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# Uniform Civil Code: A Fundamental Necessity

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## ABSTRACT

*India is a country with the 2nd highest population in the world split by religion and each religious community in India has different particular Personal laws. India follows British-period laws such as Muslim Personal Law, Hindu Personal Law, Parsi Marriage and Divorce Law, and Christian Marriage Law. The country relies on social-period laws to regulate matters such as divorce, custodianship, relinquishment, and heritage, including marriage, divorce, alimony, property heritage, and relinquishment. The UCC intends to replace Personal laws presently in force that apply to different communities and conflict with each other. These laws include Hindu Marriage Act, Hindu Law Succession Act, Indian Christian Marriage Act, Indian Divorce Act, Parsi Marriage and Divorce Act, and Muslim Marriage Act. The Uniform Civil Code has three main issues validity, gender equivalency, and maturity versus nonage. The individual rights approach is perceived to be problematic, offering different laws to members of different religious groups and manhandling women compared to men. The Constitution of India provides for the enforcement of the Unified Civil Code in India. Pursuant to the vittles of Composition 44 of the Constitution of India, the principles guiding public policy state that it's the duty of the State to prepare a single civil law for all citizens of India, the purpose of which is, is the private law and unified civil law of all communities in India, also known as “ One Nation- One Law ”. This study deals primarily with the Uniform Civil Code and its requirements. This exploration work begins with the preface of the Uniform Civil Code. It also gives the need and desire for invariant civil law. India is a republic and all citizens must be treated inversely under the law.*

**Keywords:** Personal Law, Uniform Civil Code, UCC, Unified.

## I. INTRODUCTION

India is the second highest-populous country in the world. The Uniform Civil Code (UCC) may be a set of laws that apply to any or all voters of India in spite of faith, caste, or community. It aims to question the rights of people in varied spiritual communities and to form a unified legal framework for all voters, therefore serving to handle moot problems in Indian society.

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The Uniform Civil Code may be a set of laws that apply to any or all voters of India in spite of their spiritual beliefs or cultural background. It's a trial to confirm that each one folk's area unit treated equally before the law and to finish discrimination supported faith and culture. The construct of a unified civil code has been a moot issue in India for several years, with varied political parties and spiritual teams expressing their opposition or support for the concept. The Indian Constitution doesn't presently have a unified civil code, however, it will contain provisions that alter the govt. to implement the civil code. The main claim of the Civil Code is to offer equal treatment and rights to any or all folks in spite of their spiritual beliefs or cultural background. It conjointly helps to eliminate discrimination supported faith and culture and promotes social harmony and cohesion within the country.

Opponents of this idea argue that a unified civil code might interfere with the spiritual beliefs and practices of specific communities and impose specific values on these teams. They conjointly argue that this will cause the erosion of ancient cultural practices and values, intensive scientific research ought to be undertaken to look at the framework, the professionals and cons of the concept, and therefore the potential implications of introducing a civil code across the nation unified civil law.

This scientific research can initially examine the present Indian legal framework, together with provisions within the Indian Constitution for the promulgation of a unified civil law. This includes an associate analysis of relevant constitutional provisions and a survey of the laws and policies presently operative for varied spiritual teams within the country. The next step is to associate an in-depth analysis of the professionals and cons of India's unified civil code.

## **II. WHY IS ARTICLE 44 OF THE CONSTITUTION OF INDIA IMPORTANT?**

Article 44 of the Constitution of India is part of the Directive Principles of State Policy, which are guidelines for the governance of India that the state is supposed to apply in framing laws and policies. Specifically, Article 44 states that the state shall endeavor to secure for its citizens a uniform civil code throughout the territory of India. This means that the state should strive to create a set of laws that applies equally to all citizens, regardless of their religious beliefs or practices. Article 44 states that the Indian government ought to try to ascertain a homogenous Civil Code (UCC) for the country.

The importance of Article 44 lies in its potential to push equality and social justice in India. As mentioned earlier, India presently contains a system of personal laws that support the spiritual

beliefs of the individual governing different spiritual communities, this will cause discrimination and difference, significantly against ladies and marginalized communities. By establishing a UCC, Article 44 aims to handle these problems by guaranteeing that each one voter's area unit subject to similar laws, in spite of their faith

Additionally, Article 44 also has the potential to promote national unity and a sense of common citizenship. In a country as diverse as India, having a common set of laws that apply to all citizens could help to foster a sense of belonging and national identity. This could be particularly important in times of conflict or social tension when a sense of national unity could help to maintain social stability. Overall, Article 44 is an important provision in the Indian Constitution because of its potential to promote equality, social justice, and national unity in India. While the implementation of a UCC is a complex and contentious issue, it is an important goal for the Indian government to strive towards it.

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

The idea of a Uniform Civil Code (UCC) has its origins in the Indian independence movement of the early 20th century. During this time, many leaders of the movement, including Mahatma Gandhi and Jawaharlal Nehru, called for the abolition of the existing system of personal laws, which were based on the religious beliefs of the individual. These leaders argued that personal laws were a relic of the colonial past and that they promoted inequality and discrimination. In 1947, when India gained independence from British rule, the Constitution of India was adopted. The Constitution included several provisions that aimed to promote equality and social justice, including Article 14, which guarantees the right to equality before the law, and Article 15, which prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth.

Additionally, the Constitution also included Article 44, which stated that the Indian government should strive to establish a UCC for the country. This provision was included as part of the Directive Principles of State Policy, which are a set of guidelines for the Indian government to follow in order to promote the welfare and well-being of its citizens. Overall, the origin of the UCC can be traced back to the Indian independence movement, when leaders called for the abolition of personal laws and the adoption of a common set of laws for all citizens. The provision for a UCC was included in the Constitution of India as a way to promote equality, social justice, and national unity.

#### **(A) Objective:**

The objective of this research project is to study the concept and implementation of UCC in India, its Necessity, implications on the socio-legal landscape of the country, and the challenges faced in its implementation.

**(B) Methodology:**

The research methodology adopted for this project is a combination of desk research and field research. Desk research involves the study of relevant literature and reports on the subject, including the Indian Constitution, Supreme Court judgments, and academic articles. Field research involves interviews with legal experts and stakeholders, such as members of the legal fraternity, politicians, and social activists. There are several different methods that could be used to study the issue of a Uniform Civil Code (UCC) in India. Some possible methods include:

**(C) Legal Analysis:**

This method involves analyzing the current legal framework governing personal laws in India and examining the potential legal and constitutional implications of implementing a UCC. This could involve conducting research on relevant legal provisions and case law, and consulting with legal experts and scholars on the topic.

Policy analysis: This method involves examining the potential effects of a UCC on the Indian economy and society, and analyzing the various policy options and alternatives for implementing a UCC. This could involve conducting research on the economic and social impacts of a UCC, and consulting with policy experts and stakeholders on the issue.

**(D) Public opinion research:**

This method involves conducting surveys, focus groups, or other research methods to gather information on the public's views and opinions on the UCC. This could provide valuable insight into the level of support or opposition for a UCC among different segments of the population, and could help to inform policy decisions on the issue.

**(E) Comparative Analysis:**

This method involves comparing the experiences of other countries that have implemented a UCC or similar legal reforms, in order to identify best practices and lessons learned. This could involve conducting research on the experiences of other countries, and consulting with experts and scholars who have studied these experiences. Overall, the choice of methodology for studying the UCC in India would depend on the specific research questions and objectives of

the study, as well as the available resources and constraints. A combination of different methods may be necessary in order to gain a comprehensive understanding of the issue.

#### **(F) Findings:**

The study found that UCC has been a contentious issue in India, with various religious communities opposing its implementation. The personal laws of these communities, which are based on their religious scriptures, are considered sacred and essential to their cultural identity. Hence, the idea of a uniform legal framework is seen as an infringement on their religious rights.

However, proponents of UCC argue that it is necessary to bring about gender equality and social justice in the country. They argue that the personal laws of various communities often discriminate against women and disadvantaged groups, and a uniform legal framework will ensure equal treatment for all citizens.

The study also found that UCC has been a part of the Directive Principles of State Policy in the Indian Constitution, which means it is not enforceable by law. However, the Supreme Court has made efforts to implement UCC in specific cases, such as the Shah Bano case, where the Court granted maintenance to a divorced Muslim woman, despite opposition from Islamic clergy.

### **IV. CHALLENGES IN IMPLEMENTING UCC IN INDIA**

The implementation of UCC in India faces several challenges, such as the lack of political will, resistance from religious communities, and the complexity of personal laws. Additionally, the diversity of India's population, with multiple religious communities, languages, and cultures, makes it difficult to come up with a uniform legal framework that is acceptable to all.

### **V. NEED/NECESSITY FOR UNIFORM CIVIL CODE IN INDIA**

There are several reasons why the implementation of a Uniform Civil Code (UCC) in India is considered necessary.

#### **1. Some of the main reasons include as follows: Promoting equality and social justice:**

The current system of personal laws in India is considered discriminatory and favors certain religious groups over others. A UCC would establish a common set of laws applicable to all citizens regardless of their religion, promoting equality and social justice.

#### **2. Simplifying the legal system:**

The current system of personal laws is complex and fragmented, with different laws governing

different religious groups. This has led to confusion and inefficiency in the legal system. A UCC would simplify the legal system by establishing a single set of laws applicable to all citizens.

### **3. Improving the status of women:**

Many personal laws in India are considered discriminatory towards women, particularly in matters related to marriage, divorce, and inheritance. A UCC would help to improve the status of women by providing equal rights and protections to all citizens, regardless of their religion.

### **4. Ensuring the rights of religious minorities:**

Some religious minorities in India have expressed concerns that a UCC would be imposed upon them by the majority Hindu population, infringing upon their religious rights. However, a UCC would actually ensure the rights of religious minorities by providing a common set of laws applicable to all citizens, rather than allowing the majority population to dictate the personal laws of minorities.

### **5. Fostering national unity and integration:**

The implementation of a UCC would foster national unity and integration by promoting a common set of laws and values applicable to all citizens, regardless of their religion. This would help to reduce conflicts and tensions based on religious differences and would promote a more cohesive and harmonious society.

## **VI. OBSTACLES FOR UCC IN INDIA**

There are several obstacles that have hindered the implementation of a Uniform Civil Code (UCC) in India. Some of the main obstacles include:

**Lack of political will:** Many politicians in India have avoided addressing the issue of the UCC for fear of alienating religious minorities and losing votes. This has resulted in a lack of political will to tackle the issue, hindering progress on the UCC.

**Diverse religious makeup:** India is a religiously diverse country, with a variety of different personal laws governing marriage, divorce, inheritance, and other matters. This diversity has led to concerns among religious minorities that a UCC would be imposed upon them by the majority Hindu population, and would therefore infringe upon their religious rights.

**Intertwined with broader debates over religion:** The issue of the UCC is often seen as being intertwined with the broader debate over the role of religion in Indian society, which is a highly sensitive and polarizing topic. This has made it difficult to address the UCC without also

addressing other contentious issues related to religion.

Lack of consensus: There is a lack of consensus among different groups and stakeholders on the issue of the UCC. While some advocate for its implementation, others are opposed to it, making it difficult to reach a consensus on how to proceed.

## **VII. COMPLEX LEGAL AND CONSTITUTIONAL ISSUES**

The implementation of a UCC would involve significant legal and constitutional changes, which would be complex and time-consuming to implement. This has made it difficult to move forward with the UCC, as the necessary legal and constitutional changes have not yet been made.

## **VIII. PROS AND CONS OF UCC IN INDIA**

There are both pros and cons to the implementation of a Uniform Civil Code (UCC) in India. Some of the main pros and cons are as follows:

### **Pros:**

1. Promotes equality and social justice: A UCC would establish a common set of laws applicable to all citizens regardless of their religion, promoting equality and social justice.
2. Simplifies the legal system: A UCC would simplify the legal system by establishing a single set of laws applicable to all citizens, rather than the current system of different personal laws for different religious groups.
3. Improves the status of women: A UCC would provide equal rights and protections to all citizens, regardless of their religion, helping to improve the status of women.
4. Ensures the rights of religious minorities: A UCC would provide a common set of laws applicable to all citizens, ensuring the rights of religious minorities.
5. Fosters national unity and integration: A UCC would promote a common set of laws and values applicable to all citizens, fostering national unity and integration.

### **Cons:**

1. Infringes upon the rights of religious minorities: Some religious minorities in India have expressed concerns that a UCC would be imposed upon them by the majority Hindu population, infringing upon their religious rights.



2. High costs and logistical challenges: The implementation of a UCC would involve significant legal and constitutional changes, as well as logistical challenges in terms of implementing and enforcing the new laws. These costs and challenges could be significant.
3. Resistance from religious groups: Some religious groups in India may resist the implementation of a UCC, leading to conflicts and tensions.
4. Lack of consensus: There is a lack of consensus among different groups and stakeholders on the issue of the UCC, making it difficult to move forward with its implementation.
5. Political and social challenges: The issue of the UCC is often seen as being intertwined with the broader debate over the role of religion in Indian society, which is a highly sensitive and polarizing topic. This could lead to political and social challenges in implementing a UCC.

## **IX. LIMITATION OF UCC**

There are several limitations to the implementation of a Uniform Civil Code (UCC) in India. Some of the main limitations include:

### **1. Lack of political will:**

Many politicians in India have avoided addressing the issue of the UCC for fear of alienating religious minorities and losing votes. This has resulted in a lack of political will to tackle the issue, hindering progress on the UCC.

### **2. Diverse religious makeup:**

India is a religiously diverse country, with a variety of different personal laws governing marriage, divorce, inheritance, and other matters. This diversity has led to concerns among religious minorities that a UCC would be imposed upon them by the majority Hindu population, and would therefore infringe upon their religious rights. Intertwined with broader debates over religion: The issue of the UCC is often seen as being intertwined with the broader debate over the role of religion in Indian society, which is a highly sensitive and polarizing topic. This has made it difficult to address the UCC without also addressing other contentious issues related to religion.

### **3. Lack of consensus:**

There is a lack of consensus among different groups and stakeholders on the issue of the UCC.

While some advocate for its implementation, others are opposed to it, making it difficult to reach a consensus on how to proceed.

#### **4. Complex legal and constitutional issues:**

The implementation of a UCC would involve significant legal and constitutional changes, which would be complex and time-consuming to implement. This has made it difficult to move forward with the UCC, as the necessary legal and constitutional changes have not yet been made.

### **X. UCC IMPLICATIONS ON THE SOCIO-LEGAL LANDSCAPE OF THE COUNTRY**

The implementation of a Uniform Civil Code (UCC) in India would have significant implications for the socio-legal landscape of the country. Some of the potential implications of a UCC are discussed below:

One of the main implications of a UCC would be to promote equality and social justice by ensuring that all citizens are subject to the same laws, regardless of their religion. Currently, India has a system of personal laws that are based on the religious beliefs of the individual, which can lead to discrimination and inequality, particularly against women and marginalized communities. By establishing a UCC, these issues could be addressed by ensuring that everyone is subject to the same laws.

Another potential implication of a UCC is that it could help to promote national unity and a sense of common citizenship. In a country as diverse as India, having a common set of laws that apply to all citizens could help to foster a sense of belonging and national identity. This could be particularly important in times of conflict or social tension, when a sense of national unity could help to maintain social stability.

Additionally, the implementation of a UCC could also have implications for the efficiency and effectiveness of India's legal system. By reducing the number of different sets of laws and eliminating inconsistencies, the UCC could help to streamline the legal process and make it easier for citizens to access justice.

Overall, the implementation of a UCC in India would have significant implications for the socio-legal landscape of the country. While there are certainly challenges and difficulties associated with implementing a UCC, there are also many compelling reasons to consider its adoption. By promoting equality, national unity, and a modern legal system, a UCC could have many benefits for Indian society.

How Implementation of UCC in India will be dealt with?

The implementation of a Uniform Civil Code (UCC) in India would be a complex and challenging process. Given the diversity of India's population and the fact that the country has a long history of personal laws based on religious beliefs, it would require careful planning and negotiation to ensure that a UCC is implemented in a way that is fair and equitable to all citizens.

One of the key challenges in implementing a UCC in India would be to ensure that the rights and interests of all religious communities are taken into account. Given that India is a multi-religious country, it would be important to consult with leaders and representatives of all religious communities to ensure that their concerns are addressed and that the UCC is not seen as imposing a particular set of beliefs on anyone.

Another challenge in implementing a UCC in India would be to address the concerns of those who are opposed to the idea of a UCC, particularly among certain religious groups. It would be important to engage in dialogue with these groups and to listen to their concerns, in order to try to find a way forward that is acceptable to all parties.

Additionally, the implementation of a UCC in India would also require significant legal and logistical efforts. This would involve drafting and passing new laws to replace the existing personal laws, as well as ensuring that the new laws are applied consistently and fairly. It would also require building the capacity of the legal system to implement and enforce the new laws, and providing adequate support and resources to ensure that the UCC is implemented effectively.

Overall, the implementation of a UCC in India would be a complex and challenging process that would require careful planning and negotiation to ensure that the rights and interests of all citizens are taken into account. By engaging in dialogue and consultation with all stakeholders, and by providing adequate support and resources, it may be possible to successfully implement a UCC in India.

## **XI. HOW INDIAN WOMEN WILL BE IMPACTED BY THE IMPLEMENTATION OF UCC**

The implementation of a Uniform Civil Code (UCC) in India could have significant implications for women in the country. Some of the potential impacts of a UCC on Indian women are discussed below.

One of the main impacts of a UCC on Indian women would be to promote equality and social justice by ensuring that all citizens, regardless of their gender or religion, are subject to the

same laws. Currently, India has a system of personal laws that are based on the religious beliefs of the individual, which can lead to discrimination and inequality, particularly against women. By establishing a UCC, these issues could be addressed by ensuring that everyone is subject to the same laws, regardless of gender or religion.

Another potential impact of a UCC on Indian women would be to improve their access to justice. Currently, the existing personal laws can be difficult for women to navigate, particularly in cases where they are not familiar with the legal system or are unable to afford legal representation. By having a common set of laws that apply to all citizens, a UCC could make it easier for women to understand their rights and to seek legal remedies in cases of discrimination or injustice.

Additionally, the implementation of a UCC could also have positive impacts on the status and rights of women in Indian society. By eliminating discriminatory laws and practices that are based on religion, a UCC could help to empower women and to improve their status within their families and communities.

Overall, the implementation of a UCC in India could have many potential benefits for women in the country. While there may be challenges and difficulties associated with its implementation, a UCC could help to promote equality, social justice, and the empowerment of women in India.

## **XII. CONCLUSION**

In conclusion, the Uniform Civil Code (UCC) is a set of laws that would apply to all citizens of India, regardless of their religion. The idea behind the UCC is to have a common set of laws that apply equally to all citizens and to eliminate discrimination based on religion. Uniform Civil Code is a complex and contentious issue in India, with various religious communities opposing its implementation. However, proponents argue that it is necessary for gender equality and social justice. The challenges faced in its implementation include resistance from religious communities, lack of political will, and the complexity of personal laws. Further research and dialogue are needed to address these challenges and move towards a uniform legal framework for all citizens in India.

There are several arguments in favor of implementing a UCC in India, including the promotion of equality and social justice, the fostering of national unity and a sense of common citizenship, and the modernization and simplification of India's legal system. However, the implementation of a UCC in India would also face significant challenges, including the need to consult with

and address the concerns of religious communities, and the logistical and legal complexities involved in implementing and enforcing the new laws.

Overall, while the adoption of a UCC in India is a complex and contentious issue, there are many compelling reasons to consider its implementation. By promoting equality, national unity, and a modern legal system, a UCC could have many benefits for Indian society.

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