



Fundamental Approach Of Uniform Civil Code In Indian Constitution

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ABSTRACT

"The State must endeavour to ensure for people a uniform civil code across the territory of India," says Article 44 of India's Constitution. The planned code has not been produced or deployed after more than six decades. To create an Indian Uniform Civil Code, the authors of this book use lessons learned from other countries' civil codes as a guide. There are many inter-community and intra-community conflicts involving questions of law, culture and religion. Guidelines and considerations are included in the book to aid with this process. We've taken cues from the way other countries have dealt with the difficulty of creating civil codes while still respecting existing local laws and social practises. Religious-state connections are also examined in this framework. The Muslim or Hindu majority group should be reassured by this set of recommendations. For two distinct but related reasons, a Uniform Civil Code may be crafted in a democratic society to ensure the long-term viability of cultural and societal norms while simultaneously reinforcing constitutional ideals that protect the rights of girls and women.

KEYWORDS: Social, Uniform, Community, Relationship, Uniform, Code

INTRODUCTION

India's constitution specifies that the state is responsible for ensuring that all inhabitants of India have access to a Uniform Civil Code (UCC) under Article 44 of the Directive Principles of State Policy. As a result, it promotes the idea of "One Nation-One Law," regardless of the individual's religious beliefs. It is the primary goal of the Uniform Civil Code to replace existing personal laws based on religion texts and traditions in India with standard sets of regulations that apply to all citizens equally. Marriage, divorce, inheritance, adoption, and maintenance are all covered under personal law, which is distinct from public law. All "personal

laws" in India will be unified into a single set of secular rules that will apply to all people, regardless of their religious or ethnic background. Uniform personal laws have not yet been drawn up, but they are expected to integrate the most progressive and contemporary parts of all current personal laws, while eliminating those that are outdated and out-of-date.

LITERATURE REVIEW

Anish Meduri et.al (2021) India is a land of many faiths, each with its own set of personal rules that regulate how they are practised. Since each religion and its relevant laws have their own set of fallbacks, the issue of whether a Uniform Civil Code can be implemented in India while fulfilling the interests of each faith has emerged significantly. A functionalist approach and the inheritance laws of Hinduism, Islam, Christianity, the Goa Civil Code, and other important legislations are represented in this document. As a result, various considerations and recommendations are made for its correct implementation, including how a model UCC should be represented for successful governance. Scholars' concerns are taken into account in these ideas, which give direction for the future.

Vanshika Kasturi (2020) Code of civil procedure In layman's terms, "civil code" is the full collection of rules controlling property rights and other personal affairs, such as marriage, divorce, maintenance, adoption, and inheritance, in addition to "one nation, one rule." Although the exact contours of the new "civil code" have not yet been outlined, it should presumably incorporate the most modern and progressive aspects from all existing personal laws while discarding those which are outdated and archaic. This means that all citizens of India, regardless of their religious or ethnic background, will be subject to one set of secular laws dealing with these aspects, regardless of their religious or ethnic background.

B. Pratap Naik et.al (2019) The current emergence of the Uniform Civil Code problem in India's political discourse is mostly due to Muslim women who have been negatively impacted by personal laws petitioning the Supreme Court to protect their constitutionally guaranteed rights to equality and liberty. The law commission has lately been invited by the Union law ministry to look into the application of the unified civil code across the country.

Aanshi Gurjar (2018) Article 44 of the Uniform Civil Code has been studied by the researcher. Constitution of India: "State should endeavour to achieve for the inhabitants a consistent civil code across the territory of India," Article 44. The UCC was introduced in this manner. The question now is whether or not UCC will

be implemented, despite the fact that it is stated and allowed for in India's constitution. In its execution, the lack of solutions to these main problems is a big problem. For as long as the Indian civil code has existed, Indian women have had a greater say in society and a higher social rank. It argues that a unified civil code is essential to our country's well-being. Confusion and inconsistencies preventing UCC implementation are summarised here. Other than politics, this study paper examines the primary obstacles that India has when it comes to adopting a universal civil code or common personal rules for all religions.

Shambhavi (2017) A new debate has erupted over whether India is ready for civil law uniformity after 68 years of the Constitution. To realise and implement the empowerment of Indian women and raise their standing in social institutions like family and marriage, the Uniform Civil Code (UCC) has always been adopted. According to this research, it is important to examine the whole debate surrounding the UCC and its justifications for its importance and its different reservations about its nature in order to determine how much attention is given to women's issues. Analyzing UCC discourse on gender parity is critical for judicial and political decision-makers in the United States and elsewhere.

WHAT IS UNIFORM CIVIL CODE

Uniform Civil Code resonates with one country one rule, to be applied to all religious communities. The term, 'Uniform Civil Code' is explicitly mentioned in Part 4, Article 44 of the Indian Constitution. **Article 44 says**, "The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India."

IMPLEMENTATION OF UNIFORM CIVIL CODE

It was the intention of the country's forefathers, embodied in Article 44 of the Constitution, to create a uniform civil code for all of the country's residents. "The state must endeavour to achieve for the people a uniform civil code," reads Article 44 of the constitution. An effort to provide an unified civil code is called for, but not mandated, by the clause, which is delicately phrased. It's not time-sensitive, and there's no compelling need to act on it right now. In addition, we cannot interpret this article in isolation from other constitutional provisions that guarantee equality before the law and equal protection of law.

Democratic processes are successful when group interests are aligned toward a shared goal. However, the concept of UCC as a purely intellectual exercise or as a means to get rid of the demonical nature of the legal system for ulterior objectives can only do more harm than good. To carry out the spirit of Article 44, it is necessary to ignore the will of the people. Its ultimate intent is to create a

society that is free from religious and caste divisions, in accordance with the rest of the constitution.

There's no denying that India is a place of religious diversity, and each faith has its own unique set of family rules. There is no such thing as a perfect civil code; rather, it is a goal that we must strive towards, but not practise the exquisite art of stoicism. All of our judges and lawyers as well as politicians and community leaders need to look for the good in every personal law and make it a part of the nation's.

It is only via the combination of principle and method that a new dharma—a progressive, equitable, common, family code—can be established. A shared civil code is a demonstration of equality in familial relations among people of differing religious ideas, but who are similarly situated in time. The fact that this notion, which our founding fathers saw as a lifeline to the country's unity and cohesion, is just a pipe dream more than seven decades after independence is very tragic. As a result, understanding the perspectives of diverse religious groups is critical at this juncture.

UCC AND CONFLICTS OF PERSONAL LAWS

Personal laws in India

India is a country made up of a variety of cultures and traditions. India is home to several of the world's most well-known faiths and civilizations. In India, religion has always been a significant component of the country's culture. The country's laws and customs promote religious tolerance and diversity. When it comes to the notion of secularism, our nation has it in its constitution, but when it comes to the personal laws of its inhabitants, there is a conflict. Hindus, Muslims, Christians, and Parsees all have their own unique sets of personal rules governing marriage, adoption, guardianship, divorce, and the like. In India, almost every community has its own set of rules governing marriage and divorce. Despite the fact that all of these religions are coexisting inside the same nation, India's family laws vary from one faith to the next. As a result, the religious interpretation and practise of these societies' traditions, social practises, and religious interpretations in their daily lives are heavily influenced by the religion they were born into and the laws governing society. Marriage, divorce, property, and inheritance are some of the codified personal laws-

- The Indian Christian Marriage Act of 1872 (applicable to whole of India except areas of erstwhile Travancore-cochin Manipur and Jammu & Kashmir),
- Cochin Christian Civil Marriage Act of 1920 (applicable for Travancore-cochin areas),
- For Sikh marriages, the Anand Marriage act 1909,

- Muslim personal law (Shariat) Application Act, 1937 (making Shariat laws applicable to Indian Muslims),
- The Parsi Marriage and Divorce Act, 1937
- Hindu Marriage Act, 1955 (applicable to not merely Hindus, Buddhists and Jains but also to any person who is not a Muslim, Christian, Parsi or Jew, and who is not governed by any other law).

Conflict between personal laws and Part -III of the Indian Constitution

There are two conflicting situations that need to be discussed:

- a) Coded and customary personal laws in contradiction with the requirements of the Indian Constitution's Part III.
- b) The Indian Constitution's Article 25 prohibits discrimination based on race, religion, gender, sexual orientation, or national origin.

Since the commencement of the Indian Constitution, the Indian court has had a difficult time resolving the relationship between personal laws and Part III of the Indian Constitution.

When it comes to this issue, the Narasu Appa Mali Case is an important precedent.

MISCONCEPTION ABOUT UNIFORM CIVIL CODE

Equality was a goal of the Indian Constitution's authors, who envisioned a common civil law that would rule the country. They would never have imagined that the Uniform Civil Code would be unable to function if it was put into the hands of the wrong people. Politicians now use the Uniform Civil Code as a ploy in their shady dealings. Some politicians have invented a misconception that the Uniform civil code, would crush minorities and impose on them the personal rules of the dominant community... For political benefit among religious constituents, politicians have given the Uniform Civil Code a sinister veneer, presenting it as incompatible with all of the people's religious practises and beliefs. In today's culture, the incorrect idea of one universal civil code predominates. The truth, however, is that the Common Law will bring about a set of rules that are applicable to everyone, regardless of their religious beliefs. Our Constitution is so well-written that the laws are enacted by the Parliament, the Supreme Legislative Body, which is made up of representatives of the people. For a bill to become law, it must get the support of at least two-thirds of the House of Representatives, as well as the approval of the Executive Authority. The Uniform Civil Code, like a bill, will be subjected to a series of examinations before it can become law. Minorities will not be overlooked in favour of the majority's interests in these studies.

WHY THERE IS A NEED FOR A UNIFORM CIVIL CODE

There are several reasons why a single civil code is necessary. It is still necessary, even in the twenty-first century, to ensure the equality of all people, promote gender parity, cultivate the imaginations of children and young adults, and promote national cohesion. All of these criteria can only be implemented and promoted with a unified civil code.

We all know that women have dominated males for many decades, and they continue to face a variety of challenges in their daily lives. And it's well-documented that women face particular obstacles when it comes to religious practises. In matters of succession and inheritance, men are usually given the upper hand. Traditionally, males have been seen as the primary owners and decision-makers in their households, communities, and societies at large. Whereas, women are unable to take their own because they are never given the chance to do it on their own. There will be no distinction between men and women if a single civil code is put into place.

British colonial India formalised many of its laws, such as contracts, property transfer, criminal and civil laws and more. Because the British never intervened in religious matters, they were able to craft these laws without affecting the religious or cultural fabric of the country. As a result, no comprehensive personal laws have been enacted to yet. Only personal laws, such as marriage, family, and succession, remained after the fall of the Roman Empire. The guiding principles of Indian state policy were then included as Article 44 into Article 35 of the proposed Indian constitution. If it is accepted by the Indian people, it will be put in the country's constitution. However, after 66 years, the idea of adopting UCC remained a dream. Though there is a pressing need for the implementation of the Uniform Civil Code (UCC) in India, there are still certain questions and reservations about the issue that may impact the lives of women, modify the level of life, and much more in India. Despite this, the majority of people still oppose it. People fear that the introduction of UCC to India would have an adverse effect on their religious practises, yet this has not been the case. Everyone will benefit from the adoption of a single civil code.

Secularism is at the heart of UCC's core concept. The concept of secularism requires a thorough examination. The United Church of Christ (UCC) is praised and slammed on the altar of differing conceptions of secularism. UCC is seen as anti-secular by certain members of our society; nevertheless, secularists see the UCC as a sign of community cohesion and progress toward secularism. Finally, the issue of Indian women's human rights is prominent in the backdrop of the UCC.

CONCLUSION

Certain impure, unorthodox religious practises have been embraced by cruel minds in order to widen the gap between the upheld and suppressed groups. As a consequence of the widespread abuse of human rights as a result of this conversion, an equal legislation for all citizens is now required to ensure that the fundamental rights of all people may be upheld without regard to their gender or religious affiliation. Even today, 68 years after it was enshrined in the Constitution's Article 44, the issue of the Uniform Civil Code remains a contentious matter of dispute. Indian public policy is the application of state policy within the law-making process. Constitution also mentions this; it's the law of the nation. Indian culture may be defined by the fact that even great rulers like Asoka and Akbar did not impose civilian customs on their people by coercion; this may be seen as cultural inheritance.

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