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Ojus Tripathi

Law Student,

Amity Law School, Amity University, Lucknow

Dr. Sheeba Khalid

Assistant Professor,

Amity Law School, Amity University, Lucknow

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A Critical Analysis of Article 44 of the Indian Constitution: Uniform Civil Code (UCC)

Ojus Tripathi

*Law Student,
Amity Law School, Amity University, Lucknow*

Dr. Sheeba Khalid

*Assistant Professor,
Amity Law School, Amity University, Lucknow*

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ABSTRACT

Article 44 of the Indian Constitution, included in Part IV on Directive Principles of State Policy, declares that “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.” This apparently simple provision conceals a dense and contested terrain involving secularism, religious freedom, gender justice, and minority rights, because civil laws governing marriage, divorce, inheritance, guardianship, and adoption have historically been organised along religious lines through Hindu, Muslim, Christian, Parsi and customary regimes. This paper offers a critical analysis of Article 44 and the Uniform Civil Code (UCC) project by combining doctrinal examination of constitutional provisions and Supreme Court jurisprudence with socio legal engagement with policy debates and recent legislative developments such as the Uttarakhand Uniform Civil Code, 2024. The methodology is mixed: doctrinal research scrutinises the text and structure of Articles 14, 15, 21, 25–28, 29–30, 37 and 44, alongside leading judgments in *Mohd. Ahmed Khan v. Shah Bano Begum*, *Sarla Mudgal v. Union of India*, *John Vallamattom v. Union of India*, *Shayara Bano v. Union of India* and related cases, while non doctrinal analysis examines scholarly writings, Law Commission materials and commentaries on the UCC debate. The findings reveal that Article 44 has functioned less as a legally enforced duty and more as an intellectual and persuasive resource for courts, lawmakers and activists, cited to support gender just reform, national integration, and occasionally majoritarian homogenisation. The paper argues that a

constitutionally faithful reading of Article 44 requires interpreting “uniform” not as rigid sameness but as minimum rights based standards that all personal laws must satisfy, combined with experimental, consultative models like the Uttarakhand UCC that attempt to balance equality with pluralism. The conclusion advises a gradual, pluralist, and gender focused implementation plan rather than a sudden, monolithic national code.

KEYWORDS

Article 44, Uniform Civil Code, Directive Principles, Secularism, gender justice, Personal Legislation, Uttarakhand UCC, Constitutional Morality.

INTRODUCTION

The drafters of the Indian Constitution put Article 44 in Part IV, under Directive Principles of State Policy, as an expression of desire rather than a justiciable right. Article 37 specifies that Directive Principles “shall not be enforceable by any court,” but proclaims them “fundamental in the governance of the country,” so generating a dual character: non enforceable legally, but normatively important for State policy. Article 44 therefore does not provide on individuals a right to seek a UCC, but rather symbolises the constitutional aim that, someday, civil affairs like as marriage, divorce, support, inheritance and adoption would be ruled by universal principles rather than religion based personal laws.¹

Historically, colonial and post-colonial policies considered that personal laws should be kept as markers of religious identity, while criminal and commercial law should be consistent throughout communities. As a result, India today has Hindu law (including codified statutes like the Hindu Marriage Act 1955 and Hindu Succession Act 1956), Muslim personal law largely derived from Shariat and case law, Christian and Parsi laws, and a range of customary laws among Scheduled Tribes and other groups, alongside the secular Special Marriage Act 1954. These multiple regimes typically create gender uneven outcomes—especially in areas of divorce, polygamy, maintenance and inheritance—raising problems regarding their consistency with Articles 14, 15 and 21.²

The research gap this work fills is twofold. First, many doctrinal work approaches Article 44 in isolation, describing it as a “dead

¹ Jain, K., & Kedari, S. (n.d.). *The Constitutional Validity of Uniform Civil Code in India*

² Sura Reddy, A. (1996). Article 44: A Dead Letter? *Journal of the Indian Law Institute*

letter” or as a simple request for legal consistency, without methodically linking it to subsequent advances in equality jurisprudence, constitutional morality and privacy. Second, although there is substantial political commentary on UCC, there is scant integration of recent legislative initiatives, like the Uttarakhand Uniform Civil Code, 2024, into a wider constitutional examination of how Article 44 might be achieved without compromising plurality.³

Against this backdrop, the objective of this paper is to critically examine Article 44’s constitutional status, judicial interpretation and contemporary relevance, and to explore normative models for implementing its directive in a way that simultaneously advances gender justice, respects religious freedom and avoids majoritarian domination. The thesis advanced is that Article 44 is best understood as a mandate for rights compatible harmonisation rather than absolute uniformity: personal laws must be progressively reformed to conform to constitutional guarantees of equality and dignity, and experimental civil codes like those in Goa and Uttarakhand may serve as laboratories for such reform, but a single, immediate, nationwide UCC imposed without consent risks undermining the pluralist fabric protected by Articles 25–30.⁴

Constituent Assembly Debates on Article 44- The roots of Article 44 lay in Draft Article 35, considered in the Constituent Assembly on 23 November 1948, which recommended that “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.” The proposal prompted some of the most heated arguments on the link between religion, law and the new Indian country, with members starkly split on whether family law should be placed into the domain of State-made universal laws. Proponents of the Draft Article, including members like K.M. Munshi and Alladi Krishnaswami Ayyar, claimed that a universal civil code was important for national unification, equality and the creation of a common citizenship transcending sectarian affiliations.

Opponents, notably numerous Muslim members such as *Mohamed Ismail and Naziruddin Ahmad*, voiced fears that a UCC may be used to destroy Muslim personal law, which they saw as part of their religious identity protected by the commitments made during the liberation fight. They contended that personal laws had significant religious significance and that any effort to replace

³ NextIAS. (2025). *Uttarakhand Uniform Civil Code Bill 2024: Key Provisions and Issues*.

⁴ Various authors. (2023). *A Critical Analysis on Uniform Civil Code – Need or Myth*

them by universal legislation would violate religious freedom and minority rights. Some members advocated that personal laws be expressly excluded from legislative competence or that any UCC should be optional for minorities, expressing a desire to maintain separate community-based legal systems.

Dr B.R. Ambedkar, as Chairman of the Drafting Committee, played a moderating role. He supported the inclusion of the UCC guideline but warned minority “not to read too much into Article 44,” noting that it would not immediately eliminate personal laws and that Parliament would use judgment and progress gradually. Ambedkar emphasized that even within Hindu law there was no single uniform system and that codification and reform were already beginning, indicating that changes of Muslim and other personal laws would likewise be slow and participatory. He highlighted that Article 44 was inserted in the Directive Principles especially to prevent rapid coercion, envisaging a moment when a future Parliament, in a different social atmosphere, may decide to enact a uniform code when wide agreement existed.

The final compromise placed the UCC provision in Part IV, as a Directive Principle rather than a justiciable fundamental right, signalling that while the framers endorsed the desirability of a UCC, they were unwilling to override minority objections through a binding constitutional mandate at the founding moment. This compromise is key to a critical study of Article 44: it shows a conscious choice to approach uniformity in civil law as an aspirational aim subject to democratic permission and developing socioeconomic circumstances, not as an instantly enforced necessity. Later judicial and political invocations of Article 44 typically ignore this background, portraying UCC as an unqualified constitutional demand, while the discussions indicate a more complex vision that balanced gender equity and national integration with minority autonomy and gradualism.

METHODS

Overall Design

The research adopts a doctrinal–socio legal approach, ideal for assessing constitutional provisions and judicial judgments, but also comprehending their political and social context. Rather than collecting primary empirical data through surveys or interviews, the paper relies on intensive analysis of texts—constitutional documents, case law, statutes, Law Commission reports, and scholarly commentary—and interprets them through established

methods of legal reasoning and normative political theory.⁵

DOCTRINAL RESEARCH

The doctrinal component focuses on three groups of main legal sources:

Constitutional Text: The current official texts of Articles 14, 15, 21, 25–28, 29–30, 37 and 44 are reviewed to determine how equality, non-discrimination, personal liberty, religious freedom and Directive Principles interweave. Special emphasis is devoted to the language of “endeavour” in Article 44 and the term “fundamental in the governance of the country” in Article 37, which have major significance for the State’s commitments.

Supreme Court decisions: The study reviews leading decisions explicitly citing UCC or extensively dealing with personal laws:

- Mohd. Ahmed Khan v. Shah Bano Begum (1985), which applied Section 125 CrPC to provide support to a Muslim divorcee and termed Article 44 as a “dead letter.”⁶
- Sarla Mudgal v. Union of India (1995), which rejected second marriages following religious conversion to evade monogamy and again encouraged moving towards a UCC.⁷
- John Vallamattom v. Union of India (2003), which threw down discriminatory measures affecting Christian wills, while mentioning Article 44.
- Shayara Bano v. Union of India (2017), overturning quick triple talaq and highlighting equality and arbitrariness.
- Additional cases on secularism and religious freedom that impact the interpretative context for Article 44.

These instances are studied in terms of ratio decidendi, obiter dicta on UCC, and judicial approach towards legislative stagnation.⁸

Statutes and Bills: The study reviews the Special Marriage Act 1954 and codified Hindu law as partial embodiments of uniform or secular civil law, and engages in depth with the Uttarakhand Uniform Civil Code, 2024 (as passed and notified), including its provisions on marriage, divorce, succession, live in relationships

⁵ TSCLD. (2024). *Uniform Civil Code: A Critical Analysis*

⁶ Pahuja Law Academy. (2025). *UCC Debate: Legal and Constitutional Analysis*

⁷ iPleaders. (2025). *Article 44 of Indian Constitution*

⁸ Drishti IAS. (2025). *Shah Bano Case 1985 & Muslim Women’s Rights in India*

and the exclusion of Scheduled Tribes.

SOCIO LEGAL / NON-DOCTRINAL STUDY

The non-doctrinal component incorporates thematic examination of important publications and policy papers on UCC:

Scholarly Papers and Books: Works that characterize Article 44 as “a dead letter,” a myth, or a constitutional promise are studied to map distinct normative stances and their criticisms. Recent work that challenges whether UCC is an instrument of gender justice or a vehicle for majoritarian cultural supremacy is given special focus.

Policy and Current Affairs Analysis: Contemporary remarks on the Uttarakhand UCC by civil service preparation platforms, legal blogs, and law companies are utilized to compile descriptive information about the Bill/Act and to record immediate public concerns and apparent advantages.⁹

Analytical Technique: The resources are categorized thematically for recurrent ideas—equality, secularism, autonomy, national integration, minority protection, majoritarianism, gender justice, privacy—and these themes are cross referenced with doctrinal results from case law and constitutional language.¹⁰

SCOPE AND LIMITS

The study is restricted to Indian constitutional law and does not conduct primary empirical research such as interviews with community leaders, women’s organizations, or minority organisations, even though such material would enhance the socio legal analysis. The emphasis is on doctrinal reasoning and published secondary sources, which may not completely convey lived experiences of personal law regimes or the ground level effect of changes. Further, although certain comparison allusions to civil law countries or other plural societies are sometimes made, the text does not systematically evaluate foreign models of civil codes. These constraints are recognized to ensure that normative statements stay appropriate to the evidentiary basis.¹¹

RESULTS

Article 44 within Part III–Part IV- Analysis of the constitutional

⁹ Library of Congress. (2024). *India: Legislative Assembly of Uttarakhand Enacts Uniform Civil Code*

¹⁰ Various authors. (2023). *A Critical Analysis on Uniform Civil Code – Need or Myth*

¹¹ Sura Reddy, A. (1996). Article 44: A Dead Letter? *Journal of the Indian Law Institute*.

text indicates that Article 44, although non justiciable, is phrased in forceful language: “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.” The usage of “shall” conveys a responsibility rather than a simple choice, yet the word “endeavour” implies progressive efforts subject to political feasibility, social circumstances and legislative judgment. The fact that Article 44 is combined alongside other socio economic and social reform instructions suggests that the founders viewed UCC as part of a progressive change of society, analogous to labour rights or educational policy, rather than as an instantly enforced requirement.¹²

At the same time, Articles 25–28 and 29–30 allow substantial religious and cultural liberties, including the right to profess, practice and spread religion, to govern religious affairs, and to retain unique culture and educational institutions. The effect of interpreting these laws together is a structural conflict between uniformity in civil law and preservation of religious and cultural heterogeneity. The constitutional design does not establish an automatic priority rule between Article 44 and Articles 25–30, allowing the Court and legislature to balance them in context.¹³

Judicial Involvement with Article 44 and UCC- The case law analysis indicates a trend in which the Supreme Court utilizes Article 44 more as moral leverage than as a source of enforceable rights.

- In *Shah Bano*, a five judge panel found that Section 125 CrPC—a secular provision for maintenance—applied to Muslim women and entitled the divorced wife to support beyond the Iddat period, dismissing claims that personal law prevented such relief. The Court observed that Article 44 had become a “dead letter” and asked the State to adopt a UCC to promote national unification and prevent unfairness to women.¹⁴
- In *Sarla Mudgal*, the Court addressed the matter of Hindu males converting to Islam to form a second marriage, declaring that such marriages were unlawful and attracted bigamy provisions under the Indian Penal Code. The ruling strongly pushed for a UCC, noting that separate personal laws promoted conflicts of loyalties and facilitated evasion of monogamous standards. Yet, the Court accepted that it could

¹² Constitution of India. (latest amended ed.). Government of India

¹³ Drishti IAS. (2025). *Shah Bano Case 1985 & Muslim Women’s Rights in India*

¹⁴ Pahuja Law Academy. (2025). *UCC Debate: Legal and Constitutional Analysis*

not itself establish a UCC, underlining that the responsibility remained with Parliament.¹⁵

- In John Vallamattom, the Court struck down Section 118 of the Indian Succession Act as discriminating against Christians in issues of charitable gift, stating again that a UCC would remove such inconsistencies by providing a unified set of secular principles.
- In Shayara Bano, the Court rejected instantaneous triple talaq (talaq e biddat) principally on the grounds of arbitrariness and breach of equality, rather than depending directly on Article 44. However, in concluding that personal law practices cannot trump basic rights, the Court created doctrinal grounds that promote the ultimate harmonisation of personal laws, consistent with Article 44's ethos.

The cumulative outcome is that Article 44 is regularly invoked in judgments that remove gender discriminatory portions of personal laws, but seldom enforced as such; instead, equality rights and secular legislation are employed as the primary foundation for decisions.¹⁶

DISCUSSION

Secularism, Religious Reform, and Personal Law- Thus, Articles 25 and 26 were put to doctrinal scrutiny along with the larger design of Part III, showing that Indian secularism was constructed as "principled distance" rather than rigid separation of State and religion. In this scheme, while allowing freedom of conscience and the right to profess, practise and promote religion, the State may interfere in religiously performed acts if they injure public order, morality, health or other basic rights. Courts have interpreted that Articles 25–26 protect only those practices that are religious in character and "essential" to a particular faith; those which are purely social or optional don't enjoy similar constitutional immunity and may be regulated in pursuit of social reform and equality.¹⁷

It is within this framework that the Supreme Court and high courts have framed the concept of "essential religious practices" (ERP). The doctrine mandates the courts to decide, often through scrutiny of scripture, theology and age-old tradition, whether a particular practice can be regarded as essential to the religion or merely ancillary. Once classified as non-essential or worldly, a practice becomes susceptible to legislative intervention under Article 25(2), which explicitly permits the State to regulate or

¹⁵ iPleaders. (2025). *Article 44 of Indian Constitution*

¹⁶ Drishti IAS. (2025). *Shah Bano Case 1985 & Muslim Women's Rights in India*

¹⁷ <https://www.tsclcd.com/uniform-civil-code-a-critical-analysis>

prohibit any economic, financial, political or other secular activity associated with religious practice. This principle has been applied to justify a range of reforms—from rules on temple entry to the administration of religious trusts—and provides the conceptual grounding for rendering many aspects of family law secular, despite efforts by communities to claim religious authority over them.¹⁸

Family law, although conventionally steeped in religious considerations, is therefore typically viewed as a secular domain that the State is free to regulate for the purposes of advancing equality between men and women and social justice. Academic scrutiny of Articles 25–26 highlights that marriage, divorce, maintenance, succession, and adoption have clear civil implications for status and property, and are thus within the purview of the State's power to modify, regardless of their religious hue. This way, legislators are able to codify or reform personal laws—such as the Hindu Marriage Act or reforms to Muslim maintenance provisions—without being seen as breaching freedom of religion, insofar as the root of religion and worship remains untouched. In its turn, this provides a constitutional basis for progressive, step-by-step reform of the personal laws as a realistic means for realizing Article 44's vision, without applying immediately a single, uniform civil code across all communities.

Looked at this way, Article 44 is not a stand-alone directive but part of a matrix where the State is expected to bring about change in secular elements of religiously governed principles in the interest of equality, while Articles 25–26 prohibit excessive interference with genuine religious tenets. The ERP principle has been criticized for dragging courts into theological matters, though its effect has been to gradually shift family law issues on to constitutional ground, where gender equality and non-discrimination can be tested against claims of religious autonomy. It is this shift—rather than a uniform UCC—which has already brought about considerable convergence among the several personal law regimes, narrowing the space within which practices that are patently iniquitous or unfair can claim constitutional immunity.

Uttarakhand Uniform Civil Code, 2024- Against this doctrinal backdrop, the Uttarakhand Uniform Civil Code, 2024, is the first comprehensive attempt by an Indian state to implement Article 44 through a single law governing the principal issues of family law. It extends to all citizens in the state, irrespective of their religion, but it clearly excludes Scheduled Tribes and some groups whose customary rights are protected by the Constitution—a pragmatic

¹⁸ <https://blog.ipleaders.in/article-44-of-indian-constitution/>

compromise between the requirement for uniformity and the imperatives for retaining tribal autonomy. The Act encompasses marriage, divorce, succession, guardianship, and live-in relationships and substitutes one regime of rights and obligations for the religion-specific personal laws in relation to each of these subjects.¹⁹

Among its most salient features is the mandatory registration of marriages within a specified period—60 days from the date of marriage—with penalties for non-compliance. The law further universalises the age of marriage at 21 years for males and 18 years for women, bringing all communities in line with current legislative requirements and attempting to curb child marriage more effectively. It prohibits polygamy and bigamy for all citizens, thereby erasing one of the most obvious differences between Hindu and Muslim personal laws and directly addressing long-standing feminist concerns about the vulnerability of women in polygamous marriages. Equally striking is the code's abolition of the legal category of "illegitimate" children by recognising children born of void or voidable marriages and of live-in relationships as legitimate for purposes of succession and maintenance.

A markedly peculiar characteristic of the Uttarakhand UCC is its regulation of live-in relationships. The Act mandates that any such relationship must be registered with the authorities within a certain period, and it also provides for maintenance and certain protections in cases where a woman is abandoned by her partner. Children born from such a relationship are not considered illegitimate, which could reduce the stigma traditionally associated with out-of-wedlock births and ensure inheritance rights which many children had previously been denied. These provisions suggest a deliberate approach towards gender equality and legal transparency, purporting to protect women and children in non-traditional family configurations and eliminate the grey areas within which partners, mostly women, had no actionable rights.

At the same time, the far-reaching registration requirements and associated criminal sanctions have raised significant concerns among scholars and commentators about privacy, autonomy and potential over-criminalisation. The need to register cohabiting relationships and the potential for sanctions for non-registration may leave couples—particularly inter-religious or inter-caste couples—vulnerable to social scrutiny and harassment, undermining the very liberties the law professes to protect. Critics argue that, in an environment where moral policing is already

¹⁹ <https://book.iledu.in/cb70/>

rampant, the state's zeal to record intimate relationships risks transforming a protection law into a tool of surveillance. It is also feared that administrative discretion in granting or rejecting registrations can create an opportunity for discrimination, particularly against couples whose marriages are socially frowned upon.²⁰

From the perspective of Article 44, therefore, the Uttarakhand UCC embodies both the promise and limitations of using a uniform instrument to change personal law. On one hand, its provisions relating to monogamy, child marriage, inheritance and recognition of children directly advance the equality-based rationale underlying demands for a UCC, and they show that a state can meaningfully reduce disparities between communities without waiting for national legislation. On the other hand, the code illustrates very well the fact that uniformity in form does not immediately translate into freedom in substance; if not well calibrated, consistent norms might put new limits on privacy and choice. The Uttarakhand experiment amply illustrates why the realization of Article 44 is a perpetual balancing act between gender equity and autonomy, and why the design and implementation of any civil code must be subject to constitutional review and democratic modification.

Scholarly and Policy Perspectives- Recent debates in the realm of thinking and policy on Article 44 and the UCC reflect a sharply polarized atmosphere. A significant current of writings holds the belief that a uniform civil code, as envisioned under Article 44, is essential to realizing the constitutional guarantee of equality and gender justice, particularly for women from minority groups who suffer at the hands of patriarchal interpretations of personal laws. These scholars argue that unless civil rights in matters relating to marriage, divorce and inheritance cease to be decided by the individual's faith, equality before the law remains an unfulfilled constitutional promise. From this perspective, separate personal laws undermine the very principle of a common citizenship and perpetuate forms of discrimination that would be inadmissible in any other domain of law.²¹

In contrast, another body of scholarship maintains that the UCC has increasingly been invoked as a political slogan rather than a well-articulated legal reform program. This perspective emphasizes that UCC rhetoric often intersects with majoritarian politics, in which personal law reform serves as a means to delegitimize minority leadership and portray minority cultures as

²⁰ <https://www.nextias.com/blog/uttarakhand-uniform-civil-code-ucc/>

²¹ MIT University. (n.d.). *Uniform Civil Code: Legal, Social and Constitutional Analysis*

essentially retrograde or autocratic. These authors underline the fact that, in the absence of adequate safeguards and actual participation, a UCC enacted in this manner could become tantamount to majoritarianism cloaked as uniformity and thereby drain the rich diversity implied by Articles 25–30.²²

While much work attempts to transcend this polarity, the emphasis is often placed on how India already embodies significant elements of uniformity within civil law. Secular statutes such as the Special Marriage Act, codified Hindu law after the 1950s, and the more organic judicial reform of Muslim personal law have cumulatively given way to a regime wherein foundational principles—attendance to monogamy, for example, or minimum age limits for marriage, and certain kinds of maintenance—are largely similar across communities. The core issue, therefore, for those adopting this perspective, is not whether some uniformity is desirable, but the degree and manner of further harmonization, and how much choice the people should have in opting into secular regimes. This view finally squares with the opinion of the Law Commission in 2018: "What is required, therefore, is not a uniform civil code for the entire country but a uniformity in the essential provisions to be made applicable to all people, irrespective of their caste, creed, or religion." These intellectual and policy standpoints taken together lead to the basic thesis that Article 44 is best construed to mean a direction to protect equal civil rights of all citizens while preserving genuine variation in forms and methods. No longer is the discussion just "UCC versus personal laws," but over how to construct legal reforms—whether via codes like Uttarakhand.²³

The Normative Position and Purpose of Article 44- The results show that Article 44 works largely as a constitutional ideal rather than a directly enforced rule, a position inherent in its location inside Part IV of the Constitution with other Directive Principles. Article 37 specifically specifies that these principles "shall not be enforceable by any court," but dictates that they remain "fundamental in the governance of the country," establishing a unique dichotomy where Article 44 influences policy without providing individual rights. This normative posture enables it to define legislative perspectives and judicial expectations, acting as a baseline for judging state action on personal laws without triggering direct judicial coercion. In the landmark ***Mohd. Ahmed Khan v. Shah Bano Begum (1985)***, the Supreme Court extended maintenance rights under Section 125 CrPC to a Muslim divorcee but refrained from ordering Parliament to enact a UCC, instead

²² <https://www.mea.gov.in/images/pdf1/part4.pdf>

²³ <https://byjus.com/free-ias-prep/need-for-a-uniform-civil-code-in-a-secular-india/>

deploying Article 44 rhetorically to decry its status as a "dead letter" and position the ruling within a broader constitutional narrative of equality and integration. This judicial caution emphasizes Article 44's indirect influence: it legitimises modest improvements while postponing complete legislation to the political branches.²⁴

The legal power of Article 44 appears via three interconnected functions that augment its practical relevance notwithstanding non-justiciability. First, as a directive, it informs parliamentary competence by communicating that uniform civil rules lie solidly within legislative jurisdiction, promoting passage when political circumstances permit, much like how Directive Principles have driven labor and education reforms. Second, it functions as an interpretive principle, enabling courts to resolve statutory ambiguities in favour of unity and gender justice; for instance, in ***Sarla Mudgal v. Union of India (1995)***, the Court invoked Article 44 to invalidate bigamous conversions, interpreting criminal law provisions through the lens of secular uniformity over religious exemptions.²⁵ Third, Article 44 acts as a symbolic resource for judges, reformers and campaigners, portraying personal law changes—such as the repeal of triple talaq—as fulfilment of constitutional vision rather as attacks on religious autonomy, therefore generating public and moral legitimacy for reform. Collectively, these responsibilities convert Article 44 from inert language into a dynamic instrument for constitutional change.²⁶

Article 44 and Equality-Centred Personal Law Reform- Post ***Shah Bano*** jurisprudence reveals that Part III fundamental rights—particularly Articles 14 (equality), 15 (non-discrimination) and 21 (life and dignity)—have emerged as the primary engines for personal law reform, with Article 44 offering contextual reinforcement rather than standalone authority. This shift is epitomised in *Shayara Bano v. Union of India (2017)*, where a Constitution Bench invalidated instant triple talaq (talaq-e-biddat) not on Article 44 grounds but as manifestly arbitrary and violative of women's dignity, holding that personal laws cannot claim immunity from fundamental rights scrutiny. The majority argument stressed that procedures creating disparate results for women undercut the constitutional guarantee of substantive equality, indirectly promoting Article 44's harmonization aim via

²⁴ Jain, K., & Kedari, S. (n.d.). *The Constitutional Validity of Uniform Civil Code in India*

²⁵ Sura Reddy, A. (1996). Article 44: A Dead Letter? *Journal of the Indian Law Institute*

²⁶ TSCLD. (2024). *Uniform Civil Code: A Critical Analysis*

rights-based adjudication.²⁷

A rights-centric interpretation of Article 44 redefines "uniform" not as identical textual rules but as substantive parity: no citizen should face discrimination in civil matters due to sex, religion or community, with core family-law elements—marriage age, divorce procedures, inheritance shares—meeting minimum constitutional thresholds. This strategy permits ceremonial variation (e.g., unique marriage ceremonies) while enforcing change of obviously unfair regulations, such as unilateral repudiation or uneven coparcenary rights, across all communities. Cases like ***John Vallamattom v. Union of India (2003)***, invalidating discriminatory Christian succession restrictions, show this: Article 44 offered aspirational background, while Article 14 delivered the enforced hammer. Such equality-driven change achieves de facto uniformity slowly, skipping the political deadlock of a national UCC while harmonizing personal laws with secular ideals of justice.

Majoritarianism, Minority Rights and The UCC Debate- Socio-legal investigation demonstrates that minority apprehensions target not equality per se but the method and substance of UCC implementation, frequently regarded as interwoven with Hindu majoritarian ambitions that risk recasting Article 44 as a tool for cultural hegemony. Critics stress how UCC rhetoric has traditionally soared during political cycles, encouraging expectations that changes may replicate reformed Hindu law norms—monogamy, nuclear family structures—imposed on multiple traditions, therefore weakening minority agency. Minority bodies and intersectional feminists support "internal reform": community-led revisions to personal laws, calibrated to constitutional norms via consultation, conserving identity while promoting gender justice, as witnessed in post ***Shayara Bano*** Muslim women's efforts.

This contradiction reveals a basic constitutional dialectic: Article 44 cannot undermine Articles 25–30's protections for religious practice, administration and cultural preservation, necessitating mutual restraint. Religious freedom concedes to equality if practices essentialise gender subordination, although equality striving must reject erasure of minority diversity. A balanced paradigm prioritises participatory design—Law Commission-style consultations—ensuring UCC emerges as consensus-driven development, not top-down fiat, maintaining brotherhood among

²⁷ <https://clpr.org.in/wp-content/uploads/2017/11/UCC-Part-2-Judicial-History-.pdf>

diversity.²⁸

Uttarakhand UCC as Experimental Implementation- The Uttarakhand Uniform Civil Code, 2024, exhibits Article 44's state-level actualisation, merging progressive egalitarian provisions with implementation problems. Its restrictions on polygamy, halala and child marriage, standard marriage age (21/18), equal inheritance (daughters as coparceners) and legitimization of live-in children immediately operationalise Articles 14–15, reflecting women's organizations' demands and Goa's communal property model. Compulsory marriage registration promotes traceability for maintenance claims, preventing avoidance.

Yet, live-in registration obligations, with prison penalties for non-compliance, raise Article 21 concerns, possibly surveillant consensual unions amid honour murders and caste taboos, unjustly burdening inter-community couples. As a "laboratory," Uttarakhand enables empirical testing—litigation results, compliance rates—informing national policy, but expects safeguards: opt-outs, sunset provisions, impact audits incorporating minorities and LGBTQ+ voices. Success rests on judicial moderation, ensuring experimentation advances Article 44 without overreach.²⁹

Towards a Reconciliatory, Pluralist understanding of Article 44- Doctrinal-socio-legal synthesis produces a reconciliatory paradigm: Article 44 harmonises equality, secularism and pluralism without strict hierarchy. Civil laws, irrespective of origin, must preserve equality, non-discrimination and dignity minimum. Articles 25–30 safeguard rituals and identity but not rights-violating civil impacts, emphasizing intra-community vulnerable. Uniformity occurs via consequence convergence: various legislation giving comparable safeguards.³⁰

Practically, a multi-track approach unfolds: boost Special Marriage Act accessibility (simplified rituals, no notice); pursue Law Commission-guided changes (no-fault divorce, equitable property across laws); pilot state codes like Uttarakhand/Goa under examination. This pluralist route upholds Article 44's "endeavour" as gradual, consensual realization, encouraging justice without uniformity's hazards.³¹

²⁸ Drishti IAS. (2025). *Shah Bano Case 1985 & Muslim Women's Rights in India*

²⁹ Library of Congress. (2024). *India: Legislative Assembly of Uttarakhand Enacts Uniform Civil Code.*

³⁰ Various authors. (2023). *A Critical Analysis on Uniform Civil Code – Need or Myth.*

³¹<https://www.bbau.ac.in/dept/HR/TM/Freedom%20of%20religion%20unde>

CONCLUSION

Article 44 of the Indian Constitution, ordering the State to "endeavour to secure for the citizens a uniform civil code throughout the territory of India," symbolizes a fundamental but controversial constitutional ideal at the nexus of equality, secularism, and pluralism. Positioned inside the non-justiciable Directive Principles, it has transcended its formal restrictions to operate as a normative ideal, interpretative guide, and symbolic catalyst for personal law change. Judicial engagements from ***Shah Bano (1985) to Shayara Bano (2017)*** demonstrate its rhetorical power in critiquing gender-discriminatory practices while deferring legislative action to Parliament, revealing a pattern where fundamental rights under Articles 14, 15, and 21 drive substantive change, with Article 44 providing contextual legitimacy. The "essential religious practices" notion under Articles 25–26 further supports this progress by differentiating reformable secular features of family law from protected religious core, establishing basis for harmonization without sweeping uniformity.³²

Contemporary developments, like the Uttarakhand Uniform Civil Code, 2024, question Article 44's practical validity. Its progressive features—bans on polygamy and child marriage, equal inheritance, recognition of live-in children—advance gender justice and legal certainty, coinciding with long-standing women's rights demands and partly fulfilling Article 44 at the state level. Yet, invasive registration rules pose Article 21 privacy issues, emphasizing problems of over-regulation in different communities. Scholarly polarities mirror this tension: proponents perceive UCC as equality's completion, while detractors denounce majoritarian co-optation, demanding internal improvements over monolithic norms. Goa's Civil Code and the 21st Law Commission's 2018 emphasis on "uniformity of rights" provide nuanced examples, indicating modest, outcome-focused tactics may transcend gaps.

Ultimately, Article 44 persists not as a "dead letter" but as a living mandate seeking reconciliatory interpretation. It mandates the State to gradually align personal laws with constitutional morality—ensuring no citizen suffers sex- or community-based discrimination in civil matters—while preserving Articles 25–30's pluralist protections. Uniformity occurs via convergence of safeguards, not textual identity, establishing a citizenship where gender parity coexists with cultural individuality. The

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³² Pahuja Law Academy. (2025). *UCC Debate: Legal and Constitutional Analysis*.

Uttarakhand experience confirms state-led labs, but national realization needs democratic consent, not compulsion.³³

SUGGESTIONS

To operationalise Article 44 coherently, governments should use a multi-pronged, phased approach stressing rights above rigidity:

Enhance Secular Alternatives: Amend the Special Marriage Act, 1954, to speed registration—eliminate 30-day notice, decrease costs, and facilitate self-certification of solemnisation—making it the default for inter-faith and elective unions, therefore widening opt-in uniformity without force.

Targeted Internal Reforms: Convene a new Law Commission or legislative committee for community-specific updates: standardise minimum marriage age (21 for all), implement no-fault divorce with equitable alimony across Hindu, Muslim, Christian, and customary systems, and assure daughters' equal coparcenary rights internationally, governed by post *Shayara Bano* precedents.

State-Level Experiments with Safeguards: Replicate Uttarakhand/Goa models in willing states (e.g., via voluntary civil codes), but integrate sunset provisions, opt-outs for tribal traditions, and mandated five-year impact evaluations monitoring gender results, litigation, and compliance using NCRB-like data. Judicial scrutiny via public-interest petitions assures Article 21 compliance.

Participatory Mechanisms: Mandate pre-legislative meetings with women's organizations, minority bodies, LGBTQ+ organisations, and sociologists, releasing white papers for 90-day response, mimicking Constituent Assembly gradualism.

Monitoring and data framework: Establish a national Family Law Reform Dashboard collecting NCRB family dispute data, conviction rates, maintenance awards, and gender parity indices, allowing evidence-based iteration. This pluralist roadmap upholds Article 44's "endeavour" as consensual progress, furthering justice, liberty, equality, and fraternity without cultural erasure. Future study should empirically examine Uttarakhand's effects, improving models for scale replication.

³³ <https://legislative.gov.in/constitution-of-india/>

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