

# Analysis on Need for Implementation Uniform Civil Code in India

**Jayashri G Pawar**

LL.M 4<sup>th</sup> Semester

School of Law, Sandip University, Nashik, Maharashtra, India

jgpawar145@gmail.com

**Abstract:** *Now a days debate as to whether or not should Uniform Civil Code be implemented has been a major issue in the 21<sup>st</sup> century. In India there are some customs, traditions and scriptures. Hence, it mainly aims to replace personal laws based on the scriptures and customs of major religious community in India with a common set of rules governing every citizen, personal laws are distinguished from public law and it basically covers marriage, divorce, inheritance, adoption and maintenance. It aims to replace the personal laws that currently govern personal matters within different religious communities. A UCC primarily aims to promote social harmony, gender equality and secularism by eliminating disparate legal systems based on different religions and communities.*

*Applying the UCC in India is meant to bring India together as a country since people from all parts of the country follow different religions, customs and practices. The aims of bringing the code is to integrate India, one national civil code of conduct for all the country's citizens will treat them as equals. The reason being India is a diverse country and hence there are several groups of people that follow various religions implementing UCC shall require all of them to give up on their personal laws, which might spark an issue. Women's rights is another important factors that is to be considered.*

**Keywords:** Uniform civil code (UCC), personal laws, gender equality, customs, Religions, implementation.

## I. INTRODUCTION

In India there are multiple religions and multiple ethnicities, and we can find different peoples having different cultural background, and different traditions who follow different practices. This diversity is also reflected in our laws: we have a legal system based on personal laws that are made keeping religion into consideration. The article 25 of the Indian constitutions define India as a secular nation and the values of secularism are enshrined in that article and it states that everyone shall be allowed to follow their religion and no one shall be discriminated on any ground. Diversity exists in India because of various cultural, social, religious backgrounds and communities that follow different laws, practices and customs. In Personal Laws too diversity exists though India is a secular nation.

The debate on Uniform Civil Code has again get momentum due to various petitions, filed in the Supreme Court and several High Courts in India. Moreover, due to the judgement of Shayara Bano<sup>1</sup> in which the practice of triple-talaq was declared unconstitutional, the debate has again started on the need to implement the UCC in India. Most importantly, various Muslim women's organizations have also come forward and they are now seeking for justice in family law related matters. A study report submitted by **Bharatiya Muslim Mahila Andolan** in which many issues regarding Muslim personal laws have been highlighted and other issues related to socio-economic-educational status of Muslim women have also been discussed. The principle of Uniform Civil Code essentially connected with the question of contemporary secularism of India. Thus, this secularism is required to be analyzed at great length, because this secularism can be interpreted in various ways. However, the visualization of the visionaries of India reflected by understanding the spirit of the Indian Constitution, which talks about various cultural, social, religious rights of Indian citizens.<sup>2</sup>

The Constitution of India enshrines the value of justice, equality and democracy, and it is providing various safeguards to protect interests of vulnerable sections of Indian societies. In this context, it has crucial importance to understand that for giving protection to women in personal matters, implementation of UCC is mandatory.

In Indian Constitution article 44 of Directive principle state policy state that it is the duty of the state to secure a Uniform civil code for the citizens throughout the country. One country, one rule is another name for it. The main objective behind implementation of a Uniform civil code in India is that it sets a law to govern the personal matters of all the citizens irrespective of religion. Personal laws are different from public laws as they cover marriage, inheritance, adoption, divorce, and maintenance and the India practices a model of secularism.

The Uniform civil code means a Uniform personal law for all citizens of the country. This code will replace the existing religious personal laws in India and have a uniform law that will cater to all the citizens, irrespective of their religion. This has been envisaged by the makers of our Constitution under article 44. But it has been strongly opposed because it is considered violative of article 25 of the constitution since it does not let people enjoy the personal laws. This paper will also discuss a need for implementation of Uniform civil code in India.

## **II. HISTORICAL PERSPECTIVE**

### **Hindu Code Bill and addition to the Directive Principles**

The Indian Parliament discussed the report of the Hindu law committee during the 1948–1951 and 1951–1954 sessions. The first Prime Minister of the Indian republic, Jawaharlal Nehru, his supporters and women members wanted a uniform civil code to be implemented.<sup>[3]</sup> As Law Minister, B. R. Ambedkar was in charge of presenting the details of this bill. It was found that the orthodox Hindu laws were pertaining only to a specific school and tradition because monogamy, divorce and the widow's right to inherit property were present in the *Shashtras*. Ambedkar recommended the adoption of a uniform civil code.<sup>[4]</sup> Ambedkar's frequent attack on the Hindu laws and dislike for the upper castes made him unpopular in the parliament. He had done research on the religious texts and considered the Hindu society structure flawed. According to him, only law reforms could save it and the Code bill was this opportunity.<sup>[5]</sup> He thus faced severe criticism from the opposition. Nehru later supported Ambedkar's reforms but did not share his negative view on Hindu society.

The Hindu bill itself received much criticism and the main provisions opposed were those concerning monogamy, divorce, abolition of coparcenaries (women inheriting a shared title) and inheritance to daughters. The first President of the country, Rajendra Prasad, opposed these reforms; others included the Congress party president Vallabhbhai Patel, a few senior members and the Hindu fundamentalists within Indian National Congress.<sup>[6]</sup>

The women members of the parliament, who previously supported this, in a significant political move reversed their position and backed the Hindu law reform; they feared allying with the fundamentalists would cause a further setback to their rights.

Thus, a lesser version of this bill was passed by the parliament in 1956, in the form of four separate acts, the Hindu Marriage Act, Succession Act, Minority and Guardianship Act and Adoptions and Maintenance Act. It was decided to add the implementation of a uniform civil code in Article 44 of the Directive principles of the Constitution specifying, "The State shall endeavour to secure for citizens a uniform civil code throughout the territory of India."<sup>[7]</sup> This was opposed by women members like Rajkumari Amrit Kaur and Hansa Mehta. According to academic Paula Banerjee, this move was to make sure it would never be addressed. Aparna Mahanta writes, "failure of the Indian state to provide a uniform civil code, consistent with its democratic secular and socialist declarations, further illustrates the modern state's accommodation of the traditional interests of a patriarchal society".<sup>[8]</sup>

## **III. RESEARCH METHODOLOGY**

A doctrinal method of research has been used in preparing this research paper which includes collection of secondary data from various sources such as books, articles, research papers, online legal databases, bare acts etc. The information collected from these sources form the crux and content of the research project so as to come to a valid conclusion. Landmark Judgements and cases have been referred in detail to understand how various statutes have been used to pronounce judgements in similar cases. Important text books and study materials have also been referred for the same.

### **Discussion:**

A uniform civil code can be implemented in India and it will also be beneficial for the nation and is not violating of the right to profess one's religion. As a matter of fact, it is known that personal laws of communities gender injustice is

inbuilt. This is a result of the social and economic conditions under which these have been evolved and this is one of the Important reasons that why there is a need to introduce reforms in personal laws or bring about UCC to not only ensure equality between men and women but also in order to bring about gender justice. Women go through many difficulties and also a lot of trauma in matters related to divorce, marriage and inheritance. Some of the examples that can be used to understand this are the practices of polygamy, desertion and triple divorces. Indian women are only granted equality in a formal way that too by only providing them with an equality in political rights through the constitution of India. Position of women within their family is pitiable due to the in equal rights. Women's rights are ignored within the internal matters of the family. If the personal laws are followed blindly then women shall forever remain under the control of men and this is a threat to basic principles of livelihood. A uniform civil code if implemented shall lay the grounds for women to overcome various social evils that exist in the society such as the bigamy system and the dowry system which make women feel inferior and degraded. UCC emerged as a crucial topic of interest in Indian politics following the Shah Bano case in 1985. The debate arose when the question of making certain laws applicable to all citizens without abridging the fundamental right to practice religious functions. The debate then focused on the Muslim Personal Law, which is partially based on the Sharia law, permitting unilateral divorce, polygamy and putting it among the legally applying the Sharia law. A UCC bill was proposed twice, in November 2019 and March 2020 but was withdrawn both the times without introduction in the parliament. The bill is reported to be under discussion between the BJP and the Rashtriya Swayamsevak Sangh (RSS) [9] Many opposition parties and BJP's allies from the National Democratic Alliance (NDA) have opposed the Uniform Civil Code, especially from Northeast India, claiming that it will go against the "idea of India" and will end special privileges of tribal communities after renewed calls by Prime Minister Narendra Modi in June 2023 about implementing a UCC. [10] On 7 February 2024, The Uttarakhand Legislative Assembly passed the The Uniform Civil Code of Uttarakhand Act, 2024, making Uttarakhand the first state in India to have a law on the Uniform Civil Code. Chief Minister Pushkar Singh Dhami describes it as a "historic moment" for the country.

It is right time to implement the Uniform Civil Code in India. In that period the conflict between one religion to other religion is increasing day to day that reason the need for one Nation one rule in todays situation in between the state. And this is beneficiary to Judiciary to decided the matter and minimize the overburden to pending litigations in the court. when UCC is existence in the state.

#### **IV. CONCLUSION**

In India we have been listening since childhood that Hindu Muslim Sikh Isai are all brothers and sisters, But it's not true. Because Every Religion has it's own separate law in India. After implementing Uniform Civil Code in India, there will be a single law for all the Indians and every religion will be considered equal under law. In India, implementation of UCC is only one way to secularize and integrate India in personal matters too. Therefore, it is mandatory to implement Uniform Civil Code in India. A Uniform Civil Code would guarantee gender equality and equal status for all people, regardless of their community of origin and / or religions. Most especially, as religion based personal laws are misogynistic; and therefore, UCC is required because it will give equal rights to the women in India. UCC should be adopted as a measure to promote gender equality, and for the implementation of UCC both religious and personal laws should be examined and the best features from all religions as well as from the personal laws of other countries should be collected and implemented, but it should be based on broad consultations

A Uniform Civil Code means that all sections of the society irrespective of their religion shall be treated equally according to a National civil code, which shall be applicable to all uniformly. They cover areas like-Marriage, divorce, maintenance, inheritance, adoption and succession of the property. The implementation of a UCC aligns with the values enshrined in the Indian constitution. It upholds the idea of equal treatment under the law, irrespective of ones religious background.

In the state of Goa implement the UCC and there after on 7 February 2024, The Uttarakhand Legislative Assembly passed the Uniform Civil Code of Uttarakhand Act, 2024, making Uttarakhand the first state in India to have a law on the Uniform Civil Code.

**REFERENCES**

- [1]. Shayara Bano vs. Union of India and Ors. AIR 2017; <https://indiankanoon.org/doc/115701246/> (last visited on 13-03-2021)
- [2]. See Dr. Noorjehan Safia Niaz Zakia Soman, Seeking Justice within Family: A National Study on Muslim Women's Views on Reforms in Muslim Personal Law, Bharatiya Muslim Mahila Andolan, OMEGA PUBLICATIONS (March 2015); <http://wunrn.com/wp-content/uploads/BMMA-Seeking-Justice-Final.pdf> (last visited on 19-03-2021)
- [3]. Jump up to:<sup>a b</sup> Chavan & Kidwai 2006, p. 90, 94–100.
- [4]. Jaffrelot, Christophe (14 August 2003). "Ambedkar And The Uniform Civil Code". Outlook India. Archived from the original on 14 April 2016. Retrieved 29 March 2016.
- [5]. Jump up to:<sup>a b c d e</sup> Sarkar & Sarkar 2008, p. 480–491.
- [6]. Som, Reba (1 February 1994). "Jawaharlal Nehru and the Hindu Code: A Victory of Symbol over Substance?". *Modern Asian Studies*. **28** (1). Cambridge University Press: 165–194. doi:10.1017/S0026749X00011732. ISSN 0026-749X. JSTOR 312925.
- [7]. Purandare, Vaibhav (8 September 2017). "How Muslim fears were allayed, and the UCC became a directive principle". *The Times of India*. Archived from the original on 11 September 2017. Retrieved 13 September 2017.
- [8]. Jump up to:<sup>a b c</sup> Samaddar 2005, p. 56–59. "Article 44 in the Constitution of India 1949". *Indian Kanoon*. Retrieved 22 August 2020.
- [9]. Jump up to:<sup>a b</sup> Ramchandran, Smriti Kak (6 August 2020). "BJP, RSS hope for consensus on Uniform Civil Code". *The Hindu*. Retrieved 22 August 2020.
- [10]. Jump up to:<sup>a b</sup> Dasgupta, Sravasti (3 July 2023). "NDA Partners from Northeast Oppose BJP's Push for Uniform Civil Code". *The Wire*. Retrieved 6 July 2023.