

Discussion on the Perspective of the Father of the Constitution with Respect to Uniform Civil Code

Triza Pritam Mazinder Baruah¹, Dr. Priti Rupa Saikia²

¹ Research Scholar, Juridical Studies, Mahapurusha Srimanta Sankardeva Vishvavidyalaya

² Associate Professor, Juridical Studies, Mahapurusha Srimanta Sankardeva Vishvavidyalaya

Abstract—The Uniform Civil Code has remained one of the most intensely debated constitutional aspirations in India since the framing of the Constitution. Dr. B.R. Ambedkar, Chairman of the Drafting Committee and widely regarded as the principal architect of the Indian Constitution, played an important role in defending the inclusion of the provision relating to a Uniform Civil Code during the Constituent Assembly Debates. His perspective reflected an attempt to reconcile religious freedom and cultural diversity with equality, social reform, national integration and individual liberty. Ambedkar rejected the proposition that the existence of different personal laws necessarily placed them beyond the legislative competence of the State. He drew attention to the extensive areas of civil life that had already been subjected to uniform legislation and questioned why matters such as marriage and succession should permanently remain outside legal reform. At the same time, his intervention displayed constitutional pragmatism: he contemplated the possibility that Parliament could initially make a Uniform Civil Code applicable to persons who voluntarily chose to be governed by it rather than immediately imposing it upon every citizen. This article examines Ambedkar's position in the light of the Constituent Assembly Debates and his broader constitutional philosophy. It argues that his defence of a Uniform Civil Code was not merely an argument for formal uniformity, but part of a larger vision in which law was an instrument of social transformation while constitutional democracy remained attentive to India's plural society.

Index Terms—Uniform Civil Code, Dr. B.R. Ambedkar, Constitution of India, personal laws, gender justice, equality, religious freedom, Constituent Assembly Debates.

I. INTRODUCTION

The framing of the Constitution of India required the Constituent Assembly to confront a difficult question: how could a newly independent nation preserve its immense religious and cultural diversity while simultaneously establishing a constitutional order founded upon liberty, equality and social justice? Few issues demonstrated this tension more clearly than the proposal for a Uniform Civil Code.

The provision ultimately incorporated as Article 44 states that “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.” Its placement among the Directive Principles of State Policy rather than the Fundamental Rights represented a constitutional compromise. It acknowledged the desirability of movement towards greater uniformity in civil law while leaving the manner, timing and extent of reform to the democratic State.¹

The historical debate cannot be reduced to a simple contest between supporters and opponents of uniformity. Members such as K.M. Munshi, Alladi Krishnaswami Ayyar and Dr. B.R. Ambedkar defended the provision, while Mohammad Ismail Sahib, B. Pocker Sahib Bahadur and other members expressed apprehension that a common code might interfere with religiously grounded personal laws. The exchanges reveal a constitutional problem that remains relevant: whether citizenship-based equality can be strengthened without treating cultural diversity as constitutionally insignificant.

Ambedkar's contribution is especially important because his arguments were linked to a broader theory of constitutionalism. For him, political democracy

¹ Constitution of India, art 44.

could not be sustained without social democracy, and legal institutions could legitimately intervene in entrenched social arrangements where those arrangements perpetuated hierarchy or denied equal civic status. His defence of the Uniform Civil Code therefore needs to be read alongside his commitment to liberty, equality and fraternity rather than as an isolated statement about family law.

II. HISTORICAL BACKGROUND OF THE UNIFORM CIVIL CODE

The constitutional history of the Uniform Civil Code predates the final debate on Draft Article 35. During the work of the Sub-Committee on Fundamental Rights, Minoo Masani proposed that the State should undertake the enactment of a uniform civil code. Hansa Mehta and Rajkumari Amrit Kaur were also among those who regarded reform of personal law as important to the creation of equal citizenship. The issue was ultimately placed among the non-justiciable Directive Principles rather than among enforceable fundamental rights.²

When Draft Article 35 came before the Constituent Assembly on 23 November 1948, several Muslim members moved amendments intended to protect personal laws from compulsory displacement. Mohammad Ismail Sahib argued in substance that a community should not be compelled to abandon its personal law. B. Pocker Sahib Bahadur similarly warned against majoritarian interference with minority practices. These objections were not merely procedural; they reflected anxiety about the meaning of religious freedom in a new constitutional order.³

The supporters of Draft Article 35 answered in different ways. K.M. Munshi maintained that personal law could not be treated as wholly insulated from reform merely because it had a religious association. Alladi Krishnaswami Ayyar argued that a common civil law need not destroy inter-community amity and could, in the long run, help create a common civic

framework. Ambedkar's intervention was distinctive because he combined a strong defence of legislative competence with an assurance that the State could proceed gradually.⁴

III. AMBEDKAR'S DEFENCE OF LEGISLATIVE COMPETENCE

Ambedkar first challenged the assumption that India lacked a substantial body of uniform civil law. He pointed out that the country already possessed uniform laws governing large areas of civil relations and that the remaining sphere of marriage and succession could not logically be regarded as permanently immune from common legislation. This argument reframed the controversy. The issue was not whether India could tolerate any common civil legislation, because much of civil law was already common; the real question was whether family relations should remain an exceptional domain.⁵

His argument also rejected an absolute identification of personal law with religious freedom. Constitutional protection of religion did not necessarily imply that every legal rule historically associated with a religious community had to remain beyond legislative reform. This distinction was fundamental to the transformative ambitions of the Constitution. If all inherited social arrangements were constitutionally frozen, the State's capacity to pursue equality would be severely limited. Ambedkar's position was consistent with his larger approach to social reform. He repeatedly emphasised that constitutional democracy required more than formal political rights. Social relations had to become compatible with equal citizenship. In his closing speech to the Constituent Assembly, he warned of the contradiction between political equality and continuing social and economic inequality. A legal system committed to equality could therefore not

2B. Shiva Rao, *The Framing of India's Constitution: Select Documents*, vol II (Indian Institute of Public Administration 1968), materials of the Sub-Committee on Fundamental Rights; see also A. Parashar, *Women and Family Law Reform in India* (Sage 1992) 230-235.

3Constituent Assembly Debates, vol VII, 23 November 1948, debate on Draft Article 35.

4*ibid*, speeches of K.M. Munshi and Alladi Krishnaswami Ayyar.

5*ibid*, speech of Dr. B.R. Ambedkar on Draft Article 35.

remain indifferent to civil institutions merely because they were longstanding.⁶

This does not mean that Ambedkar treated religion as irrelevant. Rather, he resisted the proposition that the State must surrender its law-making authority whenever a civil rule was defended in religious terms. His constitutionalism left room for religious liberty while preserving the capacity of democratic legislation to reform secular incidents of social life.

IV. THE VOLUNTARY-APPLICATION ASSURANCE

One of the most significant and sometimes overlooked aspects of Ambedkar's speech was his response to the fear that a future Uniform Civil Code would immediately and compulsorily displace every personal law. He observed that it was perfectly possible for Parliament, while enacting a code, to provide that it would initially apply only to those who voluntarily declared that they were prepared to be governed by it.⁷ This statement is important for two reasons. First, it demonstrates that Ambedkar's support for a Uniform Civil Code did not necessarily imply an insistence upon instantaneous compulsory uniformity. Secondly, it reveals a method of constitutional transition: the State could retain the goal of common civil citizenship while adopting a gradual, consensual or optional route at an initial stage.

The assurance should not, however, be mistaken for a claim that Article 44 itself constitutionally requires a permanently optional code. Ambedkar was illustrating the range of legislative choices available to Parliament and answering the specific apprehension that adoption of Draft Article 35 would itself abolish personal laws. The Directive Principle created an objective for the State; the precise legislative technique was left open. This distinction remains relevant to contemporary debate. A phased or optional model may reduce social resistance and permit citizens to evaluate a common civil framework in practice. At the same time, a purely optional regime can reproduce inequality if persons

who are structurally disadvantaged lack meaningful freedom to opt out of discriminatory norms. Ambedkar's intervention therefore supports gradualism, but it does not eliminate the constitutional demand to examine substantive equality.

V. EQUALITY, GENDER JUSTICE AND SOCIAL REFORM

Ambedkar's constitutional philosophy gives the Uniform Civil Code debate a dimension that extends beyond national integration. Family law governs marriage, divorce, maintenance, guardianship, adoption, succession and inheritance. Rules in these fields directly shape the economic security and personal autonomy of women. Consequently, the constitutional evaluation of personal laws cannot be confined to community identity; it must also consider the rights of individuals within communities.

Ambedkar's own legislative work on the Hindu Code Bill illustrates this reformist orientation. He regarded reform of Hindu personal law, including women's property and marital rights, as a necessary social measure. His frustration with the failure to enact the Bill in the form he supported contributed to his resignation from the Cabinet in 1951. The episode demonstrates that his commitment to reform was not directed only at minority personal laws. He was prepared to confront inequality within the majority community as well.⁸

This point is essential to any faithful use of Ambedkar in present-day UCC discourse. His thought cannot plausibly be reduced to the proposition that one community's law should replace another's. A constitutionally defensible common code would have to derive its legitimacy from equal citizenship, non-discrimination, dignity and liberty. Uniformity that merely generalised an existing patriarchal rule would not satisfy that standard.

The Supreme Court has repeatedly encountered the relationship between personal law, gender justice and Article 44. In *Mohd. Ahmed Khan v. Shah Bano*

⁶Constituent Assembly Debates, vol XI, 25 November 1949, speech of Dr. B.R. Ambedkar.

⁷Constituent Assembly Debates, vol VII, 23 November 1948, speech of Dr. B.R. Ambedkar (observing that Parliament could initially make a civil

code applicable to those who declared their willingness to be bound by it).

⁸Dr. B.R. Ambedkar, 'Statement on Resignation' (10 October 1951), discussing, inter alia, the fate of the Hindu Code Bill.

Begum, the Court discussed the desirability of a common civil code in the context of maintenance. In *Sarla Mudgal v. Union of India*, the Court again invoked Article 44 while considering conversion and bigamy. Yet judicial observations cannot substitute for democratic law-making. Article 44 addresses the State, and the design of any comprehensive code requires legislative deliberation, consultation and attention to constitutional rights.⁹¹⁰

VI. RELIGIOUS FREEDOM AND CONSTITUTIONAL PLURALISM

The principal objection to a Uniform Civil Code has historically been that family law is intertwined with religious belief and community identity. Articles 25 and 26 guarantee freedom of conscience and religious practice, subject to constitutional limitations. Article 25 itself permits the State to regulate or restrict secular activity associated with religious practice and to enact laws for social welfare and reform. This textual structure indicates that religious liberty and reform were conceived as coexisting constitutional commitments.¹¹

Ambedkar's reasoning fits within this architecture. The Constitution does not demand cultural homogeneity, but neither does it constitutionalise every existing civil rule. The challenge is to distinguish genuine protection of conscience and religious practice from legal disabilities that affect the equal status of citizens.

Constitutional pluralism also requires sensitivity to the manner in which reform is undertaken. A code imposed without consultation may be perceived as majoritarian even if its text is facially neutral. Conversely, indefinite postponement of reform on the ground of community sentiment can leave unequal rules untouched. The constitutional task is therefore procedural as well as substantive: reform should be transparent, consultative, rights-based and supported by clear reasons.

The Supreme Court in *Pannalal Bansilal Pitti v. State of Andhra Pradesh* cautioned that reform in a plural

society may proceed in stages and that the legislature is not required to reform all communities simultaneously. This judicial recognition of gradual reform resonates with the pragmatic aspect of Ambedkar's Constituent Assembly intervention.¹²

VII. AMBEDKAR'S IDEA OF SOCIAL DEMOCRACY

Ambedkar's perspective on the Uniform Civil Code is best understood against his conception of social democracy. In his final Constituent Assembly speech, he described social democracy as a way of life recognising liberty, equality and fraternity as principles that form a union rather than isolated ideals. These principles provide a useful constitutional test for civil-law reform.¹³

Liberty requires respect for conscience, personal choice and intimate association. Equality requires that civil status should not depend upon sex or inherited hierarchy. Fraternity requires a civic order in which citizens can regard one another as members of a common political community. A Uniform Civil Code, in Ambedkar's constitutional logic, could contribute to these ends only if its content genuinely embodies them.

This also explains why the debate should not be framed as 'uniformity versus diversity' in absolute terms. Indian law already contains both common rules and differentiated arrangements. The constitutional question is which differences are legitimate and which differences impose unjustifiable disadvantages. A democratic code may preserve culturally meaningful practices that are consistent with constitutional rights while reforming rules that deny equality or autonomy. Such an approach is more faithful to Ambedkar than a purely symbolic demand for 'one law'. His constitutional project was concerned with the quality of social relations and the protection of the individual against domination. Legal uniformity is a means, not an end in itself.

⁹*Sarla Mudgal v Union of India* (1995) 3 SCC 635.

¹⁰*Mohd. Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556.

¹¹Constitution of India, art 25(2).

¹²*Pannalal Bansilal Pitti v State of Andhra Pradesh* (1996) 2 SCC 498.

¹³Constituent Assembly Debates, vol XI, 25 November 1949, speech of Dr. B.R. Ambedkar.

VIII. CONTEMPORARY RELEVANCE

More than seven decades after the Constitution came into force, Article 44 continues to generate legal and political debate. The continued relevance of Ambedkar's intervention lies in the balance it offers between constitutional direction and democratic prudence. He did not deny the legitimacy of a common civil code, but neither did he suggest that the adoption of Article 44 itself settled every question of timing, content or method.

A contemporary UCC designed in the spirit of constitutional equality would require careful comparison of existing personal laws and secular family statutes, identification of discriminatory provisions, and meaningful consultation with women and men from affected communities. It would also need clarity on marriage, divorce, maintenance, guardianship, adoption, succession and inheritance, while ensuring that the code does not reduce existing protections.

Particular attention must be paid to gender justice. Community representation alone cannot establish that the interests of all members of a community have been heard. Women may experience personal-law rules differently from institutional or religious representatives. Consultation should therefore include those whose rights are directly affected, including women, younger citizens and persons in economically vulnerable situations.

Ambedkar's voluntary-application illustration may also inform transitional design. Legislatures can consider phased implementation, optional civil marriage or succession regimes, harmonisation of specific rights before comprehensive codification, and review mechanisms. The constitutional legitimacy of any model, however, ultimately depends upon whether it advances equal citizenship without unjustifiably burdening religious freedom.

IX. CRITICAL APPRAISAL

Ambedkar's position contains both a principled and a pragmatic element. The principled element is his refusal to treat personal law as an inviolable enclave beyond democratic legislation. The pragmatic element is his recognition that a future Parliament could choose a gradual mode of application. Taken together, these elements undermine two extreme readings: that

Article 44 requires immediate compulsory homogenisation, or that religiously associated personal laws can never be reformed.

At the same time, historical arguments should not be used as substitutes for present constitutional analysis. The social conditions of 1948 and those of contemporary India are not identical. Constitutional interpretation must consider developments in equality jurisprudence, dignity, privacy, autonomy and gender justice. Ambedkar's speeches provide powerful guidance, but the legitimacy of a present-day code must be established by its actual provisions and effects.

A further caution concerns terminology. Describing Ambedkar as the 'Father of the Constitution' reflects his extraordinary role as Chairman of the Drafting Committee and principal constitutional architect, but the Constitution was a collective achievement of the Constituent Assembly. Recognising that collective process strengthens rather than diminishes the importance of Ambedkar's intervention because his arguments can be situated within the competing views that shaped the final compromise.

The enduring value of his perspective lies in constitutional method: identify the rights at stake, preserve the State's capacity for social reform, avoid treating inherited hierarchy as immune from scrutiny, and use democratic institutions to move society towards liberty, equality and fraternity.

X. CONCLUSION

Dr. B.R. Ambedkar's defence of the Uniform Civil Code during the Constituent Assembly Debates was rooted in a broader constitutional vision. He rejected the idea that personal law must remain permanently outside the reach of legislation and emphasised that India already possessed substantial uniformity in civil law. At the same time, he responded to minority apprehensions by pointing out that Parliament could adopt a voluntary or gradual method of application.

His position therefore combined transformative constitutionalism with institutional pragmatism. The purpose of civil-law reform, viewed through Ambedkar's philosophy, is not uniformity for its own sake. It is the creation of social conditions compatible with equal citizenship, individual liberty and fraternity.

A contemporary discussion of Article 44 should consequently move beyond the binary of compulsory uniformity and absolute personal-law autonomy. The more productive question is what form of civil-law reform can secure gender justice and equality while respecting constitutionally protected freedom of conscience and India's plural social character.

Ambedkar's contribution remains instructive precisely because it does not eliminate this tension. It provides a constitutional framework for addressing it: democratic legislation may reform civil institutions, but the legitimacy of reform depends upon its fidelity to the Constitution's deeper commitment to liberty, equality and fraternity.

REFERENCES

- [1] Ambedkar, B.R., 'Statement on Resignation' (10 October 1951).
- [2] Constituent Assembly Debates, Vol. VII, 23 November 1948.
- [3] Constituent Assembly Debates, Vol. XI, 25 November 1949.
- [4] Constitution of India, arts 25 and 44.
- [5] Parashar, A., Women and Family Law Reform in India (Sage Publications 1992).
- [6] Rao, B. Shiva, The Framing of India's Constitution: Select Documents, Vol. II (Indian Institute of Public Administration 1968).
- [7] Shimon Shetreet and Hiram E. Chodosh, Uniform Civil Code for India: Proposed Blueprint for Scholarly Discourse (Oxford University Press).
- [8] M.S. Ratnaparkhi, Uniform Civil Code: An Ignored Constitutional Imperative (2nd edn, Atlantic Publishers 2017).
- [9] Dr. Pankaj Dwivedi, Uniform Civil Code (1st edn, Vayu Education of India 2016).
- [10] Mohd. Ahmed Khan v Shah Bano Begum (1985) 2 SCC 556.
- [11] Sarla Mudgal v Union of India (1995) 3 SCC 635.
- [12] Pannalal Bansilal Pitti v State of Andhra Pradesh (1996) 2 SCC 498.
- [13] John Vallamattom v Union of India (2003) 6 SCC 611.
- [14] Lily Thomas v Union of India (2000) 6 SCC 224.