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# IMPLEMENTATION OF THE UNIFORM CIVIL CODE: A THREAT TO RELIGIOUS AUTONOMY AND DIVERSITY

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## ABSTRACT

There has been a lot of buzz in recent times about the government's plan to implement a *Uniform Civil Code* (UCC). The debate has sparked over the *implementation* of the *Uniform Civil Code* in India and has intensified, with proponents arguing for its necessity to establish a *Uniform Civil Code* in civil matters like *marriage*, *divorce*, and *inheritance* currently governed by diverse religious laws. Key legal judgments such as the *Shah Bano* case, have highlighted the need for a common civil code to ensure equality and justice whereas on the other hand, the famous *Bijoe Emmanuel* case does not support the idea of a *Uniform Civil Code*. The implementation of UCC has been prolonged and kept alive since independence. However, implementation requires careful consideration and broad consultations to ensure unity and equality in a diverse democracy.

**Keywords:** Uniform Civil Code, implementation, marriage, divorce, inheritance, Shah Bano, Bijoe Emmanuel.

## INTRODUCTION

India has a great heritage and is a model for religious harmony where people of different religions live peacefully and in harmony. India is home to people following different religions and having different faiths. As per the **Pew Research Centre 2021** data, **46,41,403** people

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follow other religions apart from the six major religions: Hinduism, Jainism, Islam, Buddhism, Sikhism, and Christianity.

Religion is a matter of belief or faith. The constitution of India recognizes how important religion is in the lives of people of India and hence, provides for the right to freedom of religion under Articles 25 to 29.

## **CONSTITUTIONAL PROVISIONS RELATING TO THE RIGHT OF RELIGION**

- **Article 25:** Freedom of conscience and free profession, practice, and propagation of religion.
- **Article 26:** Freedom to manage religious affairs.
- **Article 27:** Freedom as to payment of taxes for the promotion of any religion.
- **Article 28:** Freedom as to attendance at religious instruction or religious worship in certain educational institutions.
- **Article 29:** Protection of interests of minorities.

A. 29 (1) states that any section of the citizens residing in the territory of India or any part thereof having a distinct language, script, or culture of its own shall have the right to conserve the same. These fundamental rights grant individuals the freedom to choose and practice their faith without interference or imposition from the state.

The Constitution of India envisages a secular model and provides that every person has the right and freedom to choose and practice his or her religion.

The Apex Court has held that secularism is the basic structure of the Constitution, the most important being the *Kesavananda Bharati* case.

India is a country where cooking has so many ways, so why can't there be different religions?

Why nationalized code is required when each state can formulate its plan by analyzing its population and their faith and accordingly what suits the best for the state's majority population?

India's social fabric is woven with diverse cultural practices and traditions, which are often deeply intertwined with religion. Imposing a uniform set of laws across diverse religious groups

threatens to homogenize these unique cultural identities, eroding the rich fabric of India's religious diversity, as it might require individuals to conform to a uniform legal framework that may not align with their cultural practices and beliefs.

The deep-rooted religious and cultural sensitivities in India and the introduction of a Uniform Civil Code could potentially trigger social unrest and conflicts. Attempts to impose a uniform set of laws could be perceived as an encroachment on religious freedom and lead to communal tensions.

Implementing a uniform code while respecting regional and cultural variations is a significant challenge. A one-size-fits-all approach may not adequately account for the diverse customs and traditions that exist across different regions and communities.

The Shiromani Akali Dal (SAD) made its stance clear on the UCC (UNIFORM CIVIL CODE), stating that it opposes any such preparation as it would have an “adverse impact on minority and tribal communities. They also urged the Union government to ensure that the sentiments of the Sikh community are “respected” while taking a call on the contentious matter.

Mr. Cheema said that the Uniform Civil Code was not granted the status of fundamental rights by the constitution makers and was kept in the concurrent list and is part of the Directive Principles of State Policy. “Changing this status is undesirable as it will cause friction in society. Besides minority communities, tribal societies who have their laws will be most affected,” he added.

These communities rightfully express concerns about the potential marginalization and infringement upon their unique personal laws and customs.

He further said that if any personal law is discriminatory, it could be amended, but forming a Uniform Civil Code for the entire country is not advisable.

The 21st Law Commission had also concluded that the Uniform Civil Code is neither feasible nor desirable. These recommendations were made after due diligence and feedback from the people.

21st Law Commission recommended the government to first concentrate on ensuring the equality between men and women in the same community rather than focusing on the equality between communities.

This equality can be brought by ensuring equal pay and equal work to both men and women, instead of forming the Uniform Civil Code and causing a threat to religion let us work and focus on other ways where women can get equal opportunity. If gender equality is the main objective behind the implementation of the Uniform Civil Code, then Why was paid menstrual leave denied?

Considering legal precedents such as the Hasan Ali v. Mansoor Ali case and the Bijoe Emmanuel v. State of Kerala case, (popularly known as the NATIONAL ANTHEM CASE) which highlights the significance of protecting religious practices and beliefs and proceed cautiously when considering the implementation of a Uniform Civil Code.

The Supreme Court in Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt ruled that there is no doubt that religion finds its basis in the system of doctrines regarded by those who profess that religion. Still, it will not be correct to say religion is nothing but a doctrine or belief.

## **RELIGIOUS TRIPS WILL FUEL INDIA'S TOURISM**

According to a news report from CNBC on Jan 26, 2024, it is noted that India's tourism sector is set for a boom as more travellers take trips around the country for religious purposes. 6.64 million foreign tourists have visited India to date.

Indian carriers have placed orders for more than 1,100 planes over the past eight months, signalling massive demand for religious travel.

If it continues to develop tourist destinations including religious tourism, chances are that increased people will come to visit India and it will even benefit on the foreign exchange side," said Nilesh Shah,

Religious tourism is still the biggest segment of tourism in India.

Hence implementation of the Uniform Civil Code will not only be a threat to religious autonomy and diversity but also a massive problem to the country's economy.

## **CONCLUSION**

When the implementation of a certain thing brings a lot of negative affects then the implementation of such a thing does not fit right with the interest of the people.

The implementation of the Uniform Civil Code in India is a complex and sensitive issue with significant implications for religious autonomy. While the goal of having a common civil code is to promote equality and justice, it must be balanced against the need to respect and protect the diverse religious and cultural fabric of the country. A nuanced, consultative, and phased approach might be the best way to navigate the potential threats to religious autonomy while working towards a more unified legal system.

Additionally, Dr Ambedkar's insights into the Uniform Civil Code were that, by it being a directive principle, the state is not obliged to immediately bring the provision into effect. It can do so whenever it wishes to. Dr. Bhimrao Ambedkar understood that Indian society was not ready and mature enough to adopt the Uniform Civil Code amidst vast varieties of cultural and religious differences. The constitution maker himself says that the implementation of the Uniform Civil Code is a threat to religious autonomy and diversity.

In conclusion, dowry was and is still a major problem but have any laws completely ended the practice of dowry? Before implementing any laws, it is first necessary to work on the ground level and bring about social changes rather than changing the legal system completely.

The focus should be on ending discriminatory practices against women, rather than enforcing uniformity. The better course would be to bring about small reforms, correcting some inherent irrationality in some of the personal laws, and making them suitable for modern times.

Therefore, before the implementation of the Uniform Civil Code, the matter must be carefully considered and treated<sup>3</sup>.

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<sup>3</sup> <https://thewire.in/politics/not-in-the-interest-of-the-nation-akali-dal-writes-to-law-commission-on-uniform-civil-code>

<sup>2</sup> <https://www.cnbc.com/2024/01/26/indias-tourism-sector-is-set-for-a-boom-powered-by-religious-trips-.html>

<sup>3</sup> <https://indianexpress.com/article/opinion/columns/law-commissions-report-on-uniform-civil-code-undesirable-and-unnecessary>

<sup>4</sup> <https://blog.ipleaders.in/shayara-bano-v-union-of-india/>

<sup>5</sup> <https://blog.ipleaders.in/discussion-bijoe-emmanuel-case/#>