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# UCC in Personal Laws: A Progressive Step Towards Equality in India

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## ABSTRACT

*“Injustice anywhere is a threat to justice everywhere” - Martin Luther King*

*India is a secular nation and does not formally support any one religion. However, the issue of personal laws covering things like marriage, divorce, adoption, and inheritance remains a persistent legal conundrum. These regulations have their origins in the many different religious convictions and regional customs that exist today. The extensive disparity that exists in Indian society as a result of the implementation of these personal rules is the main focus of this research study. It explores how the adoption of a Uniform Civil Code (UCC) may significantly reduce these differences, ensuring that the core idea of "equality before the law" is preserved consistently throughout India. This research paper also focuses on the benefits of the implementation of UCC in the society and the major challenges that are faced while implementing the UCC in India. This research paper also focuses on comparative study between India and other countries that had implemented UCC in personal laws.*

**Keywords:** UCC, secular, personal laws.

## I. INTRODUCTION

With eight main faiths and several smaller ones, India has a rich tapestry of religious variety. Of them, Hinduism is the most popular religion, practised by almost 80% of the population. With around 14% of the population practising it, Islam ranks as the second-largest religion. Smaller portions of the Indian populace practise the other religions. One of India's greatest strengths is the country's extreme religious diversity. The Constitution of the country upholds the right of all people to practise their religion freely, and the great majority of Indians do as well. Recognising that religion is a profoundly personal and delicate subject and that respecting other people's views is crucial. Hindu personal rules have their roots in ages-old religious traditions and texts.

The Hindu Marriage Act of 1955 governs Hindu marriage and divorce, whereas the Hindu Succession Act of 1956 deals with inheritance. The Hindu Succession Act of 1956, which affects Hindus, Buddhists, Jains, and Sikhs, states that Hindu women have the same rights to

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inherit property from their parents as Hindu males have.

Muslims in India follow Muslim Personal Law, which takes its tenets from the Shariah. Marriage, divorce, inheritance, and maintenance are all governed by the Muslim Personal Law (Shariat) Application Act of 1937 within the Muslim community.

The Indian Succession Act of 1925 is applicable to Christians, Jews and Parsis in India. According to the presence of children or other relatives, Christian women are entitled to a specified share of the inheritance. Parsi widows are entitled to the same share as their children in this situation, with the parents of the dead receiving half of the child's share if they are still living.

## **II. HISTORY OF UCC IN INDIA**

The origins of UCC date back to the 19th century, when the country's leaders emphasized the necessity for uniformity in the codification of Indian law with regard to crimes, evidence, and contracts but particularly advised against codifying the personal laws of Hindus and Muslims. They were monotheist Christians, and it was difficult for them to comprehend the nuanced personal laws of the people of the region.

Various perspectives on the UCC emerged after independence. In a country as diverse as India with so many different religions and sections, some members did not believe that the UCC would be realistic or preferable, while others believed it would promote unity among the numerous communities.

Dr. B.R. Ambedkar had mixed feelings on the matter and believed that UCC was merely a suggestion rather than an imposition. "I do not think that the time is ripe in India at the present moment for me to try to push it through," Pandit Jawahar Lal Nehru declared.

The assembly also vigorously debated whether UCC should fall under Part III or Part IV of the constitution before coming to a vote that made the decision one of the directive principles of state policies, which are neither justiciable nor enforceable in court. UCC is provided in the article 44 which belongs to the Part IV of the Indian constitution.

## **III. PROS OF UCC IN INDIA**

A UCC would make sure that everyone is subject to the same set of rules on marriage, divorce, inheritance, and property rights, regardless of their faith. This supports the fundamental justice concept of equality before the law. Many of India's current personal laws have clauses that are seen to discriminate against women. A UCC may end these unfair practises and provide women the same opportunity and privileges in intimate issues.

By separating personal laws from religious concerns, a UCC is implemented in accordance with India's secular values. It makes sure that no religion is given preference by the state when it comes to laws. India's system as it is now is complicated, with many laws governing various religious groupings. By establishing a single, complete legal framework, a UCC simplifies this and makes it simpler for people to comprehend and use the legal system.

Having a UCC might enhance social harmony in a multireligious nation like India by minimising disputes between different groups on personal laws. It may promote a feeling of togetherness and oneness among the people. Many of India's personal laws are still founded on archaic norms and practises.

A UCC can update current laws and make them more in tune with the society's shifting needs and ambitions. Regardless of a person's faith or community, a UCC may make sure that individual rights are maintained consistently throughout the nation. This stops particular communities from being exploited or marginalised.

#### **IV. CONS OF UCC IN INDIA**

India's cultural and religious diversity is one of the country's defining characteristics. The implementation of a UCC might be seen as an effort to enforce uniformity in a nation with diverse traditions and customs. Different religious and cultural groups who want to maintain their particular personal rules and practises could object to this.

Conflicts and dissatisfaction within communities who feel their traditions and practises are being neglected or changed might result from the implementation of a UCC. Protests, rallies, and, in the worst circumstances, violence, might be how this is expressed.

Although the UCC seeks to simplify the legal system, creating and putting into practise a unified code may be quite challenging. It necessitates careful examination of various legal customs, procedures, and perspectives. It is a difficult challenge to create a UCC that respects cultural diversity and upholds consistent legal norms.

Logistical difficulties arise while implementing a UCC in a huge and varied nation like India. To ensure a seamless transition from current personal laws to a unified code, it necessitates enormous resources, including legal know-how, administrative infrastructure, and financial investment.

Minority populations may object if a UCC is implemented because they perceive it as a threat to their independence and right to practise their religion. They could oppose any changes they think would undermine their long-standing traditions, which might cause conflicts between

various religious groups.

The UCC may be misunderstood or misinterpreted due to the intricacy of personal laws, which are linked with cultural and religious standards. Unintended effects and legal problems could result from this. The process of switching from current personal laws to a UCC could be drawn out and gradual. Confusion and legal issues might develop during this time, possibly impacting people's rights and wellbeing.

## **V. CHALLENGES OF IMPLEMENTING UCC IN INDIA**

India's adherence to international conventions and treaties, particularly those pertaining to human rights and gender equality, may call for changes to personal laws, which would have an effect on how the UCC is put into practise. To successfully adopt a UCC, the legal system must be sufficiently prepared, including by providing resources for its successful implementation, training for legal professionals, and updating law textbooks.

Implementing a UCC may require altering several sections of the Indian Constitution, a lengthy and complicated process. It is crucial to increase public understanding and support for a UCC. Public hostility could be stoked by inaccurate information and a lack of comprehension of its ramifications. Minority populations can view the creation of a UCC as a violation of their right to freedom of religion and culture. Such organisations' opposition might cause social and political unrest.

## **VI. CHALLENGES FACED BY COUNTRIES WHO IMPLEMENTED UCC**

Some countries like US, Pakistan, Bangladesh, Malaysia, Turkey, Indonesia, Egypt and Ireland had implemented UCC in their country and they all faced few common challenges they are

Because of the potential for retaliation from powerful religious or cultural groups, politicians may be reluctant to press for the implementation of the UCC. Implementing a UCC has occasionally sparked social conflict as localities organise to defend their traditions and practises. Protests, riots, and even violence may follow from this. A UCC may encounter criticism from those who gain from current discriminatory personal laws despite its goal of promoting gender equality. It may be quite difficult to strike a balance between tradition and gender equality.

The process of switching from current personal laws to a UCC can be drawn-out and difficult. Legal uncertainties could appear during this time, leading to misunderstanding and possibly injustices. As people seek clarity on how the new legislation relates to their particular circumstances, the number of cases filed in court may increase, which might cause a backlog

and delays. To educate the public on the implications and advantages of a UCC, effective public awareness and education efforts are required. Its adoption may be hampered by false information and a lack of comprehension. It may be necessary to change or revise constitutional laws in some nations in order to establish a UCC, which can be a difficult and drawn-out procedure.

## VII. DIFFERENCE BETWEEN INDIA AND OTHER COUNTRIES THAT HAD IMPLEMENTED UCC

S.NO	DISTINCTION	INDIA	COUNTRIES WITH UCC
1	Legal pluralism	India has a legal system that respects and upholds religiously-based personal laws. various religious groups have various rules controlling things like marriage, divorce, inheritance, and adoption.	Anyone who is a citizen of a nation that has enacted a UCC is subject to the same set of civil laws, regardless of their background in religion or culture. No specific legislation based on personal or religious convictions exist.
2	Marriage and divorce	Different religious sects are covered by separate divorce and marriage laws in India. For instance, Muslims are bound by the Muslim Personal Law whereas Hindus adhere to the Hindu Marriage Act.	All citizens are subject to the same marriage and divorce laws in nations having a UCC.
3	Inheritance and succession	In India, there are several religious sects with different rules governing succession and inheritance. For	In UCC nations, succession and inheritance have been regulated by a single law, making sure that everyone

		instance, Muslims have their own inheritance rules, whereas Hindus adhere to the Hindu Succession Act.	has an equal right to inherit.
<b>4</b>	Personal beliefs	In India, personal laws frequently reflect the practises and beliefs of distinct communities' religions. These rules have a strong historical foundation and occasionally run afoul of contemporary egalitarian and fair laws.	Individual moral views and issues related to religion usually have to take precedence compared to the unified civil laws in UCC nations. Upholding legal equality and rights for all citizens is the main priority
<b>5</b>	Social and political context	India's implementation of a UCC has long been a source of contention, discussion, and controversy. The subject is controversial, and many political and religious organisations have different views on it, making its implementation difficult.	The choice to adopt a UCC can frequently be made at a specific time in the history of the nations that have done so effectively, reflecting their distinct social and political situation. Although there may sometimes be disagreements about particular clauses, the basic idea of a UCC is generally agreed upon.

It's crucial to remember that even while a UCC exists in certain nations, its application—or lack thereof—does not provide consistency across every area of personal life. Individual practises and customs can still be influenced by social, cultural, and geographical variances. A nation's political dynamics, history, and culture all influence the decision of whether to enact a UCC or keep its existing personal laws.

## VIII. MAJOR FLAWS IN PERSONAL LAWS

As different laws impose differing age criteria for marriage eligibility, the question of establishing the legal age to agree to marriage has long been a source of controversy. In this regard, the Hindu Marriage Act's Section 5 and the Special Marriage Act's Section 4 requires that the bride should be minimum of 18 years old and groom be a minimum of 21 years old when they are married. Contrary to the POCSO Act of 2012 and the Protection of Child Marriage Act of 2006, Muslim law states that a girl is regarded eligible for marriage once she reaches puberty.

Ambiguities have persisted in Indian society concerning both eligibility criteria and the various personal laws governing divorce and maintainability. To illustrate, under the Mitakshara School of Law, entitlement to Hindu joint family property is determined at birth, with only male children having the right to make claims on the family assets. Furthermore, Muslim law sanctions polygamy, which is in conflict with Section 494 of the Indian Penal Code (IPC), and includes a practice referred to as "triple talaq," permitting a Muslim man to divorce his wife by uttering the word "talaq" three times but this rule was declared unconstitutional.

In **shayara banu vs. Union Of India (UOI)**<sup>3</sup> where the five-judge bench of the Supreme Court gave its decision in favour of Shayara Bano and others. It declared the practice of Triple Talaq unconstitutional by a 3:2 majority and directed the legislature to take measures against it in order to stop the abuse against women.

When it comes to the matter relating to the property rights for girl children of Hindu religion in the case of **Prakash v Phulavati**<sup>4</sup>, the Supreme Court of India held that daughters have equal rights to inherit ancestral property, regardless of when their father died. The Court noted that the law must evolve with the changing times and that gender discrimination has no place in modern society. The decision was seen as a step towards gender equality and a departure from traditional Hindu law principles.

Due to the existence of many laws and unique regulations established in religious acts, the matter of maintenance for a divorced wife from her husband has been up for controversy.

For instance, following a divorce, the woman is not entitled to support under Muslim law but in the case of **Danial Latifi**<sup>5</sup>, the Supreme Court of India held that the provision of maintenance under Section 125 of the Criminal Procedure Code was applicable to Muslim women, even if

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<sup>3</sup>PETITION (C) NO.118 of 2016

<sup>4</sup> CIVIL APPEAL NO.7217 OF 2013

<sup>5</sup>WRIT PETITION (CIVIL) 868 OF 1986



they had been divorced by their husbands under Muslim personal law.

## **IX. SIGNIFICANCE OF IMPLEMENTATION OF UCC IN PERSONAL LAWS**

A country's personal laws might significantly change if it adopts a Uniform Civil Code (UCC). A UCC's major goal is to establish a single set of rules that all residents must abide by, regardless of their religious convictions. The existing system, in which many religious sects have their own unique rules governing things like marriage, divorce, and inheritance, would be replaced by this one.

Standardisation is one of a UCC's most crucial effects. Everyone would be treated equally and consistently under a unified body of laws. This implies that individuals from all faith traditions would share the same legal rights and obligations in regard to personal concerns. It ends the prejudice that exists, especially against women and contained in various personal laws.

A UCC supports the secularism concept, which is a separation of the church and the state. The principle that the government respects all of its citizens equally, regardless of their faith, is reinforced by ensuring that personal laws are not affected by religious teachings.

Legal simplicity is an additional advantage. With varied laws for various communities, the existing system is rather complicated. This is streamlined by a UCC, which makes it simpler for individuals to comprehend and use the legal system. It lessens legal conflicts over personal issues and uncertainty.

A UCC provides numerous benefits, but there are also drawbacks. It could be opposed by some religious and cultural groups that desire to maintain their unique personal rules. It might be challenging to strike a balance between enforcing consistent legal requirements and acknowledging cultural variety.

In conclusion, a Uniform Civil Code can improve personal laws by standardizing them and promoting gender equality, secularism, legal simplicity, and social peace. It presents a chance to update existing laws and guarantee that every person is treated equally. Its execution, nevertheless, could encounter opposition and need careful consideration of cultural diversity.

## **X. RECOMMENDATIONS AND CONCLUSION**

Being one of the most populated nations in the world, India has one of the most varied religious and cultural traditions in the world. However, difficulties have arisen since there is no comprehensive legal structure that unites all citizens under a single set of rules. Numerous customs are in conflict with laws that are now in place and intended to address social injustices.

We unintentionally continue societal problems like child marriage and bigamy, which were

abolished from our culture after much effort and sacrifice, under the pretence of maintaining cultural customs. Our great leaders' efforts shouldn't go in vain. As a result, the adoption of a Uniform Civil Code (UCC) is a viable solution to these inequalities.

A UCC promises to lessen other socioeconomic inequities in addition to advancing gender equality. It's crucial to understand that its execution would take a lot of time and money.

In order to redress inequities and promote the values of justice and equality, India's enormous population and variety of religions and cultures call for the creation of a unified legal system. Even if putting in place a UCC may be difficult, doing so is a big step towards remembering the sacrifices made by our ancestors and promoting a more fair and equitable society.

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