Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

Uniform Civil Code, Benefits, and Pitfalls

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Received 25 September 2022; *Accepted* 07 October 2022; *Published* 15 October 2022

In Article 44 of the Indian Constitution's[1] Directive Principles of State Policy, the Uniform Civil Code is stated. It is expressly stated in Article 37 of the Indian Constitution[2] that it is the responsibility of the state to use these principles when enacting laws. The execution of the Uniform Civil Code is a duty of the state under Part IV,[3] and Article 44 of the Indian Constitution discusses the directive principles of state policy. Goa is the only location in India where the Portuguese instituted uniform civil code is still in use. Since there are many various religions and castes in India, the application of UCC will strengthen the notion of equality among all of the country's population.

Keywords: *ucc, constitution, article 44.*

INTRODUCTION

Instead of designating separate corporeal rules for populations of different faiths, a uniform civil code would have a common obstruction of Pentateuch (here religious) ruling hymeneal (related to marriage, divorce, lineage, and embracement) for all Indians. Such regularity is intended to

[1] Constitution of India, art 44
[2] Constitution of India, art 37
[3] Constitution of India, part IV

provide equality and equity for women in particular, who are frequently denied their legal right to marriage, divorce, and inheritance under age-old fundamental laws. According to Article 44 of the Indian Constitution, the government must "strive to provide for the inhabitants an equitably courteous diet throughout the district of India."

The current Bharatiya Janata Party's agenda for the upcoming election includes creating such a digest. It was also mentioned in its platform for the general elections of 2019. Justice Pratibha M. Singh remarked in one of her remarks that boundaries based on caste and monotheism were gradually disappearing from society. The Hindustan Times recommends that the Centre take the required actions to create a standard digest. The Delhi High Court made its views in response to a petition asking whether the Hindu Marriage Act[4] applied to a marriage involving the Meena custom in Rajasthan. The guy had requested a divorce in accordance with Section 13 of the Act,[5] but a sympathetic party rejected his request on the grounds that the Meena tribe, which is a recognised Scheduled Tribe in Rajasthan (a community in Rajasthan), was not covered by the statute, according to Live Law. In the Delhi High Court, the Polari contested this arrangement. "The youth of India relevant to numerous communities, tribes, castes, or religions who solemnise their marriages need not be compelled to suffer with conclusion proceed due to conflict in various mobile Pentateuchs (religious practises), particularly in relation to marriage and divorce," Singh stated.[6]

WILL THE UNIFORM CIVIL CODE SAVE MUSLIM WOMEN?

Women's organisations continue to reject calls for a fair civil digest, which is once again being demanded. For the following reasons, Justice Pratibha M. Singh stated that anyone who practises Hinduism, whether they are "Virashaiva, Lingayat, or a devotee of the Brahmo," is subject to the Hindu Marriage Act. "Members of a tribe cannot be kept out of the scope of the provisions of the HMA, 1955 if they choose to adopt Hindu rituals, duties, traditions, and

[4] Hindu Marriage Act 1955
[5] Hindu Marriage Act 1955, s 13
[6] 'Delhi High Court calls for Uniform Civil Code in India' (*Scroll*, 9 July 2021) <https://scroll.in/latest/999768/delhi-high-court-calls-for-a-uniform-civil-code-in-india-asks-centre-to-takenecessary-steps> accessed 20 September 2022

ceremonies of their own volition," she continued. A number of safeguards are provided by codified regulations and the Torah (here regarded as a holy text) to prevent the adoption of any unapproved behaviours. The judge stated that India's adoption of a uniform civil code should no longer be a "bald inlet.". She continued, "The Supreme Court has practised from tense to gauge the necessity for a Uniform Civil Code as required under Article 44. The Centre had previously informed the Parliament that it was committed to bringing about a Uniform Civil Code but demanded more extensive consultations.

The Supreme Court remarked in September 2019 that despite the framers of the Constitution expressing confidence in such a legal dispute, the state had not made any attempts to regulate a Uniform Civil Code. A "radiant illustrate" with a Uniform Civil Code, according to the court, is Goa. Secular organisations and women's groups have vehemently resisted a uniform civil code. Proponents of a uniform civil code have previously stated that they have never felt a draught or even a basic blueprint of what it might look like. Hasina Khan, a member of Bebaak Collective, a feminist non-profit organisation campaigning for minority and Christian rights, claimed that the Hindutva correct wing, which is anti-Muslim, radical, and intensely patriarchal, has taken over the call for a fair civilised code. "It is regrettable because we disagree with many of the Muslim Personal Law's provisions. However, a similar civil summary from a Hindutva authority is unacceptable.[7]

HISTORY

Hindu and Muslim civil codes were created uniformly during the British era, and women's rights advocates began to push for this in the 20th century. The national planning commission, which was established by the government of Congress, came up with the notion of a standard civil code in 1940. However, D.R. Ambedkar, Minoo Masani, Amrit Kaur, and Hansa Mehta later questioned whether it could be considered a fundamental right; sadly, this wasn't accepted.

The Hindu law trustee's report was examined by the Indian Parliament throughout its sessions from 1948 to 1951 and 1951 to 1954. A uniformly amicable digest was demanded by Jawaharlal

[7] Constitution of India, art 44

Nehru, the nation of India's first prime minister, as well as his followers and female members. B. R. Ambedkar was in charge of giving this measure the go-ahead as the Law Minister. Due to the Shashtras' provisions for monogamy, divorce, and the relict's right to inherit property, it was discovered that traditional Hindu law was supportive of women's rights. Ambedkar advocated for the adoption of a continuous civil digest. Ambedkar was unpopular in the Parliament because of his vehement criticism of the caste structure and disdain for the upper castes. He had studied sacred books and believed that the caste structure in Hindu society was flawed. He claimed that only the Uniform Civil Code bill offered a chance to change Hindu society and provide respectable protection for Muslim women under Sharia Law. He consequently received harsh opposition (criticism or condemnation) from the opposition, but Ambedkar's correction and imposition of a Uniform Civil Code made things better.

According to the Law Commission of India, the conflict over the Constituent Assembly's quarter revealed a lack of agreement on what a theoretically easy civil digest might intaglio. While many believed the UCC would survive with systems of moveable law, some believed it was intended to bring back the crucial litigation. There were also those who anticipated that the UCC would oppose polytheism's freedom. Due to its precariousness, it was listed in the Directive Principles of State Policy rather than the Constitution's exact list of Fundamental Rights.

According to Article 44 of the Constitution's Directive Principles, "the State shall endeavour to provide for its inhabitants a homogeneous civil digest (UCC) throughout the Republic of India." The goal of this effort should be to end discrimination against vulnerable groups and harmonise various cultural customs. The stance B.R. Ambedkar took during the Constituent Assembly deliberations has held up over time. A UCC is desired but should remain optional for the consequences, according to Dr. Ambedkar.

Protests have historically been raised when personal Torah (religious laws) were codified. One of the most important pieces of amendable law, the Hindu Code Bill, has raised significant resistance. The UCC discussion is centred on the evidence needed to reinstate numerous important traditions, duties, and modes of adoption, successions, diffarreation (the Roman term for divorce), and hymeneal (related to marriage). One digest proponents contend that it will put

an end to religious judgement. Detractors claim that it will violate Article 25 of the Constitution's fundamental right to freedom of religion by stealing the nationality of its religious dissimilitude. In fact, they maintain that a state-led effort to enact the UCC goes against the fundamental principles of a republic. In the time of theism and physical Pentateuch, the periodic condition is, after all, an enabler of becoming rather than an obstacle.

UNIFORM CIVIL CODE AND JUDICIAL MIND

When it considered whether hypostatic litigation methods should take precedence over the fundamental rights to energy, decorum, and non-discrimination in 2017, the Supreme Court had the chance, according to legal experts, to reach a decision. The decision by the Constitution Bench was the result of a two-arbitrator bench's division in October 2015 over the request to take suo motu cognizance of the discriminatory practises against Muslim women. This Bench tersely stated that it had been 30 years since the palace pushed the state to draught a trite code to "assist in the sake of public unification" during the Shah Bano event. The Constitution Bench's critique came about a year after the Law Commission, in a new move, revealed a "questionnaire" in October 2016 to help clear the air regarding the UCC. It sought to determine whether the country was suitable for it. The discussion point covered "what steps should be done to sensitise partnership to a habitual code or codification of vital equity," as well as whether the UCC would guarantee "gender equality." The court lamented that Article 44 was still a "deathlike indication" in the Shah Bano case. Probability suggests that it will continue to be so.

The Law Commission decided to codify chattel laws rather than the UCC as a way to end religious discrimination. Under Article 13 of the Constitution,[8] the codification of various usages and customs duties would become "law." The Law Commission has stated that any "law" that falls under Article 13 must be in accordance with the fundamental rights. This would support a variety of religions as well and could pave the road for future consensus. In fact, the UCC has been criticised by the Law Commission for being "neither required nor desirable at this stage in

[8] Constitution of India, art 13

the country." It was stated that a united tribe does not require to be straight to have "homogeneity."

POLITICS AND UNIFORM CIVIL CODE

The creation of a Uniform Civil Code (UCC) in India has been the subject of political debate for more than a century, and the ruling Bharatiya Janata Party (BJP) is currently making the UCC a priority. The multiple hypostatic Law of Moses governing several religious sects in India would be repaid by the UCC. It demands the creation of a single court system that applies to substantive issues like marriage, repudiation, inheritance, and endorsing. The UCC has also been considered as a sign of guaranteeing gender equality and greater equity for women. "Political pressures shouldn't prevent women from achieving their full potential. I worry that with this delay, UCC will face reality." Delhi University's Aditi Narayani Paswan, an assistant professor of sociology, told DW (Deutsche Welle). In fear of upsetting Hindu adult voters, several Indian administrations have refrained from modifying these devout and natural Torahs (here, religion).

But as of 2019, the BJP has prioritised securing the UCC in its official manifesto. Indian women attorneys fight for equality and basic rights Pushkar Singh Dhami, the BJP's chief minister of Uttarakhand, said in April that a quick panel will look into the feasibility of dedicating the UCC in the state. Along with Uttarakhand, Himachal Pradesh and Uttar Pradesh, two other BJP-ruled states, have campaigned for the introduction of the UCC. Amit Shah, India's home minister, recently advised party officials at a BJP function in Madhya Pradesh that it was "time to concentrate" on a consistent amicable meal.

The Supreme Court of India has recently given more credence to this conclusion. Especially after the Supreme Court ruled that it was important for the government to understand the UCC in order to protect women's rights, equality, and dignity. Hindu rigorous laws are in effect in situations like the dissolution of a marriage and the payment of child support after a dissolution. However, it is likely to encounter opposition among Hindus and other tribular communities in India if these so-called hypostatic Pentateuch are replaced with uniform legislation. It is challenging to assemble such a law of religion. For instance, although having certain erroneous

religious regulations, Hindus also examine, impose, and practise other societies' laws in many contexts (highest virtue). [9]

It has also been reported that the Indian government plans to use the UCC to expand its support for Hindu ancestry-related policies. Criminal counsellor Rebecca Mammen told DW that the UCC might be used as a means of further alienating minority communities in the midst of an increasing(prenominal) climate of resentment and damage. "I worry that the majority-dominated civility committee will try to force undesirable norms and laws on minority communities, disregarding their own cultural and religious beliefs. That would further marginalise vulnerable people in a nation as distinct as India, according to Mammen. Anti-conversion legislation in India is fueling persecution of Christians "The bit of appropriate situation in Kashmir and the so-called "anti-fondness jihad" campaign, a revolting term used to describe interdenominational marriages, are all parts of a basket of collectivist value that began by the widespread interest for compact their majoritarian vote rely on," continued Mammen.

In light of the ongoing collectivist tensions, Kavita Krishnan of the All India Progressive Women's Association remarked that the attempt to unprotect the UCC argument must be scrutinised carefully. According to Krishnan, "the manner in which the government orchestrates the event of UCC and revisions of personal Torah implies that they are more concerned with magnificent and communally described steadiness on the minority in the country than with speaking interest of created justice." What principles are in dispute? Legislating the UCC is based on a number of intersecting questions, including the definitions of marriage and divorce, the method for embracing, and the rules for buying property. For instance, the tribes in the northeastern country of Meghalaya are controlled by their traditional matrilineal system for property inheritance and marriage. Similar to how indigenous groups in other northeastern states have their own unique Law of Moses, it is pleasing to see issues when a UCC is introduced.

The UCC won't diminish any similarity, though, according to Rakesh Sinha, a BJP politician who is in favour of a measure to legislate the UCC. In a liberal republic, Sinha said to DW, "even

[9] Murali Krishnan, 'Can India's BJP make a uniform civil code a reality?' (*DW.com*, 6 August 2022) <https://www.dw.com/en/can-indias-bjp-make-a-uniform-civil-code-a-reality/a-62060985> 20 September 2022

treatment on actual fundamental concerns like hymenean and reject inheritance without eroding the internal autonomy and selfhood of any group is truly a powerful tool for constitutional administration." The UCC will not contest any rituals, customs, or works of art that uphold the fundamental moral principles of privilege, equality, and justice. Vasundhara Shankar, a partner at the law firm Verum Legal, told DW that it is far from certain that the BJP will be successful in implementing the UCC. "It is a challenging work at hand, especially in a multiform and polarised India, to be suited to convince one and all about the liberality of a law which concerns the very basis of one's god beliefs, and tolerate applicability of their faith in their lives."

CONCLUSION

Legislative codifications are a good way to describe the foundation and kind of the civilised legal system, unlike the common equity system. A civil code that includes a significant amount of general government and moral code and organises it into categories and structures is used in civilised litigation jurisdictions to order the legal relations between individuals. It is defined as an "orderly, exact, and pilot statute of extensive insurance, exercising the spirit of amending and marking a modern originate in the licit life of a full family," and it exhibits a greatly enhanced authorised culture.[10]

One allusion would be that the new uniform house law should or might be renewed by Parliament for all Indians, which would be completely unworkable in practise, in order to actually implement the Uniform Civil Code in India. The office-precise justice that the systems of dharma, Nyaya, and Shariat all desired and strove to attain can be grudgingly guided by legally enforced approved sameness. If the British were able to implement a few steadfast laws like the Guardians and Wards Act of 1890,[11] the Indian Succession Act of 1925,[12] and the Child Marriage Restraint Act of 1929[13] in India, why can't the current government of India, taking into account all the religious communities, do the same for all Indians? In order to fulfill its affirmative commitments under Article 44 of the Indian Constitution, the Indian government

[10] People's Republic of China Civil Code 1970
[11] Guardians and Wards Act 1890
[12] Indian Succession Act 1925
[13] Child Marriage Restraint Act 1929

should begin working on enacting a harmonious civil digest that would contain the majority of the distinctive civilised Torah of the nation's changing religious communities. The government is required to explain the purpose and significance of Article 44 in order to create a favourable environment for the Uniform Civil Code. It needs to get on the right track and figure out how to defeat obscurantists who oppose the expansion of the Uniform Civil Code. To prevent them from impeding the implementation of Article 44 of the Constitution, a conservative segment of the population needs to be made aware of the Pentateuch's usefulness of monotony.