

Introducing a Uniform Civil Code in Order to Promote Equality and Harmony

Samriddha Krishna Behera^{1,*}

Abstract

The adoption of a Uniform Civil Code has sparked heated debate, particularly in nations with various religious and cultural heritages. This article investigates the notion of a Uniform Civil Code and its potential to promote equality and peace in society. To promote equal justice and access to opportunity, the Uniform Civil Code aspires to formulate a common set of civil standards that apply to all people in general, regardless of religious affiliation. The Uniform Civil Code attempts to remove discriminatory practices and build social harmony by removing personal rules based on religious conventions. It underlines how crucial it is to simplify and render the system of justice simpler. The Uniform Civil Code has the ability to promote equality for women by resolving gender disparities in personal law. While cultural sensitivities and political resistance pose problems, productive discourse and respect for minority rights can help promote the implementation of a Uniform Civil Code that respects various cultural practices while preserving the values of justice, equality, and inclusion. The abstract closes by emphasizing the need to adopt a Uniform Civil Code in order to create a peaceful society that recognizes the liberties and desires of all people, regardless of their religion or cultural heritage.

Keywords: Uniform civil code, equality, inclusion, cultural heritage, discriminatory practices

INTRODUCTION

The Uniform Civil Code (UCC; [1]) has sparked heated controversy and discussion in a number of nations, including India. It refers to the concept of having a common set of civil rules that regulate personal concerns like marriage, divorce, inheritance, and adoption, regardless of a person's religion, caste, or gender. While the introduction of a UCC has met with opposition and criticism, it is a necessary step towards maintaining equality, social justice, and peace in a varied community. The UCC (Figure 1) is a set of common civil rules that apply to all citizens of a country, regardless of their religious, cultural, or ethnic background. It intends to replace religious conventions and tradition-based personal laws that now control marriage, divorce, inheritance, adoption, and other personal issues. The notion of a UCC is built on the values of equity, social fairness, and consistency in a nation's legal structure. It attempts to guarantee that all people are treated equally under the law, without regard to their religious views or connections.

*Author for Correspondence

Samriddha Krishna Behera
E-mail: samriddhakrishnabehera@gmail.com

¹LL.M Scholar, Faculty of law, Madhusudan Law University, Cuttack, Odisha, India

Received Date: June 30, 2023

Accepted Date: July 22, 2023

Published Date: July 30, 2023

Citation: Samriddha Krishna Behera. Introducing a Uniform Civil Code in Order to Promote Equality and Harmony. Journal of Constitutional Law and Jurisprudence. 2023; 6(2): 25–30p.

THE STAND OF UCC IN THE CONTEXT OF HISTORY AND IN PRESENT SCENARIO

The notion of a UCC has its origins in the Indian Constitution, which envisioned a progressive society based on the principles of justice, equality, and individual dignity. However, for historical reasons, personal rules based on religious conventions and traditions were permitted to prevail, resulting in disparities and inequities in many areas of life. The establishment of a UCC includes harmonizing and unifying a country's many personal laws. Such

entails creating a set of laws that will be binding to every resident, irrespective of their religious beliefs. The goal is to create a unified, comprehensive legal code that protects fundamental rights and values for all people while also fostering equality and social harmony [2].

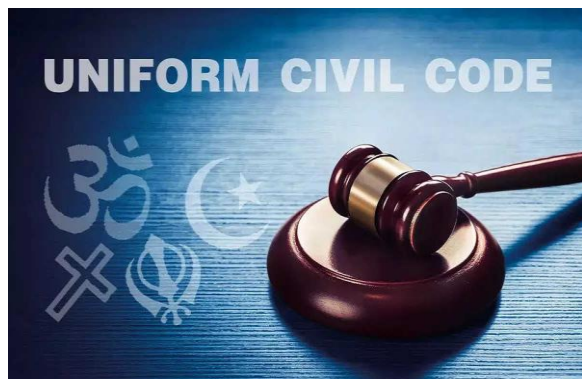


Figure 1. Uniform Civil Code.

British Period (Prior to Independence)

The Lex Loci Report of October 1840 underlined the importance of uniformity in the legislation of Indian law related to offences, evidence, and contracting. It also urged that the individual customs of Hindus and Muslims be kept in the absence of such codification. The Queen's Proclamation of 1859 proclaimed complete non-interference in religious matters.

The UCC is frequently viewed as a tool for addressing gender imbalances and discriminatory practices that may occur under personal laws. It seeks to promote equal rights and opportunities for all people, particularly women, by eradicating discriminatory practices widespread in many religious laws. Whereas criminal statutes have been codified and become uniform across the entire nation, individual laws are still governed by local rules.

The Postcolonial Time Frame (1947–1985)

Major figures like Jawaharlal Nehru and Dr. B.R. Ambedkar lobbied for a common code of conduct during the constitution's construction. Nevertheless, they incorporated the UCC into the Directive Rules of State Policy (Article 44) despite resistance among religious conservatives and an overall shortage of understanding at the moment.

The following reforms were enacted during the aforementioned period

- To reform Hindu laws, Dr. B. R. Ambedkar drafted the *Hindu Code Bill*, which legalized divorce, denounced polygamy, and provided daughters with inheritance rights. Despite widespread opposition to the code, a weaker version was adopted through four separate pieces of legislation.
- Initially, the *Hindu Succession Act of 1956* had no provision for daughters' inheritance rights in the family's assets. A single Hindu person was capable of providing them with food. On September 9, 2005, however, an amendment to the legislation erased this distinction.
- The *Minority and Guardianship Act*,
- The *Hindu Marriage Act*,
- The *Special Marriage Act* is applicable. It was enacted in 1954 and permitted legal weddings to take place apart from religious and personal law.
- The *Adoptions and Maintenance Act*, and
- *Interventions by the courts*

INTERNATIONAL SITUATION ON CIVIL CODE UNIFORMITY

Because of a feeling of oneness that we have yet to build and propagate, Israel, Japan, France, and Russia are dominant today. Nearly, all nations have a standard civil code in addition to a uniform civil

or criminal law. Secular laws apply equally and fairly to all persons, whatever their faith, in the European Union and the United States. Islamic nations have a uniform Shariah-based rule that applies to everyone, regardless of creed.

THE INDIAN CONSTITUTION ON UNIFORM CIVIL CODE

In Article 44 of the Indian Constitution, whereby mandates and governments make every effort to provide citizens with an integrated civil code across the territories of India, there is a guarantee for a unified civil code that is designated as the Directive Concept of Government Policy. In a number of judgements, the Supreme Court has referred to Article 44 and the notion of a universal civil code, mostly to emphasize the executive and legislative failures in implementing the directive. The provisions of Article 44 of the Constitution of India mandate the state to strive towards building a nation-wide civil code. It is set forth in the fourth part of the Constitution, which is titled Directive Principles of State Policy, and is viewed as an exhortation to the state to remember when administering the country (Figure 2).

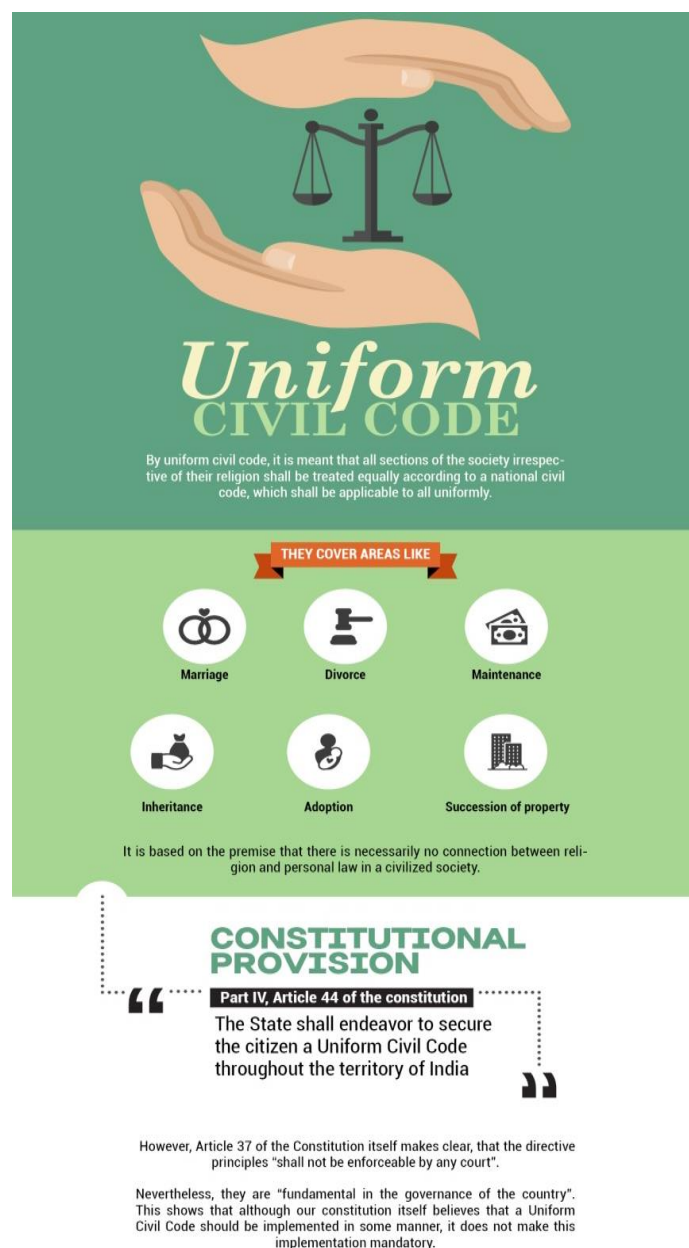


Figure 2. The constitution of India on the Uniform Civil Code.
Image source: [3]

The Case of Shah Bano [4] (1985)

Shah Bano had been divorced by her spouse, invoking the triple talaq, and was denied support. She went to court and won both instances in the District Court as well as the High Court. As a result, her spouse initiated an appeal before the Supreme Court, asserting that he had fulfilled all of his Islamic law obligations. The “upkeep of marriages, youngsters, and guardians” provision (Section 125) of the All-India Criminal Code, which is applicable to all Indian inhabitants no matter their religion, was upheld by the highest court in the country in her benefit in 1985. It also advocated for the development of a universal municipal code.

The case facts are as following:

- Under Muslim personal law, maintenance was only required to be regularly given until the expiration of iddat (a total of three lunar months—roughly 90 days). Section 125 of the Criminal Procedure Code (CrPC), which applicable to all residents, guaranteed the spouse’s maintenance.
- *Impact:* Following this monumental choice, there were numerous discussions, rallies, and demonstrations. Using pressure, the then-government passed the Muslim Women’s (Right to Divorce Protection) Act in 1986, making it illegal for Muslim women to be prosecuted under the provisions of section 125 of the Law on Criminal Procedure.

The Case of Daniel Latifi [5]

The Muslim Women’s Act has been challenged on the basis that it violated Articles 14 and 15’s rights to equality and life. The Supreme Court upheld the Act’s constitutionality and synced it with section 125 of the CrPC, holding that a female’s iddat earnings should be enough to support her while iddat and prepare her for the future. Under to the law, a divorced Muslim woman is entitled to sustenance for the rest of her life or as lengthy as she marries again.

The Case of Sarla Mudgal [6]

In this case, the question of whether a Hindu spouse who had been married under Hindu law might remarry after converting to Islam needed to be resolved. The court reached the conclusion that just one of the grounds listed in the Hindu Marriage Act of 1955 is valid for dissolving a Hindu marriage conducted in accordance with Hindu law. According to the law, a Hindu marriage would not be dissolved by conversion to Islam and subsequent marriage, hence being married a second time after the conversion to Islam would be illegal under Section 494 of the Indian Penal Code (IPC).

The Case of John Vallamattom [7]

In the present matter, John Vallamattom, a priest representing Kerala, contested the legality of Section 118 of the Indian Succession Act, which disproportionately affects people of other faiths in India. Section 118 of the legislation, according to Mr. Vallamattom, is discriminatory against Christians since it imposes excessive limits on their willed bequest of property for religious or charitable reasons. The clause was declared illegal by the legal system.

Goa and the Uniform Civil Code: The sole state in India with a UCC that is not based on race, faith, or women is Goa. Because of the prevalence of family law, Goa is the only state in India to have a uniform civil code. The comparable laws on marriage, divorce, and administration apply to every person, regardless of their religion—whether they are Hindu, Muslim, or Christian. In 1961, matrimony in Goa was a contract between two people of opposite sexes that was enforceable for both genders to live together and establish a legal family, which was documented at the civil registrar’s office.

THE IMPORTANCE OF A UNIFORM CIVIL CODE**Equality**

Regardless of religious affiliation, the basic goal of the UCC is to achieve equality among people by recognizing them as individuals with equal rights and responsibilities. Uniform laws would put an end to discriminatory practices, particularly against women, which are sometimes entrenched in personal laws.

Social Cohesion

A UCC would encourage social peace by instilling in citizens a sense of oneness. It would aid in bridging the gaps produced by disparate personal laws, decreasing community tensions, and establishing a shared understanding of civic rights and duties.

Simplifying and Making Personal Laws More Accessible

The existing situation of various personal laws produces uncertainty and complication for persons seeking legal remedies. A UCC would streamline legal procedures by making them more accessible and clearer to all people, regardless of religion.

Women's Empowerment

Gender inequities are frequently perpetuated through personal laws, notably in areas such as divorce, the right to property, and maintenance. A UCC would address these discrepancies by ensuring equal rights and opportunities for women, allowing them to live independent lives.

Modernization

Personal rules founded on antiquated customs can stymie development in a rapidly changing society. A UCC would represent citizens' current needs and goals, allowing the legal framework to develop and adapt to changing circumstances.

ISSUES AND CONCERNS

Cultural Sensitivities

Critics believe that a UCC would weaken cultural and religious diversity, citing how personal laws frequently reflect strongly held beliefs and practices. However, it is critical to establish a balance between individual rights and communal interests while protecting personal liberty.

Political Opposition

The enforcement of a UCC necessitates political will and the formation of consensus among many stakeholders. Political parties may be hesitant to take a firm stance on this sensitive topic for fear of alienating particular voting constituencies. Constructive communication and participation are essential for addressing problems and finding common ground.

Minority Rights Protection

Any UCC must protect the rights and interests of religious and ethnic minorities, ensuring that their unique practices and customs are recognized within the framework of the common civil code. It should include procedures for resolving concerns and accommodating special cultural needs.

WAY FORWARD

Uniformity

The suggested UCC should represent India's pluralism while also preserving its variety. Uniformity is less essential than unity. To accommodate cultural variations, the Indian Constitution provides for both integrationist and limited multicultural methods.

Deliberations and Discussions

Involving a diverse spectrum of stakeholders in the process of drafting and implementing the UCC, including religious leaders, legal experts, and community representatives This could help ensure that the UCC takes into account the diverse viewpoints and requirements of different groups and is perceived as fair and legitimate by all people.

Balancing

The Law Commission ought to attempt to abolish only those practices that violate constitutional rights. Sociocultural practices must be aligned with fundamental equality and equal opportunity

objectives. The Commission ought to prevent encouraging reactionary culturalism among various ethnicities. The Muslim clergy ought to guide the process of reforming Muslim Personal Law by recognizing discriminatory and repressive concerns and taking into account progressive viewpoints.

The Indian Constitution protects the right to cultural autonomy and strives for cultural accommodation. Article 29(1) *safeguards* all people's *diverse cultures*. Muslims must consider if practices such as polygamy and arbitrary unilateral divorce are compatible with their cultural beliefs. The goal is supposed to be to establish a code of conduct that supports equal treatment and equity.

CONCLUSION

Adopting a Uniform Civil Code is an important step towards establishing a just and equal society. It has the ability to promote equality, cohesiveness in society, and women's empowerment while also making legal processes easier for all residents. However, it is critical to handle this process with tact, ensuring that various cultures' rights and customs are respected. Societies may build a peaceful atmosphere that preserves individual rights, fairness, and inclusion for everyone by accepting a shared civil code.

While the UCC is a source of contention in many nations, its implementation necessitates careful thought and collaboration with a wide range of stakeholders, including religious and community leaders, legal professionals, and legislators. The process entails finding a balance between preserving individual rights and honoring the population's cultural and religious diversity.

The UCC does not intend to interfere with religious beliefs or practices but rather to guarantee that personal laws do not conflict with the basic values of justice, equality, and human rights entrenched in a country's constitution. It values individual liberties while advocating a shared civic code that encourages unity and inclusiveness in a varied community.

REFERENCES

1. Bhagyashree. (2022). Understand in simple language what is Uniform Civil Code and why is it so important? [Online] News Day Express. Available at <https://www.newsdayexpress.com/career/understand-in-simple-language-what-is-uniform-civil-code-and-why-is-it-so-important/> [Accessed on September 2023]
2. Annexure II. Equality rights (Articles 14–18) [Online]. Available at <https://www.iitr.ac.in/internal/complaintscommittee/annexure.pdf> [Accessed on September 2023]
3. Uniform Civil Code - Challenges, Suggestions & Debate On UCC [UPSC Notes]. [Online] Available at <https://byjus.com/free-ias-prep/need-for-a-uniform-civil-code-in-a-secular-india/> [Accessed on September 2023]
4. Mohd. Ahmed Khan v. Shah Bano Begum and Others, 1985 AIR 945. [Online] Available at <https://blog.ipleaders.in/case-law-summary-mohd-ahmed-khan-v-shah-bano-begum-others-1985-air-945/> [Accessed on September 2023]
5. Danial Latifi & Anr vs Union of India, (2001) 7 SCC 740. [Online] Available at <https://indiankanoon.org/doc/410660/> [Accessed on September 2023]
6. Smt. Sarla Mudgal, President vs Union of India & Ors. AIR 1995 SC 1531. [Online] Available at <https://indiankanoon.org/doc/733037/> [Accessed on September 2023]
7. John Vallamattom & Anr. Vs Union of India, Citation: (2003) 6 SCC 611. [Online] Available at <https://indiankanoon.org/doc/533870/> [Accessed on September 2023]