

## Uniform Civil Code in India: Sending Opinions to Law Commission

June 15, 2023

**Note:** The following discussion may look to be **meaningless** to the diaspora, from India and other countries of the 'south', in USA, Canada, UK or Australia because in these countries every resident has to follow the common civil and criminal laws. But in India, it has become a **highly contentious issue**.

**June 14, 2023:** The Law Commission of India has decided to solicit the views and ideas of the public and organizations, at large, about the **Uniform Civil Code (UCC)**.



The Constitution of India was framed by the **Constituent Assembly of India**. On **9<sup>th</sup> December 1946**, the Constituent Assembly met for the first time. The Assembly acted as the first Parliament of free India. The constitution was promulgated on **26<sup>th</sup> January 1950**.

The Constitution gives the right to every citizen to follow her own religion. Article 44 of the Indian Constitution of 1950 says that the state should endeavour to implement the Uniform Civil Code. The Uniform Civil Code essentially refers to a common set of laws governing personal matters such as marriage, divorce, adoption, inheritance, and succession.

**BACKGROUND:** The **Indian Penal Code (IPC)** is the official criminal code of India. It covers all substantive aspects of criminal law. The code was drafted on the recommendations of the First law commission of India established in 1834 under the Charter Act of 1833 under the chairmanship of Thomas Babington Macaulay. It came into force in India during the British rule in 1862. With minor modifications, it is applicable to all, in the territories of today's India, Bangladesh and Pakistan, which jointly constituted British India before 15<sup>th</sup> August 1947.

When the British established their rule all over India, both Hindus **and Muslims** went on following civil laws, which varied in **different** areas, **according to local traditions**. However, the Muslims continued to use the rights of having up to 4 wives, according to the Civil (non-criminal) part of 'Shariat'. The British passed the **Shariat Act 1937** for all Muslims in British India. The Act related to marriage, divorce and succession among Muslims.

On 19<sup>th</sup> December 1961, Goa, Daman and Diu (which were under Portuguese rule) were merged with India. Unlike the British, the Portuguese had implemented Portuguese form of UCC (UCC-P), for all, in their territories. Thus, in Goa, Daman and Diu, everyone, including Muslims, could have only one wife. The divorce law gave equal rights to men and women.

Even after merger with India, this part of India continues to follow UCC-P.

The Indian constitution expected the Indian Government to pass UCC for all citizens. But the ruling party, Indian National Congress (INC) under India's first Prime Minister Jawahar Lal Nehru, considered the Ashrafi class of Muslims as representing all the Muslims. The Islamic scholars and the priestly class of Muslims constitute a large part of the Ashrafis. They vehemently opposed UCC. So instead of passing a comprehensive UCC for all, during 1955-58, the government modernized the personal laws for Hindus, Jains, Buddhists and Sikhs through a series of Acts - namely the 'Hindu Marriage Act', 'Hindu Succession Act', 'Hindu Minority and Guardianship Act', and 'Hindu Adoptions and Maintenance Act'. Other personal laws inherited from the British rule, for the followers of Abrahmic religions Muslims, Christians and Parsis, remain unreformed.

**June 14, 2023:** Law Commission of India: **UCC – Public Notice (NEW):** A renewed demand for UCC has arisen. The State of Uttarakhand has decided to frame its own Law and to implement it in the State. In addition to Goa State, Uttarakhand may become the second State of India to have its own UCC.

Bharatiya Janata Party, the ruling party at the Center has been having UCC as a part of its manifesto for decades. However, it does not have a majority in both the Lok Sabha (the Lower House) and the Rajya Sabha (the Upper House).

The Law Commission has decided to solicit the views and ideas of the public and organizations, at large, about the **Uniform Civil Code (UCC)**. One can submit her views on UCC any time between 14<sup>th</sup> June 2023 and 14<sup>th</sup> July 2023.

[www.DiGiNews360.com](http://www.DiGiNews360.com) calls upon its readers to visit <https://lawcommissionofindia.nic.in/notice/uniform-civil-code-public-notice/> and to submit their views on UCC.

[www.DiGiNews360.com](http://www.DiGiNews360.com) strongly feels that UCC is necessary to bring up the entire Indian society to the 21<sup>st</sup> century. The Laws of 1955-58 have modernized the Civil Laws for a large part of Indian society. But if the personal Laws for more than 200 Million Indians remain mired in obscurantism, the nation's progress will be impeded.

**Hence India must have UCC at the earliest.**