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## UNIFORM CIVIL CODE IN INDIA: A CONTROVERSIAL DISCOURSE ON SECULARISM AND LEGAL UNIFORMITY

### Introduction

The Uniform Civil law, a common law that denotes the idea of a same set of civil regulations regardless of religion, caste, or gender, has recently sparked a heated debate in India. The Uniform Civil Code (UCC) is an example of a modern progressive society, demonstrating that the nation has advanced beyond religious, racial, caste, sex, and birth discrimination. UCC advocates replacing personal laws based on religious practices with a common set that governs all citizens.

### Key area of focus

Marriage, Divorce, Maintenance, and Succession are the four primary issues addressed by such laws. If applied in their true spirit, these three words have the potential to divide the country politically, religiously, and socially. Even after 69 years of independence, individuals in India continue to be ruled by their respective communities' unique rules. In order to establish legal consistency, the constitution's framers include Article 44, which states: "The State shall endeavor to secure for all citizens a uniform civil code throughout the territory of India."

### Background and legal basis

Uniform Civil Code is a term which has its roots from the concept of Civil Law Code.<sup>3</sup> The purpose concealed in the uniform civil code is to eliminate the contradictions based on religious ideologies and promote the concept of national integration. All communities in the country would then be judged on a similar platform in civil matters and would not be governed by diverse personal laws.

Although Article 37 of the Constitution states that directive principles of state policy are not enforceable by the Court of Law. However, it does not diminish the significance of the directive principles. According to the circumstances, imposing a Uniform Civil Code on citizens shortly after Independence was not viable. This is why the code was included in the directive principle of state policy. The preamble of the Indian constitution reflects the constitutional spirit.

It focuses on establishing India as a sovereign, secular, democratic, republican nation. It contains the elements that serve as the Constitution's soul. It ensures justice, liberty, and equality for citizens, promoting solidarity while ensuring the dignity of the person as well as the unity and integrity of the nation. So, in this perspective, the significance of a consistent civil code can be visualised. The drafters of the Indian Constitution were convinced that some modernization was required before imposing a unified civil code on citizens.

Also, the Indian constitution's preamble reflects the constitutional spirit. It emphasises India's status as a sovereign, secular, democratic, republican nation. It contains the elements that make up the soul of the Constitution. It assures justice, liberty, and equality for citizens and so promotes solidarity while ensuring the dignity of the individual and the unity and integrity of the nation. So, in this framework, the significance of a consistent civil code can be seen.

The authors of the Indian Constitution were convinced that some modernization was required before imposing a unified civil code on citizens. The government can regulate secular activities.<sup>8</sup> UCC does not reject secularism and will not breach Articles 25 and 26. Article 44 is based on the idea that there is no required link between religion and personal law in a civilised society.

### **Analysis**

The conflict between secular and religious authorities over the issue of UCC eventually decreased, until the Shah Bano case, where then the Chief Justice of India J. Y.V. Chandrachud observed that 'A common civil code will help the cause of national integration by removing disparate loyalties to law which have conflicting ideologies'.<sup>9</sup> According to the preamble to the Constitution, India is a "secular democratic republic".

A secular state does not discriminate against anyone based on their religion; it is only concerned with the relationship between man and man, not with man's relationship with God. In India, positive secularism distinguishes spiritualism from individual faith. Positive secularism is a secularism philosophy that is embraced by America and several European states, implying that there is a wall of separation between religion and the state.

The reason for this is that America and European countries have gone through the stages of renaissance, reformation, and enlightenment, and so may establish legislation proclaiming that the state shall not meddle with religion. In contrast, India has not gone through similar stages, and as a result, the state intervenes in religious concerns to eliminate barriers to state governance.

The Indian Constitution's Articles 25 and 26 provide the right to religious freedom. Article 25 guarantees everyone the freedom of conscience and the right to profess, practise, and promote religion. It envisions the State having the authority to regulate or restrict any commercial, financial, political, or other secular activity that may be associated with religious practice, as well as to provide for social welfare and reforms.

Articles 25 and 26 provide protection for acts done in the name of religion and so include a guarantee for rituals, observations, ceremonies, and styles of worship, all of which are essential components of religion. The Uniform Civil Code is not anti-secular, nor does it contravene Articles 25 and 26 of the Constitution. It's just that Article 44 is predicated on the idea that there is no evident link between religion and personal law in a civilised society.

Marriage, succession, and other secular matters are not subject to legal constraints. No religion allows purposeful misrepresentation. The implementation of the Uniform Civil Code will not interfere with one's religious views, particularly those concerning maintenance, succession, and inheritance. The UCC debate, with its various consequences and concerns about secularism in the country, led to one of the most contentious problems of the twenty-first century.

The role of the judiciary in the adoption of a unified civil code is greatly appreciated in postcolonial India. In fact, it was the judiciary's interpretations that cleared the path for a consistent civil code.

In the case of Mohd Ahmed Khan vs. Shah Bano Begum<sup>10</sup>, the Supreme Court ruled for the first time that Section 125 Cr. P. C, which imposes such an obligation on all husbands, is secular in nature and applies to all religions.

**Judicial Role and Landmark cases:**

In Ms. Jordan Deigndeh vs. S.S. Chopra<sup>11</sup>, D Chinappa Reddy, J., addressing for the court, referred to Chandrachud, C.J.'s findings in Shah Bano's case and stated: "The present case is yet another event that stresses on the immediate and compulsive need for a uniform civil code. The facts of this case highlight the completely unacceptable state of affairs caused by the lack of a standard civil code.

**Conclusion**

The debate surrounding the Uniform Civil Code in India remains a complex and controversial issue, touching upon fundamental aspects of secularism, legal uniformity, and individual rights. While the judiciary has played a crucial role in interpreting and advocating for a uniform civil code, the path toward its implementation necessitates careful consideration of diverse perspectives and the nation's evolving socio-legal landscape.