

UNIFORM CIVIL CODE EYE-TO-EYE WITH PERSONAL LAWS

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I. Abstract

India is a secular state, world's largest democracy and second most populous country {1,336,286,256 (1.3 billion) people (May 2016)}. India is a multi-religious secular nation, where each religion is partitioned in various groups and categories having their own diverse (and at some point contradicting) traditions and conventions. Uniform Civil Code generally refers to that part of legislative framework, which deals with family affairs of an individual and denotes uniform law for all citizens, irrespective of his/her religion, caste or tribe. The need for a uniform civil code is inscribed in Article 44 (Article 35 in the draft constitution). This article is included in Part IV of the Constitution. The individual laws in view of such traditions and customs having 'most extreme religious substance' which oversee different matters including marriage, divorce, inheritance, legacy, maintenance, upkeep, guardianship, and so forth. The requirement for a Uniform Civil code in India has been talked about and contended a few circumstances regardless it stays a standout amongst the most questionable issues commented in our Constitution. One of the basic problems with the

absence of a Uniform Civil Code applicable throughout India is that it goes against the concept of equality, which is one of the basic tenets of our Constitution. It is also intimately connected to the issue of gender justice. The Constitution additionally calls upon the State to apply these standards in making laws, as these standards are fundamental in the administration of the nation. Article 44, which manages the Uniform Civil Code, states that: "The State might attempt to secure for the subjects, a uniform common code all through the domain of India". The target of this article is to constitute an environment in India, by bringing all groups on a common platform. This paper is an attempt to make audience aware about the much debated and controversial topic of a suitable legislation on Uniform Civil Code for all the citizens of India despite their religion or race or ethnicity in compliance with the constitutional mandate under Article 44.

Key Words: Secular state, Uniform civil code, Constitution, traditions

II. Objectives

- To analyze controversies of Uniform civil code with other articles of the Indian Constitution
- To study various aspects of the Uniform Civil Code¹

¹Art44, Part IV, Indian Constitution



- To study the application of Uniform civil code and how it strengthens national unity
- To evaluate application of Uniform civil code globally and domestically.

III. Review of Literature

- Towards the uniform civil code, by Vasudha Dhamagwar. ; this book explores the journey of uniform civil code from the British rule to the 21st century. It talks about the various obstacles that have hindered the application of uniform civil code.
- Uniform Civil Code: A Critical Study, by Wahiduddin Khan; this book deals with controversies and issues of implementing uniform civil code and the various conflicts with personal laws
- Uniform Civil Code in India – still a distant dream²; this research paper cum article talks about how the status of uniform civil code and the hindrances that lie on its way for implementation.

IV. Introduction

India is a secular state, world's largest democracy and second most populous country {1,336,286,256 (1.3 billion) people (May 2016)}³. India is a multi-religious secular nation, where each religion is partitioned in various groups

and categories having their own diverse (and at some point contradicting) traditions and conventions. India's culture is among the world's oldest; civilization in India began about 4,500 years ago. More ethnic and religious groups than most other countries of the world characterize India. Aside from the much-noted 2000-odd castes, there are eight "major" religions, 15-odd languages spoken in various dialects in 22 states and nine union territories, and a substantial number of tribes and sects. Many sources describe it as "Sa Prathama Sanskrati Vishvavata" — the first and the supreme culture of the world. India is identified as the birthplace of Hinduism and Buddhism, the third and fourth largest religions. About 84 percent of the population identifies as Hindu.⁴ About 13 percent of Indians are Muslim, making it one of the largest Islamic nations in the world. Christians and Sikhs make up a small percentage of the population, and there are even fewer Buddhists and Jains.

V. Uniform Civil Code

Part IV of the Constitution of India deals with the Directive Principles of State Policy, which aren't enforceable by any court, but which are supposed to play a fundamental role in the governance of the country, with the government duty-bound to apply these principles in making laws. Among other Directive Principles is Article 44, which asks the State to

²American International Journal of Research in Humanities, Arts and Social Sciences

³://journal.lawmantra.co.in/wp-content/uploads/2015/05/17.pdf (last visited Feb 27, 2017).

⁴ "Handbook of Research on Development and Religion" Edited by Matthew Clarke (Edward Elgar Publishing, 2013)



“endeavor to secure for citizens a Uniform Civil Code throughout the territory of India”.⁵ Article 44 has always been contentious — as Article 35 of the draft Constitution, it was one of the most debated clauses in the Constituent Assembly as it set about the task of drafting a new Constitution for the recently-independent sovereign nation of India. The Constituent Assembly saw a division along communal lines among members, and the clause was adopted only after B R Ambedkar, Chairman of the Constitution Drafting Committee, assured the minorities that the Article would not be thrust upon them.

VI. Personal laws in India

The people of India belong to different religions and faiths. They are governed by different sets of personal laws in respect of matters relating to family affairs, i.e., marriage, divorce, succession, etc. Personal laws are statutory and customary laws applicable to particular religious or cultural groups within a national jurisdiction. India is a land of diversities with several religions. The oldest part of Indian legal system is the personal laws governing the Hindus and the Muslims⁶. The Hindu personal law has undergone changes by a continuous process of codification. The process of change in society has brought changes in law reflecting the changed social conditions and attempts the solution of social problems by new

methods in the light of experience of legislations in other countries of the world. The Muslim personal law has been comparatively left untouched by legislations⁷. The Indian legal system is basically a common law system. The Indian Parliament has enacted the following family laws, which are applicable to the religious communities, defined in the respective enactments themselves. The Converts' Marriage Dissolution Act, 1866

- The Indian Divorce Act, 1869
- The Indian Christian Marriage Act, 1872
- The Parsi Act, 1880
- The Hindu Marriage Act, 1909
- The Indian Succession Act, 1925
- The Child Marriage Restraint Act, 1929
- The Parsi Marriage and Divorce Act, 1936
- The Dissolution of Muslim Marriage Act, 1939
- The Special Marriage Act, 1954
- The Muslim Women (Protection of Rights on Divorce) Act, 1986
- The Hindu Marriage Act, 1955 and
- The Foreign Marriage Act, 1969

VII. An Evaluative study of Uniform civil code: Its Journey (1850-2017)

- Colonial rule (1850-1947)

The controversies regarding Uniform civil code go long back to the British

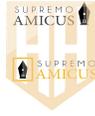
⁵Part IV of the Constitution of India

⁶Gerald James Larson, Religion and personal law in secular India (2001).

⁷Uniform Civil Code Or Codified Personal Law?

| Live Law, Live Law (2017),

<http://www.livelaw.in/uniform-civil-code-codified-personal-law/> (last visited Jan 8, 2017).



period. There was a constant demand for uniform codification of Indian law, relating to evidences, crime, contracts etc. However it was always preferred that personal laws of different religious communities are kept outside the realm of uniform code of conduct. Therefore the British always chose the application of personal laws by experts for eg. Priest for the application of personal law in the disputes that arose, unless in special cases where they intervened. Thus, the British let the Indian citizens have the benefit of self-government in their own domestic religious matters with the Queen's 1859 Proclamation promising absolute non-interference in the religious matters. However the public i.e. the Indian citizens were governed by the British laws with respect to crime, land relations, contracts and evidences: all were subjected to same laws irrespective to their religious backgrounds⁸.

Due to the difficulty in exploring each and every specific practice of each and every religion practiced on the land of India, made customary laws harder to implement.

Several legislative reforms were used to pass various laws such as Widow Remarriage Act of 1856, Women's right to property Act 1937 etc. B.N Rau committee was formed which recommended that was a dire need to pass a uniform civil code, which would give equal rights to the women and a an escape to the women community from the prevailing gender injustice.

- From Nehru to Modi

The first prime minster had fought tooth and nail against conservative Hindus to modernize Hindu Law and implement Uniform civil code. While Nehru had the strength to battle Hindu conservatives and push through measures, which have benefitted millions of Hindu women, even he failed to navigate the intractable maze that was Muslim law. India's Muslim personal laws are the most regressive in the world, lagging behind even Pakistan and Bangladesh, two other countries that inherited the same legal system that India did from the British Raj.

A Uniform civil code as a silver bullet in order to remove the worst provision of our personal laws might seem tempting but unfortunately appears to be unviable.

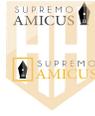
From Nehru to Vajpayee to Modi, a whole gamut of governments have tried and failed. Of course, contrary to perception, the lack of a Uniform civil code doesn't mean modernization of personal law has stopped. As events have borne out, the progressive gradualism of the Indian system is taking effect

VIII. Judiciary's role

The framers of Indian Constitution were convinced that certain amount of modernization is required before uniform civil code is imposed upon the citizens. Though the Hon'ble Supreme Court has emphasized upon the need of Uniform civil code to settle the ambiguity, which has arisen due to the different interpretations of various personal laws

⁸Vasudha Dhagamwar, Towards the uniform

civil code (1 ed. 1989).



- **Mohammed Ahmed Khan v. Shah Bano Begum**⁹

In this case a penurious Muslim lady claimed maintenance from her husband under Section 125 of the Code of Criminal Procedure, 1973 ("CrPC"), and was conceded her claim. The then Chief Justice of India, Y.V. Chandrachud, came out unequivocally for a uniform civil code, watching that, "A typical common code will help the cause for national coordination and integration by expelling different loyalties to law which have clashing belief systems and conflicting ideologies." A national furor erupted in the wake of this choice, provoking the incumbent Rajiv Gandhi government to upset the choice by authorizing the Muslim Women (Protection on Divorce) Act, 1985, which adequately banned Muslim ladies from guaranteeing upkeep or maintenance under Section 125. This move repudiated the perceptions of the Supreme Court and was legitimized in light of the fact that simple perceptions of the Court did not commit alternate branches of government to really execute such a uniform code.

- **Sarla Mudgal vs. Union of India**¹⁰

In Sarla Mudgal case the issue was that the husband has performed the second marriage while converted into Islam but without dissolving the first marriage.

So, if the literal interpretation of section 5 and section 11 of the H.M.A, 1955 is done then he cannot be held liable under the Hindu marriage act for bigamy because section 5 uses the World, "If a marriage is solemnized between to Hindus." The Hon'ble Supreme Court has resolved the issue by saying that if there if a controversy between two personal laws then such law should prevail which is serving the purpose best. So, it was held that a conversion to Islam does not amount to automatic dissolution of the marriage performed under Hindu law. That, "Article 44 is based upon the idea that there is no vital association amongst religion and individual or personal law in a civilized society. Article 25 ensures flexibility where as Article 44 tries to dissect religion from social relations and individual law. Marriage, inheritance and like matters of a secular character can't be brought inside the assurance cherished under Articles 25, 26 and 27. The individual law of Hindus, for example, identifying with marriage, and like have each of the a holy beginning or origin, in the same way as on account of the Muslims. The Hindus alongside Sikhs, Buddhists and Jains have forsaken their estimations and sentiments in the reason for national solidarity and integration, some different groups would not, however the constitution enjoins the foundation of a "Common Civil Code" for the entire of India. The Government

⁹*Mohammed Ahmed Khan v. Shah Bano Begum (AIR 1985 SC 945)*

¹⁰*Sarla Mudgal vs. Union of India and others*

(1995)3 SCC 635



of India if therefore requested through the Prime Minister of the Country to have a fresh look at Article 44 of the Constitution of India and Endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India. It was also reminded by kuldeep Singh in this case that even 41 years thereafter; the rulers of the country are not in a mood to retrieve Article 44 from the cold storage where it is lying since 1949. The court further emphasized when more than 80% of the citizens have already been brought under the codified personal law there is no justification what so ever to keep in abeyance, any more, the introduction of “Uniform Civil Code” for all citizens in the territory of India.”

- **John Vallamattom v. Union of India**¹¹

Court had reason to express its conclusion regarding the matter of a uniform civil code. On this occasion, John Vallamattom, a Christian priest, questioned the sacred legitimacy of Section 118 of the Indian Succession Act, 1925, guaranteeing that it was unjustifiably prejudicial against Christians for putting outlandish limitations on their capacity to will away land as gifts for magnanimous and religious purposes. A three-judge seat of the Supreme Court, containing

Chief Justice V.N. Khare, and Justices A.R. Lakshmanan and S.B. Sinha, struck down the provision as being violative of Article 14 of the Constitution. Chief Justice Khare commented: “We would like to State that Article 44 provides that the State shall endeavor to secure for all citizens a uniform civil code throughout the territory of India...It is a matter of great regret that Article 44 of the Constitution has not been given effect to. Parliament is still to step in for framing a common civil code in the country. A common civil code will help the cause of national integration by removing the contradictions based on ideologies.”¹²

- **State of Bombay v. Narasu App Mali**¹³

Prevention of Hindu Bigamous Marriages Act, 146 was challenged. The Act had imposed severe penalty on Hindu for contracting a bigamous marriage. In this case the validity of the abolition of the polygamy in particular community was also challenged. The then Chief Justice of Bombay High Court J. M.C. Chagla observed that one community might be prepared to accept the social reforms, another community may not yet be prepared for it. Article 14 does not lay down that the State legislature may not be right while

¹¹*John Vallamattom v. Union of India* (AIR 2003 SC 2902)

¹²209th Law Commission Report on the Proposal for the Omission of Section 213 of the Indian Succession Act, 1925.

¹³*State of Bombay v. Narasu App Mali* AIR 1952, Bombay, 84.



deciding to bring about the social reforms by stages and stages may be territorial or they may be community wise. J. Gajendradgkar opined that the classification made between Hindus and Muslims for the purpose of legislation was reasonable and did not violate the equality provision contained in Article 14 of the Constitution. He observed that the validity of Hindu Bigamous Marriages Act has been challenged particular on two grounds. It is first contended that the personal laws applicable to the Hindus and the Mohammadans to the union of India are subject to the provisions contained in part III of the Constitution and they would be void to the extent to which these provisions are inconsistent with the Fundamental Rights. Further these personal laws allow only polygamy and not polyandry so it was also argued that these laws also discriminate against women only on the ground of sex. If that is so the provisions of the personal laws that permit polygamy, they are against the provisions contained in the Article 15(1) or in other words after the commencement of constitution the bigamous marriages amongst the Hindus as well as the Mohammedans, they were not valid or void. So in this case the Court did not only uphold the validity of the legislation it also emphasized that the said legislation was a step to secure the Uniform Civil Code.

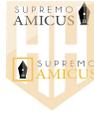
• **Danial latifi and another v. Union of India**¹⁴

The preamble of Muslim Women (Protection of Rights on Divorce) Act, 1986 sets out that it is an Act to protect the rights of Muslim women who have been divorced by or have obtained divorce from their husbands and to provide for matters connected therewith or incidental thereto. A divorced woman is defined under Section 2(a) of the Act to mean a divorced woman who was married according to Muslim law and has been divorced by, or has obtained divorce from her husband in accordance with Muslim law; "iddat period" is defined under Section 2(b) of the Act to mean, in the case of a divorced woman-

- (1) three menstrual courses after the date of divorce, if she is subject to menstruation.
- (2) three lunar months after her divorce, if she is not subject to menstruation.

(3) if she is enceinte at the time of her divorce, the period between the divorce and the delivery of her child or the termination of her pregnancy whichever is earlier. Section 3 and 4 of the Act are the principal sections, which are under attack before us. Section 3 opens up with a non-obstante clause overriding all other laws and provides

¹⁴*Danial latifi and another v. Union of India* (1995) 3 SCC 635



that a divorced woman shall be entitled to-

(a) a reasonable and fair provision and maintenance to be made and paid to her within the period of iddat by her former husband.

(b) where she maintains the children born to her before or after her divorce, a reasonable provisions and maintenance to be made and paid by her former husband for a period of two years from the respective dates of birth of such children.

(c) an amount equal to the sum of mahr or dower agreed to be paid to her at the time of her marriage or at any time thereafter according to Muslim law.

(d) all the properties given to her before or at the time of marriage or after the marriage by her relatives, friends, husband and any relative of the husband or his friends.

However even after the judgment, many lower courts have failed to apply its principles – but it seems to be the only method of readdressal that is actually working to protect Indian women from their regressive personal laws.

IX. Review of Fundamental provisions of Uniform civil code

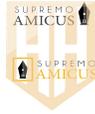
One of the biggest obstacle in the way of implementing Uniform civil code apart from the consensus is its codification rather drafting. The biggest question is the whether Uniform civil code will be a mixture of all personal laws or will it be fresh law confining to the constitutional mandate. There is a biggest misconception floating amongst the minds of the Indian citizens that Uniform civil code is nothing but a repackaged version of Hindu law, however the same was ruled out by Mr. Atal Bihari Vajpayee while declaring that Uniform civil code will aim towards gender equality and will try to cover all positive aspects of all personal laws prevailing in India. The Uniform civil code should carve a balance between protection of fundamental rights and religious dogmas of individuals.¹⁵ It should be a code, which is just and proper according to a man of ordinary prudence, without any bias with regards to religious or political considerations

• Maintenance

Present Situation	The maintenance laws for the Hindus and Muslims are very different.
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¹⁵PERSONAL LAWS OF INDIA VIS-A-VIS UNIFORM CIVIL CODE A RETROSPECTIVE AND PROSPECTIVE DISCUSSION BY DR.

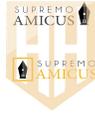
PARMINDER KAUR
<http://journal.lawmantra.co.in/wp-content/uploads/2015/05/17.pdf> (last visited Feb 27, 2017).



	<p>Apart from personal laws, a non-Muslim woman can claim maintenance under Section 125 of Code of Criminal Procedure. A Muslim woman can claim maintenance¹⁶. Apart from maintenance of wife, there are also provisions for maintenance of mother, father, son and unmarried daughter under the Hindu law.</p>		<p>to maintain the parents. The reason for this being that if she claims equal share of the property of her parents, she should share the duty to maintain her parents equally.</p> <p>(iv) The parents should maintain their children son till he is capable of earning on his own and daughter, till she gets married.</p>
<p>Uniform civil code Proposal</p>	<p>(i) A husband should maintain the wife during the marriage and also after they have divorced till the wife remarries.</p> <p>(ii) The amount of alimony should be decided on basis of the income of the husband, the status and the lifestyle of the wife.</p> <p>(iii) The son and daughter should be equally responsible</p>	<p>Present situation</p> <p>Uniform civil code Proposal</p>	<p>• <u>Succession and Inheritance</u></p> <p>In Hindu law, there is a distinction between a joint family property and self acquired property¹⁷, which is not so under the Muslim law. The Hindu Undivided Family (HUF), formed under the Hindu law, run businesses and own agricultural lands.</p> <p>(i) Equal shares to son and daughter from the property of the father,</p>

¹⁶Muslim Women (Right to Protection on Divorce) Act, 1986

¹⁷Hindu Succession Act,1956



	<p>whether self acquired or joint family property. There should be no discrimination based on sex in the matters of inheritance. The provisions of the Hindu Succession (Maharashtra Amendment) Act, 1994 can be taken as guiding principles wherein the daughter of a coparcener shall by birth become the coparcener in her own right in the same manner as a son and have the same rights in the coparcenary property as she would have had if she had been a son, inclusive the right to claim by survivorship and shall be subject to same liabilities and disabilities as the son.</p>		<p>(ii) Provisions for inheritance of the property of mother, which she has self acquired or acquired through her father or relatives.</p> <p>(iii) The provisions relating to will should be in consonance with the principles of equity. There should be no limitations imposed on the extent to which the property can be bequeathed, the persons to whom such property can be bequeath and the donation of the property by will for religious and charitable purpose.</p> <p>(iv) The essentials of valid will, the procedure for registration and execution of the</p>
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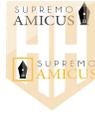
	<p>will should be provided for.</p> <p>(v) Provisions for gifts should not contain any limitations, though essential of valid gift and gift deed should be specified.</p>		<p>values.</p> <p>(ii) The minimum age limit for a male should be 21 years and for a female should be 18 years¹⁹. This would help in curbing child marriages. Punishment should be prescribed for any person violating this provision. Also, punishment for other persons involved in such an act, like the relatives, should be prescribed which would have a deterrent effect on the society.</p>
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• **Marriage**

<p>Present situation</p>	<p>The personal laws of each religion contain different essentials of a valid marriage.</p>		<p>(iii) Registration of marriage should be made compulsory. A valid marriage will be said to have solemnized when the man and the</p>
<p>Uniform civil code Proposal</p>	<p>(i) The new code should impose monogamy banning multiple marriages under any religion. Polygamy discriminates against the women and violates their basic human rights. Thus, monogamy should be imposed, not because it is the Hindu law, but because it adheres to Article 21¹⁸ and basic human</p>		

¹⁸Part III, Indian Constitution

¹⁹Art.14, Part III, Indian Constitution



	<p>woman sign their declaration of eligibility before a registrar. This will do away with all the confusion regarding the validity of the marriage.</p> <p>(iv) The grounds and procedure for divorce should be specifically laid down. The grounds enumerated in the code should be reasonable and the procedure prescribed should be according to the principles of natural justice. Also, there should be a provision for divorce by mutual consent.</p>
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- under Muslim personal laws.
- To move toward a socially progressive society. A uniform civil code is the sign of modern progressive nation. It is a sign that the nation has moved away from caste and religious politics
- To eliminate inconsistencies in application of tax laws. For example, the instrument of Hindu Undivided Families (HUF), allows getting tax exemptions, while Muslims are exempt from paying stamp duty on gift deeds.
- To eliminate the vote bank politics, which is used by most of the politicians. Once all Indians are brought under the umbrella of unified law, the misuse of religion for the sake of politics will be immensely reduced.
- To deal with problem of Honor Killings by the extra-constitutional bodies like Khap panchayats.
- To remove the Socio-legal inequalities in each religion.

XI. Controversy of Uniform civil code

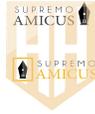
X. Implications of enforcing Uniform Civil Code

- To eliminate gender injustice. The personal laws based on religious scripts and customs are discriminating women on various grounds. For example, Polygamy and triple talaq are allowed

• Uniform civil code doesn't overshadow Secularism

Articles 25[9] and 26[10]²⁰ guarantee right to freedom of religion. Article 25 guarantees to every person the freedom of conscience and the right to

²⁰Part III of the Indian Constitution



profess, practice and propagate religion. Be that as it may, this privilege is liable to open request, profound quality and wellbeing and to alternate arrangements of Part III of the Constitution. Article 25 additionally enables the State to control or confine any monetary, money related, political or other mainstream action, which might be related with religious practice and furthermore to accommodate social welfare and changes. The assurance of Articles 25 and 26 is not restricted to matters of precept of conviction or belief. It stretches out to acts done in compatibility of religion and, in this way, contains a guarantee for custom religion and perceptions, services and methods of love, which are the fundamental parts of religion.

Uniform civil code is not contradicted to secularism or won't damage Article 25 and 26. Article 44 depends on the idea that there is no fundamental association amongst religion and individual law in a cultivated society. Marriage, progression and like matters are of mainstream nature and, in this manner, law can direct them. No religion grants or permits purposeful distortion. Uniform civil code won't create an obstacle in the way of one's religious

convictions relating, maintenance, succession and inheritance. This implies under the Uniform civil code a Hindu won't be constrained to play out a nikah or a Muslim be compelled to complete saptapadi. Be that as it may, in matters of inheritance or maintenance, there will be a common law.

XII. Practical Application Of Uniform civil code

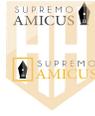
• Global perspective

The question of uniform civil code does not arise in most of the other countries. The reasons are:

1. No other county can boast of as wide cultural diversity as India can.
2. In other countries which are secular (like USA), the concept of secularism is much different from India. While India has a secularism in which the government actively promotes and protects the different religions, other countries think of religion as a sphere distinct from the sphere of the state. Hence need for Uniform civil code doesn't arise.²¹

Virtually all countries have uniform civil code or for that matter uniform law- civil or criminal. The European nations and US have a secular law that applies equally and uniformly to all citizens irrespective of their religion. The islamic countries have a uniform law based on shariah which applies to all individuals irrespective of their religion, notable exceptions like Bangladesh, Indonesia

²¹Shimon Shetreet & Hiram Chodosh, Uniform civil code for India. (2015)



exist where the law is secular though based on shariah in a few matters

for other communities the law prohibits bigamy.

- **Indian perspective**

India is governed by different specific religious laws, governing diverse population of the country. However Goa is an exception to the above fact as single code governs all Goans, irrespective of religion, linguistic or religion. Certain aspects of Goan civil code are different from Indian laws in the following ways;

- A married couple has a joint ownership of the assets owned or acquired after or before marriage. However in the case of divorce the assets are divided equally amongst the couple and this clause cannot be revoked or changed
- Parents residing in Goa cannot disinherit their children entirely or completely. At least half of the property has to be transferred in the name of the children compulsorily.
- Muslim men residing in Goa are not allowed to practice polygamy. And the concept of verbal divorce doesn't exist.
- Goan civil code isn't strictly uniform as it has specific provisions for certain communities as Hindu men are allowed bigamy if the wife isn't able to deliver a child by the age of 25, or fails to deliver a male child by the age of 30. Ironically,

XIII. Conclusion

The bench comprising of Chief Justice of India V.N. Khare, Justice S.B. Sinha and Justice A.R. Lakshamanan in the case of John Vallamattom v. Union of India²² struck down the section of the Indian Succession Act it to be unconstitutional. Chief Justice Khare stated that,

"We would like to State that Article 44 provides that the State shall endeavour to secure for all citizens a uniform civil code throughout the territory of India It is a matter of great regrets that Article 44 of the Constitution has not been given effect to. Parliament is still to step in for framing a common civil code in the country. A common civil code will help the cause of national integration by removing the contradictions based on ideologies."

The implementation of uniform common code is a dynamic enactment. The legislature ought to produce the agreement of different and diverse groups belonging to different religious backgrounds, for sanctioning of uniform civil code. Be that as it may while surrounding the uniform civil code, the legislature must be additional cautious not to trample upon the established privileges of minorities. Section of a typical civil code will likewise help in fortifying the reason for national combination by evacuating clashing interests.

²²(AIR 2003 SC 2902)

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