

Uniform Civilcode: Aneed of the Hour

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SUMMARY

A country's eventual realization of its full potential is increased by the UCC. Numerous religious and cultural traditions may be found in India, all of which add to the nation's unique diversity. Nonetheless, there are a few doctrinal differences that have the capacity to strengthen or weaken modern-day India. The entire situation was redone in compliance with Article 44 of the Indian Constitution and other court rulings that established precedents in cases that are widely regarded as trailblazing decisions in India. More broadly, though, what do you think will be the next big development in our understanding of the world's religions? The time has come to conduct thorough study and get additional understanding of the UCC and how it is applied in the process of defending all religions. We will look into the wide range of success and failure that UCC projects have encountered in India and around the globe during this session.

OVERVIEW

In addition to its diverse linguistic, ethnic, religious, and social makeup, India is distinguished by the multitude of cultural traditions that it possesses. India is home to a diverse range of peoples and civilizations, all of which coexist peacefully, which is just one of the many amazing qualities about this amazing country.

For the foreseeable future, India's diverse religious and cultural customs that have been passed down through the centuries will remain crucial in shaping the country's character. India has always been a hub for the mingling and coexistence of diverse religious traditions from around the globe. The world is familiar with the major figures of Indian religion. In addition, India has been welcoming to the introduction of Islam and Christianity, two significant world religions that first appeared in relatively recent history and have since spread widely. Due to their extensive practice histories, which collectively span almost two millennia, both religions have solidified their positions in Indian society. The only nation in the world that can honestly assert that it is the spiritual center of the four major global religions is India. Apart from Hindus, there are sizable populations in India of Jews, Jains, and Sikhs. The widely diverse culture of India has been greatly influenced by the religious tolerance and principles that have been upheld throughout the nation's history.

Uniform Civil Code (UCC)

The Indian government is required to "make every effort" in accordance with Article 44 of the Indian Constitution, which states, "The State shall make every effort to ensure

for all its citizens a uniform civil code throughout India." Nevertheless, this article of the Constitution orders the state of India to create and implement a uniform civil code even though no other article in the document mentions it.

The "Uniform Civil Code" (UCC) is a word used to describe a uniform collection of laws that govern all citizens of the country, intended to replace the numerous legal systems that are based on the texts and customs of the numerous different faiths that are practiced there. In order to achieve this replacement, the UCC was established. According to Article 44 of the Indian Constitution, the state must make every effort to obtain a UCC in order to encourage compliance and uniformity of conduct among all citizens throughout India's territory. The code serves as a means of carrying out this mandate. According to this paragraph, the state must utilize all reasonable efforts to obtain a UCC in order to promote compliance among all Indian citizens.

Without a unified set of norms and values that govern social relationships, a civilization runs the risk of becoming antiquated and inflexible. Because of this, the ultimate purpose of all legal codes—past and present—is legal uniformity (Summum Bonum, the principle that underpins social and intercommunity relations values and priorities). A society is less likely to descend into anarchy and disorder when its members are obliged to follow the same set of rules and conventions. There is no denying that social disorders are the primary source of social unrest. Discriminatory regulations that regulate a wide range of diverse people and businesses are one way that this disorder has manifested itself throughout history. Prejudice and discrimination have an impact on Indian society's norms, which are displayed alongside the unchanging laws that govern social connections. These guidelines have been put on display with the rules.

India is a nation with a wide range of cultural customs and religious traditions. Our legal system's arrangement of personal laws, which are unique to numerous faiths, reflects this diversity. Decades of debate have ensued over whether or not legislators should follow the Directive Principles of State Policy (DPSP) when crafting legislation that is universally applicable to individuals of all faiths. Because the UCC is required by the Indian Constitution, it has sparked a contentious discussion that has called into question fundamental rights and obligations in addition to the idea of secularism. UCC has a noticeable impact on our country not only in the

social and religious domains but also in the political one.

The Uniform Civil Code and the Indian Constitution

Strong protections for the rights that every citizen of the nation is entitled to, irrespective of caste, creed, race, sex, place of birth, or religion, are provided by Part III of our Constitution. The Equal Protection Clause of the Constitution describes these requirements. Because of this, it is illegal for the government to enact any laws that could lead to discrimination for the above mentioned reasons. Secularism is regarded as the driving principle in India, and as such, it requires that the state treat all faiths equally. This has also made it possible for each denomination to enact its own laws knowing that they wouldn't face legal challenges. This has allowed for the passage of these new laws. Upon initial observation, the integration of fundamental rights and liberties within our Constitution seems both desirable and logical, particularly in relation to concerns concerning religion. However, things have drastically improved, and today's educated women are expecting everything while occupying some of the most prestigious and demanding leadership positions worldwide. Personal laws are not related to women's advancement; nonetheless, because of their strictness, this has become a source of contention for the entire country.

Articles 25–28 of our Constitution provide everyone the right to practice their religion as they see fit. Everyone is entitled to this privilege. This breakthrough made it feasible for people to create personal rules based on their culture and religion. Even while personal laws in India have been passed with the intention of preserving religious liberty, they frequently clash with other fundamental rights guaranteed by Articles 14–15 and Article 21 of the national constitution. Almost all national statutes contain evidence of violations of fundamental rights and discrimination against other groups, although in subtle and not-so-subtle ways. Examining Articles 14, 15, and 21 reveals that they serve as a safeguard against the infringement of any and all other fundamental rights due to discrimination. However, the evidence from practical applications shows that our efforts are in vain because we haven't yet produced results that meet our standards.

GOALS

1. The possibilities of a better country may improve with the study of the Uniform Civil Code (UCC).
2. The study explains why the ultimate goal of uniformity of law has always been emphasized.
3. The position of personal law in India

India is the birthplace of numerous globally recognized civilizations and faiths, indicating the wide range of ethnicities and customs present in the country. People of different religions now live in a respectful environment because of the nation's legal system and cultural norms, which have aided in the development of diversity of religions. It seems strange that the fundamental idea of secularism contradicts the private laws of many religious groups in a country like India where secularism is

enshrined in the constitution. That being said, this is not unique to this nation.

Hindus, Muslims, and Parsees adhere to different personal laws concerning civil issues such as marriage, divorce, adoption, property inheritance, succession, maintenance, etc. This leads to a complex social structure. Christians also have civil concerns covered by personal laws. Nearly every religious group in India follows its own set of personal norms on marriage and divorce, though this is not always the case. But that might not always be the case. Despite speaking the same language and having a common culture, the people of India's many religions are governed by a patchwork of distinct family and civic laws. Because of this, people blindly follow the social norms that that religion has established, even though they could be archaic and out of date. Some well-known examples of codified personal laws that govern issues like inheritance, divorce, marriage, and child support are as follows:

When drafting the Constitution, the authors gave particular consideration to "The Universal Declaration of Human Rights (UDHR), 1948." They served as the catalyst for the UDHR's human rights, which are described as "directive principles of state policy," to be included into our Constitution as fundamental and constitutional rights. But since the state hasn't yet succeeded in achieving the goal of appropriate fulfillment, the reality differs greatly from the vision that was created when these characteristics were added. Religion is the most important component of people's life since most people believe that personal rules come from God and are not meant to be changed. This is untrue because it implies that individuals from various religious backgrounds—such as Christians, Muslims, and Hindus—are all governed by the same set of laws. However, compared to someone who identifies as Hindu and lives in the south, a person who lives in the north of the nation may be subject to distinct law enforcement regulations. Islamic communities that are Sunni and Shia have entirely different inheritance laws from one other. It is absurd to distinguish between those who worship him and those who worship her if "God" and "Allah" are the same entity.

The idea of a single has its roots in the fight for Indian freedom, despite the common assumption that it was spurred by India's child-free status following independence. The division of India into several autonomous republics throughout the course of its history—each of which was overseen, managed, and governed by a—made the need for creating a legal system that applied to all residents of the subcontinent more urgent. Prior to that, the foundation of both criminal and civil law was laid by customs that were passed down from generation to generation and were held in high regard by the territory leaders. These customs were inherited from previous generations. Every nation has a unique collection of laws, as well

as unique organizations designed to enforce those laws. Since each state was run independently, there was no uniting factor that could ensure that the legal procedures were followed uniformly throughout the board.

Hasty steps were taken to create a body of law that would apply to all British Indians, excluding those who lived in the princely kingdoms, during the period that Britain dominated India. They were completely outside the authority of any government to which they could be subject. The British, however, knew that they could perform physically demanding tasks. It was concluded that changing the village-specific personal law would be disrespectful to the religious sensibilities of the community. The law has stayed in place ever since with no changes made as a consequence.

One of the most often discussed topics when our constitution was being drafted was personal laws. There were many who accused them of causing undue conflict. They felt that caste and religious differences would disappear with the adoption of a Uniform Civil Code, paving the way for the emergence of a unified Indian identity. However, the idea was met with opposition on the grounds that implementing the suggested action would negatively impact the cultural identities of different minority groups. Ultimately, the opposing sides came to a compromise and came to an understanding. The Directive contains guidelines that the UCC must follow; these guidelines are not legally binding, but the state is required to try to implement them. Significant Hindu population sectors expressed resistance to Hindus organizing rallies and protests against the legislation during the discussions on the measures.

They claimed that marriage is an institution that cannot be broken in the sight of Hindus and that divorce is incompatible with Hinduism. Additionally, they opposed giving women the same property rights as men because they believed that doing so would undermine the idea of the conventional nuclear family. They felt as though only their specific religious group was being singled out to have their customs changed. However, Nehru believed that this type of codification was necessary to successfully unite the Hindu population, which he saw as an essential step in successfully uniting the nation as a whole.

INDIA NEEDS A UNIFORM CIVIL CODE

Even before India attained independence, there were advocates for a uniform civil code. India was infamously hard to define because of the vast quantity of cultural diversity that existed inside the country before to its independence in 1947. India would not exist today if not for the fight for independence from British domination. It was known even then that India could not become a truly secular republic without first establishing have not been able to achieve this goal.⁹ Politics is by far the most important factor in explaining why this has not been done previously. Politicians have always considered it more profitable to play the vote banks game and try to please different castes and tribes than it is to unify our country

into one. This time, though, let's focus on the bright side and discuss the many reasons why a single, uniform civil code is so important.

It Encourages Genuine Secularism

India currently practices "selective secularism," a type of secularism where certain regions of the nation are secular while others are not. Every citizen of India is expected to follow the same laws and regulations, regardless of their religious affiliation (Christian, Sikh, Muslim, or Hindu). This is stated in the country's universal civil code. I find this to be very logical, and it has nothing to do with religion. People would be treated equally and there would be no restrictions on an individual's right to practice their religion within the framework of a universal civil code. That is the appearance of true secularism.

Treating Indians equally is important.

As it is, different people in India are subject to different personal laws based on their religious membership. For instance, a Hindu or a Christian who marries more than once may be charged with a crime, even though Muslims are allowed to do so. I don't think either party is being treated fairly in this situation. Every Native American should be treated equally by the law in terms of marriage, inheritance, family, and property, among other things. There is no other way to guarantee that Native Americans be treated equally except in this way.

It will grant women additional rights.

An improved status for women in India would result from the implementation of a uniform civil code across the nation. All Indian women are destined for a life of torture and captivity if we permit antiquated religious norms to continue dictating the structure of the family. This is due to the pervasiveness of sexism and patriarchy in our society, both of which feed off one another. These antiquated customs are out of place in modern society, because it is widely acknowledged that women should have the same legal rights as men, privileges that the modern world cannot accommodate.

It exists in every modern nation.

Having a modern and well-established civil law system is one of the hallmarks of a developed country. It is proof that caste and religion are no longer the main determinants of national politics. While our economy has grown at previously unthinkable rates, our social progress has not kept up with it. In fact, one could contend that we have reached a new low where we are neither progressing nor regressing on a cultural and social level. India would be one step closer to attaining its objective of joining the developed world if the nation as a whole followed the same civil code.

Personal Laws Provide No Clear Cut

In the end, the numerous personal rules are really just a way for the powerful to take advantage of the weak. We still don't take action when our panchayats make

choices that are against the constitution. Female foeticide and assaults carried out in the name of family honor are widespread problems in our society that violate people's rights. We have admitted personal laws, and as a result have established a parallel legal system based on customs that date back thousands of years. If we had a uniform system of civil law, that would be different.

UNIFORM CIVIL CODE OBSTACLES

Communities in India are most worried about the following aspects of UCC implementations: First and foremost, as personal laws are sacred and cannot be changed by any legislative body, Article 44 of the Indian Constitution needs to be repealed. This argument is worthless because it lacks a basis in reality because there is nothing divine about individual norms. Around this topic there is a common fallacy that religious texts that present themselves as 'divine revelations' are the origin of all "personal laws" and are therefore better, more reliable, holy, and unalterable. 'Divine revelations' do not really constitute 'law' in the modern sense, even though they might be considered precedent in a court of law.

The fundamental liberties protected by Articles 25 and 26 of the Constitution are at jeopardy because of the UCC. While safeguarding the freedom to practice one's religion, Article 25 of the Indian Constitution also gives the government the authority to restrict "any economic, financial, political, or other secular activity which may be associated with religious practice." This creates a new boundary between the sacred and the profane, and as a result, practices such as the question of whether or not a boundary should be formed, and if so, where it should be, may be up for debate. Article 26 of the Indian Constitution guarantees the individual's freedom to manage religious affairs.

The Uniform Civil Code and the Hindu Code Bill

In 1944, the government began the process of developing a Hindu legal code by establishing the Hindu Law Committee and appointing B.N. Rao as its head. Derret contends that the Hindu code is a significant step forward toward the establishment of a universal civil law norm.¹⁷ Even D.E. Smith had the same feelings about it. As an alternative to the law proposing the Hindu code, there has been widespread support for a uniform civil code. Nehru, on the other hand, fought against its implementation. According to what was reported, he said this. You can depend on getting my whole support for any legislation that seeks to modernize the Civil Code, regardless of who proposes it. But I feel obligated to state that I do not think it is the correct time to seek to get it through in India at the present. I do not believe the timing is right. I'm attempting to get everything organized for it, and one way to achieve so is by using this method.¹⁸ On two consecutive times, 1947 (before to India's split), and 1951, the Hindu Code Bill was presented in the Indian legislature, but it was eventually withdrawn. In the years 1955 and 1956, the primary legislation that would later be included into the Code were passed.

The Hindu Code Bill was defeated by the votes of several legislators. Discussions about the Bill covered a wide range of subjects: many Hindus felt that Manu's code represented God's will, and they all agreed that the Bill went against what God wanted; many Hindus also believed that marriage is a sacred institution that needs to be protected at all costs; still others argued that since Hindu law is founded on based on the Vedas, it should not be changed in any way. Those who opposed the bill claimed that it would discriminate against women by giving them different responsibilities than men. They also claimed that the bill's violation of Hindu law would lead to conflict in families and communities. Some men have even claimed that women oppose the proposed changes. As a result, the legislation narrowly passed the Senate. Throughout the discussion, numerous topics were raised that demonstrated how challenging it is to amend current personal laws.

This demonstrates that there were two main reasons why Hindu women were unable to achieve equality: first, it was forbidden by Hindu orthodox thinking; second, women in Hindu society had a strong sense of religious and communal identity. These two factors made it difficult for Hindu women to achieve equality. Despite the fact that reforms to Hindu personal law improved women's rights to divorce and inheritance, these reforms did not fully achieve equality because their goal was to standardize the application of Hindu law; as a result, the political interests of the state and the interests of men in the family and society were given precedence over those of women.

The personal laws, on the other hand, are the main cause of women's subjugation to men. "A number of restrictions are placed on women by society, family, and religion under the pretense of the concept of "honor," with the eventual purpose of ensuring that women continue to be dependent on males and their families." If women are granted equal rights to property, custody, guardianship, and other important matters, they will be one step closer to obtaining the basic human rights to which they are entitled.

among other unfavorable outcomes. This reinforces the family's patriarchal structure. Women's contributions to the family are valued less than those of men, and it is an indication of male control when a woman is denied her right to property, inheritance, and marriage. Among these rights are the capacity for marriage and property ownership. The customary role of the father as his children's guardian is likewise upheld by the legal frameworks that govern adoption and child custody. It is against Hindu law for a married lady to partake in such activities. This directly leads to the acceptability of patriarchal power structures inside families. Similarly, the Hindu law of succession still maintains the requirement that a will be written in order to safeguard the rights of sons.

DIFFICULTIES IN UTILIZING UNIFORM CIVIL CODE

Because there are so many different perspectives that must be considered, creating a worldwide set of standards is a daunting and time-consuming task.

Enough information about the UCC's content has been given to the minority's top members for them to mistake it for an attempt to force the majority's values and beliefs upon them.

The lack of political knowledge further complicates matters and adds to the unstable nature of the scenario.

Despite advancements in women's rights legislation, such as the Hindu Inheritance Act, women's social status and the proportion of property owners have not improved to the anticipated level. Notwithstanding the fact that laws favoring women have changed, this is still the reality. The general public can therefore reasonably assume that nothing will change. The UCC may come to a standstill because individuals of various religions are subject to distinct personal laws. This could cause division within the UCC.

The argument put out by those opposed to the UCC is that religious beliefs form the basis and guide personal legislation. As this could lead to a rise in hostility and conflict between different religious groups, it might be best for everyone to avoid upsetting them by imposing a single code. Articles 29 and 30 of the Indian Constitution protect the rights of the nation's numerous religious and cultural minorities, reflecting India's status as a secular state. Nonetheless, given India's secular constitution.

Comparative Civil Code in Political Story

The fundamentalists used a distinct set of reasons to support their opposition to the Hindu Code. The idea that the revered Hindu Shashtra customs ought to be conserved in some manner was first put forth. The second thing that continued to fuel animosity between the two groups was the continued upholding of Muslim personal regulations. Fourth, the long-standing economic rights of men in the community were compromised when women were granted equal property rights. The third problem was that laws were being passed quickly without first conducting a public survey. Furthermore, one of the subsections said that the government should have created a Uniform Civil Code in order to achieve its secular objectives, since the Hindu Code was actually a piece of communal law.

India's Constitution contains a Uniform Civil Code.

Jawaharlal Nehru acknowledged that there were some issues with the Bill. He believed that a uniform civil code for the entire state was necessary, but he was hesitant to force it on any region that was unprepared for it. He believed that a universal civil code for the entire country was necessary. It was believed that Parliament was expressing its openness to the idea of a Uniform Civil Code at some point in the future by including the adoption of a Uniform Civil Code as a Directive Principle in Article

44. This action was seen as a symbolic one by Parliament indicating that it was receptive to the concept of a Uniform Civil Code. Two of the ladies who voted against the decision to establish the Uniform Civil Code as a law that cannot be legally challenged in court were the progressive members Hansa Mehta and Rajkumari Amrit Kaur.

SUGGESTIONS

It is becoming more and more clear that a Uniform Civil Code (UCC) is necessary in today's diverse and complicated society. This code would provide as a common legal foundation for personal law issues including marriage, divorce, inheritance, and property rights that all citizens would be subject to uniformly, irrespective of their religious affiliations. A comprehensive examination of this topic is necessary to assess the nation's personal laws as they are now and comprehend the urgent need for a UCC. A thorough investigation of a few crucial areas is necessary to support this study. To understand the development of personal laws and the elements that lead to their diversity, one must examine the historical setting. These laws were significantly shaped by colonial power in particular, and comprehending this historical context is essential to realizing the need for reform. It is necessary to compare the personal laws that are now in place in various religious communities. The differences and discrepancies between these laws would be brought to light by this study, highlighting the need for a uniform legal system that guarantees justice and equality for all citizens. A thorough examination of constitutional laws, specifically Article 44 of the Indian Constitution, which promotes the establishment of a UCC, should also be part of the study. Examining the discussions around this article and the constitutional intent would offer important insights into the judicial system.

FINAL VERDICT

Difficult subjects like these might have been settled by legislative actions alone if the Uniform Civil Code had been applied nationally from the start. Because India cooperates as a single entity, honoring and respecting the many different religions and civilizations that have grown inside its borders. The primary constitutional goal of brotherhood should be meaningfully achieved by requiring all citizens involved in civil proceedings to abide by the same laws. In light of the fact that these forces of division will continue to operate in secular India if nothing is done, there is no longer a pressing necessity to enforce this kind of legislation on a populace that finds it objectionable. The great majority of people are not prepared to follow norms that are completely disconnected from any specific religious tradition. It won't be able to create a single civil code unless literacy rates rise, people are aware of and converse about important social and political issues, and people

have more opportunities to succeed in life. That's when it will be feasible to do so.

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