



International Journal of Research Publication and Reviews

Journal homepage: www.ijrpr.com ISSN 2582-7421

Introducing Uniform Civil Code in India

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ABSTRACT

India is a country where one is quite able to find different cultures, traditions, rules and regulations. A lot of changes are being made in the policies and rules since a decade. Government is trying to introduce new acts, laws and codes by replacing the old one. Uniform Civil code is the recent example of that. It will bring holistic change in the whole set up of the country but at the same time majority of the people are not aware about the uniform civil code and relating things which will get affected by this code in case it gets implemented. Hence, keeping this thing in mind The Law Commission of India has asked for views and proposals from the public of India regarding what they think about it. Nowadays this topic is highly debated at each and every information & communication media platform. If an ignorant asks about it the reply would be that Uniform Civil Code is a proposal to replace the personal laws of various religions and communities as well. It will introduce a new set of laws which will be common for all citizens irrespective of anything. This paper is an effort to know about this code by exploring its all dimensions.

Key Words: Constitution, voluntary, inheritance, harmony, discriminatory.

What is Uniform Civil Code

This code is mentioned in Article 44 of the Indian Constitution. Article 44 is the part of the Directive Principles of State Policy. Everybody know that these principles are not mandatory to be implemented and legally enforceable but only provide guidelines to the States. It is clearly written in this article that it is purely the responsibility of the Central Government to ensure the equal and fair governance in all over the country. Keeping this Article as foundation the Government is trying to implement this code on the citizen of India. The only state in India that has UCC is Goa which retained its common family law which is known as Goa Civil Code after it got free from Portuguese in 1961. On account of latest development is this that Uttarakhand has become the first State of India which has prepared its draft. Gujarat and Madhya Pradesh Government are waiting for that draft since they already have given their approval to implement UCC in their States. A committee of experts is constituted under Justice Ranjana Prasad Desai is working on finalizing the draft. National Law Commission has also become active as it has started asking for the suggestions on UCC. Committee is likely to give its report in the last date of the month of June. Let's have a look into the origin of Uniform Civil Code.

What is the Objective of Uniform Civil Code?

In India the main objective of implementing the UCC is to replace the existing personal laws such as Hindu Marriage Act, Hindu Succession Act, Indian Christian Marriages Act, Indian Divorce Act, Parsi Marriages and Divorce Act along with Muslims laws and Acts, which is totally based on the scriptures and customs or traditions of each religious class or community

Historical Perspective of Uniform Civil Code:

France is one of the most well known country in regard of Uniform Civil Code. America is on the same line like India as it has the states which are executing powers. In India we are inheriting the many laws from Britishers.

The British Government's 1835 report in colonial India called for uniform codification of Indian law, including crimes, evidence, and contracts. However, the Lex Loci Report of October 1840 suggested that personal laws of Hindus and Muslims should be excluded from this codification. As British rule progressed, the B N Rau Committee was formed in 1941 to codify Hindu law, leading to the enactment of the Hindu Succession Act in 1956.

What did Constituent Assembly say on UCC:

During the debates in the Constituent Assembly, the inclusion of the UCC sparked significant discussion.

There was a vote, resulting in a 5:4 majority, where it was decided by the sub-committee on fundamental rights, led by Sardar Vallabhbhai Patel, that the UCC would not be included as a fundamental right.

Dr. B R Ambedkar, while drafting the Constitution, stated that a UCC was desirable but should remain voluntary until the nation was socially prepared to accept it.

As a result, the UCC was placed in the Directive Principles of State Policy (DPSP under Article 44)

The Current Status of Personal Laws in India:

There are three lists through which Centre and States withdraws the functions to perform. The subject of personal laws like marriage, divorce, inheritance come under concurrent list. For example-

The Hindu Personal Laws are being applied on the Sikhs, Jains and Buddhists and have been codified by the Parliament of India in the year of 1956. It is divided into four parts

- The Hindu Marriage Act 1955
- The Hindu Succession Act 1956
- The Hindu Minority and Guardianship Act 1956
- The Hindu Adoption and Maintenance Act 1956

On the other hand there is a law which is called as Shariat Law of 1937 which governs all matters relating to Indian Muslims. There are some norms under Shariat law such as –

- It is mentioned that the State shall not interfere in matters of personal disputes and it is the religious authority which on the bases of interpretations of the Quran and Hadith will make a decision .
- Muslims will follow the rules guided by the Shariat regarding marriage ,divorce and other inheritance matters.

It is clear from the above Hindu and Muslim Personal Laws that Uniform Civil Code has the many challenges on the way before it gets implemented.

What are the Efforts Towards Uniform Civil Code in India?

▪ **Statutory Provision:**

Special Marriage Act 1954: Under the act, civil marriage is permitted for any citizen, regardless of religion, allowing any Indian to get married outside of religious custom.

▪ **SC Judgements Recommending the Need for UCC:**

- [Shah Bano Case 1985](#) in which Supreme Court ruled in her favour and directed to all citizens the order of maintenance of wives ,children and parents.
- Sarla Mudgal Case 1995 in which the Supreme Court also called on the Government to implement the UCC
- In *Paulo Coutinho vs Maria Luiza Valentina Pereira* (2019) case the Supreme Court gave the same direction to apply uniformity in application of law.

Why Uniform Civil Code be implemented

- For better understanding and to bring the clarity about the laws as most of the people do not have the knowledge due to presence of many laws and acts.
- One law will be easily understandable and more accessible to each and everyone.
- It will assure the consistency in the application of the laws.
- Uniform law will bring the reduction of discrimination on the basis of law.
- Modernization of the traditional law that is not up to the mark .
- Today the youth is influenced by modern universal and global principles of equality, humanity and modernity and uniform civil code will be a great help in that regard.
- New uniform law will bring harmony and reduce the fights between different religious groups..

- There will be common sets of rules and regulations for everyone and it will avoid confusions.
- There will be equitable legal treatment for women and aid in the eradication of gender discrimination.
- The national unity will be promoted by the UCC and it is the biggest merit of it.

Why Uniform Civil Code not be Implemented

India is known for its rich cultures and traditions through the time immemorial. There are some points which could create problems in case of adoption of uniform civil code. Here are some challenges discussed below:

- It is against the Right to Freedom of Religion. This right is protected under the Indian Constitution which are mentioned in the Article 25-28. After the adoption of UCC different religious beliefs of the people will get disturbed.
- It can give rise to the communal riots as there is lack of mutual consensus among the different religions or groups over this matter. An ideal law requires the approval of every class and categories in the country.
- It is not that much easy to replace the old one with new laws. The big question is what to remove and what will be added in the new uniform civil code.
- It is a very sensitive and complicated issue many people can take the wrong advantage of the complexities.
- There are certain groups or communities in India which have their local beliefs installed in their mind from the ages it is not easy to shake the foundation.
- Forcing the UCC on people can lead to unrest or distrust on the Government.
- Chief of Shiromani Gurudwara Prabandh Committee has also opposed the UCC by saying that it is about the potential erosion of traditions, culture and unique identities of minorities.
- Article 25 of the Indian Constitution gives every religious group the right to manage its own affairs.

The Countries which are following Uniform Civil Code

There are many countries which are following Uniform Civil Code among those US, Pakistan, Bangladesh, Malaysia, Turkey, Indonesia, Egypt and Ireland. All of the mentioned countries have one set of personal laws for every religions and groups residing in their countries.

Possible suggestions

To implement the Uniform Civil Code in India is not an easy task. It may give rise to many related problems. The Law Commission of India is a top judicial agency and it should be able to understand the technical problems behind. Law Commission should try to remove only those practices that do not meet the requirements of the constitution. On the other hand those cultural practices which are far from equality and gender justice must be avoided. Everyone knows it very well that Muslim personal laws are very rigid and discriminatory as it needs to have some changes according to the changing time. Muslims need to question whether practices like polygamy and arbitrary unilateral divorce align with their cultural values. Over all focus should be on having a such uniform civil code which aimed at cultural accommodation and equal justice to everyone. For that over all consensus is required.

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