



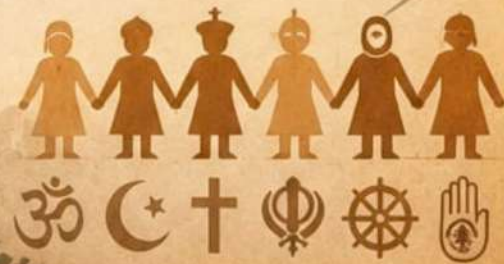
UNIFORM CIVIL CODE

From History to the Way Ahead

Dr. Dipalee B. Mulmulay



Equality
Justice
Harmony
For All



S. R. P. Publication

UNIFORM CIVIL CODE: FROM HISTORY TO THE WAY AHEAD

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ABOUT THE BOOK

The idea of a Uniform Civil Code has been part of India's constitutional and legal discussion since the making of the Constitution. Yet, even after several decades, it continues to raise important questions about equality, personal freedom, religion, gender justice and the diversity of Indian society. This book is an attempt to understand that debate in a balanced and practical manner.

The book begins by tracing the historical development of personal laws in India. It looks at the evolution of Hindu and Muslim personal laws, the changes introduced during the British period and the important legislation that shaped family law after Independence. The constitutional position of the Uniform Civil Code, particularly Article 44, is examined along with the debates surrounding it.

An important part of the book is the role played by the Indian judiciary. Several significant judgments of the Supreme Court and High Courts have dealt with issues relating to marriage, divorce, maintenance, succession, gender equality and personal laws. These decisions show how the courts have tried to balance individual rights with religious and customary practices. The book also considers the limitations of judicial intervention and the need for appropriate legislative action.

The book further examines the present position of the Uniform Civil Code in India, including the experience of Goa and recent developments in States that have taken steps towards a common civil law. These developments provide useful material for understanding what a Uniform Civil Code may look like in practice and what difficulties may arise in its implementation.

Another important feature of the book is its empirical dimension. The views of judicial officers and lawyers have been considered to understand how the issue is perceived by members of the legal profession. Their responses provide an additional perspective beyond constitutional provisions, legislation and judicial decisions.

The book does not approach the Uniform Civil Code simply as a question of uniformity. It recognises that India is a country of different religions, communities, customs and traditions. At the same time, personal laws cannot remain untouched when they conflict with principles of equality, dignity and justice. The real challenge, therefore, is to find a balance between uniformity and diversity, reform and tradition, and individual rights and community interests. In its concluding part, the book suggests a possible framework for a Uniform Civil Code by drawing upon constitutional principles, judicial decisions, existing personal laws and recent State-level experiences. The intention is not to provide a rigid or final model, but to contribute to the continuing legal and social discussion on the subject.

Ultimately, this book is an attempt to look at the Uniform Civil Code not merely as a political or constitutional slogan, but as a legal question affecting the everyday lives of individuals and families. It seeks to encourage a thoughtful discussion on how India can move towards greater equality and justice while respecting its rich diversity.

PREFACE

The idea of a Uniform Civil Code has remained one of the most discussed and debated issues in the Indian legal system. Since the adoption of the Constitution, Article 44 has placed the objective of securing a Uniform Civil Code for the citizens of India among the Directive Principles of State Policy. Yet, despite the constitutional reference, personal laws relating to marriage, divorce, adoption, maintenance, guardianship and succession have continued to operate differently for different communities. The question of whether, and in what manner, these laws should be brought within a common framework has therefore remained a subject of continuing legal, social and constitutional discussion.

This book is an attempt to examine the Uniform Civil Code from a legal and practical perspective. It does not approach the subject merely as a question of replacing different personal laws with one common law. The issue is much wider. It involves the relationship between equality and religious freedom, individual rights and community practices, gender justice and family autonomy, constitutional values and social diversity. Any meaningful discussion of a Uniform Civil Code must take these different considerations into account.

The historical development of personal laws forms an important part of this study. The book therefore begins by examining the position of civil law in ancient India and traces the development of Hindu and Muslim personal laws through different periods. The role played by custom, religious texts, juristic writings and the administration of justice is considered in order to understand how the present system of personal laws developed. The contribution of British legislation and the establishment of civil courts are also examined, since the colonial period had a significant influence on the structure of personal laws in modern India.

The book further considers the various enactments which have applied generally to citizens as well as the statutory reforms made within particular personal-law systems. The development of legislation relating to marriage, inheritance, adoption, maintenance and child marriage demonstrates that personal laws have never remained completely static. They have undergone changes through legislation and judicial interpretation in response to changing social conditions.

Judicial decisions occupy an important place in the discussion. The Indian judiciary has, on several occasions, been required to balance personal law with constitutional principles such as equality, dignity and individual liberty. The development of judicial activism in matters relating to personal law is therefore examined, together with the limitations and controversies surrounding judicial intervention.

An important feature of this book is its empirical dimension. A study relating to the Uniform Civil Code cannot be confined entirely to constitutional provisions, statutes and judicial decisions. The views of persons who have a direct understanding of law and its practical operation are also relevant. The responses collected for this study have therefore been analysed to understand perceptions concerning the need for a Uniform Civil Code, the areas in which uniformity may be desirable, the

concerns that may arise in its implementation and the safeguards that may be necessary.

The findings of the study form the basis for the suggestions made in the later part of the book. The book does not advocate uniformity merely for the sake of uniformity. Rather, it attempts to identify areas in which common civil standards may strengthen equality, justice, legal certainty and the protection of individual rights, while at the same time recognising the importance of India's religious and cultural diversity.

The experience of Goa and the developments concerning Uniform Civil Code legislation in other parts of India are particularly relevant to the present discussion. The book therefore examines the Goa civil-law framework and recent developments in states that have taken steps towards introducing or considering common civil-law provisions. These developments provide an opportunity to examine how the constitutional objective of Article 44 may be approached in practice.

The final part of the book makes an attempt to present a suggestive framework for a Uniform Civil Code. The proposed framework is not intended to be presented as the only possible model. It is an academic proposal based upon the historical study, legal developments, judicial decisions, empirical findings and comparative examination undertaken in the book. The intention is to contribute to the continuing discussion and to indicate how a Uniform Civil Code may be structured in a manner consistent with constitutional values and the practical realities of Indian society.

The subject of the Uniform Civil Code is capable of generating strong opinions. This book has therefore attempted, as far as possible, to maintain a balanced approach. The objective is neither to support nor to oppose uniformity on ideological grounds, but to examine the legal issues, historical background, social concerns and practical difficulties involved in the subject. Differences of opinion are inevitable in an area where law, religion, society and individual rights intersect. Such differences, however, make reasoned discussion all the more important.

The book is ultimately based on the belief that the law must respond to changing social realities while remaining faithful to constitutional principles. A Uniform Civil Code, if introduced, should not merely produce uniform provisions; it should strive to produce a fairer and more just civil-law framework. The real measure of such a law would lie in its ability to protect individual rights, promote equality, ensure dignity and provide legal certainty while respecting the legitimate diversity of Indian society.

I hope that this book will be useful to students, teachers, researchers, members of the legal profession and all those interested in the constitutional and social dimensions of personal laws in India. It is also hoped that the study will contribute, however modestly, to a more informed and constructive discussion on one of the most important unfinished questions in Indian family law.

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First and foremost, I express my heartfelt gratitude to our respected Principal, Dr. Dilip Patil, for his constant encouragement, support and guidance. His encouragement has been a source of motivation throughout the preparation of this work.

I am deeply grateful to the Management of my college for providing an academic environment that encouraged me to undertake this study and bring it to its present form. I sincerely appreciate their support and encouragement throughout this endeavour.

I would like to dedicate this book to the memory of my late father, Adv. Dada Deshpande. This issue of law was very close to his heart, and his deep interest in legal studies and his respect for the legal profession have always been an inspiration to me. His presence is deeply missed, but his values, affection and encouragement continue to remain a source of strength. This work is, in many ways, a tribute to his memory.

I express my deepest gratitude to my mother, Mrs. Vrunda Deshpande, whose love, patience and constant support have been an integral part of my journey. Her encouragement and faith in me have given me the strength to pursue and complete this work.

I am also thankful to my colleagues, students, friends and well-wishers who, directly or indirectly, contributed to this work through their encouragement, discussions and valuable suggestions.

Finally, I acknowledge all those scholars, jurists, authors, judges and researchers whose writings and contributions have helped in developing my understanding of the Uniform Civil Code, personal laws and constitutional law. Their work has provided an important foundation for this study.

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LIST OF ABBREVIATIONS

Abbreviation	Full form
UCC	Uniform Civil Code
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
IPC	Indian Penal Code, 1860
CrPC	Code of Criminal Procedure, 1973
CPC	Code of Civil Procedure, 1908
HMA	Hindu Marriage Act, 1955
HSA	Hindu Succession Act, 1956
HAMA	Hindu Adoptions and Maintenance Act, 1956
HMGA	Hindu Minority and Guardianship Act, 1956
SMA	Special Marriage Act, 1954
PCMA	Prohibition of Child Marriage Act, 2006
CMRA	Child Marriage Restraint Act, 1929
MWPRDA	Muslim Women (Protection of Rights on Divorce) Act, 1986
DMMA	Dissolution of Muslim Marriages Act, 1939
MPLA	Muslim Personal Law
MPL (Shariat) Act	Muslim Personal Law (Shariat) Application Act, 1937
GWA	Guardians and Wards Act, 1890
HUF	Hindu Undivided Family
PIL	Public Interest Litigation
SC	Supreme Court
HC	High Court
AIR	All India Reporter
SCC	Supreme Court Cases
SCC online	Supreme Court Cases Online

ILR	Indian Law Reports
UOI	Union of India
UN	United Nations
UNICEF	United Nations Children's Fund
UNFPA	United Nations Population Fund
UDHR	Universal Declaration of Human Rights
DPSP	Directive Principles of State Policy
FR	Fundamental Rights
Art.	Article
Sec.	Section
SGM	Special General Meeting
NCRB	National Crime Records Bureau
NFHS	National Family Health Survey
NGO	Non-Governmental Organisation
Uttarakhand UCC	Uniform Civil Code of Uttarakhand
Goa UCC	Uniform Civil Code applicable in Goa / Goa civil-law framework

About the Author



Dr. Dipalee Bipin Mulmulay is an assistant professor and head of the Department of Business Law at Sheth N.K.T.T College of Commerce and Sheth J.T.T College of Arts (Autonomous), Thane. She holds LL.M., M.Phil., NET, SET, and Ph.D. qualifications in law and has over 13 years of teaching experience. Her areas of academic interest include business law, constitutional law, personal laws, women and child-related legal issues, and NRI marital disputes.

She was awarded her Ph.D. in Law by Sant Gadge Baba Amravati University in 2026 for her research on "Problems relating to the marriages of Hindu women with NRIs with special reference to the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954." She has 14 research papers to her credit, published in Scopus, UGC CARE, peer-reviewed, and refereed journals, covering subjects such as NRI marital disputes, women's rights, child labour, living wills, mental health, and legal issues relating to marriage.

Her research has also extended to book chapters and presentations at national and international conferences. She has undertaken a minor research project on "Vinayak Damodar Savarkar as a social reformer with scientific allegiance" and has participated in various faculty development and research methodology programmes.

Apart from teaching and research, Dr. Dipalee has been actively involved and has handled various academic, administrative, and social responsibilities on an institutional level. She is also a member of the Bar Council of Maharashtra and Goa.

Her work reflects a continuing interest in law, social justice, and the practical problems faced by individuals in their personal and family lives. This book on the Uniform Civil Code is a further contribution to her academic engagement with personal laws, gender justice, and legal reform.



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