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Uniform Civil Code In India : A Critical Analysis Of Legal Social And Constitutional Implications

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Abstract

The Uniform Civil Code (UCC) is a contentious topic in Indian legal and political discourse. Enshrined in Article 44 of the Constitution as a Directive Principle of State Policy, it aims to establish a common civil law for all citizens, irrespective of religion, in matters like marriage, divorce, succession, and adoption. However, its implementation remains controversial due to religious diversity, minority rights concerns, and political opposition. This research paper explores the historical background of UCC, constitutional provisions, judicial pronouncements, and arguments for and against its enactment. Comparative insights from countries like Turkey, France, and Tunisia are examined, along with recommendations for phased implementation and harmonization with personal law reforms.

Keywords: Uniform Civil Code, Article 44, Personal Laws, Gender Justice, Constitutional Law.

1. Introduction

The Uniform Civil Code (UCC) is one of the most debated issues in India's legal landscape. It seeks to provide a unified set of laws governing marriage, divorce, inheritance, and adoption for all citizens, irrespective of religion. Article 44 of the Constitution mentions UCC as a Directive Principle of State Policy, indicating the aspiration for legal uniformity. However, cultural diversity and religious sensitivities have hindered its implementation. This paper critically examines UCC from constitutional, judicial, and comparative perspectives.

2. Historical Background of UCC in India

The idea of a uniform civil law dates back to colonial India when British rulers codified criminal laws but retained separate personal laws for different religious communities. During the Constituent Assembly debates, Dr. B.R. Ambedkar strongly advocated for a UCC, arguing that modern India needed a uniform legal framework to ensure equality and national integration. However, due to resistance from minority groups, UCC was included in Part IV of the Constitution as a non-justiciable Directive Principle.

3. Constitutional Framework: Article 44 & Fundamental Rights

Article 44 states:

"The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India."

The implementation of UCC often raises questions about potential conflicts between:

- **Article 44** (Directive Principle)
- **Articles 25-28** (Right to freedom of religion)

The judiciary has interpreted these provisions to balance religious freedom with gender equality and national unity.

4. Judicial Pronouncements on UCC

4.1 Mohd. Ahmed Khan v. Shah Bano Begum (1985)

The Supreme Court held that Section 125 of CrPC applies to all women regardless of religion. The Court recommended the introduction of UCC to promote gender justice.

4.2 Sarla Mudgal v. Union of India (1995)

This case addressed issues of bigamy and fraudulent conversion for marriage. The Court reiterated the need for a UCC to prevent misuse of personal laws.

4.3 Shayara Bano v. Union of India (2017)

The Court declared triple talaq unconstitutional, highlighting the necessity of reform in Muslim personal law and reigniting debates on UCC.

5. Arguments in Favor of UCC

- Promotes **gender equality** by eliminating discriminatory practices.
- Enhances **national integration** through legal uniformity.
- Reduces **conflicts and litigation** arising from diverse personal laws.
- Simplifies the legal system for citizens.

6. Arguments Against UCC

- Seen as infringing on **religious freedom** guaranteed under Articles 25-28.
- Perceived as a **majoritarian imposition** on minorities.
- Practical challenges in harmonizing diverse customs and traditions.

7. Comparative Perspective (Global)

- **Turkey:** Adopted a secular civil code in 1926, abolishing religious laws.
- **France:** Implements a uniform civil law under the Napoleonic Code.
- **Tunisia:** Introduced progressive personal law reforms ensuring gender equality.

8. Government Efforts & Law Commission Reports

The Indian government has repeatedly raised UCC in Parliament and election manifestos. The **21st Law Commission (2018)** opined that UCC is neither necessary nor desirable at present but advocated reforms within personal laws to ensure equality.

9. Contemporary Debate & Political Challenges

Recent developments, including proposals for UCC by some states and its mention in party manifestos, have revived the debate. However, resistance from religious minorities and political polarization remain key challenges.

10. Recommendations for Implementation

- **Phased approach:** Start with uniformity in marriage registration and inheritance laws.
- **Stakeholder consultation:** Engage religious leaders, civil society, and legal experts.
- **Codification of personal laws:** Harmonize existing personal laws with constitutional values.

11. Conclusion

The UCC is an aspirational goal aimed at achieving equality and unity in India's pluralistic society. While immediate implementation may be contentious, gradual reforms and consensus-building can pave the way for a just and uniform civil legal system.

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