

Uniform Civil Code : Fostering Social Harmony and Equality in India

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The Uniform Civil Code (UCC) has been a topic of extensive debate and discussion in India, reflecting the complex intersection of law, culture, and religion. The concept of a UCC envisions a single set of laws applicable to all citizens, irrespective of their religious affiliations, in matters of personal laws such as marriage, divorce, inheritance, and adoption. The idea is rooted in the principles of equality, justice, and the need to harmonize diverse legal systems that exist within the country. The prospects of a UCC contributing to social harmony are substantial. A unified legal framework can potentially bridge gaps and promote a sense of common identity, fostering a more inclusive and egalitarian society. It could also streamline legal processes, reducing complexities associated with varying personal laws.

[**Keywords** : Cultural, Equality, Justice, Minority, National integration, Personal laws, Uniform Civil Code]

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JOURNAL OF NATIONAL DEVELOPMENT, Vol. 36, No. 2 (Winter), 2023
Peer Reviewed, Indexed & Refereed International Research Journal

1. Introduction

India's legal landscape inherited a diverse set of personal laws from its colonial past. The British, recognizing the complexity of religious diversity, allowed different communities to follow their own customs and practices in matters of personal laws. However, after gaining independence in 1947, the framers of the Indian Constitution had to grapple with the question of whether to adopt a Uniform Civil Code or allow for the continuation of diverse personal laws. Article 44¹ of the Directive Principles of State Policy in the Indian Constitution recommends the implementation of a Uniform Civil Code for all citizens. However, this directive is not enforceable by any court, and successive governments have been hesitant to take definitive steps in this direction. The issue became a contentious one, with politicians and religious leaders often resisting attempts to codify personal laws uniformly. As of now, India continues to follow different personal laws for different religious communities-Hindu, Muslim, Christian, and others. Each community has its own set of rules governing marriage, divorce, inheritance, and other personal matters. The diversity in personal laws has been a source of contention, leading to debates on the need for a UCC.

India is a land of diverse cultures, religions, and traditions. The framers of the Indian Constitution recognized this diversity and allowed for the continuation of personal laws that govern matters such as marriage, divorce, and inheritance based on one's religion. The framers believed that this would be a temporary measure, and a Uniform Civil Code would eventually be implemented to ensure equal rights and justice for all citizens. The need for a Uniform Civil Code gained momentum in the early years of independence. Dr. B.R. Ambedkar, the principal architect of the Indian Constitution, emphasized the importance of a common civil code to promote national integration and gender justice. However, due to political and social considerations, successive governments hesitated to take decisive steps in this direction.

The debate on the Uniform Civil Code (UCC) in the Constituent Assembly of India was a significant and contentious discussion that took place during the framing of the Indian Constitution. The Uniform Civil Code was aimed at replacing personal laws based on religious customs and traditions with a common set of laws applicable to all citizens regardless of their religion. The framers of

the Indian Constitution recognized the importance of creating a secular and egalitarian society. The issue of a Uniform Civil Code was raised in the Constituent Assembly to ensure equality and justice for all citizens, irrespective of their religious beliefs. However, the debate on the UCC was highly sensitive and led to intense discussions among the members of the assembly. The Constituent Assembly members debated the need for constitutional safeguards to protect the rights of religious minorities while implementing a Uniform Civil Code. The discussions focused on finding a balance between promoting a common civil code and respecting the diversity of religious practices. In the end, the Constituent Assembly decided not to include a Uniform Civil Code as a directive principle in the Constitution. Instead, it left the matter to be addressed by the future governments, recognizing the sensitivity of the issue and the need for consensus among different communities. As a result, India continues to follow different personal laws for different religious communities in matters of marriage, divorce, and inheritance. The debate on the Uniform Civil Code continues to be a subject of discussion and controversy in Indian politics and society.

2. Judicial Approach regarding Uniform Civil Code

In the *Shah Bano Begum v. Union of India* (1985)², Supreme Court upheld a Muslim woman's right to maintenance under Section 125 of CrPC even after divorce. Court emphasized the need for a UCC to ensure uniform rights for women across religions

In the *Sarla Mudgal v. Union of India* (1995)³, Supreme Court addressed the issue of conversion to Islam for the purpose of contracting a second marriage without dissolving the first. Court reiterated the importance of a UCC to prevent such practices.

In the *John Vallamattom v. Union of India* (2003)⁴, Supreme Court held that intestate succession among Christians in Kerala could not discriminate against daughters. Court observed that a UCC would create a level playing field for all religions.

In August 2017, the Supreme Court of India⁵, in the landmark case of *Shayara Bano v. Union of India*, declared the practice of instant triple talaq unconstitutional and void. The court held that the practice was arbitrary and not an essential part of Islamic law. The verdict aimed to protect the rights and dignity of Muslim women.

3. Arguments for a Uniform Civil Code

3-1 Equality and Justice

A UCC is seen as a step towards ensuring equality before the law for all citizens, irrespective of their religious background. It promotes the principle of equal protection under the law, a fundamental right guaranteed by the Indian Constitution. It eliminates the discrimination faced by individuals, especially women, under different personal laws.

3-2 Women's Rights

Uniformity in personal laws can address gender disparities present in various religious laws, particularly in matters of marriage, divorce, and inheritance. It is argued that a UCC can contribute to the empowerment of women by providing them with equal rights and opportunities. Personal laws, in many cases, discriminate against women. A Uniform Civil Code would provide a uniform platform for all citizens, irrespective of gender, ensuring equal rights and opportunities. It could address issues like triple talaq and polygamy, which have been criticized for being unfair to women.

3-3 National Integration

A common civil code is viewed as a unifying force that transcends religious and cultural differences, fostering a sense of national identity and integration. It aligns with the secular principles enshrined in the Indian Constitution. It would strengthen the social fabric of the nation by promoting a shared legal framework that transcends religious divisions.

3-4 Simplification of Legal System

A UCC would simplify the legal system by replacing a myriad of personal laws with a single, comprehensive set of laws applicable to all citizens. This simplification could make the legal system more accessible and understandable for the common citizen. The existing personal laws are often complex and outdated. A Uniform Civil Code would simplify the legal system, making it more accessible to the common citizen. It would allow for the incorporation of modern principles and values into the legal framework, aligning it with contemporary societal norms.

4. Arguments against a Uniform Civil Code

4.1 Cultural and Religious Pluralism

Critics argue that implementing a Uniform Civil Code may infringe upon the religious freedom guaranteed by the Constitution. Different communities may have different beliefs and practices that they wish to uphold. Personal laws are seen as an expression of the diverse cultural and religious ethos of the country. Opponents argue that India's strength lies in its cultural and religious diversity, and a UCC might undermine these diverse traditions. There are concerns that imposing a common code might be perceived as an infringement on religious freedoms. India's rich cultural tapestry is woven with various traditions and customs. Opponents of the Uniform Civil Code argue that imposing a common code may erode the unique cultural identity of different communities. Cultural sensitivity is essential in a diverse nation like India, and personal laws are seen as a way to preserve this diversity.

4.2 Minority Apprehensions

Religious minorities, particularly Muslims, fear that a UCC might be designed to marginalize their communities and impose majority values on them. Critics argue that a UCC should respect and accommodate the diverse traditions within the country.

4.3 Political Opposition

Political considerations often play a significant role in the reluctance to implement a Uniform Civil Code. Many political parties fear losing support from religious communities if they advocate for a common civil code. The issue is often used as a political tool, leading to a lack of consensus among political leaders.

4.4 Social Resistance

Implementing a Uniform Civil Code requires societal acceptance and support. Resistance from conservative elements within various religious communities has hindered progress in this regard. People may be resistant to change, especially when it comes to deeply ingrained cultural and religious practices.

4.5 Implementation Challenges

Critics contend that implementing a UCC is a complex task, given the vast diversity of customs and practices across the country.

The fear of potential resistance and social unrest is often cited as a reason to avoid hasty implementation.

5. Conclusion

The framers of the Indian Constitution recognized the need for social reform and cohesion, envisioning a modern and egalitarian society. Article 44, nestled in the Directive Principles of State Policy, reflects this vision by calling for the enactment of a Uniform Civil Code. This constitutional provision, while non-binding, serves as a guiding principle for the state to strive towards achieving a common set of civil laws for all citizens. The significance of a Uniform Civil Code goes beyond legal uniformity; it is a cornerstone for fostering social cohesion in a diverse nation like India. By providing a common legal framework, a UCC aims to bridge the gaps between different communities, promoting a sense of unity and shared citizenship. The pursuit of social cohesion through legal unification becomes particularly relevant in the contemporary context, where diversity is both a strength and a challenge. The debate over the Uniform Civil Code in India reflects the delicate balance between the principles of equality, justice, and the preservation of cultural and religious diversity. While there are strong arguments both for and against a UCC, it is crucial to recognize the need for nuanced and inclusive discussions. Any attempt to implement a Uniform Civil Code must be approached with sensitivity, taking into account the concerns and aspirations of all communities. Ultimately, the goal should be to create a legal framework that upholds the principles of justice, equality, and social harmony while respecting the rich tapestry of India's cultural and religious traditions. A UCC has the potential to address gender inequalities present in various personal laws, promoting a more just and equitable society for women. It could contribute to the overall development of society by ensuring the full and equal participation of women in all aspects of life. The implementation of a UCC could contribute to social harmony by reducing legal disparities and fostering a sense of common citizenship. Over time, a common civil code could contribute to social harmony by reducing inter-community tensions arising from legal disparities. It could foster a sense of unity and shared identity among the diverse population of India. A uniform code could simplify legal processes, making them more accessible and understandable for the general public. The implementation of a common civil code would

bring clarity and simplicity to the legal framework. This could make legal processes more accessible to the common citizen, reducing litigation and enhancing legal awareness. A Uniform Civil Code could strengthen the bonds of national integration by emphasizing the commonality among citizens. It would reinforce the idea that, regardless of religious differences, all individuals are equal before the law.

Footnotes

1. Constitution of India.
2. AIR 1985 SC 945.
3. 1995 AIR 1531.
4. Writ Petition (C) No. 242 of 1997 Decided on 21/07/2003 SC.
5. [(2017) 9 SCC 1].

