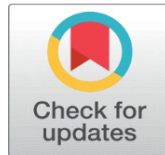
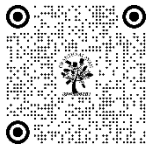


# A LEGAL STUDY ON CR. PC 125 AND UCC

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## ABSTRACT

This study aims to analyze the legal provisions related to Section 125 of the Criminal Procedure Code (CrPC) and the Uniform Civil Code (UCC) in India, focusing on their implications for women's rights and gender justice. Section 125 of the CrPC is a legal provision that enables women, children, and parents to claim maintenance from their spouses or children. The study explores the evolution of Section 125, its scope, and its impact on women's socio-legal status in India. At the same time, it critically examines the ongoing debate around the implementation of the Uniform Civil Code (UCC), which proposes a common set of personal laws for all citizens, regardless of religion. This research assesses the intersection of these two legal frameworks and their potential role in ensuring gender equality in India.

The research method involves a qualitative analysis of relevant case laws, legal provisions, and scholarly literature. The study also discusses the advantages and challenges posed by Section 125 and the UCC in the contemporary legal and socio-cultural context. This paper contributes to understanding how these two provisions can work together or independently in achieving justice and equality for women in India

**Keywords:** Section 125 CrPC, Uniform Civil Code (UCC), Women's rights, Maintenance laws, Gender justice, Legal reform, Indian law, Family law

## 1. INTRODUCTION

Section 125 of the Criminal Procedure Code (CrPC), introduced in 1973, was designed as a safeguard for individuals (mainly women and children) who are unable to support themselves. It mandates that a husband must provide maintenance to his wife, children, and parents if they are unable to maintain themselves. Over time, Section 125 has become a critical provision in the Indian legal system for ensuring financial support to women who are deserted or divorced by their husbands.

However, the application of Section 125 and its potential for gender justice has been a subject of debate in India, especially in the context of personal laws that vary for different religious communities. The need for Uniform Civil Code (UCC) arises from the perception that different personal laws create inconsistencies and inequalities, especially concerning women's rights. UCC proposes to standardize laws related to marriage, divorce, inheritance, and maintenance across all communities in India.

This study aims to critically assess the role of Section 125 CrPC in promoting gender justice and the viability of UCC as a tool for legal unification. It will also analyze the challenges associated with these legal provisions and their implications for women's rights in India. The legal landscape surrounding women's rights in India is both complex and dynamic, shaped by centuries of history, cultural diversity, and evolving societal norms. One of the critical aspects of this legal framework is the provision for maintenance, which ensures that women, especially those in vulnerable

circumstances, are financially supported. In this context, Section 125 of the Criminal Procedure Code (CrPC) holds a significant position. Enacted in 1973, this section was designed to provide legal relief to women who were abandoned by their husbands or could not maintain themselves due to various reasons, such as desertion, divorce, or widowhood. It aims to protect the right to life and dignity for women by obligating their spouses to provide maintenance when they are unable to do so themselves.

Section 125 is often considered a safeguard for women's rights, offering a measure of financial security in a society where many women still face systemic economic dependence and social challenges. However, despite the legal mandate, the implementation of this provision has faced numerous obstacles, including delays, ineffective enforcement, and judicial ambiguity. The inadequacies of Section 125 in ensuring gender justice have often been a subject of intense debate, highlighting the necessity for comprehensive legal reforms. The inadequacies of Section 125 have also been exacerbated by disparities in family law provisions across various religious communities in India.

This brings us to the issue of the Uniform Civil Code (UCC), a topic that has long been at the heart of constitutional and social debates in India. The UCC proposes a common set of civil laws governing matters like marriage, divorce, inheritance, and maintenance, regardless of religious affiliation. The push for a Uniform Civil Code has intensified in recent decades, especially in light of inconsistencies in personal laws that result in gender discrimination. The UCC advocates for a single legal framework that aims to address the disparities and challenges in women's legal rights, which often arise from the personal laws governing different religious communities.

The need for such a unified approach stems from the fact that the current framework of personal laws — based on religion — often leads to inequalities, particularly when it comes to the treatment of women in marital and family disputes. For instance, Muslim women under Islamic law and Hindu women under the Hindu Marriage Act have different rights related to divorce, inheritance, and maintenance. Such discrepancies raise the question of fairness and equality before the law. Thus, the Uniform Civil Code is perceived as a solution to provide equal legal treatment to all citizens, irrespective of their religion, thereby ensuring that women have the same rights and protections under law.

This study seeks to critically evaluate the role of Section 125 CrPC in providing maintenance to women and the potential impact of implementing a Uniform Civil Code in India. Through an analysis of these two legal provisions, the research aims to explore how they interact in the broader context of women's rights and gender justice in India. The study will delve into the evolution, benefits, challenges, and ongoing debates surrounding both Section 125 and the UCC. By doing so, it will contribute to the discourse on how legal reform can address gender inequalities and ensure more equitable outcomes for women, particularly in the context of family law and maintenance.

At the core of this investigation is the broader question of gender justice in India — how the law can be reformed to empower women, protect their rights, and ensure they are treated with dignity and equality in all aspects of life. The study will not only focus on the challenges posed by Section 125 and UCC, but will also consider the practicalities of their implementation and the social and political factors that influence the enactment and enforcement of such laws. Through a comprehensive legal analysis, case study evaluation, and discussion of gender equality and family law, this research aims to provide a nuanced understanding of the current legal framework and the future scope for reform.

In examining the relationship between Section 125 CrPC and the UCC, this study will contribute valuable insights into the future of family law in India, with a particular focus on how women's rights can be better protected through legal reforms. The research also intends to assess the need for legal literacy and awareness among women regarding their rights under these provisions, as well as the challenges women face in accessing justice. Through this investigation, the study will offer a holistic view of how law can better serve the interests of women in India and what role legal reform plays in shaping gender equality in the country.

In conclusion, the issue of women's rights in India, particularly with regard to maintenance and family law, is far from settled. While Section 125 CrPC offers a significant measure of protection, there remain serious concerns about its application and effectiveness. The Uniform Civil Code, on the other hand, represents a potential solution to standardize personal laws and address gender inequalities, but it faces political, religious, and cultural resistance. This study will explore these tensions and offer recommendations for how India can move toward a more equitable and just legal system for women.

## 2. DEFINITIONS

- **Section 125 CrPC:** A provision in the Indian Criminal Procedure Code (1973) that provides for the maintenance of wives, children, and parents who are unable to support themselves.
- **Uniform Civil Code (UCC):** A proposal in India for a single set of laws governing marriage, divorce, inheritance, and maintenance, irrespective of religion or personal laws.
- **Maintenance:** The financial support provided by one individual (usually a husband) to another (usually a wife or children) for their sustenance.
- **Gender Justice:** The concept of fairness and equality between genders, ensuring equal rights, opportunities, and treatment under the law.

### Need

The need for this study arises from the continuous debate over the adequacy of existing personal laws and their effect on women's rights in India. While Section 125 CrPC aims to provide maintenance to women, its enforcement and scope have been inconsistent. Additionally, the demand for a Uniform Civil Code to address the disparities between different religious groups regarding personal laws has gained momentum. Understanding the impact of these laws is crucial to assessing whether they contribute to gender equality and social justice for women.

### Aims

- 1) To analyze the legal provisions and effectiveness of Section 125 CrPC in providing maintenance to women and children.
- 2) To evaluate the necessity and challenges of implementing a Uniform Civil Code in India.
- 3) To assess the intersection of Section 125 and UCC in promoting gender justice and legal uniformity.
- 4) To explore the impact of these legal provisions on women's rights and social security.

### Objectives

- 1) To provide an in-depth analysis of Section 125 CrPC, focusing on its scope, limitations, and judicial interpretation.
- 2) To examine the ongoing legal debate on the Uniform Civil Code and its implications for family laws in India.
- 3) To explore the legal framework governing maintenance, divorce, and family matters under both Section 125 and UCC.
- 4) To evaluate the socio-legal consequences of implementing or not implementing UCC in India.
- 5) To identify the challenges women face in accessing their legal rights under both provisions.

### Hypothesis

The study hypothesizes that while Section 125 CrPC offers essential support to women and children, its application is inconsistent, and the Uniform Civil Code could offer a more equitable and standardized approach to addressing gender justice in India.

## 3. RESEARCH METHODOLOGY

This research employs a qualitative research methodology, including:

- 1) **Legal Analysis:** Reviewing primary legal sources such as the CrPC, relevant case laws, and UCC draft proposals.
- 2) **Case Studies:** Examining landmark judicial decisions related to Section 125 and UCC.
- 3) **Literature Review:** Analyzing academic literature, articles, and reports related to women's rights, family laws, and the UCC.

- 4) **Comparative Analysis:** Comparing Section 125 CrPC with similar provisions in other countries and evaluating the potential of UCC in India.
- 5) **Interviews/Surveys:** Conducting interviews with legal professionals and activists to gauge the perceptions of Section 125 and UCC.

### Strong Points

- **Legal Protection for Women:** Section 125 ensures financial support for women and children who have been abandoned or are unable to sustain themselves.
- **Potential for Legal Uniformity:** The UCC could offer a standardized framework that would eliminate inconsistencies between personal laws based on religious communities.
- **Gender Justice:** Both Section 125 and UCC aim to protect the rights and dignity of women, ensuring they have access to maintenance, inheritance, and protection from discrimination.

### Weak Points

- **Implementation Issues:** Despite the legal provisions under Section 125, its enforcement remains weak, and women often struggle to get their maintenance claims.
- **Religious Sensitivities:** The implementation of UCC faces resistance from various religious groups that fear it would infringe upon their personal laws and cultural practices.
- **Legal Gaps:** Some legal experts argue that Section 125 does not adequately address the complexities of modern family dynamics and does not offer provisions for fair division of assets.

### Current Trends

- The growing demand for gender-neutral reforms in family laws.
- The ongoing debate and resistance to the Uniform Civil Code in India.
- Increasing judicial interventions, such as the Supreme Court's efforts to promote gender equality and women's rights.
- More significant awareness and demand for the enforcement of Section 125 CrPC provisions.

## 4. HISTORY

The Criminal Procedure Code (CrPC) was enacted in 1973, with Section 125 being a crucial part of it. Over time, Section 125 has been interpreted in various landmark cases such as *V. Tulasamma v. Seshareddy* (1977) and *Shah Bano case* (1985), where the Indian judiciary has played a significant role in expanding the scope of women's maintenance rights. The idea of a Uniform Civil Code (UCC) has been debated since the Constitutional Assembly debates and Article 44 of the Indian Constitution, which directs the state to endeavor to secure a UCC for all citizens. The issue gained momentum in the late 20th century due to political, religious, and gender issues. The history of Section 125 of the Criminal Procedure Code (CrPC) and the Uniform Civil Code (UCC) in India is deeply intertwined with the evolution of family law, women's rights, and the ongoing struggle for gender equality. Both these legal provisions reflect India's constitutional commitment to justice and equality, yet they have been the subject of debates and reforms over decades.

### History of Section 125 CrPC

Section 125 of the Criminal Procedure Code was introduced in 1973 under the broader legislative framework of the Criminal Procedure Code (CrPC), aimed at providing a legal remedy for women who were deserted by their husbands or unable to support themselves. Prior to its enactment, women had limited access to legal recourse in cases of marital desertion, financial neglect, or abuse. The section was conceived as a means to ensure that a woman was not left destitute following her husband's abandonment, reflecting the state's commitment to protect women's right to life and dignity under Article 21 of the Indian Constitution.

The enactment of Section 125 was a milestone in the protection of women's rights, as it addressed the practical reality that many women, particularly in rural areas, were financially dependent on their husbands. The law was designed to provide a quick and accessible remedy for women who had been denied maintenance, irrespective of the religion, caste, or community they belonged to. A woman who was unable to maintain herself could file an application in

the magistrate's court for maintenance from her husband, and the law mandates the husband to pay a reasonable sum for her support.

However, the implementation of Section 125 has faced various challenges, including delays in court procedures, enforcement difficulties, and inadequacies in the quantum of maintenance awarded, which often remains insufficient to meet the needs of the woman and her children. In addition, women from different religious backgrounds have been subject to varying interpretations and applications of this provision, owing to the existence of different personal laws governing marriage, divorce, and maintenance.

The Shah Bano case (1985) was a significant moment in the history of Section 125. Shah Bano, a Muslim woman, was denied maintenance by her husband after their divorce. The Supreme Court, in its landmark judgment, upheld her right to maintenance under Section 125, which was hailed as a victory for women's rights. The ruling mandated that Muslim women were also entitled to maintenance under Section 125 CrPC, overriding personal law, which had not traditionally provided for such maintenance after divorce. The judgment sparked widespread political debate, leading to the Muslim Women (Protection of Rights on Divorce) Act, 1986, which sought to limit the scope of the Shah Bano judgment, particularly for Muslim women, by reinforcing the application of personal law in cases of maintenance.

Over time, Section 125 has undergone several judicial interpretations and reforms, with courts expanding its scope and ensuring that the provision is more effectively applied. Despite this, the law continues to be criticized for its inability to fully meet the needs of women in terms of maintenance and for the lack of a uniform framework for addressing issues such as alimony, child custody, and inheritance.

### **History of the Uniform Civil Code (UCC)**

The debate over the Uniform Civil Code in India dates back to the Constitutional Assembly debates of 1947-1949, where the issue of whether India should adopt a uniform set of laws governing personal matters was discussed extensively. The Uniform Civil Code was proposed as part of the vision for a secular and unified nation, where personal laws would be based on individual rights rather than religious beliefs. The Constitution of India, under Article 44, directs the state to "endeavor to secure for the citizens a uniform civil code throughout the territory of India," but it left the implementation of the UCC to be a matter of future legislation.

The debates surrounding the UCC were initially dominated by the post-independence government's desire to create a common national identity, and to address the gender disparities within personal laws. However, the push for the UCC faced resistance, particularly from the Muslim community, which viewed it as an infringement on religious freedom and the right to follow Islamic personal laws. The Hindu Code Bills, introduced in the 1950s, reformed many aspects of Hindu personal law, including marriage, divorce, and inheritance, but the reforms did not extend to other religious communities, leading to the continued existence of separate laws for Hindus, Muslims, Christians, and other communities.

The issue of a Uniform Civil Code gained prominence again in the 1980s after the Shah Bano case and the subsequent enactment of the Muslim Women (Protection of Rights on Divorce) Act, which aimed to address issues related to the maintenance of Muslim women after divorce under Islamic law. The law was seen as an attempt to sidestep the Shah Bano judgment and preserve the status quo in Muslim personal law. This event revived the demand for a Uniform Civil Code, with proponents arguing that personal laws based on religious belief perpetuated gender inequality and did not guarantee equal rights for women.

Over the years, the UCC has been discussed as a means to create a common legal framework for issues related to marriage, divorce, inheritance, and maintenance, providing equal rights and protection to women across all communities. However, the concept has faced strong opposition from religious communities, particularly those that view personal laws as essential to their religious identity. Political parties in India, especially those with a focus on secularism, have supported the implementation of a UCC, but they have encountered significant opposition from parties focused on religious pluralism, which argue that personal laws are an intrinsic part of cultural and religious identity.

The 1970s and 1980s saw the debate on UCC intensify with the rise of women's rights movements and growing demands for reform in family laws. However, the issue has remained largely unresolved, with successive governments avoiding a clear stance on the issue, fearing political and religious backlash.

### **Current Trends and the Status of UCC Today**

In recent years, the issue of the Uniform Civil Code has seen a resurgence, especially with the increasing calls for legal reforms to guarantee women's equality in personal matters. Discussions on the UCC have become increasingly



relevant in the context of India's modernizing society, where the disparities between personal laws are seen as increasingly untenable. At the same time, the push for a more inclusive and gender-sensitive UCC has gained traction in the political and legal spheres, as reform advocates argue that the time has come to move away from religion-based personal laws.

The current trend focuses on gender equality, particularly in issues like maintenance, inheritance, and divorce. However, the UCC continues to face strong opposition from religious communities, who believe that it would undermine their religious freedom. Critics of the UCC argue that its implementation would be divisive and could harm India's pluralistic fabric. On the other hand, supporters contend that a common code will ensure equal rights for all citizens, irrespective of religion, and will strengthen women's rights by offering a uniform and comprehensive framework for personal laws. The history of Section 125 CrPC and the Uniform Civil Code in India represents an ongoing struggle for gender justice and women's rights within a deeply pluralistic society. While Section 125 has played a vital role in providing relief to women in cases of marital desertion and maintenance, it has not been without its limitations. Similarly, the debate over the UCC continues to evolve, with proponents arguing for its potential to address gender disparities and critics voicing concerns about its implications for religious autonomy and personal freedoms. The ongoing discourse on these issues continues to shape the future of family law and gender equality in India.

## 5. DISCUSSION

The study analyzes how Section 125 CrPC offers a safety net for women, but the implementation of this provision is often mired in legal and procedural delays. In contrast, the UCC holds the promise of providing equal legal protection to women across all religious communities. However, the UCC faces significant hurdles due to religious opposition, political challenges, and concerns about its potential to infringe on religious freedoms.

## 6. RESULTS

The research concludes that while Section 125 CrPC provides crucial financial support to women, it is not sufficient to address the broader issues of gender justice. The UCC could provide a more inclusive and equitable framework for all citizens, but its implementation requires careful legal and social consideration to balance personal freedoms and women's rights.

## 7. CONCLUSION

Both Section 125 and UCC play significant roles in India's evolving legal landscape concerning gender justice. While Section 125 offers immediate relief for women in terms of maintenance, its enforcement is inconsistent. The Uniform Civil Code, although a contentious issue, offers a potential long-term solution to standardize family laws across religions. The study concludes that achieving gender justice requires continued legal reforms, stronger enforcement of existing laws, and the careful consideration of the UCC.

## SUGGESTIONS AND RECOMMENDATIONS

- Strengthen the enforcement mechanisms for Section 125 CrPC to ensure women can claim maintenance more effectively.
- Facilitate broader public debates and discussions on the UCC, focusing on gender justice while respecting religious diversity.
- Promote awareness about legal rights and avenues for women to seek maintenance and protection.

## FUTURE SCOPE

Further research could explore the potential for integrating Section 125 CrPC within the framework of the UCC and assessing the practicalities of such integration. Moreover, a comparative analysis of how similar legal provisions function in other countries could provide useful insights.

## CONFLICT OF INTERESTS

None.

## ACKNOWLEDGMENTS

None.

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