



A STUDY OF UNIFORM CIVIL CODE

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ABSTRACT :

In the perspective of the law, everyone is equal, but certain laws treat residents differently based on their religion and belief. They're referred to as personal laws. Consistency is something that everyone wants and needs in life, thus regulations are put in place to keep it that way. Laws, however, are not as logical as we may believe.

In regards to issues the Uniform Civil Code calls for the formation of a unified body of law that would include all matters pertaining to things like adoption, inheritance, marriage, and divorce faith communities. Unified personal laws that apply to all Indian residents equally, regardless of their sexual orientation, gender, or religion, are the goal of the plan to develop and implement a single civil code. Several towns' personal laws are currently governed by personal laws.

The two objectives were to end prejudice against marginalized people and to unite various cultural groups across the country of Article 44 of the Directive Principles in the Indian Constitution. A Uniform civil code is ideal, However, Dr. B R Ambedkar, who worked on the Constitution's drafting, believes that it should remain optional for the time being.

Criminal laws are consistently enforced across India, regardless of religious affiliation. In addition to the personal laws of numerous religions, which are typically of a domestic nature and mostly deal with succession, marriages, adoption, guardianship, etc., civil laws are also more or less the same in India.



KEYWORDS : *Uniform civil code, Directive Principles, Guardianship.*

INTRODUCTION OF UNIFORM CIVIL CODE:

For the purpose of addressing the fundamental concerns in private law, such as business transactions and negligence claims, a formalized set of regulations known as a civil code is developed.

The consistent Civil Code (UCC), a piece of proposed legislation from India, aims to establish consistent personal laws that apply to everyone, regardless of gender, sexual orientation, or membership with a particular religion. Many different religious texts today govern personal legislation.

HISTORY OF UNIFORM CIVIL CODE:

- The British government's 1835 report on colonial India included the first mention of the Uniform Civil Code (UCC), which emphasized the need for uniformity in the codification of Indian law with regard to crimes, evidence, and contracts and specifically recommended that personal laws of Hindus and Muslims not be included in such codification. The government of India was forced to establish the B N Rau Committee in 1941 to codify Hindu law as a result of an increase in legislation

addressing individual rights following the departure of the British. The Hindu Law Committee was tasked with looking into whether common Hindu laws are necessary.

- The committee's plan, based on the texts, would provide women equal rights under a codified version of Hindu law. A committee was established to assess the 1937 Act and offer suggestions, such as the development of a civil code for Hindu marriage and succession.

THE CONDITIONS PRIOR TO AND AFTER REVOLUTION:

A number of laws pertaining to Hindus were passed as a result of campaigns by progressive groups in British-ruled India and women's organizations, including the Hindu Widow Remarriage Act of 1856, Married Women's Property Act of 1874, Hindu Inheritance (Removal of Disabilities Act) of 1928, and Hindu Women's Right to Property Act of 1937. Given the growing volume of personal matter laws that has generated discussion and controversy, the current administration needed to respond carefully and rationally.

The B.N. Rao Committee:

Committee, which was established in 1941, was officially known as the "Hindu Law Committee," and its main objective was to determine whether or not there was a need for a single body of Hindu law. The Hindu Law Committee favored codifying Hindu Law to grant women equal rights in keeping with current social trends. However, it should be emphasized that the main objective of the Hindu Code Bill, which was unsuccessful the first time around and wasn't reintroduced until 1952, was to update Hindu Law to conform to the pertinent scriptures. This subject was, however, endless.

PASSAGE OF THE HINDU CODE:

The Hindu Code is made up of four separate bills: the Hindu Marriage Bill, which was approved in May 1995; the Hindu Succession Act, which was enacted in June; the Hindu Minority and Guardianship Bill, which was passed in August; and the Adoptions and Maintenance Bill, which was passed in December. In response, G.R. Rajagopal said: "It was felt that an attempt should be made to codify the Hindu Law and if this succeeded, and way of the measures produced thereby had in themselves intrinsic merits commending them for universal application, the time would not be far off when other communities might like to follow suit and ask for reconsideration of their own law in the light of the changed situations.":

THE HISTORY, RAMIFICATIONS, AND OPINIONS OF MINORITIES ON THE UNIFORM CIVIL CODE:

On June 27, due to Prime Minister Narendra Modi's speech in the close-to-voting Madhya Pradesh region, the Uniform Civil Code (UCC) was a hot topic of discussion across the nation. On July 8, Uttarakhand Chief Minister Pushkar Singh Dhami announced that the UCC would be put into effect in the state as soon as the draft committee's report was turned in.

Supporters of UCC assert that it encourages national integration and gender equality. Concerns have been raised, nonetheless, that its implementation will infringe on the rights and distinctive traditions of minority communities in the state. The Chief Minister of Tamil Nadu, M.K. Stalin, stated that the UCC is unrecognizable but that a uniform nation does not always imply a united nation.

Muslims who adhere to strict traditions, Sikhs, Hindus, and other minorities whose customs haven't changed since British rule have all voiced opposition to the UCC's plan. It was appropriately included in the Directive Principles of State Policy (DPSP) instead of the Fundamental Rights since even the architects of the Constitution did not include it there because they were unable to solve the issue it presents. No matter a person's religion, the unified Civil Code aims to establish a common legal framework for all citizens. Article 44 of the DPSP, which is a part of Part IV of the Constitution, states that a uniform civil code for Indian people shall be secured.¹

ADVANTAGES OF APPLICATION OF THE UNIFORM CIVIL CODE:

The potential to foster national cohesiveness and secularism is provided by the Uniform Civil Code (UCC), which fosters a sense of unity and shared identity among all citizens. It would address the issues that arise because of various personal laws between various religions and communities. The potential to foster national cohesiveness and secularism is provided by the Uniform Civil Code (UCC), which fosters a sense of unity and shared identity among all citizens. It would address the issues that arise because of various personal laws between various religions and communities.

Fairness and Consistency:

1. Doing away with prejudice based on gender.
2. Providing each citizen with an equal opportunity and set of rights.
3. Coordinating disparate personal laws to advance racial integration and social cohesion.

Female Empowerment:

1. Defense of the rights and interests of women.
2. Combating retrograde behavior and advancing gender equity.
3. Promoting independence, work, and education for women.

Legal Clarity and Convenience of a Uniform Civil Code:

1. Simplifying complicated legal systems.
2. Steer clear of inconsistent rulings and murky legal precedents.

Advancing Social Reforms:

1. Discouragement of outmoded customs and procedures.
2. Supporting societal advancement and modernization.
3. Dealing with matters including child marriage, divorce, inheritance, etc.²

Disadvantage of Uniform Civil Code:**A Danger To Peace In The Community:**

The Uniform Civil Code may have caused misunderstandings, which instilled anxiety among other religions, especially minorities. Many religions frequently perceive UCC as being hostile to their morals and beliefs. Authorities should gain the trust of minorities before implementing UCC. If not, it will ruin the country's sense of communal cohesion.

Invasion of personal freedom by the government:

Many people believe that the government's interference in people's personal freedoms is part of their dirty little game. However, the purpose of the Uniform Civil Code is solely to defend and uphold the rights of every person.

It's not yet time to implement this at this moment:

Muslim groups argue that now is not the right moment for the Uniform Civil Code to go into effect. Additionally, they contend that the topic should take into account other current problems, such as the saffronization of schools, beef difficulties, etc., as the authorities' silence on these matters is aggravating them and further supporting their claim that majority should have the upper hand over minorities.

Challenges brought on by India's diversity:

Due to the great diversity in our country, implementing the Uniform Civil Code is a difficult undertaking. Another obstacle to a uniform personal law is cultural variances between states and communities.

A Tough and Difficult Task:

It is a delicate and challenging undertaking to apply the Uniform Civil Code since it will result in various changes, such as the issue of judicial pronouncements that promote gender equality, adopting broad conceptions of marriage, maintenance, adoption, and succession with the idea that one community should guarantee advantages from others. The work is extremely challenging, and the government is expected to be attentive and fair while dealing with the minority and majority groups; otherwise, it could result in even worse consequences, such as riots and intercommunal violence.³

What initiatives are there in India to achieve UCC?

Unique Marriage Act of 1954: The Special Marriage Act of 1954 made it legal for any citizen, regardless of religion, to get married in a civil ceremony, enabling Indians to wed outside of their own religions.

In the Shah Bano Case of 1985, Shah Bano's request for maintenance was denied. According to Section 125 of the Code of Criminal Procedure (CrPC), which applies to all residents, the Supreme Court found in her favor on the order for support of spouses, children, and parents.

The long-delayed Uniform Civil Code should ultimately be adopted, according to the Supreme Court's further recommendation.

The Sarla Mudgal decision from 1995 and the Paulo Coutinho v. Maria Luiza Valentina Pereira case from 2019 both contained requests for the government to apply the UCC4.

Article 44 of the Indian constitution:

The term, 'Uniform Civil Code' is explicitly mentioned in Part 4, Article 44 of the Indian Constitution. Article 44 says, "The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India."

A Uniform Civil Code (hence referred to as the UCC) must be adopted by the state for use by all people nationwide, according to Article 44. The civil code, if passed, would deal with the personal laws of all religious communities regarding marriage, divorce, adoption, child custody, inheritance, succession to property, etc. These laws are all secular in nature and would be dealt with by the civil code. Its goal is to strengthen the sense of community among citizens by giving them access to a set of personal laws that incorporates humanistic principles.

Regardless of a person's faith, caste, or tribe, a Uniform Civil Code enforces the same set of secular civil rules. The requirement of ensuring justice and equality for all citizens in the constitution justifies the need for such a code. All citizens, regardless of religion, caste, gender, or place of residence in our nation, are subject to the same criminal code. But no analogous law governing matrimony, divorce, succession, or other family concerns has been implemented. The sources, philosophies, and applications of personal laws differ greatly. Therefore, when people are governed by several religions and personal rules, there is a natural challenge and resistance in bringing them together and uniting them.⁵

CASES RELATED TO UNIFORM CIVIL CODE:

➤ (Shah Bano Begum v. Mohammad Ahmed Khan)⁶:

The Supreme Court maintained a Muslim woman's ability to demand spousal support from her husband in accordance with Section 125 of the Criminal Procedure Code, even after the Iddat period has passed.

Additionally, it was noted that a UCC would aid in eliminating ideological contradictions.

➤ (Sarla Mudgal v. Union of India) ⁷:

The Supreme Court ruled that a Hindu man may not convert to Islam and thereafter remarry without first dissolving his first marriage.

A UCC would stop bigamous unions and fake conversions, it was further argued.

➤ **(Shayara Bano v. Union of India)⁸:**

The Supreme Court ruled that the triple talaq custom violated Muslim women's equality and dignity and was therefore unconstitutional.

Additionally, a law to control Muslim weddings and divorces was advised for enactment by the Parliament.

➤ **ABC v.the state(NCT of Delhi)⁹,**

The SC maintained the right of a single, Christian mother who is not married to be named the child's sole guardian. "...Christian unwed women in India are at a disadvantage compared to their Hindu counterparts, who automatically become the guardians of their illegitimate children due to their maternity, without the need for any notification to the putative fathers. It would be appropriate for us to emphasize that although our Directive Principles anticipate the presence of a unified civil code, this remains an unmet constitutional expectation, the court had said in its decision to uphold her and reverse a Delhi High Court judgement.

Critical Evaluation:

There is a stronger likelihood of it passing now thanks to repeated judicial urgings, a powerful women's movement, and a majoritarian administration. Although the All India Muslim Personal Law Board (AIMPLB) has made it clear that it will oppose any efforts to develop a Uniform Civil Code, the recent Triple Talaq Act was overwhelmingly supported by Muslim women, despite clerics' continued opposition. Therefore, it is essential to pass legislation establishing a Uniform Civil Code in an age where citizens' rights are of utmost importance and the accepted viewpoint is to advance toward a society that respects human rights regardless of caste, religion, region, or gender.

CONCLUSION:

Even though it is a difficult process, the Uniform Civil Code can be implemented. The Council of Dr. B.R. Ambedkar proposed a middle ground, stating that it is entirely feasible for the future Parliament to pass a law mandating that the Code only be applied to those who voluntarily declare their willingness to be bound by it.

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