

Uniform Civil Code and Assam: Constitutional Transformation, Gender Justice and Legal Pluralism

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Abstract—The Uniform Civil Code has remained one of the most debated constitutional aspirations in India since the adoption of Article 44 of the Constitution. The debate has acquired a significant regional dimension with Assam's legislative initiative towards establishing a common civil framework in matters traditionally governed by different personal laws. The Uniform Civil Code, Assam, Bill, 2026 was introduced in the Assam Legislative Assembly on 25 May 2026 and passed by the House on 27 May 2026. Assam provides a particularly important setting for examining such reform because its social and constitutional landscape is characterised not only by religious diversity but also by numerous tribal communities, customary legal traditions and constitutionally protected autonomous institutions. The Assam model consequently raises questions extending beyond the conventional debate between religious personal law and legal uniformity. It requires an examination of the relationship between Article 44 and Articles 14, 15, 21 and 25; between gender justice and personal-law autonomy; and between civil uniformity and tribal customary rights protected by the Constitution. This article argues that the constitutional justification for a Uniform Civil Code should not be understood merely as the replacement of minority personal laws by a uniform statutory regime. Existing inequalities within codified majority-community laws must equally be subjected to constitutional scrutiny. A significant example is Section 15 of the Hindu Succession Act, 1956, under which, in certain circumstances, the heirs of a deceased Hindu woman's husband are preferred to her own parents even in relation to property independently acquired by her. Such provisions demonstrate that the objective of a gender-just UCC must be substantive equality rather than uniformity for its own sake. The article examines the constitutional foundation of the UCC, Assam's distinctive legal setting, marriage and divorce, succession, the rights of women, tribal customary law, religious freedom, privacy and federalism. It concludes that the legitimacy of the Assam model will ultimately depend upon whether it advances equal citizenship and individual dignity while preserving

those forms of cultural and customary diversity which the Constitution itself recognises.

Index Terms—Uniform Civil Code, Assam, Article 44, Hindu Succession Act, gender justice, personal laws, Scheduled Tribes, customary law, Sixth Schedule, equality, religious freedom, constitutional pluralism.

I. INTRODUCTION

The Uniform Civil Code is among the most enduring and contested constitutional questions in independent India. Article 44 of the Constitution provides that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. Its placement within the Directive Principles of State Policy rather than the chapter on Fundamental Rights represents an important constitutional compromise. The Constitution recognises the desirability of movement towards greater uniformity in civil law, but leaves the timing, method and substantive content of that reform to democratic law-making.

For much of India's constitutional history, discussion concerning Article 44 remained national in character. State-level initiatives have introduced a new dimension. Assam is particularly significant because the Uniform Civil Code, Assam, Bill, 2026 was introduced in the Assam Legislative Assembly on 25 May 2026 and passed by the House on 27 May 2026. Assam provides a unique constitutional setting. The State is characterised by extensive religious, ethnic, linguistic and customary diversity. Alongside communities traditionally governed by religious personal laws are numerous tribal communities with distinctive customs relating to marriage, inheritance, family relations and social organisation. Some of these customary arrangements operate within constitutional

structures of autonomy, particularly those created under the Sixth Schedule.

The debate concerning the UCC has often been presented as though reform is primarily necessary because different religious communities possess different personal laws. Such an approach is incomplete. Inequality can exist not merely between personal-law systems but also within laws already codified by Parliament. Section 15 of the Hindu Succession Act, 1956 provides an important illustration: in specified intestate situations, the heirs of a married Hindu woman's husband may take before her own parents, including in relation to self-acquired property where the statutory source-based exceptions do not apply. A constitutionally meaningful UCC must therefore ask what rules of family law are consistent with equality, dignity and gender justice irrespective of their religious origin.

II. CONSTITUTIONAL FOUNDATION OF THE UNIFORM CIVIL CODE

Article 44 cannot be understood without reference to the debates surrounding Draft Article 35 in the Constituent Assembly. Several members expressed concern that a common civil code might interfere with religiously grounded personal laws, while K.M. Munshi, Alladi Krishnaswami Ayyar and Dr. B.R. Ambedkar defended the constitutional provision.

Ambedkar rejected the proposition that personal law constituted a permanently protected legislative sphere. He observed that substantial fields of civil life in India had already been subjected to uniform legislation. The Constitution ultimately placed the provision among the Directive Principles. Article 37 provides that the Directive Principles are not enforceable by courts but are nevertheless fundamental in the governance of the country.

Article 44 must be read harmoniously with Fundamental Rights. Article 14 guarantees equality; Article 15 prohibits discrimination including on grounds of religion and sex; Article 21 protects life, liberty, dignity and privacy; and Article 25 guarantees religious freedom subject to constitutional limitations. A common civil law cannot be justified merely by invoking Article 44. Its actual provisions must themselves satisfy equality, liberty, dignity, privacy and religious-freedom requirements.

III. ASSAM'S DISTINCTIVE CONSTITUTIONAL AND SOCIAL CONTEXT

Assam differs from many other States because legal pluralism does not arise exclusively from religion. Numerous indigenous and tribal communities possess distinctive social institutions and customary laws governing marriage, inheritance, divorce, property relations and kinship.

The Sixth Schedule establishes autonomous arrangements for certain tribal areas in Assam and confers legislative powers upon District and Regional Councils over specified matters, including inheritance of property, marriage and divorce and social customs. The Assam UCC initiative recognises this constitutional difficulty by excluding members of Scheduled Tribes from its operation. The model may therefore be understood as qualified civil uniformity within a constitutionally plural society.

IV. DEVELOPMENT OF THE UCC INITIATIVE IN ASSAM

The Assam UCC initiative forms part of a broader process of family-law reform within the State. The Assam Compulsory Registration of Muslim Marriages and Divorces Act, 2024 represented an earlier step towards increasing formal State regulation of matrimonial status.

The Uniform Civil Code, Assam, Bill, 2026 was introduced in the Legislative Assembly on 25 May 2026 and passed on 27 May 2026. The initiative represents a major transformation in Assam's family-law policy. Family law, however, governs intimate dimensions of life, and both the content of the Code and its implementation require close constitutional scrutiny.

V. MARRIAGE, MONOGAMY AND EQUAL CIVIL STATUS

The constitutional objective of regulating marriage should not be cultural standardisation. Different communities may legitimately retain different ceremonies, rituals and traditions. The more defensible objective is equality in the civil consequences of marriage.

A common legal framework may establish minimum age requirements, prohibit bigamy or polygamy,

require free consent and registration, and provide equal legal status to spouses. The constitutional justification for monogamy should be gender equality rather than hostility towards any particular religious community. Marriage registration likewise promotes legal security, particularly for women asserting maintenance, matrimonial and inheritance claims.

VI. DIVORCE, MAINTENANCE AND ECONOMIC JUSTICE

Divorce law directly affects dignity and financial security. A common matrimonial framework should guarantee equality between spouses in grounds of divorce, procedure, interim relief, maintenance and permanent financial arrangements. Formal equality alone may be insufficient where unpaid domestic labour and childcare have reduced a spouse's earning capacity.

In *Mohd. Ahmed Khan v. Shah Bano Begum*, the Supreme Court considered the maintenance rights of a divorced Muslim woman and referred to Article 44. *Danial Latifi v. Union of India* further demonstrated the Court's effort to interpret legislation concerning divorced Muslim women consistently with constitutional protection and economic security. These cases show that personal-law disputes frequently involve poverty, dependence, dignity and economic justice.

VII. SUCCESSION AND THE CONSTITUTIONAL IMPORTANCE OF PROPERTY RIGHTS

Succession is one of the most important components of the UCC debate. Property determines wealth, independence, security and bargaining power. Gender discrimination in inheritance therefore has consequences extending throughout a person's life.

The Hindu Succession (Amendment) Act, 2005 strengthened the position of daughters by recognising them as coparceners by birth in a Mitakshara joint Hindu family. *Vineeta Sharma v. Rakesh Sharma* affirmed the daughter's coparcenary right by birth. Yet gender inequality within Hindu succession law has not been completely eliminated, particularly under Sections 15 and 16 of the Hindu Succession Act, 1956.

VIII. PROPERTY OF A FEMALE HINDU AND THE PROBLEM UNDER SECTION 15

Section 14 of the Hindu Succession Act was a major reform by recognising property possessed by a female Hindu as her absolute property, subject to the statute. Yet the scheme governing intestate succession to that property remains different from that applicable to a Hindu male.

Section 15(1) provides that a female Hindu's property devolves first upon her sons, daughters and husband; secondly upon the heirs of the husband; thirdly upon her mother and father; fourthly upon the heirs of her father; and lastly upon the heirs of her mother. The placement of the husband's heirs ahead of the woman's own parents raises a substantial question of gender justice.

Consider a married Hindu woman who obtains education, enters employment and purchases property entirely from her own earnings. If she dies intestate without descendants and her husband has predeceased her, Section 15(1), subject to statutory exceptions, can permit the heirs of her deceased husband to inherit before her own parents. The husband's relatives need not have contributed to the acquisition of that property. The Supreme Court confronted substantially this situation in *Omprakash v. Radhacharan*. The deceased woman had acquired property through her own employment. The Court held that Section 15(1) governed the self-acquired property and applied the statutory order of succession. The decision demonstrates that gender inequality within Indian family law cannot be understood merely through comparison between different religions. Even codified Hindu law may contain rules based on older assumptions concerning a married woman's association with her husband's family.

IX. THE SOURCE-BASED EXCEPTIONS UNDER SECTION 15(2)

Section 15(2) creates important exceptions. Where a Hindu woman inherited property from her father or mother and dies without the descendants specified in the provision, the property devolves upon the heirs of her father. Similarly, property inherited from her husband or father-in-law devolves, in the corresponding circumstances, upon the heirs of the husband.

The difficulty principally concerns independently acquired property. Such property does not fall within the source-based exception. This raises a conceptual question: if a woman's independently acquired property is her absolute property during her lifetime, why should marriage create a preferential succession claim in favour of her husband's relatives over her own parents after her death? A rights-based UCC provides an opportunity to reconsider this hierarchy.

X. TOWARDS GENDER-NEUTRAL SUCCESSION UNDER A UCC

The reform of Section 15 illustrates the deeper purpose a Uniform Civil Code ought to serve. The objective should not be to select one existing community's law and extend it to everyone, nor merely to abolish differences without investigating whether the resulting common rule is just.

A genuinely uniform succession law should begin with constitutional principles. A person's self-acquired property should devolve according to a gender-neutral and rational order of relationship rather than an assumption that marriage permanently shifts a woman's proprietary identity from her natal family to her marital family. The law should treat similarly situated parents of deceased men and women comparably, preserve rational source-based distinctions where justified, and ensure equal treatment of sons and daughters.

XI. SCHEDULED TRIBES, SUCCESSION AND CUSTOMARY AUTONOMY

The argument for gender-neutral succession cannot simply be transplanted without qualification into every tribal customary system in Assam. Tribal succession traditions may differ considerably and may be connected to clan structures, community landholding and traditional institutions.

Paragraph 3 of the Sixth Schedule gives relevant Autonomous District and Regional Councils power to make laws concerning inheritance, marriage and divorce and social customs. Recognising tribal autonomy should not mean customary law can never evolve; reform may arise internally through communities and representative institutions. The appropriate constitutional approach is dialogue rather than automatic homogenisation.

XII. RELIGIOUS FREEDOM AND CIVIL REGULATION

Article 25 protects freedom of conscience and religion, subject to public order, morality, health and the other provisions of Part III. Article 25(2) recognises legislative authority over secular activities associated with religious practice and permits social-welfare and reform laws.

Family law often contains both religious and civil dimensions. A marriage ceremony may possess religious significance while capacity, registration, maintenance, succession and dissolution also create civil consequences. A constitutionally sensitive UCC can preserve religious ceremonies while governing civil consequences through common rights-based rules.

XIII. SUPREME COURT JURISPRUDENCE AND ARTICLE 44

The Supreme Court has referred to Article 44 in *Shah Bano*, *Sarla Mudgal*, *Lily Thomas* and *John Vallamattom*. These decisions reflect judicial concern regarding inequalities and conflicts arising from fragmented personal-law arrangements.

At the same time, *Pannalal Bansilal Pitti v. State of Andhra Pradesh* recognised that social reform in a plural society may legitimately proceed gradually and that the legislature need not reform every community simultaneously. That principle assumes special relevance in Assam.

XIV. UCC AS A MEANS OF REFORMING ALL PERSONAL LAWS

One of the greatest dangers in contemporary UCC discourse is the perception that reform is directed predominantly towards Muslim personal law. Such an understanding is constitutionally inadequate. Gender justice requires examination of the consequences of all personal laws and family-law statutes.

The Hindu Succession Act example is particularly instructive. A married Hindu woman's self-acquired estate may ultimately pass to her deceased husband's heirs in preference to her own parents under the existing statutory structure. If the objective of the UCC is truly equality, provisions of this nature deserve

scrutiny just as much as unequal rules within uncodified or religion-specific personal laws.

A UCC grounded in Article 14 must therefore be reformatory rather than majoritarian. The proper inquiry is not which community's law should prevail, but which rule most fully respects equality, dignity, liberty and fairness.

XV. PRIVACY, AUTONOMY AND INTIMATE RELATIONSHIPS

In Justice K.S. Puttaswamy (Retd.) v. Union of India, a nine-judge Bench recognised privacy as a constitutionally protected right forming part of liberty and dignity. Intimate choices lie near the core of that protection.

Where legislation regulates live-in relationships or requires disclosure of intimate arrangements, the State must demonstrate a legitimate purpose and employ proportionate means. Protection of vulnerable partners and children is legitimate, but protection must not become unnecessary surveillance.

XVI. FEDERALISM AND LEGISLATIVE COMPETENCE

Entry 5 of the Concurrent List includes marriage and divorce, infants and minors, adoption, wills, intestacy and succession, joint family and partition and matters concerning personal law. Both Parliament and State Legislatures therefore possess legislative competence in the field.

Where State legislation conflicts with existing Parliamentary law, Article 254 becomes relevant. Article 254(2) permits State legislation reserved for and receiving Presidential assent to prevail within that State in specified circumstances, subject to Parliament's continuing constitutional authority. State-level UCC initiatives therefore also illuminate Indian federalism and can function as laboratories of family-law reform.

XVII. GENDER JUSTICE AS THE CENTRAL TEST

The ultimate constitutional test of a UCC should be substantive gender justice. Uniformity alone is insufficient. A uniform law could theoretically treat

every woman equally badly; formal sameness would not make such a law constitutionally desirable.

The proper questions are whether the law gives spouses equal status, provides fair divorce procedures, protects economically dependent spouses, recognises unpaid care work, provides equal succession rights, treats self-acquired property of men and women according to equivalent principles, protects children without discrimination, and respects dignity, choice and privacy. A modern UCC should not simply consolidate existing laws; it should constitutionally audit them.

XVIII. CONSTITUTIONAL PLURALISM AND THE ASSAM MODEL

India's constitutional order contains both universalism and pluralism. Fundamental Rights establish common guarantees of liberty and equality, while the Constitution also recognises linguistic minorities, religious freedom, tribal autonomy and differentiated institutional arrangements.

The Assam UCC therefore need not adopt cultural homogenisation as its objective. Different communities can retain ceremonies, customs and traditions that do not infringe fundamental rights. The appropriate objective is uniformity of fundamental civil rights with accommodation of constitutionally legitimate cultural difference.

XIX. CRITICAL APPRAISAL OF THE ASSAM MODEL

The Assam initiative possesses substantial transformative potential. A common regime for marriage and divorce may increase certainty; registration may strengthen documentary protection; monogamy may promote equal marital status; gender-neutral succession reform could increase women's economic independence; and the Scheduled Tribe exemption acknowledges constitutionally protected customary autonomy.

Significant concerns remain concerning implementation, privacy, consultation, interaction with Central statutes and the danger of reproducing inequalities inherited from an existing codified law. If different religious inheritance rules are replaced by a common rule derived from an existing law without

examining whether that rule itself is discriminatory, uniformity would merely conceal inequality.

XX. THE WAY FORWARD

Assam's UCC experiment should be guided by equality rather than sameness. Personal laws of all communities, including codified Hindu law, should be subjected to the same constitutional scrutiny. Independently acquired property should be governed by gender-neutral succession principles; tribal customary law should be approached through constitutional guarantees and meaningful engagement; and privacy and autonomy must be protected.

Women's participation in consultation should be substantive rather than symbolic. The effectiveness of the Code should also be periodically reviewed through evidence concerning maintenance, inheritance, rural registration access and procedural hardship. Legal literacy and access to justice will be as important as statutory drafting.

XXI. CONCLUSION

The Uniform Civil Code debate in Assam represents an important stage in India's continuing constitutional engagement with Article 44. Assam is uniquely positioned because religious diversity coexists with tribal customary laws and constitutionally protected autonomous institutions. The challenge is not merely to create one law, but to develop a civil framework capable of reconciling equal citizenship with legitimate constitutional pluralism.

The example of Section 15 of the Hindu Succession Act demonstrates why UCC reform should never be portrayed simply as reform of minority personal laws. A Hindu woman's self-acquired property may, under the present statutory sequence and in the absence of preferred heirs, devolve upon her husband's heirs before her own parents. This illustrates that gender asymmetry can exist within codified majority-community law itself.

A genuinely transformative Uniform Civil Code must therefore examine every inherited rule by the same constitutional standard. The question should not be whether a rule is Hindu, Muslim, Christian, customary or secular in origin, but whether it respects equality, dignity, liberty and justice.

Assam's exemption of Scheduled Tribes demonstrates that constitutional uniformity need not mean absolute legal sameness. The most defensible model is a framework of common civil rights, substantive gender equality and constitutionally protected pluralism. Properly conceived, a UCC can become an instrument for examining inequalities in every existing system and constructing a civil law founded upon equal citizenship. That, rather than uniformity for its own sake, should constitute the true constitutional promise of Article 44.

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