

ONE NATION, ONE LAW: THE UNIFORM CIVIL CODE DEBATE

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ABSTRACT

Article 44 of the Constitution directs the state to endeavour to secure a Uniform Civil Code for all citizens, yet for seven decades that directive remained a matter of unresolved constitutional aspiration rather than enacted law. This paper examines the doctrinal and political history of that aspiration, from the Second Law Commission's 1835 recommendation against codifying personal law, through the Constituent Assembly's contested debate, to the Supreme Court's repeated, if inconclusive, invocations of Article 44 in Mohd. Ahmed Khan v. Shah Bano Begum, Sarla Mudgal v. Union of India, John Vallamattom v. Union of India and Jorden Diengdeh v. S.S. Chopra. It surveys the gender disparity that continues to characterise personal law across religious communities, and analyses the constitutional relationship between a uniform code and the guarantee of religious freedom under Articles 25 and 26. The paper then turns to the development that has transformed this debate from theoretical to practical: the Uniform Civil Code of Uttarakhand Act, 2024, which came into force on 27 January 2025, making Uttarakhand the first Indian state to enact a uniform civil code and supplying, for the first time, a working legislative and administrative model against which the arguments long rehearsed in the abstract can now be tested empirically. Weighing the arguments for and against a uniform code, including the genuine concerns of religious minorities regarding cultural autonomy, the paper concludes that the Uttarakhand experiment, still less than two years into implementation and already the subject of pending constitutional challenge, offers the clearest available evidence of both the code's capacity to address documented gender inequity and the practical and constitutional difficulties its wider national implementation would need to resolve.

KEYWORDS: Uniform Civil Code; Article 44; Secularism; Personal Laws; Gender Equality.

1. INTRODUCTION

A Uniform Civil Code denotes a single set of laws governing personal matters, marriage, divorce, adoption, inheritance and succession, applicable to all citizens regardless of religion.¹ Article 44 of the Constitution, situated among the Directive Principles of State Policy, directs the state to endeavour to secure such a code for its citizens throughout Indian territory.² For over seven decades, this directive remained precisely that, an unenforceable aspiration rather than enacted law, generating recurrent political and judicial debate without a corresponding legislative outcome at the national level.

This paper examines that debate through both its doctrinal history and its most consequential recent development: the enactment of the Uniform Civil Code of Uttarakhand Act, 2024, which received Presidential assent on 12 March 2024 and came into force on 27 January 2025, making Uttarakhand the first Indian state to translate Article 44's directive into operative law.³ The

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¹ Flavia Agnes, Family Law and Constitutional Claims 3-6 (Oxford Univ. Press 2011).

² India Const. art. 44.

³ The Uniform Civil Code of Uttarakhand Act, 2024, Act No. 1 of 2024 (India).

Uttarakhand experiment transforms what has long been a largely theoretical debate into one that can, for the first time, be examined against a working legislative and administrative model, and this paper treats that transformation as its central analytical opportunity.

1.1 Objectives of the Study

- To trace the historical and constitutional background of the Uniform Civil Code debate in India, from colonial-era policy through the Constituent Assembly to the present.
- To examine the gender disparity that continues to characterise personal law across religious communities in India.
- To analyse the judiciary's repeated but inconclusive engagement with Article 44 across a sequence of landmark decisions.
- To evaluate the Uniform Civil Code of Uttarakhand Act, 2024 as the first operative test of the arguments long advanced in the abstract.
- To weigh the arguments for and against a national Uniform Civil Code in light of this evidence, and to propose a balanced path forward.

1.2 Research Methodology

This study employs a doctrinal methodology, drawing on constitutional text, Constituent Assembly debate, Supreme Court and High Court decisions, and the text and early implementation record of the Uniform Civil Code of Uttarakhand Act, 2024. Secondary literature, including academic commentary, Law Commission reports and contemporary case comment, supplements this doctrinal core. The study covers the period from 1835 through August 2026.

1.3 Scope

This paper's analysis is confined to India and covers the period from the Second Law Commission's 1835 report through August 2026, with particular attention to developments following the Uttarakhand Act's commencement in January 2025. It does not address comparative uniform code experience outside India, such as Goa's pre-existing Portuguese Civil Code, except where directly relevant to evaluating the Uttarakhand model.

2. HISTORICAL BACKGROUND: FROM COLONIAL POLICY TO THE CONSTITUENT ASSEMBLY

The Second Law Commission Report of 1835 recommended against codifying the personal laws of Muslims and Hindus, which derived their authority from religious source, while emphasising the need for uniformity in codifying Indian

law relating to crime, evidence and contract.⁴ Queen Victoria's 1858 proclamation, assuring the Indian populace that the Crown would not interfere in matters of religious faith, reinforced this colonial policy of non-intervention in personal law, leaving the question of a uniform code unresolved through the remainder of colonial rule.

The Constituent Assembly took up the question directly. The Sardar Vallabhbhai Patel-led Sub-Committee on Fundamental Rights concluded that a Uniform Civil Code did not fall within the scope of fundamental rights; Naziruddin Ahmad of Bengal contended that a uniform code would obstruct the freedom of religion Article 25 (then Article 19 of the draft) protects, while K.M. Munshi and Alladi Krishnaswamy Ayyar supported its inclusion as a means of advancing women's equality and national unity.⁵ This division, between religious autonomy and minority right on one side, and gender equality and legal modernisation on the other, has structured the debate ever since, and the Assembly's eventual compromise, placing the Uniform Civil Code among the non-justiciable Directive Principles rather than the enforceable Fundamental Rights, reflects a deliberate decision to defer rather than resolve the underlying tension.

Following independence, Prime Minister Jawaharlal Nehru initially sought a Uniform Civil Code but abandoned the effort, believing the population, and religious minorities in particular, were not yet prepared for it, while Dr. B.R. Ambedkar and other nationalist leaders continued to support its eventual adoption.⁶ This unresolved tension, between the constitutional aspiration Article 44 records and the political caution its non-justiciable placement permitted, persisted largely unchanged at the national level until the Uttarakhand development this paper examines in Section 6.

The decades separating Nehru's abandonment of the project from Uttarakhand's eventual enactment were not, however, entirely devoid of legislative movement on personal law. Parliament codified and substantially reformed Hindu law between 1955 and 1956, and has periodically amended the Hindu Succession Act, most significantly in 2005, to address specific instances of gender disparity within that single community's law. What Parliament did not do, across this same period, was extend comparable codification and reform to Muslim, Christian or Parsi personal law with anything approaching the same thoroughness, leaving the disparity across communities that motivates the uniform code debate substantially intact even as disparity within Hindu law itself was gradually narrowed. This asymmetric pattern of reform, community-

⁴ Second Law Commission Report (1835), reprinted in H.T. Colebrooke, *Digest of Hindu Law on Contracts and Successions* 12-15 (1874).

⁵ VII Constituent Assembly Debates 540-51 (Nov. 23, 1948).

⁶ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 79-81 (Oxford Univ. Press 1966).

specific rather than uniform, forms the immediate backdrop against which the Uttarakhand Legislative Assembly's 2024 decision to legislate uniformly across all communities within its jurisdiction, Scheduled Tribes excepted, should be understood.

3. PERSONAL LAWS AND GENDER DISPARITY ACROSS RELIGIOUS COMMUNITIES

Personal laws across India's major religious traditions have historically treated women's entitlement in matrimony, succession and adoption less favourably than men's, a disparity that persists, in modified form, even where the relevant law has since been codified.

3.1 Women's Status under Hindu Law

Prior to the codification of Hindu law in 1955 and 1956, Hindu women held no absolute property right beyond stridhan, possessing instead a limited estate that reverted to the male heirs on her death, and married Hindu women could neither adopt independently nor serve as the natural guardian of their own children during their husband's lifetime.⁷ Codification improved this position considerably but did not eliminate gender disparity altogether: a Hindu woman remains excluded from coparcenary status in most states, notwithstanding legislative reform extending coparcenary right to daughters in Andhra Pradesh, Maharashtra, Karnataka and Tamil Nadu, and consequently continues to be excluded from a corresponding share of coparcenary property in the remainder of the country.⁸

3.2 Women's Status under Muslim Law

Muslim personal law, as codified and interpreted in India, permits a man to contract up to four marriages without the consent of an existing spouse, while confining a woman to a single lawful marriage at any time. The practice of instant triple talaq, by which a husband could effect divorce unilaterally, was held void and unconstitutional by the Supreme Court in *Shayara Bano v. Union of India*⁹, and subsequently criminalised by Parliament through the Muslim Women (Protection of Rights on Marriage) Act, 2019. Under the applicable rules of Islamic inheritance as codified in India, a male heir typically receives twice the share of a female heir of equal degree, and a Muslim woman's entitlement to maintenance from a divorced husband beyond the iddat period has been the subject of sustained litigation this paper's discussion in Section 4 examines in detail. Comparable, though distinct, disparities have historically existed within Christian, Parsi and Jewish personal law in India as well.

⁷ Flavia Agnes, *supra* note 1, at 45-49.

⁸ Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India).

⁹ *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1 (India).

3.3 A Comparative Overview of Disparity

Area of Law	Position Under Hindu Law	Position Under Muslim Law
Marriage	Monogamy mandatory since 1955; registration encouraged but not uniformly mandatory.	Polygamy permitted for men up to four wives; women restricted to one husband.
Divorce	Codified grounds under the Hindu Marriage Act, 1955, requiring judicial process.	Unilateral triple talaq held void in Shayara Bano (2017); subsequently criminalised by statute in 2019.
Inheritance	Daughters granted equal coparcenary right by the 2005 Amendment, though unevenly applied across states.	Male heirs generally entitled to twice the share of female heirs of equal degree under codified Muslim inheritance rule.
Post-divorce maintenance	Governed uniformly by Section 125, Cr.P.C. and the Hindu Marriage Act.	Confined to the iddat period under the 1986 Act, as read down in Danial Latifi (2001).

Table 1: Comparative Disparities in Personal Law Prior to the Uttarakhand Act. Source: Authors' compilation based on the statutory and case law discussed in this Section and Section 4.

4. THE JUDICIARY'S ROLE: CASE LAW ANALYSIS

In the continued absence of a uniform code, courts have addressed personal law disparity case by case, generating a body of decisions notable for repeatedly invoking Article 44 without any legislature ultimately acting upon that invocation until Uttarakhand did so in 2024.

4.1 Shah Bano and Its Legislative Reversal

In *Mohd. Ahmed Khan v. Shah Bano Begum*¹⁰, the Supreme Court, per Chief Justice Y.V. Chandrachud, held that a Muslim husband's obligation to maintain his divorced wife under Section 125 of the Code of Criminal Procedure, 1973 was not displaced by the payment of mahr, and that a divorced Muslim woman remained entitled to maintenance beyond the iddat period under that secular provision. Parliament responded with the Muslim Women (Protection of Rights on Divorce) Act, 1986, confining a Muslim husband's maintenance obligation to the iddat period save where both parties elected otherwise. The

¹⁰ *Mohd. Ahmed Khan v. Shah Bano Begum*, A.I.R. 1985 S.C. 945 (India).

constitutionality of that Act was itself tested in *Danial Latifi v. Union of India*¹¹, where the Court read the 1986 Act as requiring a Muslim husband to make reasonable and fair provision extending beyond the iddat period, effectively preserving the substantive protection *Shah Bano* had established while formally respecting the statute Parliament had enacted to displace it.

4.2 Sarla Mudgal and the Limits of Personal Law Conversion

In *Sarla Mudgal v. Union of India*¹², the Supreme Court held that a Hindu husband who converts to Islam solely to contract a second marriage without dissolving the first commits an offence under Section 494 of the Indian Penal Code, since the second marriage remains void notwithstanding the conversion. The decision illustrates a structural difficulty personal law plurality generates: an individual's choice of applicable law can be manipulated to circumvent protections the law of their prior religious status would otherwise provide, a difficulty a uniform code would, by definition, eliminate.

4.3 Vallamattom and Jorden Diengdeh: Judicial Calls for Reform

In *John Vallamattom v. Union of India*¹³, the Supreme Court struck down Section 118 of the Indian Succession Act, 1925, which imposed restrictive conditions on testamentary charitable bequests by Christians, as unconstitutional, and observed in the course of its judgment that the continued non-implementation of Article 44 was a matter of regret. In *Jorden Diengdeh v. S.S. Chopra*¹⁴, the Court highlighted the inconsistency across India's marriage and divorce laws and directed that a copy of its judgment be forwarded to the Ministry of Law and Justice, underscoring the need for uniform principles governing marriage and divorce irrespective of religious affiliation. Neither decision, nor the Court's repeated observations in comparable cases, produced legislative action at the national level, a pattern this paper's Section 6 discussion argues the Uttarakhand enactment has, for the first time, broken.

4.4 The Limits of Judicial Reform

Where litigants have sought to challenge specific discriminatory provisions of personal law directly, courts have generally declined to intervene on the ground that such reform is a matter for legislative rather than judicial action. In the *Ahmedabad Women Action Group*¹⁵ litigation, the Supreme Court declined to adjudicate challenges to gender-discriminatory provisions across Muslim, Hindu and other personal laws, holding that such matters raised questions of legislative policy rather than justiciable right. This consistent judicial restraint

¹¹ *Danial Latifi v. Union of India*, (2001) 7 S.C.C. 740 (India).

¹² *Sarla Mudgal v. Union of India*, A.I.R. 1995 S.C. 1531 (India).

¹³ *John Vallamattom v. Union of India*, A.I.R. 2003 S.C. 2902 (India).

¹⁴ *Jorden Diengdeh v. S.S. Chopra*, A.I.R. 1985 S.C. 935 (India).

¹⁵ *Ahmedabad Women Action Group v. Union of India*, (1997) 3 S.C.C. 573 (India).

underscores that reform of personal law, whatever its constitutional desirability, has depended, and continues to depend, on legislative rather than judicial action, a dependency that renders the Uttarakhand legislature's 2024 decision to act of considerable doctrinal significance beyond its immediate territorial application.

4.5 Reading the Case Law Together

Read as a sequence rather than in isolation, *Shah Bano*, *Sarla Mudgal*, *Vallamattom* and *Jorden Diengdeh* trace a consistent judicial posture spanning nearly four decades: the Supreme Court has repeatedly identified personal law disparity and doctrinal inconsistency as genuine constitutional concerns, has repeatedly invoked Article 44 in doing so, and has, in every instance, declined to treat that invocation as a basis for judicially mandated reform, leaving the matter instead to Parliament or, as it eventually transpired, to a State Legislature. This restraint reflects a coherent institutional position rather than judicial indifference: the Court has consistently distinguished between identifying a constitutional problem, which its own jurisprudence plainly authorises it to do, and prescribing the specific legislative solution, which it has consistently treated as beyond its proper role. The Uttarakhand Legislative Assembly's 2024 enactment is best understood as the response this consistent judicial signalling had, for seven decades, failed to elicit from any legislature; that a state legislature, rather than Parliament, was ultimately the body to act is itself a point element of some significance for the national debate this paper's Section 7 addresses.

5. CONSTITUTIONAL FRAMEWORK: ARTICLE 44 AND THE FREEDOM OF RELIGION

Article 44 places the Uniform Civil Code among the Directive Principles of State Policy, which Article 37 renders unenforceable in any court, notwithstanding the fundamental character Article 37 also assigns them in the governance of the country.¹⁶ The Constitution accordingly recognises the desirability of a uniform code without requiring its implementation, and it is this structural non-justiciability, rather than any express constitutional obstacle, that has permitted Article 44 to remain unrealised at the national level for as long as it has.

The principal constitutional objection to a uniform code invokes Articles 25 and 26, which guarantee the freedom of conscience and religion and the right of religious denominations to manage their own affairs.¹⁷ This objection, however, proceeds from a premise Indian constitutional doctrine does not fully accept: that personal law governing marriage, divorce, succession and maintenance is

¹⁶ India Const. art. 37, art. 44.

¹⁷ India Const. arts. 25-26.

itself an essential religious practice rather than a secular activity that happens to be regulated by religiously derived rule. The Supreme Court's own jurisprudence on the essential religious practices doctrine draws a distinction between religious belief and practice genuinely core to a faith, which Articles 25 and 26 protect, and social or civil practice that has merely attached itself to religious identity over time, which remains subject to secular legislative regulation.¹⁸

Justice Jeevan Reddy's opinion in *S.R. Bommai v. Union of India* characterised religion as fundamentally a matter of individual belief best left to private conscience, distinct from the secular governance functions the state properly regulates through legislation. India's model of secularism, sometimes described as positive secularism, differs from the strict separationist model associated with the United States and much of continental Europe: rather than erecting an impermeable wall between religion and state, Indian secularism contemplates state engagement with religious practice specifically where that engagement is necessary to secure constitutional value, including equality, that a purely separationist model would leave unaddressed.¹⁹ On this account, a Uniform Civil Code regulating the secular incidents of marriage, divorce, succession and maintenance does not offend Articles 25 and 26, since those incidents fall outside the category of practice the essential religious practices doctrine protects, whatever their historical association with religious identity.

This distinction between essential religious practice and secular civil incident, however doctrinally sound, is not always straightforward to apply in a specific case, and the difficulty of application, rather than any flaw in the underlying principle, supplies much of the genuine difficulty a uniform code's drafters face. Whether a particular marital or succession practice constitutes an essential tenet of a given faith or a socially inherited civil custom that has merely attached itself to religious identity over centuries is frequently a matter on which sincere adherents of the same faith disagree, and a legislature drafting a uniform code must resolve that disagreement through the ordinary political process rather than through doctrinal analysis alone. This is precisely the difficulty the pending challenge to the Uttarakhand Act, examined in Section 6.2 below, places before the courts once again, and it is a difficulty the essential religious practices doctrine, whatever its analytical soundness in principle, cannot resolve mechanically.

¹⁸ *S.R. Bommai v. Union of India*, A.I.R. 1994 S.C. 1918, ¶ 304 (Jeevan Reddy, J.) (India).

¹⁹ Rajeev Bhargava, *The Distinctiveness of Indian Secularism*, in *The Future of Secularism* 20-53 (T.N. Srinivasan ed., 2007).

6. THE UTTARAKHAND EXPERIMENT: FROM DIRECTIVE PRINCIPLE TO ENACTED LAW

The Uniform Civil Code of Uttarakhand Act, 2024 transforms the debate examined in Sections 2 through 5 above from a largely theoretical constitutional argument into a matter of operative law and administrative practice. Passed unanimously by the Uttarakhand Legislative Assembly on 7 February 2024, drafted by a five-member expert committee chaired by retired Supreme Court Justice Ranjana Prakash Desai, and granted Presidential assent on 12 March 2024, the Act came into force on 27 January 2025, replacing the Hindu Marriage Act, Muslim personal law, the Indian Christian Marriage Act and the Special Marriage Act, insofar as each previously applied within the state, with a single, uniform framework governing marriage, divorce, succession and live-in relationships for state residents generally.²⁰

6.1 Key Provisions and Early Implementation

The Act establishes a uniform minimum marriageable age, equalises inheritance entitlement between sons and daughters, mandates registration of marriage and live-in relationships, and addresses practices including polygamy, polyandry, halala and unilateral talaq across all communities to which the Act applies, though Section 2 expressly excludes the state's Scheduled Tribes from its operation, preserving their constitutionally protected customary law.²¹ Government officials have reported that the Act's first year of operation, marked statewide as UCC Day on 27 January 2026, produced a substantially digitised marriage and live-in registration process, and the state government subsequently promulgated the Uniform Civil Code (Amendment) Ordinance, 2026 under Article 213, introducing procedural, administrative and penal refinement intended to strengthen registration authority, appellate mechanism and alignment with India's revised criminal statutes.²²

6.2 Constitutional Challenge and Comparative Response

The Act has not gone unchallenged. Multiple writ petitions, including one filed by the Jamiat Ulama-i-Hind, remain pending before the Uttarakhand High Court and the Supreme Court, principally contesting the Act's displacement of Muslim personal law as an infringement of Articles 25 and 26; the Supreme Court declined to grant an interim stay in February 2025 while issuing notice

²⁰ The Uniform Civil Code of Uttarakhand Act, 2024, Act No. 1 of 2024 (India); Library of Congress, Global Legal Monitor, India: Legislative Assembly of Uttarakhand Enacts Uniform Civil Code (Mar. 21, 2024).

²¹ The Uniform Civil Code of Uttarakhand Act, 2024, § 2, Act No. 1 of 2024 (India).

²² Uttarakhand Government Implements the UCC (Amendment) Ordinance, 2026, All India Radio News (Jan. 27, 2026).

and tagging the matters for substantive hearing.²³ Several other states, including Gujarat, Assam, Madhya Pradesh, Maharashtra, Uttar Pradesh and Rajasthan, have since constituted or announced their own committees to examine comparable legislation, indicating that Uttarakhand's enactment has generated a genuine, if still incipient, cross-state legislative momentum this paper's earlier sections had no comparable development to examine.

6.3 What the Uttarakhand Experiment Tests

The Uttarakhand Act supplies, for the first time, empirical rather than purely theoretical evidence on several of the questions the abstract debate examined in Sections 3 through 5 above has long rehearsed. Its equalisation of inheritance rights and its uniform minimum marriage age test directly whether codification can, in practice, deliver the gender-equalising effect proponents have long claimed for a uniform code. Its exclusion of Scheduled Tribes tests whether a uniform code can accommodate constitutionally protected customary law without abandoning uniformity as an organising principle altogether. Its pending constitutional challenge under Articles 25 and 26 will, when finally resolved, supply the definitive judicial answer to the constitutional objection examined in Section 5 that the abstract debate alone could not settle. Whatever the eventual outcome of that litigation, the Uttarakhand experiment has already demonstrated one point of considerable significance: that a uniform civil code is not merely a constitutional aspiration incapable of legislative realisation, a possibility the seventy-year national impasse examined in Sections 2 and 4 above had left genuinely open.

6.4 Comparing Uttarakhand to Goa's Pre-Existing Common Civil Code

Uttarakhand's claim to being the first state to enact a uniform civil code after independence requires one qualification: Goa has, since its annexation in 1961, retained the Portuguese Civil Code of 1867 as a common civil code applicable to all Goan residents regardless of religion, a survival of colonial-era law rather than a post-independence legislative choice.²⁴ The Goan code, while genuinely uniform in application, differs from the Uttarakhand Act in origin, content and political salience: it was inherited rather than deliberately enacted, and its provisions on matters such as matrimonial property differ considerably from the codified Hindu, Muslim and Christian personal law the Uttarakhand Act displaces. The comparison is nonetheless instructive, since Goa's decades of experience administering a uniform code across religious communities without the scale of social disruption critics of a national code frequently predict supplies an additional, longer-run data point alongside Uttarakhand's more

²³ *Jamiat Ulama-i-Hind v. State of Uttarakhand*, W.P. (C) No. 214/2024 (Sup. Ct. India, notice issued Feb. 2025).

²⁴ Goa, Daman and Diu (Administration) Act, No. 1 of 1962, § 5(1) (India).

recent experience, one this paper's Section 7 discussion draws upon in assessing the practical feasibility of wider implementation.

7. ARGUMENTS AND DISCUSSION: WEIGHING THE CASE FOR AND AGAINST

7.1 The Case for a Uniform Civil Code

Proponents argue that a uniform code would address the gender disparity documented in Section 3 above directly, replacing personal laws that treat women's entitlement to property, maintenance and marital choice unequally across religious communities with a single, equally applicable standard. Proponents further argue that a uniform code would eliminate the personal law forum-shopping *Sarla Mudgal* exposed, in which conversion of religious status could be used to evade obligations the law of a person's prior religious status imposed, and would reduce the doctrinal inconsistency across marriage and divorce law that *Jorden Diengdeh* specifically criticised. A uniform code, on this view, need not restrict religious practice as such; Articles 25 and 26 continue to protect belief, worship and religious observance, while a uniform code governs only the secular civil incidents of marriage, divorce, succession and maintenance that Section 5's discussion of the essential religious practices doctrine locates outside the scope of constitutionally protected religious practice.

7.2 The Case Against, and Concerns Requiring Accommodation

Opponents raise concerns this paper's analysis does not treat as illegitimate merely because they counsel caution. Religious minorities have expressed genuine concern that a uniform code, however framed in neutral secular terms, will in practice draw disproportionately on majority Hindu legal concepts and custom, a concern the Uttarakhand Act's critics have voiced specifically with respect to its treatment of Muslim personal law and its live-in relationship registration requirement, which some have argued intrudes on personal autonomy and privacy in a manner inconsistent with Article 21.²⁵ Critics also observe that India's own criminal and civil law retains considerable state-level variation notwithstanding nominal codification, complicating the rhetorical claim that a uniform code alone can deliver full national legal uniformity, and note that rapid, poorly consulted implementation risks provoking exactly the social friction a uniform code is meant to reduce, particularly where communities perceive the process as imposed rather than negotiated.

²⁵ Faizan Mustafa, *The Uttarakhand UCC and the Limits of Uniformity*, 61(9) Econ. & Pol. Wkly. 12 (2026).

7.3 Weighing the Evidence

The Uttarakhand experiment examined in Section 6 does not resolve this disagreement definitively, but it does shift its terms. The concern that a uniform code cannot be implemented without provoking serious social rupture has not, on the available evidence from Uttarakhand's first year of operation, been borne out at the scale earlier abstract debate anticipated, though the state's pending litigation and the concerns Section 7.2 documents indicate that implementation concern has not been eliminated either, merely tested under real conditions for the first time. The most defensible position, on the evidence this paper has surveyed, is that a uniform code is neither the straightforwardly emancipatory reform its strongest proponents have sometimes claimed nor the majoritarian imposition its strongest critics have sometimes characterised it as being, but a genuinely difficult exercise in institutional design whose success depends substantially on the specific safeguards, consultation and drafting choices a legislature makes, exactly the kind of empirical, implementation-focused question the Uttarakhand Act now makes possible to examine directly rather than in the abstract.

7.4 The Federal Dimension

The fact that Uttarakhand, a state, rather than Parliament, ultimately broke the seventy-year national impasse raises a further question this paper's earlier sections have not directly addressed: whether uniform civil code reform is better pursued state by state, allowing variation and gradual convergence informed by accumulating implementation experience, or through a single national statute applying uniformly from the outset. The state-by-state path the several state committees examined in Section 6.2 above appear currently to be pursuing carries the advantage of permitting exactly the kind of comparative, evidence-based evaluation this paper has undertaken with respect to Uttarakhand alone, but it carries the corresponding risk of producing several materially different uniform codes across states, each internally uniform but collectively reproducing, at a coarser geographic scale, precisely the kind of legal variation a national uniform code is meant to eliminate. Article 44 itself, addressed as it is to the state in the singular constitutional sense that includes both Union and State governments, does not resolve this sequencing question, leaving it, like the essential religious practice question examined in Section 5, to be worked out through the ordinary political and legislative process rather than through constitutional text alone.

8. CONCLUSION AND RECOMMENDATIONS

For seven decades, Article 44 functioned as a constitutional aspiration without a corresponding legislative outcome, its repeated invocation by the Supreme Court in *Shah Bano*, *Sarla Mudgal*, *Vallamattom* and *Jorden Diengdeh* notwithstanding. The Uniform Civil Code of Uttarakhand Act, 2024 has

changed that: for the first time, India possesses a working legislative and administrative model against which the arguments this paper has traced can be tested empirically rather than debated in principle alone.

This paper has argued that the gender disparity documented across Hindu, Muslim and other personal laws in Section 3 supplies a genuine and substantial case for reform, that the constitutional objection grounded in Articles 25 and 26 is considerably weaker than its proponents often suggest once the essential religious practices doctrine is properly applied, and that the concerns religious minorities have raised regarding cultural autonomy and the risk of majoritarian imposition are nonetheless genuine and merit direct accommodation in any future national legislation rather than dismissal.

Should other states, or Parliament itself, move toward comparable legislation, the following would materially improve the prospects of durable, legitimate reform.

- Broad-based pre-legislative consultation with religious and community leaders, legal professionals and affected constituencies, addressing directly the perception of imposition Section 7.2 documents as the most serious objection to rapid implementation.
- Express statutory accommodation of constitutionally protected customary law, following the Scheduled Tribe exclusion Section 6.1 documents in the Uttarakhand Act, rather than an assumption that uniformity requires the elimination of every category of legal difference.
- Confining the code's substantive scope to the secular civil incidents of marriage, divorce, succession and maintenance, consistent with the essential religious practices doctrine examined in Section 5, rather than extending into matters more plausibly characterised as religious practice itself.
- Sustained public reporting on implementation outcomes, of the kind Uttarakhand's own UCC Day reporting has begun to supply, so that future legislative decisions can rest on documented experience rather than competing prediction.

The seven-decade gap between Article 44's adoption and Uttarakhand's enactment should not, on the analysis this paper has offered, be read simply as a story of constitutional failure. It reflects, more accurately, a sustained and largely appropriate institutional caution, exercised jointly by successive Parliaments and by a judiciary that consistently declined to substitute its own preference for the deliberative process a matter of this constitutional and social sensitivity warrants. That caution has now yielded, in one state, to legislative action, and the resulting experiment deserves to be evaluated on its own

considerable merits and genuine shortcomings alike, rather than treated as either the vindication its strongest supporters have claimed or the constitutional emergency its strongest opponents have alleged.

Unity is not the same as uniformity, and a Uniform Civil Code, wherever and whenever it is next enacted, will be judged less by the elegance of its constitutional theory than by whether its implementation, on the Uttarakhand model or otherwise, actually secures the equality it promises without the social rupture its critics fear. The Uttarakhand experiment has, for the first time, made that judgment possible to render on evidence rather than prediction alone.