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# Is UCC Applicable in the Culture of India?

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## INTRODUCTION OF UCC

The uniform civil code is a legal framework. That would apply to all citizens of India, regardless of their religion, community, race, sex or caste. The uniform civil code would cover areas like marriage, divorce, maintenance, inheritance, adoption and succession of property.

- The concept of uniform civil code [UCC] in India originate from the time when British governed personal laws separately for different religious communities.
- At the time of drafting the Indian constitution, the idea of uniform civil code wad discussed and debated in the constituent assembly.
- Due to the intense opposition, UCC was not included as the fundamental rights, rather it was put under article 44 in the directive principle of the state policy which states that

“The state shall endeavor to secure for the citizen a uniform civil code throughout the territory of India.

As UCC was in directive principle of state policy means that it was not legally enforceable but represented as a goal for future government to introduce it when societal and political conditions were more favorable.

## UCC AT THE TIME OF INDEPENDENCE

At the time of India’s independence in the year 1947, the idea of the uniform civil code was already a contentious issues due to the country’s deep religious and cultural diversity.

At the time of independence the Indian leaders DR. B.R AMBEDKAR and JAWARHARLAL NEHRU supported the idea of UCC to implement in India, because it supported gender equality, no discrimination among Hindus and Muslims women etc. but

they thought that wasn't the right time to implement the uniform civil code bill because they believed that India needed to modernize its legal system, and he preferred a gradual approach to avoid alienating religious communities, especially Muslims who were still recovering from the trauma of partition.

### **HOW UCC IS IMPACTING INDIAN CITIZENS**

- Muslim women continue to face unequal treatment under sharia- based laws, particularly in matters of divorce and inheritance.
- The abolition of Triple Talaq was seen as a step towards uniformity and gender justice, Broder reform under a UCC remains contentious.
- Personal laws are closely tied to religious practice and any attempt to impose a uniform code is seen as interference in religious freedom.
- As article 25 speak about the freedom of religion to practice, so there is a violation of fundamental rights.

### **UCC IN GOA**

The Goa civil code also known as Portuguese civil code was introduced in 1867 when goa was under the Portuguese rule.

Positive impact:

- The Goa Civil Code ensure that men and women have equal rights in marriage, divorce, and inheritance.
- Muslim women in Goa are protected from practices like Triple Talaq and unequal inheritance rights.
- Unlike in India, Muslims in Goa cannot follow Sharia based personal laws for marriage, divorce and inheritance.

### **CHALLENGES AND LIMITATIONS**

- Polygamy exception for Hindus: The provision allowing Hindu men to practice Polygamy under certain conditions conflict with principles of gender equality.
- Muslim communities have argued that the goa civil code imposes Christian and western norms on Islamic practice.
- Despite the UCC, some tribal communities in goa are exempt from parts of the code and continue to follow customary laws.

As we see that even in Goa UCC it is not followed in fully as they also have some kind of challenges or exception, as it the matter of discrimination.

## UCC IN UTTARAKHAND

### *Positive Impact*

- Mandates compulsory registration of all marriage with designated authorities to ensure legal recognition and transparency.
- Equal rights for the inheritance.
- Requires the registration of the live-in-relationship, granting them legal recognition and protecting the rights of individual in such partnership.
- Prohibition of polygamy and ban on child marriage

### *Exemption*

- The act exempt members of scheduled tribes from its provisions, allowing them to continue following their customary laws in Personal matters.
- The act exempt members from rights to have freedom as have to registered before live-in –relationship and get a permission only after finding the civil to be clear.
- Uttarakhand Minister stated that this legislation will not hurt the tradition or custom of any religion Eg: if the marriage of the girl in Marwadi family is done before 18 years of age as per their traditions, so let it be continued?

### **HOW THE PERSONAL LAWS ARE VIOLATING IN UCC?**

Personal laws in India govern matters like marriage, divorce, inheritance, maintenance and adoption based on religious customs, the implementations of UCC directly challenges certain personal laws.

1. Hindu law allows for Monogamy but Muslim personal law permits polygamy. Under Uniform civil code Polygamy is prohibited, directly conflicting with Muslim personal law.
2. Triple Talaq was allowed under Muslim law until it was banned in 2019. Uniform civil code reinforces this ban and sets uniform grounds for divorce foe all communities.
3. Under Hindu Succession law, daughter were granted equal inheritance rights only after 2005. Under Muslim personal law, daughter are entitled to only half the share of sons in inheritance. Whereas UCC mandates equal inheritance

rights for sons and daughter, challenging their religious provision.

4. Under Hindu law, adoption is recognized and regulated but under Muslim law, formal adoption is not permitted. UCC allows for a uniform adoption policy, giving equal rights to adopt and be adopted, regardless of Religious background.
  - Article 14: of the constitution guarantees equality before the law and equal protection of law to all people within India.
  - Article 25: of the constitution guarantees freedom of conscience and freedom to practice, profess and propagate religion.

UCC seeks to uphold article 14 but in doing so it restricts certain religious freedom protected under article 25

### **CASES RELATED TO UCC**

#### *1. Shah Bano Case (1985)*

When Shah Bano sought maintenance from her husband after divorce under section 125. The supreme court ruled in favour of Shah Bano, granting her maintenance beyond Iddat period, emphasized need for UCC to ensure gender equality.

#### *2. Shayara Bano Case (2017)*

Shayara Bano challenged the practice of Triple Talaq under Muslim law. The court declared triple Talaq unconstitutional, violating fundamental rights under article 14 (equality)

### **CONCLUSION**

This research paper provides a comprehensive detail on UCC from the time of independence to the modern times and how it is impacting the citizens' life as per the changes done in the personal laws. As also article 44 UCC is a violation of many such articles under fundamental rights and directive principle of state policy, as also taken the example of Goa and Uttarakhand as it's the only two states to implement UCC in India till the date as there are many exemptions as we can see in the paper above. There are also many such cases in which the intention of the courts is more to put the UCC in India as there are many discriminations and equality facing by the citizens under different religions