

UCC and Women's Rights

The Indian Constitution under Article 44 states that the 'State shall endeavor to secure for the citizens a Uniform Civil Code (UCC), throughout the territory of India'. However, it cannot be enforced in a court of law because it is only a directive policy as given in the Constitution. UCC means uniform civil laws for all irrespective of their religion or faith.

The laws in India at present, are very diverse in terms of marriage, divorce, succession, inheritance, adoption, etc. UCC aims to protect the interests of the vulnerable sections which includes minority religions and women and to promote nationalistic zeal through unity. Different personal laws in India govern personal matters like the Hindu Marriage Act 1956, Succession Act 1956, The Shariat Act 1937, Indian Divorce Act 1969, etc. There is no uniformity in personal laws as they confer unequal rights depending on religion or gender.

In a multireligious and multilingual society like India, the rights of women are undeniably associated with personal laws and UCC. Women, under the attire of religion, are discriminated against in matters of divorce, maintenance, inheritance, etc. If a UCC is enacted, all the personal laws will cease to exist, it will do away with inequality in terms of civil laws. However, is UCC the answer to a plethora of social problems concerning women's rights in India? This article tries to examine different personal laws and their repercussions towards women and to investigate whether UCC will be a boon or bane for women's rights in India.

WOMEN AND PROPERTY INHERITANCE:

A reform in the Hindu Succession Act 1956 established an equal opportunity to daughters by making daughters a coparcener in the joint family system. In a latest decision of *Prakash and Others Vs Phulvati*, it was settled that daughters' have their rights because of their birth and not because of the existence of their fathers.

However, it is held that a Hindu woman is not a coparcener except in a few states like Maharashtra, Andhra Pradesh, Karnataka, and Tamil Nadu. Therefore, she is not permitted to claim a share in the coparcenary. As per Muslim Personal Laws, Muslim women are supposed to receive half of what their bother receives. The Christian Personal law also discriminates

against women in terms of inheritance of property. A Uniform Civil Code concerning property inheritance might prove to be an advantage for women if all women regardless of their religion are granted an equal share in the property of ancestors.

MARRIAGE, DIVORCE AND RIGHT TO ADOPT

With the passing of the Triple talaq Bill, which is the practice of immediate divorce by voicing the word talaq thrice has been effectively consigned. It is a landmark breakthrough in the furtherance of women's empowerment. However, the Muslim Personal Law, in particular, is inclined towards men with the polygamy system, Mahr, and the Right to consent of Marriage.

The marriage laws in India are not equal in terms of men and women. The laws relating to the maintenance of a divorced woman and her children are not strong enough to give protection for Marriage, divorce, maintenance, adoption, and inheritance are stapled issues that constitute personal laws unique to different religious communities.

Not only this, there are many other examples where women of all religions are discriminated against due to various personal laws. In the matter of adoption Hindu married woman had no right to adopt a child on her own, not even with the agreement of her husband.

In *Malti Ray Chowdhury v. Sudhindranath Majumdar*, the court remarked that adoption has to be taken factually or legally by the male in event of marriage, and not by the wife. In other words, wife has no right to adopt even with the agreement of the husband. In the matter of maintenance, the law says that the husband is not obligated to maintain a divorced Muslim wife beyond the 'Iddat' period. A divorced woman is legally entitled only to her Mehr. All these illustrations show clear discrimination against women.

HOW CAN UCC HELP?

The UCC will replace the system of fragmented personal laws that currently govern interpersonal relationships within different religious communities. The age of marriage should be common for all. Divorce should also be considered religion-neutral because it is a part of human rights issues.

As stated above, every personal law has different grounds for divorce and it needs to be uniform to avoid any discrimination. Alimony is also not gender-neutral and it has to be unvarying. Alimony has not been properly defined in Hindu Marriage Act. The case is the same in adoption and inheritance. Most importantly, a draft should be shaped on those essential aspects which will result in gender equality and women empowerment.

In each community, women have been placed inferior and they have been victims of a patriarchal society. The UCC can work as an instrument for the emancipation of women who are deprived of many rights under personal law. UCC can be seen as a method of setting up comprehensive gender-just laws. One of the success stories of uniformity in various civil codes can be seen in Goa Civil Code.

WILL UNIFORM CIVIL CODE SOLVE THE PROBLEM?

Uniformity of rights for men and women should be the underlying principle, if not the sole objective, behind any enactment of the uniform civil code. One of the major glitches with UCC is that it is devoid of its content, it might be a headless conquest as it would be problematic to define 'uniform'. Major debates and hindrances toward achieving UCC revolve around the issue of dominance by the majority communities. There have been several judgments that have resulted in a step towards gender equality.

Starting with the Shah Bano Case in 1985, the Supreme Court has dwelt on the UCC in numerous of its judgments. Again, in the Sarla Mudgal Case (1995), which dealt with the matter of bigamy and battle between the personal laws, the court emphasized the need for a UCC. In John Vallamattom Case (2003), the court laid down that a common civil code will "help the cause of national integration by removing all contradictions based on ideologies". The Supreme Court had once again mourned the absence of a UCC in the case *ABC v The State* 2015.

CONCLUSION

The right to freedom and the right to equality is the core of the Constitution of India, but the presence of personal law has eradicated the freedom of women. The main reasons for the disbalance in the position and the status of women are the religious law or the personal laws.

The presence of divergent and discriminatory personal laws has given a sense of necessity to develop just and equal laws for women.

Because of the patriarchal setup of the society, women are considered inferior to men in many religious communities. Undoubtedly, to bring women at par with men, UCC is the need of the hour. Such a liberal reform like the UCC will not only help finish discrimination against women on religious grounds but will also help strengthen the secular nature of the country.

There are many obstacles in achieving a Uniform Civil Code. Due to diversity and other reasons in India, it is somewhere tough to come up with a uniform set of rules. The political debates also pointed out the fact that it may reduce the scope of freedom of religion and it would lead to a considerable amount of misunderstanding and resentment amongst the various sections of the country. One real problem with UCC is the lack of uniformity. Initially, even Constituent Assembly while debating Article 44 also had no clear conception of what the UCC would be. Even now, those who talk about the UCC discuss it in the most general of terms.

In current circumstances, a gender-just code is need of the hour to deliver justice and equality toward women as a whole. The UCC is considered to be a panacea for most of the women's social problems existing in our society. The formation of UCC will create a uniformity toward genders that will result in consistency, peace, and security in society.

Gender justice could be ensured if we have a uniform civil code containing the best provisions taken from all the religions, with the sole aim of doing gender justice. The fundamental right to equality of status and opportunity cannot be implemented unless women regardless of their religions have been conferred equal rights similar to men in personal matters. Therefore, in no doubt, the Uniform Civil Code will be a boon for women's rights in India.