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# UNIFORM CIVIL CODE: A STEP TOWARDS A UNIFIED NATIONAL LEGAL FRAMEWORK

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## ABSTRACT

Implementing the Uniform civil code is the most controversial and debatable question in recent years. Uniform Civil Code (UCC) refers to the unified personal law across the country irrespective of their religion. The Indian Constitution aims to secure a Uniform Civil Code for its citizens Article 44 in the nature of Directive Principles. We have uniform codified civil and criminal laws. A unified law ensures equality enshrined in the preamble to the Constitution. India being a secular country has diverse religions. These religious communities have their own personal laws dealing with different aspects of their personal life including marriage, divorce, succession, adoption, maintenance etc. Though India is a secular country, now the time has come to implement a unified legal framework for personal laws. UCC is required if the nation has to progress.

The Supreme Court has emphasized the need for UCC in the case of Kesavananda Bharti and its following judgments. Though our previous governments failed to implement UCC in India, the current government is in the direction of implementing it. Implementation of UCC is in the BJP's 18th Lok Sabha election manifesto. Recently, the Gujarat Government also set up a committee for preparing a Draft for UCC.

**Keywords:** Uniform Civil Code, Unified National Legal Framework, Social Justice, Equality

## 1. INTRODUCTION

The implementation of the Uniform Civil Code (UCC) has been the most controversial and debatable question in recent years. Uniform Civil Code refers to the unified personal law across the country irrespective of their religion. Articles 25 to 28 guarantee the citizen's freedom of

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religion. Article 44 of the Constitution states, “the State shall endeavour to secure for its citizens a Uniform Civil Code throughout the territory of India”. India being a secular country has diverse religions. These religious communities have their personal laws dealing with different aspects of their personal life like marriage, divorce, inheritance, adoption etc. India has uniformity in other civil and criminal and evidence laws, but not in personal laws. Indian Constitution guarantees equality to all citizens irrespective of their race, religion, caste, sex, creed etc. Accordingly, except personal laws all other laws are equally applicable to all the citizens. A unified law ensures equality which is enshrined in the preamble to the Constitution.

Though India is a secular country, now the time has come to implement a unified national legal framework for personal laws. There is needed to strike a balance between uniformity and diversity. Though UCC is a constitutional mandate still after 75 years of independence, only Goa and Uttarakhand have implemented it. In 2022, before the Gujarat Constituency poll, the Gujarat Government had also announced to form a committee to make recommendations for implementation of UCC. Recently, a committee has been formed. To ensure equality and social justice for the citizens, there is a need for UCC. Implementing of UCC is not an easy task; the Government will face serious confrontations from the different religious communities. The Government can implement it gradually, step by step.

## **2. RESEARCH QUESTIONS**

1. Implementation of the UCC ensures equality to the citizens as guaranteed by the constitution.
2. Implementation of UCC is not in contravention of Secularism.

## **3. NEED FOR UCC IN INDIA**

During colonial India British report, 1935 examined the necessity for the codification of uniform criminal, evidence and contract laws. The Lex Loci Report of October 1840 considering religious and cultural sensitivity recommended that Hindu and Muslim personal laws should be kept outside such codification. Britishers were afraid of political pressure and opposition from religious leaders in implementing the UCC in India. In 1941 B N Rau committee was formed to decide the need for Hindu common law.<sup>2</sup> The Rau committee concluded that it was time to frame a uniform civil code only for Hindus in accordance with the scriptures which would give equal rights to women

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<sup>2</sup> <https://www.nextias.com/ca/current-affairs/08-11-2022/the-uniform-civil-code> visited on 31st January, 2025

in marriage and succession. The Hindu Women's Right to Property Act, 1937 was reviewed by the committee and recommended for civil code for Hindus in the matter of marriage and succession.<sup>3</sup>In India personal laws were framed only for Muslims and Hindus.

In the constitutional committee debate, Dr. B. R. Ambedkar, chairman of the Indian Constitution Committee had stressed the implementation of UCC at the time of framing of the Constitution but there was strong opposition by the other members of the committee, especially those belonging to the Minority communities. So, UCC was only included under Article 44 like Directive Principles of State Policy in part IV, to constantly remind the legislatures to frame the Uniform Civil Code in India.

But, due to political anomaly, our earlier government failed to implement UCC in India. The minority community strongly believed that the implementation of UCC would encroach upon their liberty to profess their laws. So, only the Hindu Code Bill was codified. The other communities were practising their personal laws. In Hindu code Bill the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, the Hindu Minority and Citizenship Act, 1956 and the Hindu Adoptions and Maintenance Act, 1956. Amongst the other provisions under the Hindu Code Bill; Hindu women have been given the right to divorce and succession. Polygamy has been abolished under the Bill.

In 1973 *Keshavananda Bharti v/s State of Kerala*<sup>4</sup> Justice S.M. Sikri considering the need for UCC reminded the government that "Desirable as it is, the government has not been able to take any effective steps towards the realisation of this goal. Obviously, no court can compel the government to lay down a uniform civil code even though it is essentially desirable in the interest of the integrity and unity of the country"<sup>5</sup>

Before 1985 under Muslim Law, there was no provision for maintenance to divorced wife beyond the iddat period. In *Mohd. Ahmed Khan v/s Shah Bano Begum and Ors*<sup>6</sup> the Supreme Court stated that section 125 of the Criminal Procedure Code applies to all irrespective of their religion. The court passed an order for maintenance to Shah Bano by her husband. The Court said, "It is

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<sup>3</sup> Chavan, Nandini; Kidwai, Qutub Jehan (2006). *Personal Law Reforms and Gender Empowerment: A Debate on Uniform Civil Code*. Hope India Publications. ISBN 978-81-7871-079-2.

<sup>4</sup> AIR 1973 SUPREME COURT 1461, 1973 4 SCC 225

<sup>5</sup> <https://www.tribuneindia.com/news/nation/supreme-court-backed-ucc-on-5-occasions-521169/>

<sup>6</sup> AIR 1985 SC 945

also a matter of regret that Article 44 of our Constitution has remained a dead letter. There is no evidence of official activity for framing a common civil code for the country.”<sup>7</sup>

In *Sarla Mudgal's* case a Hindu husband converted to Islam and without divorcing his first wife performed second marriage. The Supreme Court declared a second marriage invalid and punished the husband for Bigamy. The Court also emphasized the need for UCC as envisaged by Art. 44.

In *John Vallamattom V. Union of India*, Chief Justice Khare observed that a Uniform Civil Code would "help the cause of national integration by removing the contradictions based on ideologies."

Muslim law does not recognise the adoption of legal frameworks or traditional laws. The Juvenile Justice (Care and Protection of Children) Act, 2015 permits the adoption of children by the Muslim community. The said Act seems to be a step towards a Uniform Civil Code.

There are several arguments for and against the implementation of UCC.

The SC being guardian and protector of fundamental rights has directed the government for implementation of UCC to ensure equality to the citizens throughout the country. And, the present government is working in this direction, but there are several arguments against and in favour of UCC-

## **A. ARGUMENTS AGAINST THE UCC**

### **ENCROACHMENT ON FREEDOM OF RELIGION:**

India is characterized as a secular State the citizens have freedom of religion. Sections 25 to 28 also guarantee freedom of religion as a fundamental right. By implementation of UCC, India will lose its secular character and also amount to encroachment upon the Freedom of religion of the citizens.

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<sup>7</sup> <https://timesofindia.indiatimes.com/india/rs-20/month-alimony-to-shah-bano-brought-spotlight-on-ucc-in-1985/articleshow/101352077.cms>

## **DIVERSIFIED RELIGIOUS AND CULTURAL SENSITIVITIES:**

India has diversified religions and cultural sensitivity. Diversity in religion and culture is a unique feature of India. Minority communities are afraid of trailing their religion and culture. People are not ready to accept UCC, as they feel it is an encroachment upon their religious freedoms.

## **POLITICAL CHALLENGES:**

The government faces serious political confrontation from the opposition in implementing UCC. The government in power is also afraid of losing their seats.

## **SECULAR STATE:**

India being a secular State, guarantees freedom of religion to its citizens. The implementation of UCC is against secularism.

## **B. ARGUMENTS IN SUPPORT OF UCC**

### **ENSURES EQUALITY:**

The Constitution ensures equality to all its citizens irrespective of race, religion, caste, sex, creed etc. Equality is enshrined in the Preamble and Article 14 of the Constitution. Implementing UCC promotes equality, social justice and national integrity. Article 39 also aims for equal justice. Some personal laws are gender discriminatory like unequal inheritance rights for women; adoption is prohibited under Muslim Law. This discrimination can be done away with only by implementing UCC. It treats all religions equally, irrespective of their religious belief.

### **NATIONAL INTEGRITY:**

It implies a sense of unity and belongingness despite different religions, castes, cultures etc. India has diversified religions, cultures and languages. Though to promote national integrity and social solidity UCC is required. Integrity in diversity is a unique feature of the Indian Constitution. UCC is necessary if the nation has to progress.

## **WOMEN EMPOWERMENT AND GENDER JUSTICE:**

Some personal laws seem to be gender biased and hence criticized. Women are a vulnerable section of society they are discriminated against in the matter of marriage, divorce, adoption and inheritance. So, to ensure equality for social justice and economic empowerment of women there is a need for UCC.

## **4. CONCLUSION AND SUGGESTION**

Implementation of UCC is required to ensure equality for the citizens of India. UCC is not in contravention of secularism, but through its implementation, real secularism can be achieved. All religions are treated equally. Still, after 75 years of independence, there is no uniformity in personal laws. But now there is a need to implement UCC, to ensure equality and social justice for the people of India.

There are lots of challenges implementation of UCC in India. It is a long process and takes several years. The Indian government is working in this direction. After Goa, Uttarakhand has implemented UCC. The Gujarat government has framed a committee to make recommendations for the implementation of UCC in Gujarat State. The BJP-led State governments are working on the implementation of UCC at the State level.

After considering the effectiveness of working of UCC in different States, the Central Government can also frame UCC at the union level. UCC at the union level can be implemented step by step at various levels by inviting public opinion and recommendations from various stakeholders. While framing UCC, care to be taken of religious sentiments, especially of minority communities. There is a need to balance uniformity and diversity. The government can also conduct seminars and invite the public to discuss the implementation of UCC and explain the need and benefits of its implementation.

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