

# Uniform Civil Code

## **Introduction**

The term 'Uniform Civil Code' refers to the enforcement of same laws for all sections of the society irrespective of cast, creed, religion or place of origin.

We are all born one. Our laws should be one. That is the basic idea. However it has not been transformed into a legislative reality as of today.

## **The prevailing civil code**

The prevailing civil code has provisions for the trial of Hindus, Muslims, and few other religions with respect to their own religious customs and norms. For example, the archaic Hindu Succession Law of 1954 ruled females as not to be eligible as a legal heir of the property of their father or husband. This law was however amended and today women enjoy equal rights to property just as men. Similarly, the prevailing legal system for Muslims in India, i.e. Muslim Personal Law is largely based upon the Sharia laws and has not been amended since 1937. It is worthy to note here that personal laws, unlike public laws (which apply to all equally) are the ones relating to marriage, divorce, adoption and maintenance. Goa is the only State in India that has a uniform civil code. All the communities in that State fall under the same laws for matters relating to divorce, marriage, inheritance, and succession.

## **The Conflict**

Uniform civil code is still a matter of great debate with large and powerful elements of society supporting both sides of the view. The reason for this is a great paradox that exists in our own constitution. According to the Fundamental rights, we are guaranteed equal treatment before the law irrespective of our caste, creed, religion, and place of origin. However, the same fundamental rights also guarantee us the right to practice our own religious beliefs and laws.

This conflict exists because the Personal laws were first drafted in erstwhile British India where the British separated laws pertaining to different community just to avoid the difficult situation of opposition from powerful leaders of both the

sections. This shortcut on the part of the British however left the country in a huge confusion. For example, the famous Shah Bano case is a perfect example for explaining this confusion. In 1985, Shah Bano, an old woman of 73 appealed for alimony from her husband Muhammad Ahmad Khan who had left her with verbal divorce or Triple Talaq (uttering of “I divorce thee” three times). According to the Muslim Personal Law, this has the Islamic Sharia as its foundation. In this situation, she should have no rights of maintenance post-divorce, however according to the laws pertaining to the other section of society; she should enjoy full rights of alimony and maintenance. The Supreme Court however rejected Ahmad Khan’s decision of not paying security to his wife and the verdict was in favour of Shah Bano in conformity with the “Maintenance of wives, children and parents” provision of the All India Criminal Code, which is applied to all citizens irrespective of their community.

Moreover, many argue that India, being a country that takes pride in its diversity, it would not be appropriate to enforce a sort of uniformity as that might threaten the diverse nature of the subcontinent.

### **Why do we need a Uniform Civil Code?**

The need for uniform civil code arises so as to mitigate any possibility of conflict that might arise due to discrepancies with the personal laws of the other community. These problems usually arise because post-independence, the Constituent Assembly that was formed was in such tremendous hurry for the substantiation of Independent India that they left these touchy matters unattended. A uniform civil code will call for no special legislative boards or discretionary jury to have to decide upon a particular case pertaining to paradoxical laws.

### **Hindrances to the uniform civil code**

- Even when there were reforms made within the Hindu Personal Law, there was immense opposition from the fundamental Hindu activists.
- India being a place of refuge for all cultures and communities will lose its lusture as a nation of diversity if Uniform Civil Code is applied.

- A Uniform Civil Code might interfere with the religious beliefs of a community which might lead to widespread riots and mass killings.
- One side of the debate is of the view that a Uniform Civil Code will be an imposition if it is made with haste and may result in wrong decisions which might adversely affect the fate of a community in the long run.
- Jawaharlal Nehru once said, "Well I should like a Civil Code which applies to everybody but wisdom hinders. If the members or anybody else brings forward a Civil Code Bill, it will have my extreme sympathy. But I confess, I do not think that at the present moment, time is ripe in India for me to push it through. I want to prepare the ground for it."
- Many fundamentalist groups are trying to take advantage of this volatile situation for the appeasement of minorities and eventually milking the situation into vote bank politics. This incites revolutionary sentiments and is not good for the law and order of the country.

## **Conclusion**

The purpose of any law in the country, be it Civil Law or Criminal Law, is the upliftment of a nation and its community enabling us to achieve greater endeavours in the course of our future journey to progress. Laws relating to inheritance of property and divorce issues should also be seen from the perspective of women. They should be given equal rights just like their male counterparts which is still not a reality in India and is not practice as per law. Unfortunately, since all our laws were It is also worthy to mention here that the Muslim personal Laws being of extreme archaic nature, the last reform made being in 1937, needs a revolutionary makeover and these changes has to come from within but in conformity with the sentiments of the community that makes up an important art of the many diversities that dwells in our mother nation.

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