



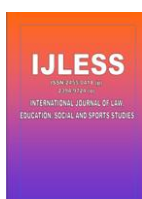
## **The Legal Framework Controlling Migrant Women and the Imperative of Uniform Civil Code**

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### **Abstract**

Adoption of a Uniform Civil Code (UCC) in India has been the subject of vigorous debate, specifically regarding its implications for marginalized groups, such as migrant women. Migrant women tend to experience legal vulnerabilities due to the convergence of personal laws, socio-economic disadvantage, and restricted access to justice. The envisioned UCC seeks to substitute religious-governed personal laws with one uniform legal scheme, perhaps narrowing gender imbalances in marriage, divorce, succession, and maintenance. The singularity of legal regime may further erode the cultural identity as well as produce further exclusionary effects on the migrant women who already face systematic obstacles in India. This article critically explores whether a UCC would bring about greater gender equality and better legal protection to migrant women or if it would overlook their socio-cultural realities and cause unintended discrimination.

Through a critical analysis of constitutional provisions, judicial precedents, and foreign experiences, this research assesses the possible advantages and pitfalls of enacting UCC in India. The study also investigates worldwide legal systems which have embraced consistent civil laws and how they have affected migrant and minority populations. The research concludes by emphasizing the importance of a sensitive and inclusive process in formulating the UCC, with special care to ensure that the interests of migrant women are properly catered to. Policy suggestions are centered on maintaining a balance between uniformity and diversity, improving legal assistance for migrant women, and encouraging gender-sensitive reforms to ensure equality and cultural identity.

**Keywords:** Uniform Civil Code, Migrant Women, Gender Equality, Legal Protection, Cultural Identity.

### **Introduction**

Uniform Civil Code (UCC) is a planned legal code in India that aims to substitute the prevailing religion-oriented personal laws with one uniform law of marriage, divorce, inheritance, and other civil issues. Based on the grounds of justice and equality, the aim of the UCC is to do away with gender

discrimination and make all citizens, regardless of religion, subject to the same civil laws. Article 44 of the Indian Constitution under the Directive Principles of State Policy requires a UCC to be adopted for national integration and equality. Yet, discussion around UCC has been abstruse because of India's multi-religious and multi-culture nature. The concept of one uniform code has evoked resistance from every religion community seeing it as being opposed to its personal laws which are closely knit to its self-hood as well as usage. Migrant women are especially at the center of this debate since they tend to be members of marginalized socio-economic groups and face the double burden of gender and migratory vulnerabilities. The UCC debate's historical setting goes back to the Constituent Assembly debates in which such voices as Dr. B.R. Ambedkar called for gender-fair law and at the same time respected the difficulties in applying a unitary legal scheme to a diversely structured society.

The argument gained steam in the post-independent era, and more so with milestone cases such as the Shah Bano case (1985), which called attention to inconsistencies in personal law with respect to women's rights. Although the Hindu Code Bills were introduced in the 1950s with the aim of reforming Hindu personal laws, separate legal structures for other religious communities remained predominantly intact. Through the passage of time, judicial interpretations and political debate have revived arguments in favor of a UCC based on the argument that it would promote gender justice, with critics believing that it would erode<sup>1</sup> religious autonomy. The argument is further important within the context of migrant women, who experience legal ambiguity, socio-economic adversity, and discrimination in both their home and host societies. Migrant women, in their mobile status, lack awareness of their rights, and economic dependency, may find it difficult to exercise legal recourses. They belong to religious or ethnic minorities whose traditional laws often afford them poor protections, rendering them susceptible to challenges like forced marriage, withholding of inheritance rights, and deprivation of financial support after divorce. The interaction between personal laws complicates their legal standing further because varying degrees of protection are afforded by different religious laws, tending to diminish the rights of women. The question then arises : Will a UCC truly empower migrant women by standardizing their rights, or will it further alienate them by disregarding the complexities of their lived experiences ? This paper seeks to critically examine the implications of the UCC for migrant women in India by analyzing whether such a legal shift will create a more equitable system or perpetuate new forms of exclusion. It seeks to examine how the UCC can be framed in a way that balances uniformity and cultural diversity without further penalizing migrant women, who are already positioned at the margins of legal and social structures.

Through examination of constitutional provisions, judicial precedents, and comparative legal regimes of other nations, this research will evaluate if the adoption of a UCC will actually contribute to gender justice for migrant women or if other measures, including gender-sensitive reform within current personal laws, would be more successful. By answering these<sup>2</sup> fundamental questions, the

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study will contribute to the larger debate on legal uniformity, gender justice, and the changing rights of migrant women in India's socio-legal context.

### **The Legal Framework Controlling Migrant Women and the Imperative of UCC**

India's personal laws controlling marriage, divorce, succession, and maintenance are highly divergent and religiously divided, tending to create disparities in women's legal rights, possibilities, and opportunities, especially for migrant groups. Hindu personal law, codified under the Hindu Marriage Act, Hindu Succession Act, and other ancillary laws, offers some safeguards to women but still carries patriarchal biases in inheritance and guardianship issues. Muslim personal law, based on Sharia precepts, accords women some rights in marriage and inheritance but frequently puts them at a disadvantage when it comes to unilateral divorce (triple talaq, prior to its abolition) and polygamy. Christian and Parsi personal laws also contain their own marriage, divorce, and succession rules, at times granting greater protections than other religious law but still being gendered and unequal. Migrant women, who migrate from rural to urban regions or within state boundaries for employment or marriage, are often left in legal limbo, unsure of which personal law they are subject to, especially if they are from mixed-religion families or have converted post-migration. Imposition of diverse personal laws gives rise to unequal legal terrain, rendering it hard for migrant women to access similar protections, thus perpetuating gender-based vulnerabilities. The loopholes in the existing legal framework further worsen the plight of migrant women, as they are often unaware of their rights and do not have adequate financial or social support to approach the law.

Most migrant women, especially those working in informal labor markets or domestic work, experience exploitation, abandonment, and economic vulnerability because of unclear legal safeguards. The absence of a uniform body of law translates into their differential rights to maintenance, alimony, or property holding based on their religious group, marital status, and destination area of migration. In the case of intermarriages across different religions, conflicts of jurisdiction between personal law and the Special Marriage Act also lead to more confusion, thus delays in justice. The lack of a gender-neutral, universal civil code not only deprives these women of uniform legal remedies but also accentuates their marginalization in both private and<sup>3</sup> public domains. A UCC could help fill these gaps by guaranteeing equal legal treatment regardless of religion, and offering an impersonal, standardized method for the resolution of disputes, thus safeguarding migrant women from legal uncertainties created due to intersecting personal laws. Courts' interpretations across the years reflected the imperative requirement for legal consolidation to safeguard the rights of women, particularly inheritance, divorce, and maintenance. Landmark cases like the Shah Bano case (1985) illustrated Muslim women's dilemma denied maintenance based on personal law, which subsequently prompted legislative interference through the Muslim Women (Protection of Rights on Divorce) Act.

Likewise, the Mary Roy case (1986) had tested discriminatory inheritance provisions under Christian personal law and established property rights for Syrian Christian women in Kerala. Courts

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have time and again asserted the significance of gender justice above religious considerations, but in the absence of a UCC, legal contradictions still remain. For migrant women, these judicial rulings provide promise but not a systemic solution, as they continue to have to navigate a disintegrated legal framework. While courts have demonstrated a progressive approach towards interpreting personal laws in a more gender-just sense, the lack of codified uniform laws ensures that migrant women continue to be susceptible to legal discrepancies based on religion, place, and socio-economic status. A UCC implemented for them may offer them a more stable and certain legal framework with access to justice without having to go through complicated personal law regimes.

### **Implications of UCC on Migrant Women's Rights**

Enforcement of a Uniform Civil Code (UCC) in India has far-reaching implications for migrant women, especially regarding legal protection, gender justice, and rights access. The most important positive implication of the UCC would be the legalization of rights so that all women, irrespective of their religion, have uniform access to marriage laws, divorce laws, inheritance laws, and laws of maintenance. In the present personal law system, a migrant woman's rights are contingent on her religious faith, and therefore, this system can cause contradictions, particularly if women travel across states or cross-religion marriages. A UCC would eliminate these discrepancies, providing a single, one-size-fits-all legal scheme that promotes legal certainty and access for migrant women. Additionally, the UCC would act as an instrument for gender justice in ending discriminatory strategies like polygamy, unilateral divorce, and unequal inheritance regulations that continue to exist in some personal laws. Most migrant women, who are already socio-economically disadvantaged, would gain from transparent, standardized rights that give them greater legal footing in marriage and property cases. Legal remedies would also be made more accessible, as one codified law would eliminate uncertainty regarding jurisdictional disputes and allow for more effective legal recourse. This would particularly help migrant women, who may not have the resources or information to deal with sophisticated legal systems. In spite of its benefits, the UCC has significant challenges and criticisms, especially related to cultural autonomy and religious identity.

One of the biggest concerns is that implementing a UCC would result in the erasure of individual and religious practices that many migrant women depend upon for social and familial sustenance. For example, some customary laws grant women access to communitybased mechanisms for resolving disputes, which may get shattered if substituted with an uniform code. The imposition of a code without due consideration of cultural sensitivities may also isolate some communities, especially those who perceive personal laws as being part of their identity. Furthermore, there is a possibility that an ill-conceived UCC might end up marginalizing some groups even more, particularly if it does not consider the socio-economic conditions of migrant women. Most migrant women are employed in irregular sectors, do not<sup>4</sup> have permanent housing, and are not well aware of their rights, which renders them extremely vulnerable to bureaucratic and legal complications that might arise from abrupt

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<sup>4</sup> Hasan, Z. (2019). *Politics of inclusion: Caste, minorities, and affirmative action*. Oxford University Press.  
India Law Commission. (2018). *Consultation paper on reform of family law*.  
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changes in the governance of personal law. Moreover, religious and political opposition poses an important hurdle in the implementation of UCC because these groups are likely to object to reforms which they view as encroaching on religious freedoms. Without scrupulous policymaking that ensures inclusivity, there is potential for the UCC to evolve into a source of political contestation instead of an authentic social justice tool. A comparative cross-country experience in civil codes contains lessons for India. Other nations like France and Turkey, which impose rigid secular civil codes, have managed to eliminate religion-based discrimination but have also encountered opposition from minority groups.

On the other hand, Tunisia's personal status code offers a model of reform that blends religious principles with advanced legal frameworks, balancing uniformity with cultural sensitivities. Indonesia, which maintains a plural legal system while guaranteeing state-sponsored protections for women's rights, shows that legal reform is not necessarily about the total elimination of religious laws. These international experiences suggest that the success of a UCC in India will be contingent upon how inclusively it is drafted so that it reinforces migrant women's rights without neglecting their cultural contexts. An effectively drafted UCC must balance legal uniformity with the socio-economic realities of marginalized groups to achieve genuine gender justice.

### **Conclusion and Suggestions**

A Uniform Civil Code (UCC) in India offers opportunities as well as challenges for migrant women. A properly drafted UCC can contribute towards gender justice by removing discriminatory practices based on personal laws, granting equal legal protection to all women irrespective of religion. It can guarantee harmonization of laws relating to marriage, divorce, inheritance, and maintenance, which will ease the legal process for migrant women subjected to jurisdictional and bureaucratic red tape. With the substitution of fragmented personal law by a singular code, the UCC has the potential to strengthen migrant women's legal rights and enhance access to justice for them. That said, success of the code is subject to how inclusive its framing is. Unless cultural sensitivities and socio-economic needs are taken into consideration, a UCC could stand to alienate some communities and worsen current disparities. Religious and political resistance, as well as practical implementation issues, underscore the importance of gradual and thoughtful policy reform. For migrant women to profit from the UCC, a balanced and inclusive strategy must be employed.

First, broad consultations with stakeholders such as women's rights organizations, migrant communities, and religious leaders should be undertaken to develop a UCC that is respectful of cultural diversity but also ensures constitutional principles of equality. Second, special legal aid and sensitization programs must be put in place to raise awareness among migrant women of their rights under the UCC. Third, phased implementation with protective measures for vulnerable communities will be essential in order to ensure smooth transition. Lastly, global lessons should be integrated to devise a model that strengthens legal safeguards without compromising cultural identities. A UCC that is sensitivity and inclusive in its approach can become a revolutionary legal reform that guarantees actual gender justice to migrant women in India.

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