

# Uniform Civil Code: A Tribal Perspective

Dr. Mahendra Kumar Meena

Assistant Professor, Dept. of Political Science, Shri Govind Guru Govt. College, Banswara, Rajasthan, India

**ABSTRACT:** The Uniform Civil Code (Hindi: समान नागरिक संहिता, romanized: Samāna Nāgarika Samhitā) is a proposal in India to formulate and implement personal laws of citizens which apply on all citizens equally regardless of their religion, gender and sexual orientation. Currently, personal laws of various communities are governed by their religious scriptures.<sup>[1]</sup> Implementation of a uniform civil code across the nation is one of the contentious promises pursued by India's ruling Bharatiya Janata Party. It is an important issue regarding secularism in Indian politics and continues to remain disputed by India's political left wing, Muslim groups and other conservative religious groups and sects in defence of sharia and religious customs. Personal laws are distinguished from public law and cover marriage, divorce, inheritance, adoption and maintenance. Meanwhile, article 25-28 of the Indian constitution guarantees religious freedom to Indian citizens and allows religious groups to maintain their own affairs, article 44 of the constitution expects the Indian state to apply directive principles and common law for all Indian citizens while formulating national policies.<sup>[2][3]</sup>

**KEYWORDS:** uniform civil code, personal laws, BJP, secularism, religious freedom, directive principles, national policies, political

## I. INTRODUCTION

Personal laws were first framed during the British Raj, mainly for Hindu and Muslim citizens. The British feared opposition from community leaders and refrained from further interfering within this domestic sphere. Indian state of Goa was separated from India due to colonial rule in the erstwhile Portuguese Goa and Damaon, retained a common family law known as the Goa civil code and thus being only state in India with a uniform civil code till date. Following India's independence, Hindu code bills were introduced which largely codified and reformed personal laws in various sects among Indian religions like Buddhists, Hindus, Jains and Sikhs while exempted Christians, Jews, Muslims and Parsis, being identified as distinct communities from Hindus.<sup>[4]</sup>

UCC emerged as a crucial topic of interest in Indian politics following the Shah Bano case in 1985. The debate arose when the question of making certain laws applicable to all citizens without abridging the fundamental right of right to practice religious functions. The debate then focused on the Muslim Personal Law, which is partially based on the Sharia law, permitting unilateral divorce, polygamy and putting it among the legally applying the Sharia law. UCC was proposed twice, in November 2019 and March 2020 but was withdrawn soon both of the times without introduction in parliament. The bill is reported to be being contemplated due to differences between BJP and RSS.<sup>[5]</sup>

The debate for a uniform civil code dates back to the colonial period in India. Prior to the British rule, under the East India Company (1757–1858), they tried to reform local social and religious customs by imposing Western ideologies on India.

The Lex Loci Report of October 1840 emphasised the importance and necessity of uniformity in codification of Indian law, relating to crimes, evidences and contract but it recommended that personal laws of Hindus and Muslims should be kept outside such codification.<sup>[6]</sup> This separation of Hindus and Muslims before law was part of the Divide and Rule policy of the British Empire that allowed them break the unity among different communities and rule over India. According to their understanding of religious divisions in India, the British separated this sphere which would be governed by religious scriptures and customs of the various communities (Hindus, Muslims, Christians and later Parsis).<sup>[7]</sup> These laws were applied by the local courts or panchayats when dealing with regular cases involving civil disputes between people of the same religion; the State would only intervene in exceptional cases.

Throughout the country, there was a variation in preference for scriptural or customary laws because in many Hindu and Muslim communities, these were sometimes at conflict;<sup>[7]</sup> such instances were present in communities like the Jats and the Dravidians. The Shudras, for instance, allowed widow remarriage—completely contrary to the scriptural Hindu law.<sup>[8]</sup> The Hindu laws got preference because of their relative ease in implementation, preference for such a Brahminical system by both British and Indian judges and their fear of opposition from the high caste Hindus.<sup>[8]</sup> The difficulty in investigating each specific practice of any community, case-by-case, made customary laws

harder to implement. Towards the end of the nineteenth century, favouring local opinion, the recognition of individual customs and traditions increased.<sup>[9]</sup>

The Muslim Personal law (based on Sharia law), was enforced in different parts of India. It had no uniformity in its application at lower courts due to the diversity of the local cultures of Muslims in different parts of India. Even though some communities converted to Islam, the local indigenous culture continued to be dominant in their practise of Islam and therefore the application of Sharia Law was not uniform across the country. This led to the customary law, which was often more discriminatory against women, to be applied over it. Women, mainly in northern and western India, often were restrained from property inheritance and dowry settlements, both of which the Sharia provides.<sup>[10]</sup> Due to pressure from the Muslim elite, the Shariat law of 1937 was passed which stipulated that all Indian Muslims would be governed by Islamic laws on marriage, divorce, maintenance, adoption, succession and inheritance.<sup>[10]</sup>

Therefore, while Hindus have to follow the Hindu code bill, Muslims and other religions were given the liberty to follow their own respective laws. For Muslims The All India Muslim Personal Law Board makes the laws, which is a private entity.<sup>[11]</sup>

The Sharia Law in Islam had provisions that were discriminatory of women, their status and rights. Certain Hindu customs prevalent at the time discriminated against women by depriving them of inheritance, remarriage and divorce.<sup>[12][13]</sup> The British and social reformers like Ishwar Chandra Vidyasagar were instrumental in outlawing such customs by getting reforms passed through legislative processes.<sup>[14]</sup> Since the British feared opposition from orthodox community leaders, only the Indian Succession Act 1865, which was also one of the first laws to ensure women's economic security, attempted to shift the personal laws to the realm of civil. The Indian Marriage Act 1864 had procedures and reforms solely for Christian marriages.<sup>[15]</sup>

There were law reforms passed which were beneficial to Hindu women like the Hindu Widow Remarriage Act of 1856, Married Women's Property Act of 1923 and the Hindu Inheritance (Removal of Disabilities) Act, 1928, which in a significant move, permitted a Hindu woman's right to property.<sup>[12]</sup> However, such protection was not extended to Muslim women due to the opposition from conservative Muslim groups who wanted to follow Sharia Law.

The call for equal rights for women was only at its initial stages in India at that time and the reluctance of the British government further deterred the passing of such reforms. The All India Women's Conference (AIWC) expressed its disappointment with the male-dominated legislature and Lakshmi Menon said in an AIWC conference in 1933,<sup>[14]</sup> "If we are to seek divorce in court, we are to state that we are not Hindus, and are not guided by Hindu law. The members in the Legislative assembly who are men will not help us in bringing any drastic changes which will be of benefit to us." The All India Women's Conference demanded a uniform civil code to replace the existing personal laws, basing it on the Karachi Congress resolution which guaranteed gender-equality.<sup>[14]</sup>

The passing of the Hindu Women's right to Property Act of 1937, also known as the Deshmukh bill, led to the formation of the B. N. Rau committee, which was set up to determine the necessity of common Hindu laws. The committee concluded that it was time of a uniform civil code, which would give equal rights to women keeping with the modern trends of society but their focus was primarily on reforming the Hindu law. The committee reviewed the 1937 Act and recommended a civil code of marriage and succession; it was set up again in 1944 and send its report to the Indian Parliament in 1947.<sup>[14]</sup>

The Special Marriage Act, which gave the Indian citizens an option of a civil marriage, was first enacted in 1872. It had a limited application because it required those involved to renounce their religion and was applicable mostly to non-Hindus. The later Special Marriage (Amendment) Act, 1923 permitted Hindus, Buddhists, Sikhs and Jains to marry either under their personal law or under the act without renouncing their religion as well as retaining their succession rights.<sup>[16]</sup>

Bitiya Murmu, who lives in Dumka district of Jharkhand, has fought a long battle knowing well that her next generation would not get the rights over the land that she and her sisters have struggled for. Murmu, who is in her late 40s, was just a child when her father passed away and her widowed mother had to live on the mercy of others, even though the family owned a piece of land. The family fell prey to the Santhal customary laws that don't give ancestral property rights to women. In the absence of a male figure—father or brother—the land was snatched away from them.

Would Bitiya and thousands like her have suffered had there been a Uniform Civil Code? Murmu, who now leads the Ekal Nari Sanghathan, an organisation that has been fighting for the rights of the Adivasi women, says: "We don't have any codified laws. Customary laws are not written. In a patriarchal society, no one is bothered about our rights." What they need is a written code that will ensure their right not just over the ancestral property but also over property owned by their in-laws.



As the current dispensation has been working constructively to bring in the UCC and has been very vocal about it, it is crucial to look at how millions of indigenous people would be affected if it gets implemented. While there are diverse opinions prevalent among different indigenous communities related to safeguarding their customs secured under Article 29 of the constitution—protection of interests of minorities—the debates over marriage codes and women's right to property have gained significant traction.

## II.DISCUSSION

The Indian Parliament discussed the report of the Hindu law committee during the 1948–1951 and 1951–1954 sessions. The first Prime Minister of the Indian republic, Jawaharlal Nehru, his supporters and women members wanted a uniform civil code to be implemented.<sup>[17]</sup> As Law Minister, B. R. Ambedkar was in charge of presenting the details of this bill. It was found that the orthodox Hindu laws were supportive of women's rights since monogamy, divorce and the widow's right to inherit property were present in the Shashtras.<sup>[17]</sup> Ambedkar recommended the adoption of a uniform civil code.<sup>[18][19]</sup> Ambedkar's frequent attack on the caste system and dislike for the upper castes made him unpopular in the parliament. He had done research on the religious texts and considered the caste system in Hindu society to be flawed. According to him, only the Uniform Civil Code bill was this opportunity to reform Hindu society as well to ensure protection to Muslim women who have little protection under Sharia Law.<sup>[20]</sup> He thus faced severe criticism from the opposition but Nehru later supported Ambedkar's reforms and demand for a Uniform Civil Code.<sup>[20]</sup> Although a Uniform Civil Code was not introduced at the time, a Hindu Bill was introduced to ensure modern reformation of Hindu Society.

The Hindu bill itself received much criticism and the main provisions opposed were those concerning monogamy, divorce, abolition of coparcenaries (women inheriting a shared title) and inheritance to daughters. The women members of the parliament, who previously supported this, in a significant political move reversed their position and backed the Hindu law reform; they feared allying with the fundamentalists would cause a further setback to their rights.<sup>[12]</sup>

Thus, a lesser version of this bill was passed by the parliament in 1956, in the form of four separate acts, the Hindu Marriage Act, Succession Act, Minority and Guardianship Act and Adoptions and Maintenance Act. These diluted versions supported by Jawaharlal Nehru were in contraction to the implementation of a uniform civil code in Article 44 of the Directive principles of the Constitution specifying, "The State shall endeavour to secure for citizens a uniform civil code throughout the territory of India."<sup>[21]</sup> This was opposed by women members like Rajkumari Amrit Kaur and Hansa Mehta. According to academic Paula Banerjee, this move was to make sure it would never be addressed.<sup>[22]</sup> Aparna Mahanta writes, "failure of the Indian state to provide a uniform civil code, consistent with its democratic secular and socialist declarations, further illustrates the modern state's accommodation of the traditional interests of a patriarchal society".<sup>[22]</sup>

The Hindu code bill failed to control the prevalent gender discrimination. The law on divorce were framed giving both partners equal voice but majority of its implementation involved those initiated by men. Since the Act applied only to Hindus, women from the other communities remained subjugated particularly under Sharia Law which was the basis of the Muslim personal law in India. For instance, Muslim women, under the Muslim Personal Law, could not inherit agricultural land.<sup>[22]</sup> Nehru accepted that the bill was not complete and perfect, but was cautious about implementing drastic changes which could stir up specific communities. He agreed that it lacked any substantial reforms but felt it was an "outstanding achievement" of his time.<sup>[20]</sup> He had a significant role in getting the Hindu Code bill passed and laid down women-equality as an ideal to be pursued in Indian politics, which was eventually accepted by the previous critics of the bill.<sup>[20]</sup> Uniform civil code, for him, was a necessity for the whole country but he was not able to convince conservative groups of its importance. Thus, his support for Uniform Civil Code was not implemented but was added to the Directive principles of the Constitution.<sup>[20]</sup>

The Special Marriage Act, 1954, provides a form of civil marriage to any citizen irrespective of religion, thus permitting any Indian to have their marriage outside the realm of any specific religious personal law.<sup>[16]</sup> The law applied to all of India, except Jammu and Kashmir. In many respects, the act was almost identical to the Hindu Marriage Act of 1955, which gives some idea as to how secularised the law regarding Hindus had become. The Special Marriage Act allowed Muslims to marry under it and thereby retain the protections, generally beneficial to Muslim women, that could not be found in the personal law. Under this act polygamy was illegal, and inheritance and succession would be governed by the Indian Succession Act, rather than the respective Muslim Personal Law. Divorce also would be governed by the secular law, and maintenance of a divorced wife would be along the lines set down in the civil law.<sup>[23]</sup> Therefore, the Special Marriage Act provided significant protection to religious minorities which could not be found in the Personal Law of their religion such as the Muslim Personal Law.



The frequent conflict between secular and religious authorities over the issue of uniform civil code eventually decreased, until the 1985 Shah Bano case. Bano was a 73-year-old woman who sought maintenance from her husband, Muhammad Ahmad Khan. He had divorced her after 40 years of marriage by triple Talaq (saying "I divorce thee" three times) and denied her regular maintenance; this sort of unilateral divorce which discriminates against women is permitted under the Muslim Personal Law. She was initially granted maintenance by the verdict of a local court in 1980. Khan, a lawyer himself, challenged this decision, taking it to the Supreme court, saying that he had fulfilled all his obligations under Islamic law. The Supreme court ruled in favour of Shah Bano in 1985 under the "maintenance of wives, children and parents" provision (Section 125) of the All India Criminal Code, which applied to all citizens irrespective of religion. It further recommended that a uniform civil code be set up. Besides her case, two other Muslim women had previously received maintenance under the Criminal code in 1979 and 1980.<sup>[10]</sup> The Shah Bano case soon became nationwide political issue and a widely debated controversy.<sup>[24]</sup> While the Liberal and Progressive Indians as well as progressive Muslim women supported the Supreme Court judgement as being supportive of women, The All India Muslim Board defended the application of Muslim Personal Law which was based on Sharia Law and denied divorced Muslim women the right to alimony. The judgement of the Supreme Court, which sought to offer protection to muslim women was argued to be an attack Muslim Personal Law by conservative Muslims.<sup>[10]</sup>

The orthodox Muslims felt that their communal identity was at stake if their personal laws were governed by the judiciary.<sup>[10]</sup> Rajiv Gandhi's Congress government, which previously had the support of Muslim minorities, lost the local elections in December 1985 because of its endorsement of the Supreme Court's decision.<sup>[25]</sup> The members of the Muslim board, including Khan, started a campaign for complete autonomy in their personal laws. It soon reached a national level, by consulting legislators, ministers and journalists. The press played a considerable role in sensationalising this incident.<sup>[10]</sup>

An independent Muslim parliament member proposed a bill to protect their personal law in the parliament. The Muslim Women (Protection of Rights of Divorce) Bill 1986, sought to make section 125 of Criminal Procedure Code inapplicable to Muslim women, which meant that the reversal of the Supreme Court judgement. Further, it also sought to legislate that alimony be paid by a Muslim man only for a period of 90 days after the divorce was demanded by the muslim husband. Reeling from the electoral defeat, the Indian National Congress under the leadership of Rajiv Gandhi reversed its previous position and supported this bill while the liberal groups such as the Left, Muslim liberals and women's organisations strongly opposed it. The Muslim Women's (Protection of Rights on Divorce) was passed in 1986, which made Section 125 of the Criminal Procedure Code inapplicable to Muslim women. This was a colossal defeat of liberal movements and protection of women in Indian society.

The politicisation led to argument having two major sides: the Congress and Muslim conservatives versus the liberal groups, women's organisations and the Left. In 1987, the Minister of Social Welfare, Rajendra Kumari Bajpai, reported that no women were given maintenance by the Wakf Board in 1986. Women activists highlighted their legal status and according to them, "main problem is that there [are] many laws but women are dominated not by secular laws, not by uniform civil laws, but by religious laws."<sup>[25]</sup> The legal reversal of introducing the Muslim Women law significantly hampered the nationwide women's movement in the 1980s.<sup>[25]</sup>

In 2016, when the Law Commission of India sought the opinion of people on UCC, the Rashtriya Adivasi Ekta Parishad, a group that claims to represent 11 indigenous communities across India, filed a petition in the Supreme Court seeking its intervention to protect the customary rights of Adivasis. It said that such a move would have an adverse impact on 6,743 castes across the country.

It referred to the existing polygamy practice among Naga tribes, the Baiga, the Lushai and the Gond, among others. Besides, their petition notes, polyandry is prevalent among several communities like the Tiyan, the Toda, the Ladhaki Bota, the Rota and the Khasa—stretching through the Himalayan belt- from Kashmir to Assam.

Their demands to safeguard the rights of polygamy and polyandry come from the inapplicability of the Hindu Marriage Act, 1955 among the Adivasis. Section 2(2) of the Act excludes Scheduled Tribes (ST) from its ambit. While advocacy groups like Rashtriya Adivasi Ekta Parishad are in favour of upholding the customary rights in the case of marriage, scholars are of the opinion that such practices should be discussed in detail and accommodated in a few cases if an inclusive civil code is to be envisaged.

Anil Nair, a professor of law at the National University of Advanced Legal Studies, Kerala, brings in the reference of fraternal polyandry, a practice among Toda community endemic to the Nilgiris where a woman marries more than one man—mostly brothers.





This practice could be found among Kinnauris who reside in the Kinnaur region of Himachal Pradesh and claiming ancestry from the Pandavas of Mahabharata. "It was also legal among other communities like Nanjanad Vellala, Mannan, Muthuvan, Mavilan etc. in Kerala. Wherever such communities got protection as ST, the customary practices by and large continue," says Nair.

This practice probably evolved "to keep the property within the family, and in the context of Kinnauri's, the brother who goes against such marriage agreement loses the entire share of the property," adds the legal scholar.

However, in the case of divorce, the Adiyar community in Wayanad, Kerala considers the elopement of a married person as a valid form of divorce with a previous spouse and remarriage with the new person.

"Can our so-called 'civilisational' progress accept such a custom or provide space for it?" asks Nair. As there is some in-built flexibility in the Adivasi way of entering and exiting marriages, no Victorian morality would be able to accommodate the diversity.

Murmu, however, wants codified laws for marriage and divorce. "In our society, at least in 30 per cent of the cases, men leave their women a few years after the marriage. The women, having no rights over the ancestral house, are left to the mercy of the society," she says.

According to Murmu, the rate of abandonment is high due to the absence of any written law. "Five people gather and decide whether the man should 'keep' the woman. This is tragic and unacceptable to us," Murmu adds. She claims that the UCC would give Adivasi women their due rights.

### III.RESULTS

UCC is meant to replace currently applicable various laws applicable to various respective communities which are inconsistent with each other. These laws include the Hindu Marriage Act, Hindu Succession Act, Indian Christian Marriages Act, Indian Divorce Act, Parsi Marriage and Divorce Act. Meanwhile certain ones like Sharia (Islamic laws) are not codified and solely based upon their religious scriptures.<sup>[1]</sup>

The proposals in UCC include monogamy, equal rights for son and daughter over inheritance of paternal property and gender & religion neutral laws in regards of will charity, divinity, guardianship and sharing of custody. The laws may not result into much difference to the status of Hindu society as they have already been applicable on Hindus through Hindu code bills for decades.<sup>[26]</sup>

India is a 'secular' nation which means a separation between religion and state matters. Moreover, 'secularism' in India means equality of all religions and practitioners of all religions before the law. Currently, with a mix of different civil codes, different citizens are treated differently based on their religion. The rights of a Hindu woman are far more progressive than those of a Muslim woman who is governed by Muslim Personal Law based on Sharia law. Women's rights groups have said that this issue is only based on their rights and security, irrespective of sensationalism by religious conservatives.<sup>[27]</sup> The arguments for it are: its mention in Article 44 of the Constitution, need for strengthening the unity and integrity of the country, rejection of different laws for different communities, importance for gender equality and reforming the archaic personal laws of Muslims—which allow unilateral divorce and polygamy. India is, thus, among the nations that legally apply the Sharia law. According to Qutub Kidwai, the Muslim Personal laws are "Anglo-Mohammadan" rather than solely Islamic.<sup>[27]</sup> The Hindu nationalists view this issue in concept of their law, which they say, is secular and equal to both sexes.<sup>[27]</sup> In the country, demanding a uniform civil code can be seen negatively by religious authorities and secular sections of society because of identity politics.<sup>[27]</sup> The Sangh Parivar and the Bharatiya Janata Party (BJP)—one of the two major political parties in India, had taken up this issue to ensure that every citizen of the country is treated equally before the law.<sup>[27]</sup> The BJP was the first party in the country to promise it if elected into power.<sup>[27]</sup>

Goa is the only state in India which has a uniform civil code. The Goa Family Law, is the set of civil laws, originally the Portuguese Civil Code, continued to be implemented after its annexation in 1961.<sup>[28]</sup> Sikhs and Buddhists objected to the wording of Article 25 which terms them as Hindus with personal laws being applied to them.<sup>[29]</sup> However, the same article also guarantees the right of members of the Sikh faith to bear a Kirpan.<sup>[30]</sup>

In October 2015, Supreme Court of India asserted the need of a uniform civil code and said that, "This cannot be accepted, otherwise every religion will say it has a right to decide various issues as a matter of its personal law. We don't agree with this at all. It has to be done through a decree of a court".<sup>[31]</sup> On 30 November 2016, British Indian intellectual Tufail Ahmad unveiled a 12-point document draft of it, citing no effort by the government since 1950. The



Law Commission of India stated on August 31, 2018 that a uniform civil code is "neither necessary nor desirable at this stage" in a 185-page consultation paper, adding that secularism cannot contradict plurality prevalent in the country.<sup>[32][33]</sup>

Indian society in pre-independence era had many other consideration like socio-economic status, Jati and gotra etc. in case of marriages. While the Hindu code bills wiped out all such practices in Hindu, Jains, Sikh, Buddhist, Parsi, Christian communities, some conservative section of these society had been demanding amendments to their Marriage Acts.<sup>[34]</sup> Critics of UCC continue to oppose it as a threat to religious freedom. They consider abolition of religious laws to be against secularism and UCC as a means for BJP to target Muslims while look progressive at the same time meanwhile BJP continues to promote UCC as means of achieving religious equality and equal rights for women by fending off religious laws.<sup>[35][36]</sup>

UCC had been included in BJP's manifesto for the 1998 and 2019 elections and was even proposed for introduction in the Parliament for the first time in November 2019 by Narayan Lal Panchariya. Amid protests by opposition MPs, the bill although soon was withdrawn for making certain amendments.<sup>[37][36]</sup> The bill was brought for a second time by Kirodi Lal Meena in March 2020 but was not introduced again.<sup>[38]</sup> As per reports which emerged in 2020, the bill is being contemplated in BJP due to differences with RSS.<sup>[5][39]</sup>

A plea was filed in the Delhi High Court which sought establishment of a judicial commission or a high level expert committee to direct central government to prepare a draft of UCC in three months. In April 2020, a request was filed to transfer plea to the Supreme Court so that filing of more such pleas throughout various high courts doesn't bring inconsistency throughout India. The draft would further be published on website for 60 days to facilitate extensive public debate and feedback.<sup>[26]</sup>

In March 2019, the Uttarakhand government led by Pushkar Singh Dhami decided to work on the implementation of UCC in the state. However, the RSS leaderships have stated that any uniform civil code (UCC) should be "beneficial for all communities" and "well thought out, not hurried."<sup>[40]</sup>

Murmu's struggles for years, nonetheless, focus on the rights of women over the ancestral property that she believes would provide them the rightful resource to live by. The customary laws among Santhals don't give women the right to inherit their father's property.

Section 20 of the Santhal Pargana Tenancy Act, 1949 only gives those women the right to inherit the property who marries a man and makes him a ghar jamai (resident son-in-law). Notably, the marriage must be held during her father's lifetime. However, even in this case, she would have to share the property with her husband.

"Five People Gather And Decide Whether The Man Should 'Keep' The Woman. This Is Tragic And Unacceptable To Us"

Against this backdrop, can UCC be considered as a universal panacea for Adivasi women? Topi Basar, a legal scholar and professor of law at Rajiv Gandhi University, Arunachal Pradesh, says: "If we examine the UCC purely from the gender perspective, the moot question that comes to mind is—will such an initiative by itself achieve gender equality and empowerment. Will it actually ensure a woman's right to immovable property from her father without having her approach the court for its enforcement?" Several Hindu and Christian women are not enjoying such a privilege even though their laws provided them the right, she adds.

The inheritance rules of the customary laws in the north-eastern states don't provide women the right to "ancestral immovable property" but it is extended to movable properties. However, it is permissible for father to give a share to his daughter in his self-acquired property. In a multi-layered heterogeneous society, Topi Basar notes, "if proposed UCC is going to fill the gender equity gaps that exist in customary laws that would be desirable, but if the UCC leads to the replacement of customary institution altogether, it will disturb the core cultural base of indigenous people."

On December 9, 2019, the Supreme Court even evoked the rights of the Adivasi women over the ancestral property and said: "When the daughter belonging to the non-tribal community is entitled to equal share in the property of the father, there is no reason to deny such right to the daughter belonging the tribal community."

#### IV.CONCLUSIONS

While the rules of marriage and succession in the Adivasi customary laws have been a matter of contention across India for decades, the case of north-eastern states invites separate attention. In February 2019, the Mizoram government, ruled by the Mizo National Front (MNF), unanimously passed a resolution against the UCC. Home Minister



Lalchamlana pointed out that the UCC, “would disintegrate the country as it’s an attempt to terminate the religious or social practices, customary laws, cultures and traditions of the religious minorities, including the Mizos.”

The case of Mizoram is also significant on the ground that its customary and religious laws are protected under Article 371G of Indian constitution that deals with special provisions for the state of Mizoram. Similar reactions came from Meghalaya Chief Minister Conrad Sangma whose National People’s Party (NPP), despite being a Bharatiya Janata Party (BJP)-ally, didn’t back the UCC proposal. In 2017, when Nagaland government took the decision to provide 33 per cent reservation to the women in municipality elections, it led to socio-political disturbances, consequently dethroning Chief Minister TR Zeliang.

Whenever there is a discussion around the possibility of implementation of UCC, why is there resistance from tribals in the northeastern states? Explaining this, Professor Topi Basar says: “UCC vis-à-vis tribal communities, those in the north-east in particular, is a complex matter. The socio-cultural contexts of tribes in the northeast are very unique and peculiar to each tribe. Even the gradual introduction of the general laws of the land has not disrupted the existing system.”

The tribal customary laws work expeditiously when it comes to dispute resolution. “It is definitely a cheaper and faster means to get justice for poor who can’t afford expensive legal machineries,” she adds. Despite the presence of independent judiciary in Arunachal Pradesh, the prominence of Gaon Buras and Gaon Buris as the top village councils points to the social acceptance and embeddedness of customary laws.

In this backdrop, UCC cannot be implemented automatically. “If the general spirit and objective of the UCC is made to recognise these subtleties present in indigenous traditional systems, it will be a more feasible approach,” notes the scholar.

The diversity of perceptions pertaining to the implementation of UCC among Adivasis seems to be an unending debate, but there is hardly any disagreement over the fact that women like Bitiya Murmu should get succession rights.

Like Murmu, Sabitri Munda, who lives in the small village of Khunti in Jharkhand, too is hopeful. Munda, who is in her late 30s, has been marked a witch. She is waiting for the day when the law of the land will change and her only daughter, now in her teens, would get her rights that she had been deprived of due to the prevalence of customary inheritance law.

## REFERENCES

1. Anand, Utkarsh (15 March 2020). "Has the Supreme Court set the ball rolling for a Uniform Civil Code?". Hindustan Times. Retrieved 21 April 2020.
2. ^ Shimon Shetreet; Hiram E. Chodosh (December 2014). Uniform Civil Code for India: Proposed Blueprint for Scholarly Discourse. Oxford University Press. ISBN 978-0198077121. Retrieved 22 August 2020.
3. ^ "Article 44 in the Constitution of India 1949". Retrieved 22 August 2020.
4. ^ Rina Verma Williams (2006). Postcolonial Politics and Personal Laws. Oxford University Press. pp. 18, 28, 106, 107, 119. ISBN 0195680146.
5. ^ Ramchandran, Smriti Kak (6 August 2020). "BJP, RSS hope for consensus on Uniform Civil Code". The Hindu. Retrieved 22 August 2020.
6. ^ Banerjee, Anil Chandra (1984). English Law in India. Abhinav Publications. p. 134. ISBN 978-81-7017-183-6. Archived from the original on 17 February 2017. Retrieved 26 September 2016.
7. ^ Sarkar & Sarkar 2008, p. 2–3.
8. ^ Sarkar & Sarkar 2008, p. 93.
9. ^ Sarkar & Sarkar 2008, p. 263.
10. ^ Lawrence & Karim 2007, p. 262–264.
11. ^ "Nehru and Hindus".
12. ^ Chavan & Kidwai 2006, p. 87–88.
13. ^ Chavan & Kidwai 2006, p. 94–100.
14. ^ Chavan & Kidwai 2006, p. 83–86.
15. ^ Samaddar 2005, p. 50–51.



16. ^ Singh, Shiv Sahai (1 January 1993). *Unification of Divorce Laws in India*. Deep & Deep Publications. pp. 7, 287–288. ISBN 978-81-7100-592-5.
17. ^ Chavan & Kidwai 2006, p. 90, 94–100.
18. ^ Jaffrelo, Christophe (14 August 2003). "Ambedkar And The Uniform Civil Code". *Outlook India*. Archived from the original on 14 April 2016. Retrieved 29 March 2016.
19. ^ Pathak, Vikas (1 December 2015). "Ambedkar favoured common civil code". *The Hindu*. Archived from the original on 28 November 2016. Retrieved 29 March 2016.
20. ^ Sarkar & Sarkar 2008, p. 480–491.
21. ^ Purandare, Vaibhav (8 September 2017). "How Muslim fears were allayed, and the UCC became a directive principle". *The Times of India*. Archived from the original on 11 September 2017. Retrieved 13 September 2017.
22. ^ Samaddar 2005, p. 56–59.
23. ^ "The Special Marriage Act, 1954". [indiakanoon.org](http://indiakanoon.org). Archived from the original on 21 July 2020. Retrieved 16 September 2020.
24. ^ Lawrence & Karim 2007, p. 265–267.
25. ^ Samaddar 2005, p. 60–63.
26. ^ Ojha, Drishti (11 April 2020). "Plea In Supreme Court Seeks Transfer Of Plea For Uniform Civil Code From Delhi High Court To SC". *LiveLaw*. Retrieved 21 April 2020.
27. ^ Chavan & Kidwai 2006, p. 13–20.
28. ^ "Call to implement Goan model of civil code". *New Indian Express*. 15 May 2012. Archived from the original on 8 May 2014. Retrieved 22 October 2013.
29. ^ Boyle, Kevin; Sheen, Juliet (7 March 2013). *Freedom of Religion and Belief: A World Report*. Routledge. pp. 191–192. ISBN 9781134722297. Archived from the original on 13 May 2016. Retrieved 16 September 2015.
30. ^ The Constitution of India, Right to Freedom of religion, Article 25 (PDF), archived from the original (PDF) on 21 June 2014
31. ^ Anand, Utkarsh (13 October 2015), *Uniform Civil Code: There's total confusion, why can't it be done*, SC asks govt, *New Delhi: The Indian Express*, archived from the original on 15 October 2015, retrieved 13 October 2015
32. ^ IANS (30 November 2016). "Muslim intellectual proposes a revolutionary Uniform Civil Code". *The Statesman*. Archived from the original on 1 December 2016. Retrieved 30 November 2016.
33. ^ Ahmad, Tufail (30 November 2016). "My blueprint for the Uniform Civil Code". *DailyO*. Archived from the original on 30 November 2016. Retrieved 30 November 2016.
34. ^ Anand, Hardik (28 May 2018). "Amend Hindu Marriage Act to ban same-gotra marriages: Khaps". *Hindustan Times*. Retrieved 13 August 2020.
35. ^ "Uniform Civil Code: Another nail in the coffin to satisfy the facade of party manifesto". *India Legal*. 23 July 2020. Retrieved 14 September 2020.
36. ^ Jigesh, AM (6 December 2019). "After objections, BJP member withdraws Bill for UCC". *The Hindu Business Line*. Retrieved 22 August 2020.
37. ^ Chari, Seshadri (16 August 2019). "Modi govt has been working for a Uniform Civil Code and we didn't even notice. Until now". *The Print*. Retrieved 22 August 2020.
38. ^ Joy, Shemin (13 March 2020). "BJP MP once again does not introduce Uniform Civil Code Bill". *New Delhi: Deccan Herald*. Retrieved 14 September 2020.
39. ^ Sharma, Vibha (6 August 2020). "UCC next on Modi govt agenda?". *The Tribune*. Retrieved 22 August 2020.
40. ^ "Day after Dhami govt forms panel, RSS says uniform civil code needs 'absolute consensus'". 26 March 2019.