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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

IMPACT OF UCC IN INDIA

AUTHORED BY - ZUHEB YOUNUS & DR. SANTOSH TIWARI

Abstract:

The Uniform Civil Code (UCC) in India remains a subject of enduring debate, entwining constitutional mandates, religious pluralism, gender justice, and national integration. Envisioned in Article 44 of the Indian Constitution, the UCC aims to replace religion-based personal laws with a unified framework governing marriage, divorce, inheritance, and adoption. Despite being rooted in secular ideals and democratic principles, its implementation has encountered strong resistance from religious communities citing threats to cultural and religious autonomy. The discourse surrounding UCC reflects India's broader struggle to balance individual rights, social reforms, and communal sensitivities. This study explores the historical evolution, constitutional backing, societal impact, and emerging judicial and legislative perspectives on UCC, highlighting the potential of a common civil code to ensure equality before law, promote gender parity, and foster national cohesion. While recognizing legitimate concerns of minority groups, it also underscores the transformative role of legal uniformity in modernizing India's socio-legal fabric.

Keywords: Uniform Civil Code, gender equality, secularism, personal laws, constitutional mandate.

Meaning of UCC

The present research is going on the burning issue Uniform Civil Code. So it is very difficult to understand the concept of UCC if we are unaware of the term civil code. Hence researcher is trying to elaborate the concept in the following ways.

Civil law refers to the law governing private individual rights and legal actions relating to those rights, as opposed to criminal, military, or international regulations or proceedings. Code is a term used in programming to refer to both the statements written in a programming language and the statements written in a different programming language. However, the primary domains of private law, including commercial transactions and negligence claims, are addressed in a civil code, which is a codification of laws. A civil code is usually accompanied

by a code of civil process in a jurisdiction¹.

Origin of UCC

“In the 1840s, using the Lex Loci Report as a foundation, the British government drafted Uniform Laws pertaining to crimes, evidence, and contracts. However, on purpose, they neglected to cover the personal laws of Muslims and Hindus, and they failed to handle civil problems such as marriage, divorce, inheritance, and maintenance. In addition, the British Indian Judiciary upheld the application of personal laws (Hindu, Muslim, and English) through its judges. At the same time, reformers were vocal about the oppression of women based on religious traditions like Sati and Pardah, and they demanded the creation of laws to address this issue”.

“The Constituent Assembly was formed in 1946 to draft the Constitution of Independent India. Its members belonged to two groups: the first, like B.R. Ambedkar, advocated for social reform through the adoption of a Uniform Civil Code, and the second, like the majority of Muslims at the time, sought to preserve personal laws. Therefore, the Constitution could only include one statement on this matter under Article 44 of Part IV (Directive Principles of State Policy)”.

“It states that- It is the responsibility of the Indian states to ensure that all of its residents are subject to the same civil code. Being a part of the DPSP, the orientation of the Uniform Civil Code has not been able to be enforced by courts or moved beyond by political efforts. This is because minorities, particularly Muslims, felt that it would violate and abrogate their personal laws. Following this, a number of bills were passed with the purpose of codifying Hindu laws through a Section 1955 of the Hindu Marriage Act, The Hindu Succession Act, 1956, The Hindu Minority and Guardianship Act, 1956 and the Hindu Adoption and Maintenance Act, 1956, Hindu Code Bills, which encompass various religious groups within Hinduism as well as Buddhism, Sikhism, Jainism, and other faiths, allow women the right to divorce and inherit, remove caste as a factor in marriage, and outlaw polygamy and bigamy.”²

“Our country has been impacted in three ways by uniform civil codes. in each of these three settings Three distinct points of view exist: the political, the social, and the religious. Decisions

¹ Contributors to Wikimedia projects. (2005, August 15). Code of law - Wikipedia. Retrieved October 5, 2021, from Wikipedia, the free encyclopedia website: https://en.wikipedia.org/wiki/Code_of_law.

² Mohapatra.S.“PersonalLaws,UniformCivilCode&GenderJus?ceinIndia”*Gender&Development*(2020)

concerning the Uniform Civil Code are made more challenging by the fact that certain sections of the Code impact Indian politics and could potentially divide the nation. As far as politics is concerned, there are political parties and agendas that advocate for UCC implementation and some that are totally opposed to it. Socially, there are educated and literate people of the country who opine anything regarding UCC on the basis the study there is a significant religious divide between the majority Hindu population and the most visible minority.

Muslim group, and there are also many individuals who lack an opinion of their own and whose views are heavily influenced by political leadership. As a result, many political decisions and actions are influenced by these leaders”.

1. Constitutional Provisions:

Some of the provisions of our Indian constitution speak about the Uniform Civil Code. Especially Article 44³ which enshrined under part IV of the constitution of India. The constitutional makers dreamed that in the coming future article 44 will be converted into a separate Act but still, the dream is not fulfilled due to lack of political will. The following provisions of the Indian constitution narrate about Uniform Civil Code.

- i. **The preamble** of the constitution of India: India is a secular country, according to the preamble of the Indian constitution. It denotes the absence of a state religion. A secular state must not discriminate against anyone based on their religious beliefs. Religion's personal law, on the other hand, discriminates against others.
- ii. **Article 13 of the constitution of India:** Laws inconsistent with or in derogation of the fundamental rights-
 - (a) This section declares as null and void, to the extent that they are inconsistent with this constitution, any laws that were in force in India before its commencement that are at odds with its provisions.
 - (b) Any measure that would limit or do away with the protections afforded by this Part would be a violation of state law. The extent to which any law violates this provision will determine how null and void it is..
 - (c) In this article, unless the context otherwise requires-
 - (i) Law incorporates all customs, usages, rules, regulations, notifications, ordinances, bye-laws, and the like having the effect of law within the territory of India.

³ ItreadsUniformcivilcodeforthecitizens

- (ii) Laws in force 'covers legislation that were passed or made by competent authorities in India's territory before to the constitution's beginning and have not been repealed, even though these laws may not be in effect at all or in certain places at that time.
- (d) The amendments made to this Constitution under Article 368 are exempted from the provisions of this article.⁴

Today there are several Acts, laws which abridge the provision of the Indian Constitution. According to Article 13, the apex court and High Courts of States are the powers to declare any law or Act, or ordinance which is inconsistent with the provision of the Indian Constitution.

- iii. **Article 14 of the constitution of India: Equality before Law-** No citizen of India should be denied due process or equal protection of the laws by the government. The right to equal protection under the law is guaranteed under Article 14. This means all are equal before the law irrespective of their caste, religion, etc. But in India for a different religious person, different personal law is applicable.⁵
- iv. **Article 25 of the Constitution of India:** Freedom of conscience and free profession, practice and propagation of -
 - (a) Everyone has the same right to freely profess, practice, and propagate their religion, as long as it does not violate public order, morality, or health, and as long as this portion has not been violated.
 - (b) This will not prohibit the state from passing new laws or change the way current ones work. –
 - (i) Controlling or limiting any secular activity that could be linked to religious practice in the realms of politics, economics, or finance.
 - (ii) Make available to all segments of the Hindu community public Hindu religious institutions or work toward social reform and welfare.⁶

Explanation I- Carrying and donning kripans is considered an integral part of the Sikh faith.

Explanation II- In sub-clause (b) of clause (2) As a general rule, when we talk about Hindus, we also mean those who identify as Sikh, Jain, or Buddhist, and when we talk about Hindu religious organizations, we mean them in the same way.⁷

Article 25 of the Indian constitution granted religious freedom to all citizens of India; but, this freedom is not absolute and does not grant every citizen the right to openly practice, publicly

⁴ TheConstitutionofIndia.Article13.

⁵ TheConstitutionofIndia.Article14.

⁶ TheConstitutionofIndia.Article25.

⁷ Ibid

display, or spread his faith. The authority to prohibit an individual or group from practicing their religion, provided that doing so does not compromise public health, morals, or order.

- v. Article 44 of the constitution of India- uniform civil code for the citizens- It is the responsibility of the Indian government to ensure that all of the country resident are subject to the same civil code.⁷

Article 44 expressly mandates the government to introduce a uniform civil code that would include such items as marriage, inheritance, and divorce.

Among the guiding principles of Indian state policy, Article 44 is found in Part IV of the constitution. Fundamental rights are enforceable in India; however, directive principles of state policy are not. As a result, Article 44 remains in place, preventing it from becoming a separate Act.

- vi. Article 372 of Indian constitution: Continuance in force of existing laws and their adaptation

(1) All laws in force in India's territory prior to the commencement of this Constitution shall remain in force therein until altered, repealed, or amended by a competent Legislature or other competent authority, notwithstanding the repeal of the enactments referred to in Article 395 by this Constitution but subject to the other provisions of this Constitution.

(2) To align the provisions of any law in India with this Constitution, the President can issue an order repealing or amending the law as needed or expedient. The law will then take effect on the specified date subject to the changes, and no court can challenge these changes..

(3) Nothing in clause (2) shall be deemed

(a) To grant the President the authority to amend or change any law after three years have passed from the day this Constitution was ratified; or

(b) In order to forbid the repeal or amendment of any law that the President has adapted or amended under the aforementioned section by any competent legislature or other competent authority⁸.

On the one hand, the constitution recognizes the continuous presence of personal law, which is why Article 44 anticipates that India will have a uniform civil code at some point in the future. On the other side, some provisions guarantee equal rights, such as article 14 to 19. Article 15 would render personal law unlawful because personal laws for distinct groups are fundamentally unequal. Article 15 also prohibits discrimination based on gender..

⁸ The constitution of India. Article 372.

Matters of Uniform civil code

This has been affirmed by the Article 44 of the Indian Constitution that the “State shall endeavor to secure for every one of its citizens a uniform civil code all over the India”.⁹ “Article 44 of the Indian Constitution guides the government of India to prepare and implement a common code for

Formulating civil affairs for the entire country and no other provision has been made in the Constitution that speaks about a Uniform Civil Code in any manner”.

“The term ‘Uniform Civil Code’ (UCC) refers to a common set of rules of governance for all citizens of the country which aims at replacing personal laws based on scriptures and customs of each major religion getting followed in the country by different communities.¹⁰ Uniform Civil Code calls for the articulation of single set of laws for India, which shall receive the compliance from and shall be applicable to all religious communities in India in matters of marriage, divorce, adoption and inheritance etc. The code is an instrument for the realization of Article 44 of the Constitution of India, which lays down that the endeavor for securing a uniform Civil Code shall be made by the state in order to bring the uniformity of conduct and compliance by all the citizens throughout the territory of India”.¹¹

“A society without the uniformity of the laws and rules of conduct governing social relationships generally have stability of norms and becomes rigid and behind the time. This is the reason why uniformity of law has been eternally stressed as the ultimate goal (Summum Bonum- according to which the values and priorities in social and inter-community relations are established in an ethical system) of all legal codes, in the past, present and future. The uniformity brought by the norms and rules of the social conduct works as an instrument for checking the chaos and disorder in society. Indian society has demonstrated both the dimensions of governance i.e. uniform rules of social relationship and the norms which were affected by the discrimination and prejudices”.

“People from all over the world come to India to practice their faith, and the country's rich cultural variety reflects the wide range of ethnicities and religions practiced there. Furthermore,

⁹ The Constitution of India.

¹⁰ Uniform Civil Code in India, <https://www.ncib.in/pdf/uniform-civil-code.pdf>

¹¹ What is Uniform Civil Code, Available at <https://www.business-standard.com/about/what-is-uniform-civil-code>

our legal system acknowledges this diversity, and the structure of religion-specific personal legislation reflects the same. A common personal law that is applicable to persons of all religions is instructed to be constructed and implemented by legislators in the Directive Principles of State Policy (DPSP). moreover this problem has been up for discussion for decades. An essential provision in the Indian Constitution is the Uniform Civil Code, which has sparked a heated controversy about secularism, basic rights, and basic obligations, among other issues”.

Advantages Of Uniform Civil Code:

1. Provides Equal Status to all Citizens:

All citizens, regardless of their gender, religion, socioeconomic background, or caste, must be subject to the same civil and personal laws under a secular democratic republic if it is to guarantee equality of status.

2. Promote Gender Parity:

To a greater or lesser extent, women face discrimination in religious traditions where males enjoy special privileges with regard to succession and inheritance. As a result, the Uniform Civil Code will level the playing field for men and women and advance gender equality.

3. Accommodate the aspirations of the young population:

Modernity, equality, and humanity are worldwide values that impact the social attitude and aspirations of the younger generation. Their full potential can be utilized in nation building through the implementation of the Uniform Civil Code.

4. Support National Integration:

When it comes to civil and criminal legislation, all citizens are treated fairly in court (excluding Personal legislation). Therefore, a uniform civil code will ensure that everyone has access to the same set of personal laws, which will put an end to the politicization of discrimination, concessions, or special privileges enjoyed by certain groups due to their religious beliefs.

5. Bypass the contentious issue of reform of existing Personal Laws:

The patriarchal ideas of society's upper class form the basis of all faiths' existent personal rules. Consequently, patriarchal orthodox individuals will either fiercely reject or see the codification and implementation of the Uniform Civil Code as a threat to their sanctity.

Emerging Trends on Uniform Civil Code

No significant steps have been made to establish a unified civil code for all citizens, according

to a recent observation by India's highest court. The Supreme Court cited the case of Goa to illustrate how the UCC protects limited rights and applies regardless of religion.

The matter of UCC was raised earlier also as in Mohd Ahmad Khan vs Shah Bano and Sarla Mudgal vs Union of India case the SC has suggested parliament to consider bringing in a UCC. The ex chief justice of India, J.YV Chandrachud had said that uniformity in civil code will remove the conflicting religious ideologies causing integration of nation.

Reform in personal law was attempted by British by abolition of Sati Pratha and widow remarriage. However, the committee also suggested that religious beliefs pertaining to Hindu and Muslim personal affairs not be codified. The Committee work on the theory of “Divide and Rule” policy of Britishers as the committee had no interest in a common civil code for the Hindu and Muslim communities that might unite them. On the ground of administrative complications the common Civil code was also opposed. In 1937 the UCC was pushed again. The Hindu Women’s Right to Property Act was passed on 1937. This act led to the formation of the BN Rao Committee in 1941, it was a four member committee, popularly known as Rau committee. The task to determine the necessity & feasibility of common Hindu laws was assigned to this committee. In line with societal developments, this committee found that UCC can be amended to grant women equal rights; yet, it stressed the need of reforming The Hindu Laws in accordance with the religious scriptures & ideology. After independence UCC was again pushed to implement but Jawaharlal Nehru rejected it by saying that country was not ready for the UCC. Agenda of UCC has been raised by Supreme Court many times but the recommendation to implement the UCC has never been taken seriously.

In India Different civil law rule has gone against the secular credentials of the republic and challenge the concept of “Unity of Diversity”. To give women equal in society it is utmost necessary for a new civil code to eliminate discrimination against gender. It is necessary that law must be divided from the religion. Uniform civil code strengthened the secularism. Progressive and Right thinking citizens must support the implementation of UCC. Apolitical consensus must also need to implement UCC. Uniform civil code is a necessary to effect the integration of a country as diverse as India by bringing all the communities together which does not form the essence of a single religion.

Recent progress in the Matter

In Indian politics, It is supposedly being assumed that the next big target of the recent government's agenda, after prohibiting Triple Talaq and repealing Article 370 (special status of Jammu and Kashmir), would be implementation of Uniform Civil Code. The Law Commission had submitted a report in August 2018 named "Reform of family Law", and this report presents to us the social and cultural diversity exist in India and also directs that how the weaker sections of our population must not be in loss in the whole process of personal law reforms. This was also hinted in the report that Commission had focused more on dealing with laws that are discriminatory and partial and choose not to give more unnecessary emphasis on the implementation of a Uniform Civil Code as it is not desirable for all the communities.

The report has shown a firm belief that Uniform Civil Code is not the only way forward but this may be the reformative codification of personal laws also as it suggests that amendments in personal laws may bring the change in the situation so that the stigma and prejudice associated with them could be highlighted and tested on the grounds of fundamental rights. These are the justifications on which the opposition in India had been obstructing and impeding the bill on Uniform Civil Code.

Since independence, numerous petitions have been files which have highlighted the urgent need of Uniform Civil Code in order to promote national integration and for the protection of virtues like Justice, Equality and Dignity of Women. These petitions have been demanding the replacement of personal laws with Uniform Civil Code, a common set of rules to govern every citizen of the country which would be constituted by integrating the scriptures and customs of different religious communities of India. Such a code would be applicable on everyone in the country and there would be no exception for anyone in that code. It is being hoped that such a code will be supported by every community as it would be based on the inculcation of best of the arrangements taken from different religious personal laws.

A. Objection Relating to the Uniform Civil Code:-

A great many people have voiced their disapproval of the idea of a uniform civil code ever since it was first proposed.

1. The Uniform Civil Code is Against the Freedom of Religion

During the British era, work began on India's codification of laws. During this time, the

majority of civil and criminal laws were codified; nevertheless, unlike criminal and non-personal civil laws, personal laws were not reformulated. The British did not want to enrage the religious community in India, which saw personal law as fundamental to its faith, therefore they adopted this strategy.¹²

On the grounds that it would infringe upon their religious freedom, the Muslim members of the committee were opposed to the idea of a uniform civil code. Conversely, many who favored the Uniform Civil Code did so because they believed it would bring the country closer together, promote gender equality, and level the playing field. Personal laws are not fundamental to religion, they maintained, and the state should not be able to limit religious liberty if that were the case.

Even though India has been an independent nation for 77 years, the constitutional conflict between religious freedom and the need for a uniform civil code remains unresolved. The country appears to be just as divided as it was prior to August 15, 1947. Those who are against the Uniform Civil Code continue to use religious liberty as an excuse. Never the less, the following proposals could be improved in favor of the Uniform Civil Code:¹³

- (i) Although religion has always had social and religious dimensions, progressives have argued that religion should remain privately held and that people should keep their relationship with God apart from their public lives.
- (ii) Despite the fact that Article 25 of the Indian Constitution guarantees the right to religious freedom, it also specifically protects.
 - (a) The statutes governing nonreligious pursuits that might have an impact on religious liberty;
 - (b) The statutes enacted to restore and improve society. It is a valid point that the personal laws of different communities can be changed or revised by the state under its regulatory jurisdiction. Without state regulation of personal laws, the conventional orthodox of Indian society will remain unchangeable. Political factors prevented India from achieving its constitutional aim of a Uniform Civil Code, despite the fact that the government has occasionally showed bravery in

¹² AsgharAliEngineer, 'TherightofwomeninIslam'1992,pp.167-169

¹³ Sarabjeesoli, "Should Secular law be a personal choice"? Express magazine, 29th June, 1996

regulating religious freedom. To reach a desired constitutional goal, secularization of personal laws must begin on the part of the state, as secularism has become the "Basic Structure" of the constitution.

- (c) Every citizen, regardless of their ethnicity or religion, is bound by the same rules in the majority of European countries because of their unified civil code. There are zero tolerance policies and zero ear for complaints. The minority population does not view the country's Uniform Laws on Civil Matters as repressive or tyrannical. The situation in India is completely different when compared to European countries. There are still many discriminatory, anti-social, and divisive religious personal laws in place, despite the fact that the Constitution is built on secular principles and has a Uniform Civil Code as an eventual aim. As one of the few remaining conservative countries, India has labeled every movement to ward gender equality as an assault on religion. However, religious fanatics in India have made it so that the country cannot secularize personal laws, even though many other countries have done so, including Islamic ones.
- (d) Some people think that if the state were to establish a uniform family code in place of personal rules, it would limit the growth of religious laws and devalue religion. Reforms to family laws in a religious society like India may have a greater impact if they are community-driven, according to some. Great religious prophets and leaders have undeniably been successful in altering society with the tool of religion, within the context of such an objection. Unfortunately, those who succeed in this endeavor after such messengers have passed on frequently fall short of transmitting the true essence of the religion. The necessary interpretations, which are often necessary due to the ever-changing nature of time and situations, are like wise not imparted by them. This kind of failure causes religions to lose their respect and authority, and in extreme cases, they can take a stand against reform and progress. This change means that the state-made Uniform Civil Code, which replaced religion personal laws, should not be viewed as a roadblock to the continuing evolution of religious personal laws.

2. The Uniform Civil Code is Against the Cultural Right

There has also been strong opposition to India's proposed Uniform Civil Code on the grounds that it will lead to the erosion of cultural traditions and a general distancing of citizens from the government. Some have contended that the right to preserve one's native language, script, and culture is guaranteed by Article 29 of the Indian Constitution, and that a Uniform Civil Code would violate this right because it would force people to adopt a different set of values and norms. Some have argued that as a society's culture is intrinsically related to its legal system, it's important to safeguard cultural practices so as not to intrude on people's private law. Minorities, particularly Muslims, in India have voiced concerns over the Uniform Civil Code citing cultural rights as justification.¹⁴

The claim that any segment of the population will have their cultural identity compromised if the State-enacted Uniform Civil Code is substituted for personal law fails to address the actual function of the UCC.

While the term "culture" remains undefined in India's founding document, scholars in the fields of history, sociology, and other related fields have provided working definitions. Some have been very specific in their definitions, while others have been more general. Every aspect of a people's daily routine is a part of their culture. And given its expansive definition, which encompasses the law, one may argue that changing or reforming one aspect of a community's culture will not have a negative impact on the whole. One of the defining characteristics of every culture is its capacity for change; cultural traits in general have never remained static. Because it is an element of culture, the law is dynamic and subject to change in response to evolving social norms. Thus, cultural preservation cannot justify the imposition of unfair or outmoded legislation.

There is no truth to the claim that religious minorities in India would feel alienated from the state if a unified civil code were to be implemented without first taking into account their unique cultural traditions. In addition, precedents from past parliamentary practices demonstrate that affected populations, and in particular minority groups, are typically consulted while new laws are being drafted.¹⁵

¹⁴ ParasDiwan, "Theuniformcivil code;Aprojection ofequality, (Minorityandthe law)419at 425.

¹⁵ SayedKhalid Rashid;'Muslimlaw'p. 34(1996)

One possible way to clarify the Constitution and make it easier to implement a Uniform Civil Code in India is to add a provision to article 29 (1) that states: "Nothing contained in this clause shall affect the operation of any existing law or prevent the State from making any law advancing social welfare, reform or regulating any secular activity." This would ensure that the code is not unnecessarily opposed on the basis of cultural preservation.

3. The Religious Laws are Immutable

Religious groups in India have voiced their opposition to the Uniform Civil Code on the grounds that it would violate the immutability of personal rules that are intrinsic to religion. That is to say, as they are dictated by God or the Prophets, religious personal laws are inherently sacred and divine. Throughout the history of personal laws, it is evident that the majority of religious communities have gradually softened their stances, with the exception of Muslims. This softening was caused by the codification of Hindu law, which ignored the objections of a small number of extreme Hindus.

Concerning the Muslim community's stance, they are remaining firm. Even before the concept of a Uniform Civil Code was considered in India, the Muslim community had taken a firm stance. By arguing that personal rules are immutable, the majority of Muslims in the Constituent Assembly opposed the Uniform Civil Code. Contrarily, the arguments put out by Shri Munshi, Shri Aiyer, and Dr. Ambedkar in support of the Uniform Civil Code were persuasive. According to Shri Munshi, no developed Muslim nation, such as Turkey or Egypt, has ever recognized the personal laws of minority communities as sacred enough to prohibit the establishment of a Civil Code. He went on to say that the passing of the Shariat Act in India was met with much disapproval by the Khojas and Kutchi Memon. After that, they converted generations by adhering to specific Hindu rituals. Some Muslims in the town felt that Shariah should be enforced on everyone, so they passed a law forcing people to conform even though they didn't want to.¹⁶ Submitting to it was an arduous task for the Khojas and Cutchi Memons. A constituent assembly member named Shri Munshi argued:

"If you want to bring people together as a community, you can't only focus on their individual traditions; you have to think about how everyone can benefit. Everyone, regardless of nationality or minority status, is required to abide by the civil code in European countries that

¹⁶ ConstituentAssemblydebateVIIIat547

have one."¹⁷

The time has come for us to do all in our power to bring the country together, but we must do it in a way that respects religious freedom. If ancient religious activities were so sacred that they permeated every aspect of society, we must now stand up and declare that they are not religious affairs. These issues are solely related to secular law.¹⁸

Since Muslims have adhered to Islamic law from ancient times, Dr. Ambedkar concluded that it is pointless to state categorically that this law is immutable"¹⁹

According to the researcher's analysis, India has suffered greatly due to the immutability of personal laws. As a barrier to reform and secularism, it has halted progressive interpretation. It causes a group of people to become rigid and unimaginative, which stunts their development in a dynamic and unpredictable world.

It is true that Islamic personal law does not always conform rigidly to the idea of immutability, especially in Muslim countries. As a result of radical transformation and progressive interpretation, the Muslim world has ensured that society will continue to evolve. Some countries have outright banned polygamy, such as Tunisia and Turkey, while others have limited it or made it acceptable under specific conditions, such as Egypt, Iran, Syria, and Pakistan. Similarly, most Muslim countries have restricted the authority of husbands to give unilateral and instant triple talaq.

There are several instances in India's personal law history of Muslim communities undergoing progressive transformation as a result of changes to Muslim law. For example by enacting the Dissolution of Muslim Marriages. Act, 1939²⁰ The old Muslim personal rules did not provide Muslim women with all of the grounds for divorce that were granted to them.

Although minority religious person laws in India enjoy particular protections under the constitution, this should not stand in the way of creating a uniform civil code. The constitutional goals of equality, justice, fraternity, and secularism are at risk if the argument of the

¹⁷ ConstituentAssemblydebateVIIIof 555

¹⁸ ConstituentAssemblydebateVIIat547

¹⁹ Ibid

²⁰ ActNo.8of 1939)

immutability of personal laws is allowed to continue in this context.

4. Enhancement in the Power of the State

Critics of the Uniform Civil Code point out that granting the state authority to oversee citizens' private lives raises concerns about the potential abuse of that power. This criticism stems from concerns about the "Power" itself. A well-known proverb states, "Power tends to corrupt and absolute power tends to corrupt absolutely."

'Power of the State' was first developed to save society from the tyranny of the European pope and feudalism, according to historical accounts. However, several legal systems later established safeguards in response to the threat posed by the state's power. To protect its inhabitants' liberty from tyranny, the United States Constitution, for instance, established the notion of residual Fundamental Rights. The concept of human rights emerged, once again, as a means to protect citizens from tyrannical government. The question of how much authority the state ought to have remains unanswered.²¹

According to historical accounts, the State's power has been utilized for both tyranny and the benefit of the people in this regard. To prevent the abuse of state power, ideas like democracy, the rule of law, separation of powers, natural justice, and restricted legislative amendment power were evolved. A community or denomination can better manage some aspects of their own business, which is the reasoning behind the State's limited power. There are a lot of potential problems with the idea that different groups should have the freedom to create their own laws. For instance, people could hold on to discriminatory laws because they are based on religion or tradition.

The researcher concludes that while these concerns about the expanding role of the state are valid, they do not apply to India. A free court is the last line of defense for citizen rights, and our Constitution effectively limits the authority of the state.

5. There should be no hurry to enact a Uniform Civil Code

Concerns about the length of time it would take to implement a Uniform Civil Code in India have been voiced. This criticism is not new and is not exclusive to the Indian context. Concerns

²¹ UpendraBaxi, "LawDemocracy andHumanRight"1987, pp.75-91

about the passage of time have been around for as long as codification has. It should be noted that most of the criticisms leveled against codification by English authors have their roots in Savigny's philosophy (1779–1869). By appealing to the "Volksgeist" (Spirit of the people) notion, Savigny was able to successfully oppose both the French code and Germany's push for codification.²²

In India, members of the Constituent Assembly voiced concerns about when a Uniform Civil Code should be implemented. Here, a Muslim member named Shri Naziruddin Ahmad raised the argument that the British had left many basic personal rules alone during their 175 years in power, and that the Indian people shouldn't be compelled to abandon religiously-based laws at that juncture in their history.

Time is of the essence, and Shri Ahmad Submitted that any meddling with these matters be slow and progressive..

*"At some point, I don't think we'll see any variation in the civil law. The authority to make the Civil Code uniform has been granted to the state too soon, in our opinion."*²³

Given the strong feelings and practical challenges, those in favour of a Uniform Civil Code agreed to a fair time frame, and it was ultimately up to the State (Future Parliament) to choose when it would be most appropriate to adopt one in India. Regarding this matter, Dr. Ambedkar extended a particular promise to the marginalized groups. Article 35 just proposes that the state shall attempt to achieve a civil code for the citizens of the county, but they have read much too much into it, he remarked. The text does not imply that all citizens will be required to comply with the Code once it is drafted.²⁴

Two key arguments against it were that it would be tyranny by the majority and that it would violate Article 25, which guarantees people the right to freely practice their religion.

The Muslim Personal Law Bard has stoked Muslim opposition to a Uniform Civil Code, which has largely originated with Muslims. In the eyes of Muslim Orthodoxy, any mention of Article 44—the Uniform Civil Code—is tantamount to waving a red cloth in front of a bull. There is surprisingly little pushback against secular law when it serves the public good. For countries

²² Shourie, A.-'Religion in politics, p.92(1987)

²³ Constituent Assembly debate VII at 542

²⁴ Constituent Assembly debate VII at pp.551-552

like Saudi Arabia that follow the Shariah to the letter, the lack of development in business law, contract law, and property transfer law is a major flaw in their legal systems. Therefore, a well-established legal system based on Anglo-Saxon jurisprudence, the same way it is in India, which is great because it clarifies everything and allows everyone a fair shot in court.

Marriage is seen as a contract by Muslims, but as a sacrament by Christians, Sikhs, and Hindus. Both perspectives could be considered and included into a Uniform Civil Code in a way that recognizes both kinds of marriages.

The subsequent issue with divorce stems from the contractual character of Muslim marriages. The common belief is that a man can dissolve a marriage by uttering the word "talaq" three times. Similarly, Muslims disagree on whether a divorce is finalized after three talaq statements or if a period of time should elapse between each declaration to allow the parties to consider the possibility of reconciliation.²⁵

A contract that does not contain consideration is null and invalid, biased in favor of one party or subject to arbitrary termination, according to Indian law.²⁶ To rephrase, equity is a necessary component of any transaction. The Sharia even specifies the dates of divorce, and the marriage contract cannot be arbitrarily terminated. The ladies must not be left alone; there is a mandatory waiting period called 'Iddat' during which the lady must be supported; and there is a payment called 'Mehtar' that is agreed upon at marriage and must be paid upon divorce. In order for a contract to be valid, the Mehtar must be enough to support the lady and her minor children for the duration of her life as well as their minority. A Uniform Civil Code may easily incorporate all of these stipulations from a nikah contract. While individual rights would be safeguarded, justice would not be up for grabs by Kazis or individuals.²⁷

Next, we have the polygamy issue. The nomadic Arabs' widespread practice of polygamy had obvious effects on family dynamics. Despite this, the Quran does permit, under very strict conditions, the marriage of more than one wife. For context on this Quranic perspective on polygamy, see Surah An-Nisaa, the fourth chapter of the Quran. The Quran Expresses Serious

²⁵ Dalwai Hamid, 'Muslim Politics in secular India, 1968, at p. 96-97

²⁶ Sec. 25 of Indian Contract Act, 1872

²⁷ Article by 'Asaduddin Owasi' member of parliament, published in Times of India Delhi; 07 Nov. 2016, p. 11

Worry Over This Subject-

"Do not steal from the poor or replace their valuable assets with your own ill-gotten gains; doing so is a serious transgression. Instead, give the orphans what they own. You should wed two, three, or four if you're worried you won't treat orphans fairly, but you should wed (only) one if you're afraid you won't be able to treat them equally."

Hence, it is imperative that co-wives treat each other completely impartially according to the Quranic command. This Quranic commandment is not a moral precept but rather a legal prerequisite that mandates sufficient proof of co-wives' impartiality.

For this reason, several Muslim countries have either banned or severely limited polygamy. One fails to get how this could be seen as a challenge to Muslim personal law if a Uniform Civil Code in India were to do the same. The Maulvis propagate this story for their own ends, and politicians who believe this hoax will win over voters by endorsing it.

Therefore, the only way to achieve the aim of the Uniform Civil Code is by persuasion, not force. Social acceptability may be attained by progressive persuasion. All the obstacles to drafting a Uniform Civil Code will disappear if this kind of environment is established.

Conclusion:

The debate surrounding the Uniform Civil Code (UCC) in India is not merely legal but deeply social, cultural, and political. While the Constitution envisions a common civil code to ensure equality, secularism, and national integration, its implementation has been consistently delayed due to political hesitancy and strong opposition from certain religious communities. However, in a modern, democratic society, personal laws based on religion that promote inequality—especially against women—need critical reform. The UCC aims not to impose uniformity on religious practices but to unify civil laws to protect citizens' fundamental rights irrespective of their faith. It seeks to establish equality before the law in matters of marriage, divorce, inheritance, and adoption. With growing awareness, judicial advocacy, and social reforms, a consensus-driven approach can lead to a version of the UCC that respects diversity while upholding constitutional ideals. Thus, the UCC is not just a legal reform but a necessary step toward building an equitable, progressive, and truly secular India.

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