

Uniform Civil Code And Religious Freedom Under Article 25: A Constitutional Analysis

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Abstract

The debate on the Uniform Civil Code (UCC) and its interplay with religious freedom under Article 25 of the Indian Constitution highlights the intricate balance between individual rights, community interests, and national unity.

This paper examines the constitutional, legal, and socio-political dimensions of the UCC and its perceived clash with the fundamental right to freedom of religion. Using historical, judicial, and legislative analysis, the paper explores whether a UCC would enhance equality and justice or infringe on religious autonomy. It concludes with potential pathways to harmonize the two constitutional mandates.

Introduction

The Indian Constitution envisages a secular state, guaranteeing equality before the law while respecting religious diversity. The Directive Principles of State Policy under Article 44 call for a UCC, aiming to replace personal laws based on religious scriptures with a unified legal framework. Simultaneously, Article 25 protects the freedom of conscience and the right to freely profess, practice, and propagate religion. This duality creates a constitutional paradox, where the pursuit of equality through a UCC may challenge religious freedoms.

Research Objectives:

- To analyze the constitutional provisions regarding UCC and Article 25.
- To explore the historical context of personal laws and their evolution.
- To assess the judicial interpretation and legislative developments on UCC and religious freedom.
- To propose solutions for balancing equality and religious autonomy.

Constitutional Framework

Article 44: Directive Principle on UCC

Article 44 seeks to promote uniformity in laws governing marriage, divorce, inheritance, and adoption, aiming to eliminate gender discrimination and foster national unity. However, as a directive principle, it is non-justiciable, leaving its

implementation to legislative discretion.

Article 25: Freedom of Religion

Article 25 guarantees individual and collective religious rights, subject to public order, morality, and health. It safeguards essential religious practices but does not provide absolute immunity to personal laws from legislative reform.

Historical Context of Personal Laws

India's personal laws—Hindu, Muslim, Christian, and others— govern civil matters based on religious doctrines. The British colonial regime codified some personal laws, leaving others

untouched, perpetuating legal pluralism. Post-independence, debates in the Constituent Assembly reflected a divide between modernists advocating for a UCC and traditionalists emphasizing religious autonomy.

Judicial Interpretation Key Judgments:

1. **Shah Bano Case (1985):** The Supreme Court emphasized the need for a UCC, stating that personal laws should not violate fundamental rights, particularly gender equality under Article 14.
2. **Sarla Mudgal vs. Union of India (1995):** Reiterated the importance of a UCC for national integration, highlighting conflicts arising from multiple personal laws.
3. **Shayara Bano vs. Union of India (2017):** Declared triple talaq unconstitutional, signaling a move towards reforming discriminatory personal laws.

Balancing Article 25 and UCC:

Courts have held that religious practices inconsistent with constitutional values, such as gender justice, can be regulated. However, determining "essential religious practices" remains contentious.

Socio-Political Dimensions Arguments for UCC:

1. **Gender Justice:** Personal laws often discriminate against women, violating Articles 14 and 15.
2. **National Integration:** A UCC would unify diverse communities, fostering equality.
3. **Modernization of Laws:** Aligning civil laws with contemporary human rights standards.

Arguments against UCC:

1. **Threat to Religious Freedom:** Communities perceive UCC as an infringement on their cultural identity.

2. **Federalism Concerns:** Uniform laws may disregard regional diversity and traditions.
3. **Practical Challenges:** Harmonizing diverse customs into a singular code is complex.

Legislative Developments

Attempts at UCC legislation have been sporadic, with no comprehensive draft enacted. States like Goa have implemented a common civil code, demonstrating a potential model for nationwide application.

Harmonizing UCC and Article 25 Proposed Solutions:

1. **Gradual Reforms:** Introduce sectoral reforms in personal laws to minimize resistance.
2. **Stakeholder Engagement:** Involve religious leaders, scholars, and civil society in the dialogue.
3. **Model UCC:** Develop an optional UCC that communities can voluntarily adopt.

Judicial Safeguards: Ensure that UCC respects the essence of religious freedom under Article 25.

Conclusion

The debate on UCC and religious freedom underscores the challenge of balancing equality and diversity in a pluralistic society. Implementing a UCC that respects constitutional values while accommodating religious sensibilities requires careful deliberation, phased reforms, and inclusive policymaking. As India progresses, the coexistence of equality and religious freedom can serve as a testament to its commitment to justice and secularism.

References

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