

Advantages and Disadvantages of Upcoming Uniform Civil Code in India

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Abstract:

The concept of Uniform Civil Code refers to a common set of secular civil laws that will govern. All citizens of India irrespective of religion, caste, language or tribe. India has a general code for contracts, transfer of property, penal laws and other civil related laws independent of religion. The following areas of law that will be governed by them are adoption and maintenance, marriage, divorce and related personal laws. Inheritance and acquisition and administration of property. Order of Section 44 of DPSP Directs the states to enact a Uniform Civil Code. This research paper is the result of questions a discussion of the Uniform Civil Code emerged. The analysis is in the context of the present Status of Grassroots Communities as the need of the hour. Paper the concept of a unified civil code is being promoted and the extent to which it is even questioned Feasible for Indian population. This paper mainly focuses on the shortcomings of such codes Analyzing the UCC of Goa and discussing the alternatives available without this utopian idea a single code.

Keywords: Uniform Civil Code, Marriage, Divorce, inheritance and adoption, Etc.

Introduction:

Let's see what the basics are. The Uniform Civil Code (UCC) refers to a set of general specific laws that will apply to all citizens of a country, regardless of their religion or belief. It aims to replace various specific laws based on religious practices and customs with a uniform set of laws governing matters such as marriage, divorce, inheritance and adoption. The concept of a uniform civil code is frequently associated with countries like India with diverse religious and artistic communities. The ideal behind the enactment of the UCC is to promote gender equality, social justice and public integration, recognizing that all citizens are subject to the same laws and principles.

The Uniform Civil Code (UCC) seeks to articulate a single law for India, which will apply to all religious communities in matters such as marriage, divorce, inheritance, adoption. The Act falls under Article 44 of the Constitution, which states that the State shall Endeavour to secure a uniform civil code for the citizens of all India. The issue has been at the centre of political debate for more than a century and is a key issue for the Bharatiya Janata Party (BJP) which is pushing for legislation in Parliament. The BJP was the first to promise to implement the UCC if it came to power and this issue was part of its 2019 Lok Sabha election campaign.

Objectives:

1. To study the forthcoming Uniform Civil Code of India.
2. Study to find out the Advantages of Uniform Civil Code.

3. Study to find out the Disadvantages of Uniform Civil Code.
4. To find out the Challenges of UCC Implementation

Methodology:

Information is collected and evaluated online from articles, journals, books, websites, etc.

What is the Uniform Civil Code:

The concept of a Uniform Civil Code (UCC) in India has been a subject of intense debate and discussion for several decades in India. The idea behind a UCC is to have a common set of laws governing personal matters such as marriage, divorce, inheritance, and adoption for all citizens, irrespective of their religious affiliations. India, being a diverse country with multiple religions and religious laws, currently has different personal laws for different religious communities. (India Times News).

Overview of Uniform Civil Code:

India being the second most populated country and the largest democracy of the world has diverse population. The diversity of country is seen in linguistic, cultural and religious identities. Religions not just have been filling in as the establishment of the way of life of India, however have had tremendous impact on Indian politics and society. In India, religion is a lifestyle. It is an integral part of the whole Indian tradition. According to the All India Religion Census Data 2011 around 99% of the total population associate themselves with religion out of which 82% follows Hindu religion, 14.23% are Muslims. Taking in account this diversity which has existed in India since ages was the constitution of India framed. The preamble of Indian constitution is the reflection of protected soul of the nation. It goes for to constitute India as a Sovereign, Secular, Democratic, Republic. It needs to secure Justice, freedom, and fairness to the citizens and this is how our constitution works for advancing fraternity while guaranteeing respect of the individual and unity in the diversity. It contains those components which forms the soul of the Constitution. In this way, every one of the arrangements given in the preamble are moving towards a specific objective i.e. fraternity assuring mutual respect for each other. In this sense it can be construed from the preamble that fundamental rights and DPSP of state policy are Complementary to each other. India is a secular country, which implies that it doesn't take after any one specific religion or there is no official religion for the nation. It implies that the state won't be subject to any sort of religious institutions for taking choices for the state, it won't meddle with the religious issues and the religion won't meddle with the viability of the state. This is additionally reflected in its elected political framework, whereby legislative and administrative authority is shared between the central government and the states.

The term Uniform Civil Code refers to the common set of secular civil laws which will govern all citizens of India with no consideration of their Religion, Caste, language or tribe. India has a common code for laws related to contract, transfer of property, penal laws and other civil laws which are independent of religion. The further areas of laws which will be governed under it are the Personal Laws related to Adoption and maintenance, Divorce, Marriage, Divorce, and Inheritance and acquisition and Administration of property. It was in the decade of 1930 that the demand for Uniform Civil Code was first made by the All India Women's Conference, pursuing equal rights for women, irrespective of religion, in marriage, inheritance, succession, adoption and divorce.

While the Constituent Assembly and Parliament was of the opinion that is Uniform Civil Code is desirable, but having gone through the intricacies and having discussed between the members they concluded that the assembly did not want to force a common code upon any religious community in a time of difficulty and insecurity. They included it as a Directive Principle of State Policy in the Constitution, expecting its enactment at the right time is a mandate upon the state under Article 44 of the Constitution as directive principle of state policy. As per the provision under Article 37 of the Constitution which says directive principles of state policy are not enforceable by the Court of Law.

What does Indian Constitutional says about Uniform Civil Code:

The Constitution of India, under Article 44, one of the Directive Principles of State Policy, states that the state shall Endeavour to secure a Uniform Civil Code for its citizens. However, the framers of the Constitution left it to the discretion of the government to implement a UCC, recognizing the sensitivity and complexity of the issue. Over the years, various governments have discussed and debated the implementation of a UCC, but it has remained a contentious and politically sensitive topic. (Rachna. Nain).

Various Religious Laws:

Hindu Personal Law:

The Hindu personal laws are derived from ancient religious texts and customs. The Hindu Marriage Act, 1955 governs marriage and divorce among Hindus, while the Hindu Succession Act, 1956 deals with inheritance. Under the Hindu Succession Act of 1956, (which governs the rights of Hindus, Buddhists, Jains, and Sikhs) Hindu women have equal rights to inherit property from their parents and have the same entitlement as Hindu men.

Muslim Personal Law:

Muslims in India follow the Muslim Personal Law, which is based on the Shariah. The Muslim Personal Law (Shariat) Application Act, 1937 regulates matters related to marriage, divorce, inheritance, and maintenance among Muslims.

Christians, Parsis, and Jews Personal Law:

The Indian Succession Act of 1925 applies. Christian women receive a predetermined share based on the presence of children or other relatives. Parsi widows receive an equal share as their children, with half of the child's share going to the deceased's parents if they are alive. (India Times News).

Advantages:

1. **Equality and Justice:** A UCC promotes equality and justice by providing a common set of laws that are applicable to all citizens, irrespective of their religious background. It eliminates discriminatory practices embedded in personal laws and ensures equal rights and protection for individuals, particularly women, across different religious communities. This helps create a more inclusive and equitable society.
2. **Social Cohesion and National Integration:** A UCC fosters social cohesion and national integration by promoting a sense of unity among diverse religious and cultural communities. It encourages a shared identity and common values, contributing to a stronger sense of national unity. By harmonizing personal laws, a UCC can bridge gaps and reduce divisions based on religion, fostering a cohesive and inclusive society.

3. Women's Empowerment and Gender Justice: A UCC can play a significant role in empowering women and ensuring gender justice. By eliminating discriminatory practices embedded in personal laws, it provides equal rights and opportunities to women in areas such as marriage, divorce, inheritance, and property rights. This helps address gender inequalities and promotes women's empowerment, enabling them to exercise their rights and participate fully in social, economic, and political spheres.

4. Simplification and Efficiency: Implementing a UCC simplifies the legal framework by replacing multiple sets of personal laws with a single unified code. This streamlines legal processes, reduces complexities, and enhances the efficiency of the legal system. It can also facilitate ease of doing business and provide a more predictable legal environment for individuals, businesses, and organizations. (<https://www.mbauniverse.com/>)

Disadvantages:

1. A threat to communal harmony:

Potential misunderstandings regarding the Uniform Civil Code created fear among various religions, especially minorities. It is often viewed by many religions that UCC is aimed against their religious customs and values. Before the implementation of UCC, authorities should win the trust of minorities. Otherwise, it will destroy the communal harmony of the nation.

2. Government's interference in Personal freedom:

It is often viewed by many that it is the crooked game of the government to interfere in personal freedom of individuals. But Uniform Civil Code is aiming only to protect and safeguard the rights of all citizens.

3. Not yet the correct time for implementation:

The Muslim community is opposing the implementation of the Uniform Civil Code and states that it is not the correct time. Also, they are arguing that the subject should take into consideration along with other recent issues the silence of authorities in relation to the saffronization of schools, beef issues, etc are triggering them and further stating as the overruling of majorities over minorities.

4. Difficulties due to India's diversity:

The implementation of the Uniform Civil Code is a cumbersome task due to the wide diversity of our nation. Cultural differences from state to state and community to the community are yet another hindrance to a unified personal law. (IAS Solution).

Need of UCC Implantation:

The implementation of the Uniform Civil Code can be considered the need of the hour. Even after years of achieving independence, citizens are not enjoying real freedom yet. The unified personal law cannot be viewed with religious emotion but as the need for the country.

Challenges of UCC Implementation:

- **Practical difficulties due to diversity in India:**

It is practically tough to develop a common and uniform set of rules for personal issues like marriage due to the tremendous cultural diversity in India across religions, sects, castes, states etc.

- **Perception of UCC as an encroachment on religious freedom:**

Many communities, particularly minority communities perceive Uniform Civil Code as an encroachment on their rights to religious freedom. They fear that a common code will neglect their traditions and impose rules which will be mainly dictated and influenced by the majority of religious communities.

- **Interference of state in personal matters:**

The constitution provides for the right to freedom of religion of one's choice. With the codification of uniform rules and their compulsion, the scope of the freedom of religion will be reduced.

- **Sensitive and tough task:**

Such a code, in its true spirit, must be brought about by borrowing freely from different personal laws, making gradual changes in each, issuing judicial pronouncements assuring gender equality, and adopting expansive interpretations on marriage, maintenance, adoption, and succession by acknowledging the benefits that one community secures from the others. This task will be a very demanding time and human resource-wise. The government should be sensitive and unbiased at each step while dealing with the majority and minority communities. Otherwise, it might turn out to be more disastrous in a form of communal violence.

- **Time is not yet suitable for this reform:**

Considering the major opposition from the Muslim community in India over this issue overlapping with controversies over beef, saffronization of school and college curriculum, love jihad, and the silence emanating from the top leadership on these controversies, there needs to be given sufficient time for instilling confidence in the community. Otherwise, these efforts towards commonality will be counterproductive leaving the minority class, particularly Muslims more insecure and vulnerable to getting attracted towards fundamentalist and extremist ideologies. (Tanmay Doneria).

Conclusion:

The biggest obstacle in implementing the UCC, apart from obtaining a consensus, is the drafting. Should UCC be a blend of all the personal laws or should it be a new law adhering to the constitutional mandate? There is a lot of literature churned out on UCC but there is no model law drafted. Many think that under the guise of UCC, the Hindu law will be imposed on all. The possibility of UCC being only a repackaged Hindu law was ruled out there will be a new code based on gender equality and comprising the best elements in all the personal laws.

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