BLOGS

# Implementation of the Uniform Civil Code in India

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## Latest Updates about the Uniform Civil Code

- Recently, Union Defence Minister Rajnath Singh advocated for the implementation of the Uniform Civil Code. He called the objections against UCC unfounded and assured that 'nobody's faith, belief, or traditions will be harmed by it'.
- President Droupadi Murmu approved Uttarakhand's Uniform Civil Code Bill on the 13th of March, 2024. Uttarakhand Chief Minister Pushkar Singh Dhami stated that a committee has been formed to examine all aspects of implementing a UCC.

## Introduction

India is renowned for its multifariousness in terms of culture, religion, and ethnicity. The implementation of a uniform civil code has been a topic of debate and discussion in the country for several years.

This article aims to explore the intricacies of the Uniform Civil Code (UCC), the various arguments and controversies surrounding it, the historical and Legal background that has contributed to the emergence of this issue.

## What is Uniform Civil Code?

India presently maintains distinct personal laws for various religious groups, including Hindus, Muslims, Christians, Parsis, and Jews. The legal frameworks pertaining to marriage, divorce, and

inheritance are frequently influenced by religious texts and traditions, resulting in variations across different jurisdictions.

The Uniform Civil Code is a proposed legal framework intended to establish uniformity in personal laws with the objective of promoting gender justice and equality.

The term, 'Uniform Civil Code' is explicitly mentioned in **Part 4, Article 44** of the Indian Constitution. **Article 44** says, "The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India."

## Historical Background of the Uniform Civil Code

The historical origins of the call for a Uniform Civil Code in India can be attributed to the colonial period. Under the British Raj, the Indian Succession Act of 1925, The Special Marriage Act 1954 was implemented by the British government with universal application to all Indian citizens regardless of their religious affiliation.

The objective of this legislation was to establish consistency in the laws governing inheritance throughout the nation. Nonetheless, the British Government did not endeavour to implement a Uniform Civil Code for personal laws beyond the scope of the aforementioned.

Following the attainment of independence, the discourse surrounding the implementation of a uniform civil code persisted. Article 44 of the Indian Constitution, ratified in 1950, stipulates the implementation of a uniform civil code. Nonetheless, the implementation of the aforementioned policy has been hindered by political and social factors across various administrations.

## Judgements Related to the Uniform Civil Code

From a legal standpoint, the Supreme Court has emphasized the importance of a Uniform Civil Code (UCC) in numerous cases, ranging from the Shah Bano Begum case to the more recent Shayara Bano versus Union of India case.

The Supreme Court addressed the matter of UCC in Mohd. Ahmed Khan v. Shah Bano Begum and others case, wherein Shah Bano's husband had issued a talaq against her. During the case proceedings, Chief Justice YV Chandrachud made the observation that the Parliament should delineate the parameters of a Uniform Civil Code, as it serves as a tool for promoting national concord and legal parity. Notwithstanding this, the Government failed to redress the matter and

introduced the Muslim Women's Protection of Rights on Divorce Act in 1986.

Following a decade of silence on the matter, in the case of Sarla Mudgal, the Supreme Court implored the Government to establish a Uniform Civil Code modelled after the Hindu code in order to safeguard those who have been subjected to abuse and promote national unity.

Similarly, the legal cases of Lily Thomas versus the Union of India and ABC v. the State (NCT of Delhi) were addressed as well. In the former case, the Supreme Court underscored the importance of the Uniform Civil Code (UCC) with regards to succession. In the latter case, the court ruled that a Christian single mother could seek sole guardianship of her child without the consent of the biological father, as per the Guardian and Wards Act of 1890, which did not previously recognize this right for Christian single mothers. Within this particular context, the Court highlighted the adverse effects resulting from the lack of a standardized civil code.

## Arguments Against the Implementation of UCC

1. One of the central contentions against the implementation of the Uniform Civil Code is that it has the potential to encroach upon the religious liberties of diverse communities. The personal laws of various communities are derived from their respective religious texts and traditions. Any endeavour to supplant these laws with a uniform code will likely be perceived as a challenge to their religious distinctiveness.
2. There exists a concern that the adoption of the Uniform Civil Code could potentially incite communal strife and aggression.
3. An additional contention against the Uniform Civil Code is its perceived impracticability and infeasibility of execution. India is a nation characterized by a multitude of cultures and traditions, rendering it challenging to devise a uniform code of laws that would garner widespread acceptance.
4. Additionally, personal laws are firmly rooted in the cultural practices and customs of diverse communities, and any endeavur to modify them may encounter agitation as well as opposition.

## Arguments in Favour of Implementation of the UCC

1. On the other hand, an Uniform Civil Code is advocated on the basis of its potential to establish uniformity and promote gender justice. At present, the personal laws pertaining to various

communities exhibit gender-based discrimination against women with respect to inheritance, divorce, and maintenance.In the context of personal laws in India, it is observed that a Muslim man can unilaterally dissolve his marriage by uttering the word “talaq” three times, whereas a Hindu woman is required to undergo a protracted legal procedure to terminate her marriage.The implementation of the Uniform Civil Code is expected to establish a uniform legal framework for all citizens, regardless of their religious affiliations, thereby facilitating the advancement of gender parity.

2. Another rationale supporting the implementation of the Uniform Civil Code is its potential to advance the principles of national integration and secularism. India is a nation that upholds the principle of secularism, and its Constitution ensures that all citizens are entitled to equal treatment under the law.The presence of distinct personal laws for various communities is incongruous with the principles of secularism. The implementation of the Uniform Civil Code is expected to foster national unity and uphold the principle of legal equality among all members of society.

## Conclusion

The implementation of a Uniform Civil Code is a multifaceted matter that necessitates meticulous examination and contemplation. The Uniform Civil Code has been a persistent request of numerous individuals who contend that its implementation would foster uniformity, gender equity, and national cohesion. Nonetheless, there are apprehensions that this measure could potentially encroach upon the religious liberties of various groups and trigger intercommunal strife.

It is imperative to acknowledge that the implementation of a uniform civil code does not entail the eradication of the religious traditions and rituals of diverse communities. The ambit of the Uniform Civil Code is limited to issues pertaining to personal laws, including but not limited to marriage, divorce, inheritance, and adoption. The observance of religious traditions and rituals pertaining to worship may persist among diverse communities.

Despite suggestions such as the implementation of measures such as raising the minimum age for girls to marry to 21, which is a commendable effort towards achieving gender equality, the practical application of such measures has been lacking. The current Government must consider implementing a uniform civil code to promote the holistic development of society, including women, while balancing the objectives of Article 51 A (f) and 51 A (e) of the Constitution.

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