

Uniform Civil Code – An Ignored Constitutional Imperative

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Abstract: This paper talks about the nature and concept of Uniform Civil Code and its lawful concept. In this paper, the core of Uniform Civil Code is dissect and what does it mean and its legal perspective and theories. This paper begins with the introduction to the Uniform Civil Code and also discusses about its origin from where it has been derived. It additionally discusses the desire and need of Uniform Civil Code in this part itself, that whether the Uniform Civil Code should be applied or not and what are the negative and positive sides of it. It further discusses about the constitutional guarantees and uniform civil code. It also talks about the judgements and the lookouts of the Indian judiciary towards the Uniform Civil Code with certain sets of conclusions and recommendations.

Keywords: UCC, article 44, Indian Constitution.

INTRODUCTION

The Uniform Civil Code also known as UCC is referred in article 44 of Indian Constitution, which is given under the Directive Principles Of State Policy [The Constitution of India]. These are served as the ground rule for state`s policy making, which are not legally enforceable now. The UCC has assembled the support from some of the individuals who viewed this as a mean to promote national unity and gender equality. Although, it has also faced the criticism from the oppositions who see it as a threat to the societies religious freedom and cultural diversity.

The impression of Uniform Civil Code in India has been a subject of intense debate and argumentation for several decades. The notion behind UCC is to have a general or common sets of laws to govern the personal matters such as adoption, divorce, marriage, and inheritance etc. for all the citizens regardless of their religion. India is a diverse country which has innumerable religions and religious laws and even different personal laws for different religious communities.

Why in News?

From decades, Uniform Civil Code has always been a topic of contention in news. The bill for Uniform Civil Code has been introduced as two times as private member bill in the past few years in Rajya Sabha. But the opposition party urged the chairman to block it. Now again in June 2023, the Prime Minister “Narendra Modi” during his address to BJP booth workers where he strongly advocated it in Bhopal. The PM`s statement came and a week after the 22nd law commission invited the views of the citizens and all recognised religious organisations on UCC within the 30 days [The Code of Criminal Procedure code].

Personal Laws Status in India

India is a democratic republic state and Constitution is the supreme law of the land. It has varieties of communities and customs as well and it is apparent by plenty famous cultures and religions it has, which are found across the globe. India is a country where the principles of secularism have been preserved in the constitution itself. The law governing the civil and family matters are different from each other in India although the people of different religious communities are living as people of one notion. They have their own codified personal laws which they follow blindly and some popular codified personal laws are:

- The Indian Christian marriage act, 1872.
- To govern Sikh marriages, The Anand Marriage Act, 1909.
- Muslim personal law (SHARIAT) Application Act, 1937 (application of Shariat laws to Indian Muslim).
- Cochin Christian civil marriage act of 1920.
- Hindu Marriage Act, 1955 (applicable on Hindus, Buddhists and Jains and also any person other than Muslim, Christian, Parsi and Jews) [economictimes.com].
- The Parsi Marriage and Divorce Act, 1937.

It is provided in Article 13(1) of the Constitution of India that “All laws enforce in the territory of India immediately before commencement of this constitution, in so far as they are inconsistent with provisions of this part, shall to the extent of such inconsistency be void” [indianexpress.com].

Article 44 of Indian Constitution is an important evidence of fact that the Constitution maintains and the separate existence of personal laws. It

states that “The state shall endeavour to secure for citizens a Uniform Civil Code throughout the territory of India”. Apart from these, the Indian policy recognises and even maintains a separate existence of personal laws. For instance, with regard to Article 5(a) [livelaw.in] and 16(1) [hindustimes.com] of Convention on Eliminations of All Forms of Discrimination against Women (CEDAW).

Uniform Civil Code – Challenges and Constraints

The issue related to UCC has been made a sensitive topic by some religious authorities and a section of society. The very main reason of this has been seen in the identity politics. The matter related to need of UCC has resurfaced in the India’s political parties in India has been trying to quest for identity for almost all communities and all political parties have been raising this issue just for their political benefits.

Related Cases

In famous case of Mohd. Ahmed Khan v. Shah Bano Begum [Constitutional law of India], the Supreme Court speaking through Y.V. Chandrachud, the then Chief Justice held that Section 125 [lawcommissionofindia.inc.in] of criminal procedure code is also applied to the Muslims and that even a Muslim husband is liable to maintain his divorced wife beyond Iddat period. Then the controversy started and the parliament had passed the Muslim Women (protection of rights on divorce) Act 1986, to overrule the judgement given in Shah Bano case. The effect of this Act is that a Muslim husband is not liable to maintain his divorced wife beyond the period of iddat, until and unless both the spouses submit their consent at appropriate time in court that they would like to be governed by criminal procedure code .

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In S.R Bommai v. Union of India, as per justice Jeevan Reddy, it was held that religion is the matter of individual faith and cannot be mixed with secular activities and be regulated by the State enacting a law.

CONCLUSION AND SUGGESTION

The Uniform Civil Code is not just a matter of gender equality and its justice, but it is also a question of how a nation put up its own multifariousness. In India the Constitution has provided many freedom to citizens like freedom of religion, freedom to profess which exists with other rights as well like equality and non-discrimination, but what actually the people has to understand is that the laws and the religion are two different conception. This is all because the Constitution allows the citizens to follow their own religion and which will continue despite of enactment of Uniform Civil Code. The Code will not restrict their right to practice or follow their religion. Thus, it is high time that people should start consider that religion and laws are the two different notions and should start consider that religion and laws are two different notions and should focus on empowerment of class of people and there is an urgent need to bring the Uniform laws in India. So that every individual can be treated equally.

REFERENCES

1. The Constitution of India, bare act, Allahabad law publications.
2. The Code of Criminal Procedure code, 1973, bare act, khetrpal law house.
3. <https://m.economictimes.com>.
4. <https://www.indianexpress.com>.
5. <https://www.livelaw.in>.
6. <https://www.hindustimes.com>.
7. Constitutional law of India by J.N Pandey.
8. <https://lawcommissionofindia.inc.in>.