

Uniform Civil Code in India: Need and Relevance: A Comprehensive Study

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Abstract

India is a multicultural country with many different languages and religions. A country with such a diverse population naturally has a variety of personal codes and laws that regulate the personal matters specific to each community, such as marriage, divorce, inheritance, etc. Article 44 of the Indian Constitution's Part IV, which establishes a Uniform Civil Code for India, is one of the Directive Principles of State Policy. There are never-ending discussions over the idea of replacing the current personal law systems in India with a Uniform Civil Code. The Indian Judiciary has often emphasized the necessity for a uniform civil code and has instructed the Indian government to take appropriate action. Being an emotive issue, the road to an Indian Uniform Civil Code is paved with many obstacles. Some of these difficulties are related to concerns about majority community rule in India, the absence of connections between current Uniform Civil Code provisions and gender equality concerns, etc.

This essay focuses on the usefulness of a uniform civil code in India now in comparison to the country's systems of personal law. The history of the Uniform Civil Code's development is briefly covered in this essay. The paper provides a succinct analysis of some significant Indian judicial decisions that dealt with the uniform civil code issue. The study additionally glances at the obstacles to India's adoption of a uniform civil code and makes recommendations for how to overcome them while considering recent developments in India. The study concludes that, given the tense intercommunal relations in India, a Uniform Civil Code with precise and adequately revised rules would be best for India's interests at this time.

Keywords

Uniform, civil, code, judiciary, revised, India.

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Introduction

India is a multicultural nation with a wide range of nationalities and religions. In India, you can meet people from all different racial and religious origins. This diversity is reflected in our laws as well, which are based on personal guidelines developed with religious considerations. Article 25 of the Indian constitution, which established India as a secular country and codifies the secular ideals, states that everyone must be allowed to follow their faith without encountering any form of discrimination. Each facet of society shall be addressed fairly under a national civil code that is systematically available to all, regardless of their religious views. Marriage, divorce, child support, inheritance, adoption, and property succession are among the areas they tackle. It relies on the premise that there is no hyperlink between religion and the law in modern culture.

This research paper will focus on how a uniform civil code will ensure equality for all people on all grounds and will also discuss the drawbacks of its implementation in India, including the possibility of the country disintegrating due to the demand for personal laws. This paper will also address the connection between secularism and the unified civil code, evaluate all the arguments, and determine whether it is a good idea to establish the code in India.

Objectives

In India, the Uniform Civil Code (UCC) is a complicated and divisive issue, and for many years, people have been debating its aims and objectives. The following are the main goals of researching and possibly enacting a uniform civil code in India:

Equality: Equal treatment under the law for all citizens, regardless of their religion or philosophical beliefs, is one of the fundamental objectives. Since India is a secular nation, some claim that having distinct personal laws for various religious sects violates the equality principle stated in the Indian Constitution.

Gender Justice: Supporters of a UCC claim that it would aid in the advancement of women's rights and gender justice. The provisions of several personal laws in India, such as those governing divorce, inheritance, and maintenance, are seen as discriminatory against women. These problems could be resolved, and women's equal rights ensured by a UCC.

National Integration: One obstacle to national integration could be the existence of multiple personal laws for various religious communities. By subjecting everyone to the same set of civil laws, a UCC would encourage a sense of shared identity and unification among citizens.

Simplification and Modernization: India's personal laws are frequently out-of-date and have not evolved along with the nation's shifting social and economic conditions. A UCC would streamline and update the legal system, making it more applicable to modern culture.

Legal Clarity: A unified civil code would make personal rules more understandable and less ambiguous. Currently, disagreements about how various religious rules should be interpreted frequently result in disputes; a UCC would seek to overcome these problems.

Secularism: Many people view a UCC to safeguard the secular values of the Indian Constitution. It would ensure that personal laws are distinct from religious practices and prevent the influence of religion on civil disputes.

Progressive Values: Supporters contend that a UCC would promote progressive values and ideals, such as individual freedom, choice, and the right to live one's life in accordance with one's convictions.

It's crucial to remember that the introduction of a UCC in India has been a sensitive topic because of worries about protecting religious and cultural diversity. It might violate religious freedoms and customs, according to critics. The UCC is still under discussion, and any revisions would necessitate careful consideration of these conflicting interests and wide agreement among numerous stakeholders.

Hypothesis

The researcher is examining the following probable hypotheses as the hypothesis for a study on the Indian Uniform Civil Code:

1. **Social cohesiveness Hypothesis:** By guaranteeing a uniform set of rules covering personal concerns across all religious communities, an Indian uniform civil code will foster social cohesiveness and racial unity.
2. **Gender Equality Hypothesis:** By removing discriminatory practices from personal laws and assuring equal rights and opportunities for all citizens, regardless of their religious background, a uniform civil code has the potential to improve gender equality.
3. **Legal Simplicity and Accessibility Hypothesis:** The legal framework for personal concerns may be made more accessible and understandable for citizens by a uniform civil code, which would reduce legal complications and disputes.
4. **Political Viability Hypothesis:** Whether or not it is politically feasible to adopt a uniform civil code in India may depend on political considerations, including the political will of various political parties and religious organizations.

Research Methodology

This research paper was created using a doctrinal technique of research, which involved gathering secondary data from a variety of sources, including books, articles, research papers, internet legal databases, bare acts, and others. The study project's core and substance are formed by the data gathered from various sources to get an accurate conclusion.

Landmark To comprehend how various statutes have been applied to provide judgments in cases that are comparable, detailed judgments and cases have been cited. References to significant textbooks and study resources have also been made for this.

Uniform Civil Code Debate

- **Historical perspective** - In India, during the British colonial era, the idea of a single civil code was first put forward.
- **Colonial era (pre-independence)** - The October 1840 Lex Loci Report emphasized the value and requirement of consistency in the formulation of Indian law regarding crimes, evidence, and contracts. It did, however, also support the idea of keeping Muslim and Hindu personal laws uncodified.
- **The Queen's Proclamation of 1859** provided absolute protection against government meddling in religious matters. Therefore, unlike criminal laws, which were codified and made standard for the entire country, personal laws continue to be governed by unique codes for local municipalities.
- **Post-Colonial era (1947-1985)** - Leading figures like Jawaharlal Nehru and Dr. B.R. Ambedkar lobbied for a standard civil code during the constitution's formulation. However, they decided to include the UCC in the Directive Principles of State Policy (DPSP, Article 44) despite opposition from conservative religious organizations and a general lack of awareness at the time.
- **The Constitution of India on the Uniform Civil Code** - Article 44 of Part IV of the Indian Constitution's section on the uniform civil code states, "The State shall endeavor to secure the citizen a Uniform Civil Code throughout the territory of India." It is additionally referred to as "One Nation, One Law." India's adoption of a unified civil code was mainly motivated by the desire to establish a legal framework that would apply to everyone's personal matters, regardless of their affiliation with a specific religious organization. In contrast to public laws, personal laws govern things like marriage, inheritance, adoption, divorce, and spousal support. India adheres

to a secularist philosophy and provides allowances for people who belong to different faith groups. No matter what their religion, the Uniform Civil Code's principal objective is to treat everyone equally.

The issue now is that there are variations and inconsistencies among personal laws. There isn't any consistency. Additionally, there have been cases where women's rights have been ignored or completely absent from personal legislation. The adoption of the Uniform Civil Code is necessary to address these flaws.

As stated in Article 37 of the Constitution, the DPSP "shall not be enforceable by any court," though. Despite this, they are "fundamental in the country's governance." This demonstrates that, even though the Uniform Civil Code should be applied in some way, the written version of our Constitution does not put any restrictions on how it should be administered.

Reforms Implemented during the Period Included

- **The Hindu Code Bill** - Dr. B. R. Ambedkar developed the bill to modernize Hindu rules, which permitted divorce, forbade polygamy, and granted daughters the right to inherit property. Despite fierce opposition, a watered-down version of the legislation was enacted through four separate statutes.
- **Succession Act** - Originally, daughters were not granted inheritance rights in ancestral property under the Hindu Succession Act of 1956. Only a single Hindu household may grant them a right to subsistence. But on September 9, 2005, an amendment to the Act eliminated this difference.

The Hindu Marriage Act, the Minority and Guardianship Act, the Adoptions and Maintenance Act, and the Special Marriage Act—all of which were passed in 1954—provided for civil unions that were not governed by any specific religious personal law.

Judicial Interventions

1985's Shah Bano case

Shah Bano, a 73-year-old woman, was denied alimony after her husband used the triple talaq method of divorce, which involves pronouncing "I divorce thee" three times. She made a court appearance, and both the District Court and the High Court found in her favor. As a result, her husband filed an appeal with the Supreme Court, claiming that he had completed all his duties under Islamic law.

The "maintenance of wives, children, and parents" provision (Section 125) of the All-India Criminal Code, which extended to all citizens regardless of religion, resulted in a Supreme Court decision in her favor in 1985. Also, it advocated for the establishment of a standard civil code.

Facts about the Case

- In accordance with Muslim personal law, maintenance had only to be paid up until the iddat period, which lasted three lunar months—roughly 90 days—in this case.
- The Criminal Procedure Code's (CrPC) Section 125, which was meant for all citizens, provided for the wife's maintenance.

Impact - Following this landmark ruling, there were protests, gatherings, and discussions around the country. The Muslim Women's (Right to Protection on Divorce) Act (MWA), which was passed in 1986 because of demand, exempted Muslim women from Section 125 of the Criminal Procedure Code.

Daniel Latifi Case

The Muslim Women's Act (MWA) was contested because it infringed on both the right to life and the equality guaranteed by Articles 14 and 15, as well as Articles 14 and 15, respectively. The Supreme Court affirmed the law's constitutionality, aligned it with section 125 of the CrPC, and ruled that the sum of money received by a woman during the iddat period should be sufficient to support her throughout the iddat as well as safeguard the future of the woman. A divorced Muslim woman has therefore a right to maintenance under the law of the land for life, or until she marries again.

Sarla Mudgal Case

In the Sarla Mudgal Case, it was debated whether a Hindu spouse who had been wed according to Hindu law may thereafter wed a Muslim woman. Pursuant to the court, a Hindu marriage that has been solemnized in compliance with Hindu law may only be dissolved on either of the grounds stated in the Hindu Marriage Act of 1955. A second marriage that is solemnized after converting to Islam would be unlawful under section 494 of the Indian Penal Code (IPC) as it would not automatically dissolve the Hindu marriage under the legislation.

John Vallamattom Case

In this case, a priest from Kerala questioned whether Section 118 of the Indian Succession Act, which applies to non-Hindus in India, was constitutionally legal. Mr. Vallamattom argued that Section 118 of the Act discriminates against Christians by placing excessive limitations on their ability to leave property to charity or for religious purposes.

Uniform Civil Code and Goa

Regardless of gender, creed, or caste, Goa is the only state in India to have a UCC. We might claim that Goa is the only state in India with a uniform civil code

because there is a common family law there. No matter their religion, including Hindus, Muslims, and Christians, everyone is required to abide by the same laws regarding topics like marriage, divorce, and succession. In 1961, Marriage in Goa is a civil registrar's office-recorded agreement between two people of opposite sexes to live together and form a legal family.

Additionally, there are laws that the people of Goa must follow while dealing with individuals who are not allowed to wed. For instance, a marriage cannot be performed if one partner aids or commits the murder of another. Some claim that Goa's civil code is not uniform since some sections, such as the right of Hindu men to bigamy as stated in the usage and customs of gentle Hindus in Goa, make it seem less stringent. Goa does have a standard civil code; however, some people contend that it is invalid due to a few clauses like these.

Merits

India's Uniform Civil Code (UCC) is a contentious and intricate matter, and viewpoints on its necessity and application range greatly. The following are some of the main arguments in Favor of the adoption of an Indian Uniform Civil Code:

- 1. Equality and Non-discrimination:** Promoting equality and non-discrimination among all citizens, irrespective of their religion or personal views, is one of the main justifications for a UCC. Currently, India's personal laws are founded on religious rituals and conventions, which causes disparities in how people are treated in areas like marriage, divorce, inheritance, and adoption. A UCC would seek to guarantee that all citizens are given the same treatment under the law.
- 2. Gender equality:** Women are frequently discriminated against by personal law in India, especially when it comes to inheritance, marriage, and divorce. By banning discriminatory behaviors and ensuring that women have the same legal rights as men, a UCC might potentially lead to gender equality.
- 3. Secularism:** India is a secular nation, and the Constitution forbids prejudice based on religion. The concept of secularism, however, is viewed by some as conflicting with personal laws that differ based on religious connections. The secular principles entrenched in the Indian Constitution would be in line with a UCC being implemented.
- 4. Legal Clarity:** Personal laws in India can be complicated and vary significantly across various religious groups. A UCC would streamline the legal system, improving citizens' access to and comprehension of it while lowering legal disputes.

5. **Social harmony:** Proponents contend that a UCC may foster social peace by easing conflicts and tensions brought on by disparities in personal laws among diverse faith communities. The unification of the nation could be promoted by a unified civil code.
6. **Modernization:** Despite the country's changing society, personal laws in India have mostly remained the same for decades. A UCC would make it possible for the legal system to adjust to modern social conditions and handle problems that might not have been foreseen when the personal laws were drafted.

Demerits

The following are some frequent objections against the requirement for a UCC in India:

1. **Cultural Diversity:** India is a varied nation, home to a wide variety of cultures, languages, and faiths. To account for this variation, many personal laws that cover topics like marriage, divorce, and inheritance have developed over time. The rights of different communities' cultures and religions, according to critics, could be violated by imposing a single, standard code.
2. **Secularism:** India is a secular country, and its Constitution protects the right to practice any religion. Opponents of a UCC argue that by favoring one faith or group over others, the introduction of a single code could be interpreted as an effort to homogenize personal rules and undermine the secularism concept.
3. **Social Sensitivity:** Family law frequently deals with extremely private and delicate issues. Critics claim that enforcing a UCC would spark tensions and opposition among groups of people who have strong cultural or religious traditions pertaining to family issues.
4. **Judiciary Complexity:** As the nation adjusts to the new system, the transition to a UCC would require major law reform and might perhaps cause misunderstanding and legal difficulties. Critics assert that despite their complexity, current personal laws have developed to meet the demands of communities.
5. **Political Difficulties:** It is politically difficult to propose and carry out a UCC in India. Political parties could be reluctant to promote a UCC because of possible opposition from communities or interest groups.

It's crucial to remember that there are certain considerations against putting in place a UCC. It may violate the religious and cultural rights of different

communities, according to critics, and it may be difficult to create a universally applicable solution that considers India's wide variety of cultural and religious customs. However, the UCC's implementation is more crucial for the nation because it would advance gender equality and give all residents access to a more consistent legal system. As they currently exist, personal laws are also said to occasionally bias against women in matters like divorce and inheritance.

The Future for UCC is Gradual Change

Hindu, Muslim, Christian, and Parsi codified personal laws make up a distinctive blend in India. There is no universal family law for all Indians that is acceptable to all faith communities coexisting in India. However, most of them think that UCC is unquestionably desirable and would significantly deepen and consolidate Indian nationhood. Opinions disagree on when it should be accomplished and how it should be done.

Political and intellectual leaders should work to forge a consensus rather than utilize it as an emotional issue to advance their political agendas. It is simply a matter of treating every human being with respect, something that personal laws have so far failed to do. The issue is not one of minority protection or even of national unity.

People in India must start seeing law and religion as two distinct ideas because the Indian Constitution grants them the freedom to practice their religion. This freedom will remain unaffected by the implementation of the uniform civil code because no one's right to practice or profess their religion will be violated. It is past time for India to begin viewing law and religion as two distinct ideas and to have a uniform civil code.

Suggestions for Implementing a Uniform Civil Code

The following ideas require immediate attention to fulfill the DPSP's objectives and preserve legal uniformity:

- To grasp the spirit of the UCC, people should be encouraged to have a progressive and open-minded viewpoint. Programs for education, awareness, and sensitization must be implemented for this.
- The best interests of all religions should be considered when drafting the Uniform Civil Code.
- To maintain uniformity, a committee of distinguished jurists ought to be assembled, and care ought to be taken to avoid offending any one community's feelings.

- Because the subject is delicate, it is always preferable if the initiative originates from the relevant religious organizations.
- Political parties need to put their own political interests aside to implement UCC.

Conclusion

Contrary to popular belief, the Hindu Code Bill and the Uniform Civil Code are not equivalent. People believe that the Uniform Civil Code was created in accordance with the Hindu Code Bill because the bulk of the population is Hindu. There was no need to alter it, though, as it had already been codified. The sati system, the dowry system, child marriage, and other shortcomings in Hindu law must be known by the public. The Hindu Marriage Act of 1955, the Hindu Succession Act of 1956, the Hindu Minority and Guardianship Act of 1956, and other new legislation were passed when it was being established. The universal civil code emphasizes social cohesion, gender equality, and legal accessibility rather than any mention of religion. As a result, we can conclude that the hypothesis was right because a consistent civil code is currently a crucial necessity. I conclude that a consistent civil code is indeed desirable. It appears that the political parties' goal is not to adopt UCC but rather to gain political advantage by manipulating public sentiment.

The Indian administration and legislative authorities will eventually decide whether to implement a UCC. Any prospective modifications would need to be carefully considered, discussed, and agreed upon by all relevant parties in the nation. India should adopt a universal civil code since it will be good for the country overall and won't interfere with the right to practice one's faith.

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