

The Debate Club — Debate #72 Factsheet

Motion: “Religious personal laws should be replaced by a Uniform Civil Code.” Agree or Disagree?

A balanced factsheet for participants — prepared for Debate #72

Context and Background

Article 44 of the Constitution, a non-justiciable Directive Principle, states that “the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India” [1]. In the Constituent Assembly on 23 November 1948, K.M. Munshi and Alladi Krishnaswami Ayyar defended a UCC as an instrument of national integration and gender equality, while Muslim members moved amendments to shield personal laws; B.R. Ambedkar backed the goal but envisaged that a future Parliament might make the code “purely voluntary” at first, and the framers ultimately placed it among aspirational directives rather than enforceable rights [1][2]. India instead retained religion-based personal laws: the *Hindu Marriage Act 1955*, *Hindu Succession Act 1956* and *Hindu Adoptions and Maintenance Act 1956* for Hindus, Buddhists, Jains and Sikhs; the *Muslim Personal Law (Shariat) Application Act 1937* and *Dissolution of Muslim Marriages Act 1939* for Muslims; the *Indian Divorce Act 1869* and *Indian Succession Act 1925* for Christians and Parsis; and protected tribal customary law [3][4][5].

The debate has moved from theory to statute. The *Uniform Civil Code of Uttarakhand Act 2024* was passed 7 February 2024 and came into force on 27 January 2025, making Uttarakhand the first state since independence to enact a UCC [6][7]. Gujarat (April 2026) and Assam (May 2026) have since passed their own UCC bills, and West Bengal has signalled a fourth [8][9]. Yet the 21st Law Commission had concluded in 2018 that a UCC was “neither necessary nor desirable at this stage,” urging reform of discriminatory practices instead [10]; the 22nd Law Commission reopened public consultation on 14 June 2023 [11]. The core question is whether uniformity or reform-from-within better secures equality without sacrificing pluralism.

Arguments to AGREE — “India should replace religious personal laws with a Uniform Civil Code”

1. A UCC delivers gender equality that fragmented personal laws have failed to guarantee. Muslim personal law long permitted polygamy, unilateral instant divorce and unequal inheritance (daughters receiving half a son's share); Christian women faced harder divorce grounds under the *Indian Divorce Act 1869*; and even after the *Hindu Succession (Amendment) Act 2005* gave daughters equal coparcenary rights — affirmed in *Vineeta Sharma v. Rakesh Sharma* (2020) — reform proceeded community-by-community rather than as a coherent whole [4][12][13]. A single code applies one equality standard to all women at once.

2. The Supreme Court has repeatedly urged Parliament to enact Article 44. In *Mohd. Ahmed Khan v. Shah Bano Begum* (1985) the Court “regretted” that Article 44 had “remained a dead letter”; in *Sarla Mudgal v. Union of India* (1995) Justice Kuldeep Singh held that with over 80% of citizens already under codified personal law there was “no justification” to keep a UCC in abeyance [14][15]. Judicial pressure has been sustained across four decades.

3. Piecemeal reform is slow, contested and easily reversed. After *Shah Bano* (1985), Parliament passed the *Muslim Women (Protection of Rights on Divorce) Act 1986*, widely read as diluting the ruling under community pressure; it took *Danial Latifi v. Union of India* (2001) to reinterpret the Act to preserve maintenance [14][16]. Even after *Shayara Bano v. Union of India* (2017) struck down instant triple talaq 3:2 as "manifestly arbitrary," roughly 100 further instances occurred before the *Muslim Women (Protection of Rights on Marriage) Act 2019* criminalised it [17][18]. A uniform code removes this reform-and-rollback cycle.

4. Goa demonstrates that a common civil code can function within India. Goa applies the Portuguese Civil Code of 1867 to all residents regardless of religion, governing marriage, divorce and succession, with a "communion of assets" rule making spouses co-owners of marital property; the Supreme Court has held it governs the property of Goan domiciles even outside the state [19][20]. A shared code is thus not an untested abstraction.

5. A UCC ends the "conversion loophole" and other manipulations of plural law. *Sarla Mudgal* (1995) addressed Hindu husbands converting to Islam solely to contract a bigamous second marriage while remaining married under Hindu law — an abuse possible only because different personal laws coexist [15]. Uttarakhand's UCC bans polygamy for all and mandates monogamy, closing such gaps [6][7].

6. Uniform statutes reduce litigation and legal uncertainty for citizens. Under the plural system, succession alone runs through the *Hindu Succession Act 1956*, uncodified Muslim law and the *Indian Succession Act 1925*, each classifying heirs and shares differently [8]. Uttarakhand's, Gujarat's and Assam's codes collapse these into one Class I/Class II framework with equal shares for sons and daughters, simplifying intestate succession [8].

7. The constitutional and democratic mandate now exists in practice. Uttarakhand's Assembly passed the Act 70–0 after a committee under former Supreme Court judge Ranjana Prakash Desai received 60,810 public submissions; Gujarat and Assam followed in 2026, and the BJP treats the UCC as a standing election commitment [6][8][9]. Supporters argue Article 44's "endeavour" is finally being honoured through the ordinary legislative process.

Arguments to DISAGREE — “reform personal laws from within, don’t replace them with a uniform code”

1. The very body tasked with studying it concluded a UCC is unnecessary. The 21st Law Commission's 2018 consultation paper on *Reforms of Family Law* held that a UCC "is neither necessary nor desirable at this stage," recommending that specific discriminatory provisions be amended while preserving India's plurality; secularism, it argued, is consistent with diversity, not uniformity [10]. That expert conclusion remains un rebutted.

2. A uniform code risks majoritarianism dressed as equality. Because the states' codes draw heavily on the *Hindu Marriage Act 1955* and *Hindu Succession Act 1956*, critics including Asaduddin Owaisi call Uttarakhand's UCC "a Hindu code in disguise" that imposes majority norms and allegedly violates Articles 25 and 29 on religious freedom and cultural rights [7][21]. Equality imposed from a majority template is not neutral.

3. Reform-from-within has already delivered — and is led by minority women themselves. The Bharatiya Muslim Mahila Andolan, led by Zakia Soman, has campaigned since 2007 for codification of Muslim personal law along Quranic lines without abandoning religious identity, and its litigation helped produce the *Shayara Bano*

triple-talaq verdict [17][22]. Change driven by the affected community is more legitimate and durable than a code imposed from outside [22].

4. Uniform law does not equal uniform rights — the aim should be gender-just plural laws. Scholars Flavia Agnes and Faizan Mustafa argue that a "just code" matters more than a "uniform" one; Agnes warns women's rights can be sacrificed to a homogenising agenda, while Mustafa notes uniformity was never intended by the framers and that even Hindus are not governed by a single law [23][24]. Diverse personal laws can be made equitable without erasure.

5. Goa is not the clean model it is claimed to be. Goa's code contains carve-outs — Hindu men may take a second wife in specified circumstances (such as the absence of a male heir), Catholic Church marriages follow special procedures and are excluded from civil divorce, and protections for women on marital breakdown are weak — showing that even India's "UCC" is neither fully uniform nor uniformly gender-just [25]. Citing Goa proves the opposite of what proponents intend.

6. Tribal exemptions expose an internal contradiction and threaten federal harmony. Uttarakhand, Gujarat and Assam all exclude Scheduled Tribes (protected under Article 342 and the Fifth and Sixth Schedules) from their codes, so the law is uniform only for non-tribal citizens — undermining the promise of one law for all [7][8][26]. Personal law is on the Concurrent List, and a patchwork of divergent state UCCs (with different penalties and rules) fragments rather than unifies civil law [8].

7. The Uttarakhand model shows a UCC can expand state surveillance and criminalise private life. Its mandatory registration of live-in relationships — carrying up to six months' jail for non-registration, a lengthy form, Aadhaar-linked verification and inquiry involving police and "community heads" — is widely argued to violate the privacy right recognised in *Joseph Shine v. Union of India* (2018) and *K.S. Puttaswamy* [6][7][27]. Reform-from-within targets injustice without this intrusive machinery.

Key Questions for the Debate

- If the 21st Law Commission found a UCC "neither necessary nor desirable," what has materially changed by 2026 to justify enacting one — beyond electoral politics?
- When Uttarakhand, Gujarat and Assam all exempt Scheduled Tribes, in what sense is their "Uniform" Civil Code actually uniform — and does that exemption defeat the equality argument?
- Can a code built substantially on the *Hindu Marriage Act 1955* and *Hindu Succession Act 1956* credibly claim religious neutrality, or is it majority law rebranded?
- Which secures Muslim women's rights faster and more durably: a top-down UCC, or community-led codification of the kind the Bharatiya Muslim Mahila Andolan demands?
- If *Shah Bano*, *Shayara Bano* and the 2005 Hindu succession reform were achieved without a UCC, does that prove reform-from-within works — or that it is too slow to rely on?
- Does Uttarakhand's mandatory live-in registration advance gender justice, or does it violate the privacy right in *Joseph Shine* and *Puttaswamy* and criminalise consensual adult choices?

References

- [1] Constituent Assembly of India Debates, Volume VII, 23 November 1948 (debate on Draft Article 35, now Article 44); "Constituent Assembly Debate on Uniform Civil Code," *BYJU'S IAS*.

- [2] "Ambedkar backed a UCC, in future Code may be 'purely voluntary' to begin with," *Forbes India*.
- [3] "Hindu code bills," *Wikipedia*; "Dalit History Month: 'The Hindu Code Bill' and Dr. Babasaheb Ambedkar's Vision," *The Mooknayak*.
- [4] "The Muslim Personal Law (Shariat) Application Act, 1937" and "The Dissolution of Muslim Marriages Act, 1939," *LawBhoomi / Wikipedia*.
- [5] "How the 3 states' UCC models compare, from marriage to succession," *ThePrint*, 29 May 2026 (on the *Indian Succession Act 1925* and Hindu/Muslim succession frameworks).
- [6] "Uniform Civil Code of Uttarakhand Act, 2024," *Wikipedia*; Uttarakhand UCC Bill 2024, *PRS Legislative Research*.
- [7] "The Uniform Civil Code (UCC) of Uttarakhand: Advancement in gender justice or violating individual liberties?" *Citizens for Justice and Peace (CJP)*.
- [8] "Uttarakhand, Gujarat, now Assam: How the 3 states' UCC models compare," *ThePrint*, 29 May 2026.
- [9] "Assam Becomes Third State to Pass Uniform Civil Code (UCC) Bill, 2026," *Drishti IAS*; "Gujarat Passes Uniform Civil Code Bill 2026," *Outlook India*.
- [10] Law Commission of India (21st), Consultation Paper on *Reforms of Family Law*, 31 August 2018 ("neither necessary nor desirable at this stage"); "UCC: Asked of Law Commission's 'Neither Necessary Nor Desirable' View," *The Wire*.
- [11] Law Commission of India (22nd), Public Notice on Uniform Civil Code, 14 June 2023; "[UCC] 22nd Law Commission decides to solicit views," *SCC Online*.
- [12] *Hindu Succession (Amendment) Act, 2005* (amending Section 6); "Daughters' Property Rights under Hindu Law — Before & After 2005 Amendment," *SCC Online Blog*.
- [13] *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1; "Daughters become equal coparceners at birth," *Bar & Bench*.
- [14] *Mohd. Ahmed Khan v. Shah Bano Begum*, 1985 AIR 945; "Mohd. Ahmed Khan v. Shah Bano Begum," *Wikipedia*.
- [15] *Smt. Sarla Mudgal v. Union of India*, 1995 AIR 1531, (1995) 3 SCC 635; "Sarla Mudgal and Others v. Union of India," *Wikipedia / Indian Kanoon*.
- [16] *Danial Latifi & Anr v. Union of India*, (2001) 7 SCC 740; "The Danial Latifi Case and the Indian Supreme Court's Balancing Act," *Islamic Law Blog*.
- [17] *Shayara Bano v. Union of India*, (2017) 9 SCC 1; "Triple Talaq," *Supreme Court Observer*.
- [18] *The Muslim Women (Protection of Rights on Marriage) Act, 2019*; Fact Sheet, *Press Information Bureau (PIB)*, Government of India.
- [19] "Goa civil code," *Wikipedia*; *Portuguese Civil Code, 1867* (Official Translation), *India Code*.
- [20] "Portuguese Civil Code applies to the Properties of Goans anywhere in India, rules Supreme Court," *Incredible Goa* (reporting *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, 2019).
- [21] "Why Hindus kept out: Asaduddin Owaisi slams Uniform Civil Code" / "UCC Bill is Hindu Code in disguise: Asaduddin Owaisi," *Hindustan Times / New Indian Express*, February 2024.
- [22] "Bharatiya Muslim Mahila Andolan," *Wikipedia*; "Zakia Soman of Bharatiya Muslim Mahila Andolan says: 'Patriarchy is Deeply Entrenched,'" *Islamic Voice*.
- [23] "Aim Should Be Uniformity of Rights, Not a Uniform Law: Flavia Agnes on a UCC," Flavia Agnes.
- [24] "I Favour Uniform Civil Code In A Piecemeal Manner: Interview With NALSAR VC Prof. Faizan Mustafa," *LiveLaw*.
- [25] "Goa Civil Code: Is It Uniform?" *Indian Journal of Integrated Research in Law (IJIRL)*; "Patriarchy and property rights: Goa's 'Uniform Civil Code,'" *The Leaflet*.
- [26] "Excluding STs from Uttarakhand UCC exposes a fundamental problem in its concept," *ThePrint*; Article 342, *Constitution of India*.
- [27] *Joseph Shine v. Union of India*, (2018) 2 SCC 189 (decriminalising adultery, Section 497 IPC); "Joseph Shine v. Union of India," *Wikipedia*; "Uttarakhand Uniform Civil Code Rules, 2025" (live-in registration), *Government of Uttarakhand*.