referenced global gender equality standards, interpreting domestic laws consistent with CEDAW Articles 1 & 16.	Decriminalized adultery on equality grounds; expanded understanding of women's agency within marriage — supportive of gender-equal UCC framework.

Table: Major Indian Cases Relating to CEDAW, 1979

3. India's Legal and Constitutional Commitments

Constitution of India is a normative structure with substantive rights and general guidelines which provide legal and moral support that the formulation and establishment of a Uniform Civil Code needs.

The provisions covered in this article are supposed to preserve equality, non-discrimination, and dignity especially women who mostly experience personal laws that are discriminatory.

1. Article 14 – Equality before Law

"The State shall not discriminate against any person on grounds of race, color, sex, language, religion, political or other opinion, national origin, property, birth or any other status..."

Indeed, legal equality is essential regardless of religion, caste, or gender of a person.

Disproportionate treatment becomes evident in various areas and the most prominent of them, introduced by personal laws, is manifested in marriage, divorce, inheritance, and adoption, depending on religious affiliation of an individual.

The adoption of a Uniform Civil Code would encompass different regulations; it would ensure the actual conclusion of the ideal of equal protection under the law.

2. Article 15(1) – Prohibition of Discrimination

"The State shall not discriminate against any citizen of the nation solely on the grounds of religion, race, caste, sex, place of birth or any combination thereof."

The current piece of writing decisively forbids the discrimination by the State in any way possible.

Getting a number of religious personal laws discriminating against women with respect to rights to marriage, guardianship and successions have, in a way, infringed Article 15 of the Indian Constitution.

To get rid of legal differences based on sex or religion, the conception of a Uniform Civil Code brings enough advantages that cannot be disregarded.

3. Article 21 – Right to Life and Personal Liberty

“No individual shall be deprived of life or personal liberty unless in accordance with established legal procedures...”

The Supreme Court, in its legal jurisprudence, views Article 21 of the Constitution to guarantee a person with life with dignity and autonomy and personal independence.

Women are systematically discriminated against through the personal laws, a set of practices that denies them their dignity and autonomy because of gender discrimination.

A uniform civil code has the potential not only to support individual autonomy and dignity across the board, but to do so with especial success among the marginalized women especially. The UCC would contribute to a more effective implementation of personal choices and activities of people, because cross-country unification of a coherent set of laws will help avoid the possibility of jurisdiction fragmentation of personal decisions and agency actions. This cohesiveness further helps in eliminating the possibility of undesired legal consequences of the imbalance between legal regimes. The advantage of the UCC as it concerns women who face socio-cultural disadvantages is that the clarity and consistency of the latter regime are visited upon the former in real gains in life and autonomy.

4. Article 44 – Directive Principle of State Policy

“The State shall strive to establish a unified civil code for all citizens *across India...*”

Article 44 is not justiciable but it creates a requirement as directed by the Constitution according to which the State must abolish all those numerous personal laws by putting in place a general civil code.

The spirit of proposed policy changes by Australia is to build on gender equity, bolster national solidarity and achieve legal conformity in the nation.

The principle of Uniform Civil Code has always been discussed as a constitutional postulate by the Supreme Court and the Law Commissions.

Despite these constitutional provisions, personal laws (Hindu, Muslim, Christian, Parsi, etc.) in India still bear out religious notions and create imbalance in a number of areas including:

The Constitution of India promotes the equality, non-discrimination and dignity (Article 14, 15, 21 respectively); however, there are various personal laws based on religion which manifest patriarchal and religious ideologies thus reinforces the unjust systems, especially on the women.

Polygamy (Permitted under Muslim Law)

Under the stipulations of the Muslim Personal Law Application Act of 1937, Muslim men are permitted to enter into polygynous marriages as delineated by Islamic law.

The impugned practice is in contravention of the constitutional right of equality of gender enshrined in Articles 14 and 15 of the Indian constitution.

The absence of rights for women constitutes another evident instance of gender discrimination.

Inheritance (Disparities across Religions and Genders)

The Hindu Succession Act of 1956, revised in 2005, guaranteed women equal rights to inheritance; however, this has not been completely enforced, particularly in rural areas of the country.

Daughters usually get half of what sons get under Islam.

The Christian and Parsi legal inheritance systems share the characteristic of continuing to show antiquated theories of gender differences. In the Christian tradition, the rules set out by inheritance policies give men a favorable advantage in terms of inheriting parental property as opposed to the Parsi inheritable policies that place daughters in a narrower set of benefiting entitlements compared to the sons. These inconsistencies are rooted in historical doctrinal and social frameworks that occurred long before modern constitutional and statutory amendments, which means they are not easily changed through such schemes.

C. Guardianship and Custody (Male-Prioritized)

Under the Hindu Minority and Guardianship Act of 1956, the father is recognized as the natural guardian; in his absence, the mother may assume guardianship. In this instance, Islamic law prioritizes male relatives regarding guardianship.

The clauses where there is a disagreement put in place a situation that directly clashes with Article 15, as well as the best interest of the child.

D. Divorce (Triple Talaq and Other Inequities)

Triple Talaq or talaq-e-biddat enabled Muslim men to unilaterally and without any consequences, dissolve the marital contract thus denying women a form of protection as well as access to effective domestic law.

Another of the most controversial issues that have taken centre stage in modern anthropologic research deals with a practice that has brought a lot of condemnation

because it contradicts the dignity and equality of women.

The discrepancy that can be observed between the personal laws existing in the current state of India gives a clear indication of how dire the necessity of a Uniform Civil Code is to remove the discrepancies and bring the personal laws in-line with the guidelines regarding equal treatment provided in the constitution.

4. Contradictions and Compliance Challenges

Indian legislation, however, conflicts with religion-based personal laws and despite domestic and international legal frameworks such as the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights, India has yet to comply with and attain gender equality and non-discriminatory laws.

Key Contradictions:

Muslim Personal Law:

Allows polygamy and triple talaq which was again allowed as a form of unilateral divorce. These practices are a breach of CEDAW, specifically, Article 16 in which it states equality in marriage and family life.

In 2017 the Supreme Court of India ruled that the instant triple talaq is un-constitutional and hence illegal in the case of Shayara Bano v. Supreme Court of India, expanding the gender equality that had been applied with prohibition of one of the types of divorce usually alluded to as the most patriarchal and misogynistic. However, the same judgment also declared that polygamy remained legal so there still remains a practice that contravenes the gender equality heralded by the Court.

Christian and Parsi Personal Laws:

The delays in the span of meaningful action towards divorce including during legal adjudication under the influence of the Indian Divorce Act of 1869 have become a strictly gender imbalanced phenomenon.

A tendency to receive trials on long delays is unacceptable according to the Articles 16 of CEDAW and Article 14 of the Indian Constitution, as they give the equality before the law.

Hindu Inheritance Laws:

Traditionally, girls were always under limited succession and more so, under the Mitakshara law where it dealt with joint family property.

The Indian government brought the Hindu Succession (Amendment) Act, 2005, which amends the Hindu Succession Act, 1956, and consequently gives equal right to daughters and sons to inherit. The amendment also has the significant implication of making the Indian creditor-heir law compatible with a number of international conventions which advise on equal treatment of heirs, both male and female.

Though much has been done in the area, the appropriate enforcement of intellectual property rights is a daunting task especially in the rural and traditional communities.

4.1 Judicial Support for Uniform civil code:

Uniform Civil Code was a necessary mechanism the Supreme Court of India has continuously stressed that gender justice, legal equity and secularism need to be safeguarded. There are two vital judgments that provide firm acceptance of this position.

1. Shah Bano v. Union of India (1985)

Facts: A Muslim women who is 62-year-old, Shah Bano was divorced by her husband and denied maintenance after expiration of iddah.

Judgment: The Court held that Section 125 of the Criminal Procedure Code (CRPC), a secular law, is applied to all the citizens irrespective of the religion and thus the Court upheld that Shah Bano was entitled to the maintenance.

Significance: The affirmation of the Court pointed out that constitutional guaranties that highlight equality take precedence over those of personal laws.

The Court made known the legitimacy of Article 44 as an element of the country on the basis that a Uniform Civil Code is a foundation to both nationhood and the promotion of gender equity.

2. Shayara Bano v. Union of India (2017)

Facts: Shayara Bano also challenged in a court of law the validity of such practice/instant triple talaq following a unilateral divorce order made by her husband.

Judgment: This new ruling of the Supreme Court states that instant triple talaq is unconstitutional because it contravenes Article 14 (equality before the law) and Article 21 (right to dignity and personal liberty). The Court also noted that the concept of triple talaq itself does not turn out to be anti-Constitutional, but the instantaneous nature of the utterance makes them arbitrary and discriminatory.

Significance:

The Court agreed that the foremost religion right is not capable of bring some type of justification of sex discrimination.

A common civil code is the need to assure the same and equal rights of all women without any discrimination based on faith under the same law.

The existence of current tensions between India and the personal law system altitudinisation its constitutional and international commitments exists serves as a testament to the critical need of a Uniform Civil Code being put into place.

5. International Monitoring and Recommendations

Personal laws of India have been constantly critiqued internationally along with reservations to CEDAW. A number of UN mechanisms, most notably the CEDAW Committee and Human Rights Council through the Universal Periodic Review have repeatedly dragged India to take substantial steps towards adopting gender-equal law changes.

CEDAW Committee Recommendations:

The CEDAW Committee, in its periodic reviews of India (e.g., 2007, 2014, and 2021), has:

The submissions of the Indian delegation show its reservations to the Articles 5(a), 16(1) and 16(2) that are the core of the discrimination eradication on the familial and cultural level.

It will be necessary to withdraw the current reservations in order to be able to fully implement the Convention.

Some scholars have proposed that personal laws should be modernized and codified so as to achieve a standard against which women may enjoy equal rights of marriage, divorce, inheritance and have rights to custodia.

Universal Periodic Review by the UN Human Rights Council:

Universal Periodic Review of India- (2008, 2012, 2017 and 2022) where several states and UN experts have responded:

The Indian legal system is a pluralistic approach to personal law, i.e. the heterogeneity in family law throughout a range of religion-based communities is very significant. In this backdrop, gender based discrimination has been always a matter of concern with either having different statutory and customary norms with different definition of women in terms of their entitlements. One of the brightest examples is a case of marital property: although many Hindu women obtain the equal right to conjugal property, by the law, customary rights are often violated. The other instance is in divorce procedures; despite the fact that statutes possibly give all the religious majorities same grounds in dissolving a marriage, the practicality of divorce is indeed very different where women usually face greater procedural and substantive hurdles. Concisely, there exists one system of law that coexists with myriad of religious system of law, resulting to a stacked legal reality where gender disparities are instilled.

Against this backdrop, in the literature that has emerged on legal pluralism in India, there has been the argument that either, there has to be the promulgation of a Uniform Civil Code or the reform of the existing personal laws in India so as to bring it in line with the current international human rights norms.

The current study illustrates a disparity between constitutional participation and the actual application of legislation, particularly concerning the rights of minorities and women.

Such analyses reinforce the international discomfort over India having made meagre strides in ensuring that women are deemed to be equally equal in front of the law. Specifically, they state that the nation has to amend its internal law to the provisions of the international normative action and thus, meet its international law responsibilities.

6. Towards a Uniform Civil Code

To uphold international human rights obligations and guarantee gender equality, India needs to take serious legislative and policy measures that would lead to enactment of a Uniform Civil Code that would abide by constitutional dictates, and international commitments.

Key Steps India Must Take

A. Withdraw Reservations to CEDAW Articles 5(a) and 16:

Destruction of the gender-based stereotypes and enactment of the equal rights in the marital, as well as familial, sphere are the main scholarly goals.

CEDAW Committee has continually requested India to withdraw the reserved clause in existence to indicate a genuine engagement towards gender justice.

B. Harmonize Personal Laws under a Gender-Just Civil Code:

The pluralistic nature of the personal law in India needs to be reformed systematically to counter religious and gender based disparities in various fields such as marriage, divorce, inheritance and guardianship.

Academically, there is reasonable justification in the introduction of the uniform civil code due to the argument that this would guarantee the same access to legal rights by all citizens regardless of the religion or sex.

C. Empower the Law Commission and Judiciary for Reforms:

The Law Commission of India has time and again proved its ability in ascertaining the viability of a uniform civil code including in its 2018 consultation paper recommending reform of discriminatory personal laws instead of generating an overarching, one size fits all code.

The Supreme Court has quite been in the forefront to support the gender-equal adjustments in the jurisprudence sphere. Examples of such cases are Shah Bano (1985) and Shayara Bano (2017), to which the Court explained the reason in favor of a Uniform civil code.

D. Emulate Progressive Models like Uttarakhand Uniform Civil Code (2024):

The Uniform Civil Code was first put in place in India in the year 2024 by the state of Uttarakhand which implemented a uniform marriage, divorce, inheritance, and adoption laws applicable to all communities.

The involved model started its development through a thorough consultation that took in many diverse stakeholders, meaning that it has been developed as a model of inclusive legislation, with an excellent example of integrating secular values with traditional cultures.

To actualize its constitutional duties according to Article 44, India needs to make definite actions that will enable it to honor its global commitments, especially in the context of the Convention on the Elimination of All Forms of Discrimination against Women, and the International Covenant on Civil and Political Rights. The first of such measures is the development of national policies and programmes that contain aspects of gender equity and substantive equality. These policies must go beyond acknowledging convergence of dimensions of discrimination be it on basis of class, caste, religious affiliation, or otherwise, and must reflect specific circumstances in the different regions in India. Lengthier changes must be to guarantee systematic interventions to integrate gender-sensitive perceptions on all governance levels, thus instilling ideals of substantive equality in governmental designs and agencies.

Conclusion

Provision of a Uniform Civil Code in India is a constitutional mandate not only under Article 44 but also an effective component in accommodation of the international human rights commitment by India. As the discussion in the present paper shows, there is a clear violation of the principles enshrined in the basic human-right instruments to which the state is a signatory, the Universal Declaration on Human rights, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination against Women, in the continued use by India of personal law based on religion that often discriminates against women. The equality guarantees provided in the constitution and high court rulings like *Shah Bano* and *Shayara Bano* point to the need to deal with substantial legal reform, but political unwillingness and cultural sensitivities have been the obstacles to achieving significant strides in these changes. However, the new adoption of the Uttarakhand UCC in the year 2024 is an example that has great potential to be embraced in the country. The law demonstrates beyond any reasonable doubt that gender-equitable legal uniformity can flourish and thrive in the midst of cultural diversity on principle of democratic contribution and rights-based orientation. India has today a constitutional authority as well as moral duty to implement a UCC that would uphold equality, dignity, and justice to all and especially the women who are still marginalized with respect to the existing personal laws. The adoption of a UCC could uphold the adherence of the country to its constitutional principles as well as to its international legal commitments, hence positioning human rights at the heart of the civil legal framework.

References

1. *United Nations, Universal Declaration of Human Rights, 1948.*
2. *United Nations, International Covenant on Civil and Political Rights, 1966.*
3. *United Nations, Convention on the Elimination of All Forms of Discrimination Against Women, 1979.*
4. *Constitution of India, Articles 14, 15, 21, 44.*
5. *Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945.*
6. *Shayara Bano v. Union of India, (2017) 9 SCC 1.*
7. *Law Commission of India Reports.*
8. *OHCHR – Treaty Body Recommendations and UPR for India.*
9. *Uttarakhand Uniform Civil Code Bill, 2024.*
10. *United Nations General Assembly. (1948). Universal Declaration of Human Rights. Retrieved from*
11. *United Nations. (1966). International Covenant on Civil and Political Rights. Retrieved from [h](#)*
12. *United Nations Treaty Collection: Status of CEDAW – India's Reservations*
13. *CEDAW FullTex*
14. *CEDAW FullText:*
15. *India's Treaty Position and Reservations: United Nations Treaty Collection –*
16. *Shayara Bano v. Union of India, (2017) 9 SCC 1 – Supreme Court of India*
17. *United Nations. (1979). Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Retrieved from*
18. *Shayara Bano v. Union of India, (2017) 9 SCC 1 – Supreme Court used Article 14 to strike down triple talaq as discriminatory.*
19. *Indian Young Lawyers Association v. State of Kerala, (2018) 10 SCC 1 – Reaffirmed that religious practices cannot override fundamental rights.*
20. *K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 – Affirmed that dignity is an integral part of Article 21.*
21. *Sarla Mudgal v. Union of India, (1995) 3 SCC 635 – The Court strongly advocated for UCC, citing Article 44 as a constitutional imperative.*
22. *Sarla Mudgal v. Union of India, (1995) 3 SCC 635 – The Supreme Court criticized the misuse of conversion to Islam for contracting a second marriage and*

- emphasized the need for UCC.
23. *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1 – The Supreme Court reaffirmed daughters' equal rights in coparcenary property under the amended Hindu Succession Act.
 24. *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228 – The Supreme Court interpreted that mothers can also be natural guardians, promoting gender neutrality.
 25. *Shayara Bano v. Union of India*, (2017) 9 SCC 1 – The Supreme Court declared instant triple talaq unconstitutional, citing Articles 14 and 21, and international commitments under CEDAW.
 26. *The Constitution of India* –
 27. *The Constitution of India*. Retrieved from
 28. *Shayara Bano v. Union of India*, (2017) 9 SCC 1 — where the Supreme Court declared instant triple talaq unconstitutional, reinforcing Article 14 and 21.
 29. *Mohd. Ahmed Khan v. Shah Bano Begum*, 1985 AIR 945, 1985 SCR (3) 844
 30. CEDAW Committee: Concluding Observations on India, CEDAW/C/IND/CO/4-5 (2014), and CEDAW/C/IND/CO/6 (2021) –
 31. United Nations Human Rights Council: Universal Periodic Review – India, Session Reports (2008, 2012, 2017, 2022) –
 32. United Nations Treaty Body Database – India's treaty obligations and periodic reports.
 33. CEDAW Concluding Observations on India, 2014 & 2021
 34. Article 14, 15, 21 & 44 of the Constitution of India –
 35. Law Commission of India, Consultation Paper on Reform of Family Law, 2018 –
 36. Uttarakhand UCC Bill, 2024 (available through official state legislative documents and news reports).
 37. Universal Declaration of Human Rights, 1948.
 38. *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.
 39. *Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.
 40. *Francis Coralie Mullin v. Administrator, Delhi*, AIR 1981 SC 746.
 41. *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.
 42. *Apparel Export Promotion Council v. A.K. Chopra*, AIR 1999 SC 625.
 43. *People's Union for Civil Liberties v. Union of India*, AIR 2003 SC 2363.
 44. *NALSA v. Union of India*, AIR 2014 SC 1863.
 45. *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
 46. *Navtej Singh Johar v. Union of India*, AIR 2018 SC 4321.
 47. *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 : AIR 1997 SC 610.
 48. *People's Union for Civil Liberties (PUCL) v. Union of India*, (1997) 1 SCC 301.
 49. *Selvi & Ors. v. State of Karnataka*, (2010) 7 SCC 263.
 50. *Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.*, (2017) 10 SCC 1
 51. *Navtej Singh Johar & Ors. v. Union of India*, (2018) 10 SCC 1.
 52. *Naz Foundation v. Government of NCT of Delhi*, 160 DLT 277: (2009) 111 DRJ 1 (Delhi High Court).
 53. *Vishaka & Others v. State of Rajasthan*, AIR 1997 SC 3011; (1997) 6 SCC 241.
 54. *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228; AIR 1999 SC 1149.
 55. *Danial Latifi v. Union of India*, (2001) 7 SCC 740; AIR 2001 SC 3958.
 56. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), UN Treaty Series, Vol. 1249, p. 13 (Adopted 18 December 1979; Ratified by India 9 July 1993).
 57. *Vishaka & Ors. v. State of Rajasthan*, AIR 1997 SC 3011; (1997) 6 SCC 241.
 58. *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.
 59. *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224.
 60. *John Vallamattom v. Union of India*, (2003) 6 SCC 611.
 61. *Shayara Bano v. Union of India*, (2017) 9 SCC 1.
 62. *Joseph Shine v. Union of India*, (2018) 2 SCC 189.
 63. National Commission for Women (NCW), CEDAW and Indian Legislation: A Study Report, 2004.
 64. UN Women India, CEDAW in Action: Case Studies from Indian Jurisprudence, 2021.
 65. Flavia Agnes, "Gender Justice, CEDAW and Personal Laws in India," *Economic and Political Weekly*, Vol. 38, No. 44 (2003).
 66. Law Commission of India, Report No. 242: Prevention of Sexual Harassment at the Workplace, 2011.