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Gender Justice and Personal Law Reform in India: Revisiting the Uniform Civil Code Debate

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Abstract

The article discusses the relationship between gender justice and religious personal laws. It focuses on the need for Uniform Civil Code to achieve gender justice. In India, family matters like marriage, divorce, inheritance, adoption and guardianship are governed by personal laws of different religions. These personal laws are generally patriarchal in nature and discriminatory towards one gender, specifically women. Uniform Civil Code is a set of civil laws governing family matters applied to all the citizens, irrespective of religion. UCC is a way to achieve constitutional principles of gender equality, justice and non-discrimination. It is mentioned in the directive principles of state policy, though not legally enforceable. However, the state is promoted to implement uniform civil laws. Uniform Civil Code is a way to achieve gender justice and protects women from unequal and discriminatory personal laws. The article begins with the introduction and conceptual framework around Gender Justice and Uniform Civil Code. It focuses on India's pluralistic legal system and constitutional principles. It highlights the historical foundation of Uniform Civil Code including colonial codification and later post-independence uneven legal reforms. It then compares women's rights across personal laws around marriage, divorce, inheritance and maintenance. The article states the feminist scholar's perspectives on personal laws and Uniform Civil Code. It then establishes the question whether Uniform Civil Code can alone achieve gender justice. Finally, the state-level developments for Uniform Civil Code in Goa and Uttarakhand are discussed to illustrate debates around uniformity. The article concludes with the idea that to attain gender justice we not only need legal reform but also require social changes and careful balancing of equality and cultural diversity.

Keywords: Uniform Civil Code (UCC), Gender Justice, Personal Laws, Legal Pluralism, Family Law Reform, Constitutional Equality.

Introduction

Equal rights to women and gender justice are understood as some of the core principles of Indian Constitution. To live a dignified life equal to men is a basic human right for women. The Constitution of India has shielded gender justice through various provisions like fundamental rights and directive principles in the governance of the country. But it is not as simple as it looks. The civil matters like marriage, divorce, inheritance, adoption and maintenance are governed by religious personal laws in India. The religion-specific personal laws are often discriminatory towards women and are favourable to men. Because these laws structure the responsibilities and rights within the family, they also influence how gender justice is practiced. Gender Justice is an instrument to reduce inequalities between men and women and thereby creating a space where they are treated equal in all matters.

This created the need for bringing in Uniform Civil Code and the debated and discussions around it. It refers to having one common law for civil matters like marriage, divorce, inheritance, adoption and maintenance to all citizens of India,

irrespective of religion. India being a multi religious state, people of different religions practice their own personal laws. At present, all civil matters are governed mostly by religious personal laws in India. The concept of Uniform Civil Code is mentioned in Article 44 under Directive Principle of State Policy of the Indian constitution, where the state is encouraged to move towards uniform civil laws. The main purpose behind this idea is to ensure that in family matters, rights and responsibilities are equal for every individual. Supporters argue that uniform civil laws will ensure gender justice by promoting equal legal rights over religious communities. Critics argue that legal uniform laws are sensitive in nature and can harm India's religious autonomy, minority rights and cultural diversity. Therefore, the discussion around Uniform Civil Code is not just about legal reform. It is also about how to balance gender equality and cultural diversity in a pluralistic society like India. The aim of the article is to understand how legal change will affect not only constitutional goals but also existing social conditions. At the same time, it is important to understand that the Uniform Civil Code is not a simple or complete solution to

gender inequality. The issue is more complex and relates to social practices, political decisions and how law works. Because of this, gender justice cannot be achieved only by changing laws but also requires changes within the society and mindset of the citizens.

Historical Foundations and Uneven Legal Reform

Colonial Codification: The colonial government chose a policy of non-interference in people's personal and family matters, as mentioned in the Queen's Proclamation of 1857. Under this approach, matters such as divorce, maintenance and property disputes were mainly decided by civil courts or the village panchayats. Communities were allowed to follow their own customs and personal laws in these civil matters. This helped them maintain social stability and reduced resistance from different religious groups. However, when a dispute arose between people of different religions, it was considered a special situation in which the State could intervene and decide to ensure fairness and order.

Post-independence Reform: The discussions around Uniform Civil Code were seen while framing the Indian constitution in the Constituent Assembly. Some members of the assembly supported uniform civil laws, while it also faced harsh criticism from minority community members. This eventually led to positioning of Uniform Civil Code in Article 35 (later article 44) under Directive Principles of State Policy. Some reforms within Hindu religion were later seen in the period of 1950s, which is called the Hindu Code Bill. Hindu Code Bill was not passed because it faced backlash from the orthodox Hindus in the constituent assembly. It was later passed by breaking it down into four parts with the help of First Prime Minister Jawaharlal Nehru.

The Hindu Code Bill was broken into four separate parts, to make smaller steps rather than a wholesome transformation. The Hindu Marriage Act was passed in May 1955, codifying marriage laws, allowing divorce and enforcing monogamy. The Hindu Succession Act was passed in June 1956, granting women inheritance rights in property. Later, the Hindu Minority and Guardianship Act was passed in August 1956, defining guardianship laws. Finally, the Adoption and Maintenance Act was passed in December 1956, which codified the adoption rules. This was one of the initial steps towards legal uniformity, sought to modernize and codify Hindu customary practices. Despite the advancements, challenges persist, particularly in areas such as maintenance and succession rights, where women continue to face discrimination and unequal treatment. (Mishra, 2024)

Other than the Hindu religion, comparable reforms in Islam or any other religion were largely avoided due to fear of separating minority communities and to protect delicate post-independence unity. This created asymmetrical legal environment. This situation did not happen by chance. It shows that the State made careful choices while dealing with different communities. Reforms in Hindu laws were seen as necessary for progress, but similar changes in other personal laws were avoided to maintain social balance. This suggests that legal reforms were influenced more by political needs than by a consistent focus on equality. While some communities went under significant transitional modernization towards gender justice, others remained totally isolated, creating fragmented results. This does not mean that Hindu laws became totally gender neutral or others remain totally unchanged. The state changes its role from being a reformer in one context to being a protector in another context. Because of this, the role of the State becomes

unclear. On one side, it tries to bring equality, but on the other side, it avoids interference to protect cultural diversity. This creates a situation where women's rights are different depending on their religion, which raises questions about equal treatment of all citizens.

Eventually, women's rights stuck between broader debates of cultural preservation and minority religion protection. Family law reform has always been mediated by power relations in India. Rather than a straightforward reform towards equality, change in legal system is a result of negotiations between state authority, religious leadership and social movements. From this perspective, the existence of gender inequality is not accidental; it is deeply embedded in a way that rather than inclusive reconstruction of patriarchal norms it has become a way of political compromise. This leads to a system where legal pluralism coexists with unequal protection for women. Despite constitutional principles and fundamental rights, women's access to rights depends on religious personal laws and its implementation is generally patriarchal in nature. This unequal reform structure continues to lead contemporary debates over the role of uniformity, reform and constitutional values like equality. Ultimately, the history of personal law reforms show that it was never purely legal; it was always connected with struggles of identity, authority and constitutional principles of equality and justice in a plural society like India.

Comparison of Women's Rights across Personal Laws

In India, civil matters like marriage, divorce, inheritance, maintenance and adoption are governed by religious personal laws. While this system aims to preserve cultural identity, it results in significant gender biases, thus restricting women's rights and autonomy and supporting patriarchal norms. It reflects the systematic inequality that needs reform. The focus here will be on the Hindu laws and Muslim personal laws.

Marriage

Hindu Law: Marriage in Hindu religion is seen as a holy union, and it is an indissoluble, eternal and permanent connection. The indissoluble part has been abolished through recognition of divorce under the "Hindu Marriage Act". There is still a requirement of religious or sacred ceremony for majority of Hindu marriages. The Hindu Marriage Act makes monogamy legal. Hindus are prohibited from having more than one partner at the same time. Polygamy is prohibited and penalized. In 1978, the legal age for marriage was raised to 18 years for women and 21 years for men from the earlier eligibility which was 14 years for women and 18 years for men under the "Sharda Act". A clause in Hindu Marriage Act allowed a minor's marriage with parental consent. (Chaubey, 2024)

Muslim Law: A Muslim marriage (nikah) is regarded as a civil contract requiring proposal and acceptance and is governed by the Muslim Personal Law (Shariat) Application Act, 1937. Muslim personal law permits a Muslim man to have up to four wives at the same time, subject to conditions of equal treatment. A Muslim woman, however, cannot have more than one husband. This difference in marital rights creates an imbalance in legal authority within marriage, as permission of polygamy is available only to men. (Paul, 1998) Regarding age, traditional law associated marriage with puberty, but present mandatory law such as the Prohibition of Child Marriage Act prescribes minimum age requirements for both male and female applicable to all religions.

This difference clearly shows that men are given more

authority within marriage compared to women. It also raises a question whether such personal laws truly follow the idea of equality given in the Constitution, since women do not have the same level of freedom in the Indian society.

Divorce

Hindu Law: The Hindu Marriage Act of 1955 included divorce for the first time. A petition for divorce can be submitted to the court a year after one's marriage. Hindu wives are given exceptional grounds for divorce like husband's remarriage, guilt of rape, bestiality and many more, putting women in stronger position. "Divorce by mutual consent" is allowed stating that marriage should be equally free to end. The one-year limit illustrates legislative initiative to prevent hasty divorce by allowing for mutual adjustment and reconciliation.

Muslim Law: Here divorce refers to a more general process, word *talaq* has special meaning in Muslim law. According to Islamic law, a husband is entitled to divorce his wife at any time, for any reason, good, bad or no reason at all. A Muslim man could instantly divorce his wife by saying *talaq* three times under "*talaq-e-biddat*". The Supreme Court declared this practice unconstitutional and violation of Fundamental Rights. In 2019, the Muslim Women Protection of Rights on Marriage Act was passed, criminalizing this practice.

Even though changes have been made in recent years, these practices show that men traditionally had more control in ending a marriage. It also tells us that legal reforms usually happen slowly and only after strong criticism and pressure from society and judiciary.

Inheritance

Hindu Law: Under the Hindu Succession Act, 1956 granting women inheritance rights in property, but daughters were excluded from coparcenary rights in ancestral property. This practice was corrected by the 2005 amendment act granting sons and daughters equal rights to property. However, there are challenges to its implementation, particularly in rural areas due to customary practices and social pressures. (Bhagwati, 2024)

Muslim Law: Under Muslim personal law, inheritance rights arise only after the death of the property holder, and there is no concept of coparcenary by birth. Both men and women are recognized as legal heirs. In certain relationships like between a son and a daughter, the daughter receives half the share of the son. A widow is entitled to one-eighth of the husband's property if there are children and one-fourth if there are none. The unequal share for women raises the question about women's equality and economic independence because property ownership leads to financial security and independence for women.

This unequal division of property affects women beyond just legal rights. Since property is linked with financial security, such differences make women more dependent and limit their ability to make independent decisions in life.

Maintenance

Hindu Law: The Hindu Adoption and Maintenance Act, 1956 gave right to maintenance. It acknowledges right to maintenance for any dependent individual, like spouse, kids, elderly parents, widowed daughter or daughter-in-law. Under Hindu law, women have unlimited right to ask her spouse for maintenance, also including divorced women. Temporary maintenance is also provided by the courts if divorce case is still pending.

Muslim Law: Muslim law confines maintenance for divorced women only to the '*iddat*' period, making them vulnerable unless the '*mehr*' is substantial. The Shah Bano Case, 1985 attempted to address this disparity. After the judgment in Shah Bano case, parliament enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986. It provides a divorced Muslim woman to a "reasonable and fair provision and maintenance" to be made and paid within the '*iddat*' period by her former husband, judicial interpretation has clarified that the provision should be sufficient to secure her future livelihood. But this act faced lot of criticism, and the subsequent legislative changes curtailed its impact.

These rules show how law directly affects a woman's life after divorce. Limiting maintenance to a short period can create serious problems, especially when women do not have enough financial support to live independently.

Feminist Perspective

From a feminist perspective, the debate between personal laws and Uniform Civil Code is not just a mere legal battle but is a way to dismantle the gender hierarchies that the personal laws had formed within the family structures, arguing that personal laws have historically regulated women's rights, controlled their voices, sexuality and autonomy across all religions; highlighting the need for reform. Drawing on constitutional principles, Dr. B. R. Ambedkar saw social reform as a key to achieve equality. (Ambedkar, 1945) Democracy must be extended to private spheres resonating with feminist perspective that family cannot be kept isolated from constitutional principles. At the same time, not all feminists fully support the idea of Uniform Civil Code. For some women, especially from minority communities, it may feel like their culture is being forced to change. Because of this, the issue is not only about equality but also about identity and freedom. Personal law is a place where power operates closely and systematically.

The assumption that the Uniform Civil Code would immediately establish constitutional principles of equality and gender justice has been challenged. (Agnes, 2011) The need to address patriarchal social structures from where inequality arises is crucial instead of legal diversity alone. It also shows that just making laws equal does not always solve the problem. In real life, social norm and traditions still influence how women are treated. So even legal reforms may not work properly if society does not change. Reforms must prioritize substantive equality over symbolic uniformity. Gender justice must not be followed without questions over social power and cultural autonomy. For a woman of minority community, legal reform can get mixed with majoritarian nationalism, making the demand for uniform laws politically sensitive. (Menon, 2010)

Feminists argued that inequalities must be addressed in a way that reforms should be participatory, intersectional, parallel and committed to lived realities. The feminist perspective on this issue shifts the question from uniform law to the deeper issue of how law implement gendered power. From this perspective, gender justice addresses patriarchy both within religious personal laws and state institutions.

Recent Developments – UCC IN GOA AND Uttarakhand GOA

Goa was the first state in India to have enacted a Uniform Civil Code from the Portuguese Civil Code of 1867 and continued to enforce it after Goa's annexation to India in 1961. It consists of 2538 articles, divided in four sections.

(Portuguese Civil Code, 1867)

- i). **Citizenship, Domicile and Civil Rights:** The first section deals with citizenship, domicile, legal incapacity and civil rights. It lays down the foundational civil status of individuals and ensures uniform civil recognition across communities. It is important because it defines who is legally recognized under the code and clarifies basic rights and responsibilities applicable to all residents.
- ii). **Contracts, Property Rights and Succession:** Second section regulates unilateral and bilateral rights, contracts, property relations and succession. It standardized property rights and inheritance rules irrespective of religion.
- iii). **Ownership and Property Regulations:** Third section includes provisions related to ownership and restriction of property. It states how property is held, transferred and regulated within the state.
- iv). **Civil Liability and Restitution:** The fourth section focuses on civil liability and restitution of rights. It provides remedies in case of violation of civil obligations. It establishes a mechanism through which citizens of the state can seek compensation or enforcement of their rights in civil disputes.
- v). **Marriage and Inheritance:** The code gives equal marriage and inheritance rights to both men and women. It follows system of community of property, where after marriage the assets acquired treated as jointly owned by both husband and wife. This provision strengthens women's financial security within marriage.

This civil code is applied uniformly throughout all communities of Goa, Daman and Diu. (Kumar & Kumar, 2025) Critics claim that Goa's civil code is not completely uniform since it allows variation, particularly for Hindus and Catholics. But even after criticism, the Goa civil code is cited as an example of legal uniformity within a culturally diverse society like India. Goa's example shows that a common civil law can work in a diverse society. However, it also proves that such systems are not completely uniform in practice. This means that instead of focusing only on uniformity, more attention should be given to fairness and equal rights.

Uttarakhand

In 2024, the state of Uttarakhand introduced Uniform Civil Code. The Uttarakhand Civil Code standardized personal laws like marriage, divorce, inheritance and maintenance across all communities. (Uniform Civil Code of Uttarakhand Act, 2024)

- i). **Marriage and Divorce:** The code makes registration of marriage compulsory. It lay down minimum age for marriage, i.e. 18 for women and 21 for men. It also provides standardize grounds for divorce to all the citizens of the state, irrespective of religion.
- ii). **Inheritance and Succession:** The code provides equal inheritance rights to both female and male. It also removes the difference between ancestral property and self-acquired property. It helps to protect women's economic rights.
- iii). **Live-In Relationships:** A notable feature of Uttarakhand Uniform Civil Code is the registration of live-in relationships. The code introduces maintenance support and legitimacy to children born. Supporters welcomed this change, but critics argue about intervention of state in private life of people.
- iv). **Polygamy:** The Uttarakhand civil code prohibits

polygamy. The system of a man having more than one wife was abolished and monogamy was introduced for all the individuals, irrespective of religion.

This code was not implemented on Scheduled Tribes because it was seen that their customary laws were not debated. Supporters praised Uttarakhand civil code for supporting gender justice but there was criticism for individual liberty and privacy. (Mishra & Yadav, 2025) Overall, Uttarakhand's Uniform Civil Code became important because it transforms the debates around Uniform Civil Code from theory to practice. The Uttarakhand law is important because it puts the idea of Uniform Civil Code into practice. At the same time, it also creates new concerns about how much the State should interfere in personal matters. This shows that legal reform needs to be balanced carefully with individual freedom.

Way Forward – Pathway to Reform

Gender justice in India can be better understood through a multi-layered approach. *First*, there is a need for proper legal reform like Uniform Civil Code. *Second*, social changes are important to challenge traditional practices that treat women unfairly. *Third*, strong support systems like courts and legal awareness are needed so that women can use their rights. Without all these together, legal changes alone may not be very effective. Now, the following approaches can be adopted to ensure gender justice:-

- i). Achieving legal reform should not be the only goal of Uniform Civil Code. These reforms should also be gender-centered, giving women more equal rights, autonomy and dignity in their private and family matters. The legal reforms in personal laws should ensure constitutional principles of equality, justice and non-discrimination.
- ii). Uniform laws in family matters should be implemented step-by-step. A gradual and balanced approach should be adopted by the government and legislature while implementing Uniform Civil Code. This will help with wider social acceptance of uniform laws.
- iii). There is a need for inclusive public consultation. All the concerned sections of society such as legal experts, women's right organizations, civil society and religious leaders should take part in the discussions around uniform laws.
- iv). Laws relating to marriage, divorce, maintenance, adoption and inheritance should be evaluated based on whether they will enhance women's economic conditions, decision-making power and legal protection, irrespective of religious identity.
- v). Even when progressive reforms exist, their effective implementation depends on patriarchal social norms. Therefore, society must participate in the process of reform by encouraging dialogue within communities, supporting women's legal awareness and challenging discriminatory practices.
- vi). Many women remain unaware of their legal rights, so there is a need for legal literacy and public awareness. The government and civil society should invest in legal education and awareness campaigns, especially in rural and marginalized communities. This will help in making reforms more effective in practice.

Conclusion

To achieve legal and social equality for women in India, it is important to implement Uniform Civil Code. Personal laws

derived from traditional religious practices are generally patriarchal in nature and unequal and discriminatory towards women. Even though there have been some legal reforms in personal laws in the past, they are still largely uneven and discriminatory creating a barrier to achieve gender justice. The Uniform Civil Code can solve these issues by applying single set of rules to all the citizens, irrespective of religion and gender. However, it does not guarantee to improve women's situation in their private lives. There is a need for careful and inclusive approach to reform. The debate on Uniform Civil Code should not only focus on whether laws should be the same for everyone or not. The real focus should be on whether these laws are creating equality in people's lives. Legal reforms should bring real improvement in women's conditions, not just remain on paper. Only then can true gender justice be achieved.

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