

Uniform civil code as an instrument of gender justice

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introduction

Uniform civil code one of the most complex contested constitutional issues in india.it is enshrined under directive principles article 44 of the Indian constitution.it directs state to endeavour to secure a uniform set of civil laws governing marriage , divorce adoption and inheritance and maintenance. while often justified as instrument of secularism and national unity, the strongest justification lies in its gender justice a foundational constitutional commitment.

Gender justice and personal laws in India

India's personal law system reflects legal pluralism; wherein different civil laws are there for different religious communities. These laws are shaped according to patriarchal norms have historically placed women in disadvantaged place ,particularly in matters of inheritance marital rights and divorce.

For instance, before legislative and judicial intervention, Muslim women faced injustice by practices such as talaq-e-biddat or commonly known as triple talaq, which denied safeguards and equality. Christian women faced restrictive divorce provisions under the Indian divorce act 1869,and Hindu women until the Hindu succession amendment act 2005, were denied equal inheritance rights.

Such injustices counter constitutional guarantee of quality before law (article 14) and non-discrimination (article 15).the existence of gender discriminatory personal laws and the constitutional promise of equal rights by the constitution of India reveals a contradiction in the legal order of India.

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Supporters of ucc argue could operate as a cooperative inclusive and corrective framework that would guarantee equal rights to women irrespective of their religion. Ucc can act as an instrument that provides equal rights in matter of marriage divorce inheritance and maintained provisions that are fair.

The supreme court though various judicial interventions have held that personal laws cannot remain insulated from constitutional scrutiny.in john vallamattom v. union of India, the court emphasized laws derived from religion must be at par with constitutional values of equality and dignity. During the constituent assembly debated dr. B.R Ambedkar asserted that social reform is an essential function of modern state and cannot always await social consensus.

Judicial intervention

The Indian judiciary has played a major role in providing gender justice

In the landmark *Mohd. Ahmed Khan v. Shah Bano Begum*, the Supreme Court upheld a Muslim woman's right to maintenance under section 125 of the Criminal Procedure Code asserting that the Constitution is the supreme law of the land and constitutional principles of equality and dignity override religious custom.

Similarly in *Sarla Mudgal v. Union of India*, the Supreme Court asserted the importance of the Uniform Civil Code (UCC) highlighting how in the absence of a common civil code there was misuse of personal laws particularly to the detriment of women.

In the more recent *Shayra Bano v. Union of India* the court declared the practice of *talaq-e-biddat* or triple *talaq* unconstitutional for violating Article 14.

These judgements collectively assert that gender justice is integral to constitutional morality and that values of equality override any arbitrary personal law practices.

Feminist concerns and critiques

Despite its huge potential the UCC is not without critique. Minority groups are concerned over that the imposition of the UCC may impose majoritarian cultural norms in the guise of equality.

Feminist scholars argue that the UCC should not mean replacing multiple patriarchal norms with a single patriarchal norm. Thus, the success of the uniform civil code does not depend on uniformity alone but on the content and intention of the law.

The way forward

A gender just uniform civil code must be rooted in constitutional morality and not in political morality. This requires inclusive consultation with women and minority communities, the law should focus on gender justice and equality not on cultural assimilation, gradual reform oriented imposition of the code.

Rather than abrupt imposition of the UCC a phased approach with continuous dialogue and consensus would be better to accommodate diversity while providing gender justice.

Conclusion

The debate on the UCC reflects a debate on women's rights in the country. If seen through the gendered aspect the UCC has the capability to transform the private sphere of inequality into dignity, autonomy and equality. It should genuinely empower women on the ground and not just on the files of all communities.

A truly progressive UCC must ensure that constitutional promises do not remain confined to text but are realized in lived social relations.