

PERSONAL LAWS AND WOMEN'S RIGHTS: IS UCC ACTUALLY A STEP TOWARDS GENDER JUSTICE?

- NIRANJAN EV¹

ABSTRACT

Uniform Civil Code (UCC) has always been a controversial area of discussion in India. It is seen that UCC will benefit one section of the society at the cost of another. India being a diverse nation, it is extremely challenging to take into consideration of all religious beliefs and practices. UCC being a highly debatable topic is always better understood in the context of human rights. This journey of UCC started way back in 1840 through the Lex Loci Report and continues till date, also seeing many Constituent Assembly debates pertaining to the need for UCC. Various religious beliefs and scriptures also justify patriarchal dominance but however, a country like India, which is a conglomeration of religions, has inclined against them through the Constitutional provisions provided under Part III. As Gender justice remains to be one of the central issues revolving around UCC, the claim for codifying personal laws has to be analyzed with specific reference to women's rights as regards to the need for secular civil laws that govern the nation as a whole. While critically analyzing the present condition of women's rights in India under personal laws, the article seeks to examine the civil code of the U.S and its position in India.

INTRODUCTION

Feminism seeks to address women's subordination in social and personal life. Dalton defined feminism as a range of highly dedicated questioning and interaction firstly to characterizing status for women, examining its nature and scope, secondly to inquiring not only how, but also the through and what methodologies, and also why, for much of what

¹ The Author is an LLM student at Gujarat National Law University and can be accessed at niranjelangovan@gmail.com.

Personal Laws and Women's Rights : Is UCC Actually a Step Towards Gender Justice ?

complicated and interconnected reasons, women try to reclaim that position and lastly, to attempting to change subordinate status.² Feminist jurisprudence examines the effect of laws in supporting patriarchy and proposes reforms to end male power. As a result, the Uniform Civil Code (UCC) is also seen a feminist narrative.³ However, the issue of whether India is ready for a UCC after seventy-five years of the Constitution coming into force remains unresolved. The UCC has long been touted as a powerful tool for recognizing and enacting Indian women's rights and elevating their standing in societal structures like family, marriage and maintenance.

On the basis of an individual's religious connections, various religious personal laws govern subjects such as marriage, maintenance, guardianship, divorce, etc. Certain religious writings contain gender discrimination, which runs counter to Article 14 of the Indian Constitution's underlying idea 'equality before law'.⁴ Women must battle inequality in order to lead a life with dignity and identity, which is also a concept enshrined in Article 21 of the Constitution of India.⁵ The World Economic Forum's (WEF) Global Gender Divide Report of 2016 provides a broad conceptual overview on the gender gap that exists.⁶

A UCC involves the concept of a single set of secular civil rules that govern all individuals regardless of religious background and affiliation. The code is considered to supplement a country's several personal laws. The objective of UCC is twofold. Firstly, UCC aims at implementing uniform laws across all people regardless of their religious affiliation; secondly, UCC also aims at eliminating gender bias by means of 'similar laws' for 'similar circumstances'. Many countries like the US and the UK have a common civil code that governs their people.⁷ This paper examines the existing civil codes in the US and the personal laws in India with specific reference to the rights of women. The paper also discusses the discriminatory nature of existing personal laws in light of gender equality.

² Schneider and Hanna, Cheryl, *The Development of Domestic Violence as a Legal Field: Honoring Clare Dalton*, JOURNAL OF LAW AND POLICY 343, Brooklyn Law School Legal Studies Paper No. 305 (2012)

³ Nivedita Menon, *A Uniform Civil Code in India: The State of the Debate in 2014*, 40 FEMINIST STUDIES, INC., (2002).

⁴ INDIAN CONST. art. 14.

⁵ Maneka Gandhi v. Union of India, (AIR 1978 SC 597).

⁶ Global Gender Gap Report 2020, WORLD ECONOMIC FORUM (February 10, 2022,) http://www3.weforum.org/docs/WEF_GGGR_2020.pdf

⁷ Harshita Vatsayan, *Quest For Secular Identity And Feasibility Of A Uniform Civil Code*, 1 ILI LAW REVIEW (2017)

PERSONAL LAWS AND GENDER INJUSTICE IN INDIA: AN OVERVIEW

The dispute over personal laws and the necessity for a UCC is indeed a major point of contention in almost any debate of India's secular and religious standpoint. Though the existing secular laws grounded on 'justice, equity, and good conscience' today control just a few aspects of social life, personal laws remain largely unchanged.⁸ The colonial overlords anticipated animosity and local backlash, which made them, decide not to engage in the locals' religious affairs. The fundamental criticism of personal laws in the aftermath of the triple *talaq* issue seems to be that personal laws, particularly Muslim laws, are backward and weaken women.⁹ On these bases, a proposition for the adoption of a UCC was made. However, it is erroneous to claim that just Muslim Laws are oppressive. It must be highlighted that there are several idiosyncrasies that make certain statutes act discriminatory against married Hindu women. In India, the Hindu Succession Act of 1956 governs the succession matters of Hindus. This statute is peculiar because it distinguishes the case of both men and women in cases of intestate succession.¹⁰ Female intestate successions are determined by the source of the deceased female's possessions.

The fundamental rules in Hindu law are found in the *Manusmriti*.¹¹ The underlying societal inequity and injustice against women are claimed to have their origins in the *Manusmriti*, which was composed at such an era when women's role in society was utter obedience and subjection. Manusmriti, also known as *Manav Dharma Shastra*, is an ancient Indian scripture that is seen as the world's first law since it provides laws governing society, its operations, relationships, etc. For instance, Chapter 8 law 3 of the script promotes the idea that women must 'fit into the norms'¹²; chapter 9 law 78 makes woman a victim to separation from her husband if she disrespects him, and will also be deprived of her jewels and money.¹³ Women were only perceived to be naturally and physically inferior to men, and they were

⁸ Id.

⁹ Tanja Herklotz, *Religion Based Personal Laws in India from a Women's Rights Perspective*, SOUTH ASIA CHRONICLE (2015), <https://www.rewi.hu-berlin.de/de/lf/ls/dnn/staff/th/religion-based-personal-laws-in-india-from-a-womens-rights-perspective-context-and-some-recent-publications>.

¹⁰ *Supra*, note 6.

¹¹ Prachi Dutta, *Gender Inequality and Hindu Personal Laws*, 8 INDIA LAW JOURNAL, (Feb 12, 2022) <http://www.indialawjournal.org/archives/volume8/issue-1/article10.html>.

¹² Meenakshi Sharma, *Feminism: Debunking the Myths of Manu in a Quest for Gender Equality*, 11(1) CONTEMPORARY VOICE OF DALIT 17 (2019).

¹³ Id.

Personal Laws and Women's Rights : Is UCC Actually a Step Towards Gender Justice ?

viewed as a 'distraction' to male superiority.¹⁴ They were deemed incapable of self-defense and were placed under the supervision of a male family member since their birth. They were required to stay inside the confines of their homes and were prohibited from venturing outside of them.

Under Property law, the injustice is very apparent. There exists no difference between ancestral property or self-acquired property under Muslim laws. If a couple has children, the Muslim wife, is entitled only to one-eighth share in the husband's property, else she is entitled to only one-fourth of the same. Moreover, even though daughters are entitled to the estates of the deceased parents, they only get half as much as their brothers/male heirs.¹⁵ On the other hand, under Hindu Succession Act, Section 14 mentions the categories of property, which a female legal heir can inherit.¹⁶ A Hindu woman would have the same rights on her deceased parent's property as a Hindu male. There really is no discrepancy between rights of men and women as far as inheriting property from a deceased parent is concerned. ¹⁷ The distinction in the property rights of Hindu women and Muslim women is a strong instance to showcase those personal laws create a huge divide in the already existing diversity, thereby not only creating a gap within the religion but also amongst religions inter-se.

Even though the country maintained secular values, religion was perceived as having sway over domestic and familial matters. The rights of minorities, ethnic groups, and other groups frequently justify diversity in family law. Women are frequently oppressed as a result of these collective rights. Although gender stereotypes infect all parts of human life, women's rights are most jeopardized in the home, which serves as a breeding ground for conventional attitudes. The prevalence of Personal Laws demonstrates that they've been regarded as selective mechanisms of governance of religious sentiments, which have already frequently proved detrimental to women. This religious disparity in family law is one of the contentious issues of gender equality and the question is whether a UCC can resolve this.

The Indian Constitution that came into effect in 1950 has seen several dilemmas and deliberations with regard to Article 44, which is the source of contention and debate. Article 44 focuses on the State's duty to enact a UCC for its citizens applicable uniformly all through

¹⁴ Saroj Bohra, *Uniform Civil Code, Women Empowerment And Gender Justice*, 3 SOUTH ASIA JOURNAL OF MULTIDISCIPLINARY STUDIES (2016).

¹⁵ Shivani Dutta, *Critical Study of Civil Code in UK, USA and India with Special Reference to Rights of Women*, 4 NLSIU JOURNAL OF LAW AND PUBLIC POLICY 95- 107 (2017).

¹⁶ Hindu Succession Act 1956 § 13, 14

¹⁷ *Supra*, note 10.

the country.¹⁸ If put into effect, the civil code will address the existing law of all religious communities that deal with marriage, inheritance, adoption, divorce and other similar issues. However, it has never been materialized till date as it is formulated as part of DPPS-Part IV of the Constitution, which is by fact non-justifiable.

RIGHTS OF WOMEN UNDER PERSONAL LAWS IN INDIA AND THE U.S

In India, women primarily did not have equal rights to males until the Hindu laws were codified in the years 1955 and 1956. Polygamy was common prior to 1955, and women could not own property unless in the instance of *Stridhan*.¹⁹ Although the laws are established, some discriminatory clauses persist.

HINDU PERSONAL LAWS AND LAWS IN THE U.S

In India, the Hindu Adoption and Maintenance Act, 1956 keeps adoption rights of men and women on the same footing, after the amendment of the Act in 2012.²⁰ On the other hand, women have the absolute right to adoption under the personal laws in the U.S. As far as the minimum age for marriage is a concern, for women in India, the age of marriage is set at 18. The Prohibition of Child Marriage (Amendment) Bill 2021 that suggests increasing the minimum age of marriage of women from 18 to 21 years was assigned to the Parliamentary Standing Committee. The Taskforce appointed by the Standing Committee in 2020 then prepared a report and the same is yet to be tabled for discussion as of April 2022. The task force was also asked to address issues on women's access to higher and safety of women, which act as supporting measures that delay underage marriage.

The United States has an 18-year-old age of marriage, with limited exceptions- Nebraska that has fixed the minimum age as 19 and Mississippi has set it to 21.²¹ Most states in the US, nevertheless, include exceptions that permit marriage at a relatively younger age with parental approval, court approval, pregnancy, or a permutation of all these circumstances.

¹⁸ INDIAN CONST. art. 44

¹⁹ ARCHANA PARASHAR, WOMEN AND FAMILY LAW REFORM IN INDIA: UNIFORM CIVIL CODE AND GENDER EQUALITY, 158 (SAGE publishers, 1992).

²⁰ *Supra*, note 12.

²¹ *Marriage Laws around the World*, PEW RESEARCH CENTER (22 Feb, 2022) https://assets.pewresearch.org/wpcontent/uploads/sites/12/2016/09/FT_Marriage_Age_Appendix_2016_09_08.pdf.

Personal Laws and Women's Rights : Is UCC Actually a Step Towards Gender Justice ?

With regard to Inheritance of property by women, in India, daughters are given the same share as sons, as reiterated in *Vineeta Sharma*'s²² case in 2020. The main issue in this case is pertaining to how Section 6 of the Hindu Succession (Amendment) Act, 2005 be interpreted.²³ The Hon'ble Supreme Court held that the Amendment grants co-parcenary status to a daughter (of a co-parcener daughter) regardless of whether she was born before or after the amendment, also regardless of the marital status.²⁴ The liabilities and rights would be the same as the son. This observation by the apex court not only clarifies the position of law, but also advocates gender equality.

According to Hindu law, the widow is a Class 1 heir and therefore inherits the deceased's estate equally as the other Class 1 heirs. On the other hand, the Married Women's Property Acts in the U.S are a series of laws enforced by specific states beginning in 1839, generally under that name but occasionally, particularly the ones spreading the clauses of a Married Women's Property Act, under names explaining an express legislation, like the Married Women's Earnings Act.²⁵

In India, Section 13B of the Hindu Marriage Act (HMA) of 1955 allows for mutual agreement based divorce.²⁶ It is the case in the U.S and respective state laws govern it.²⁷ As per Section 125 of Cr.P.C in India, the husband is required to pay maintenance to his wife until she decides to re-marry or becomes unchaste. The constitutionality of the Muslim Women's (Protection of Rights on Divorce) Act, was contested before the Supreme Court of India in the case of *Danial Latifi*, upon the grounds that it denied Muslim women their maintenance benefits similar to that given by Section 125 of the Cr.P.C., 1973, which is in contravention of Articles 14, 15, and 21 of the Constitution.²⁸ The Act's constitutionality was upheld and it is worth noting that, prior to interpreting its provisions, the Supreme Court of India felt it important to examine the woman's role in Indian marriages. The courts have the authority to decide whether one should grant alimony and, for how long. Regarding spousal support, the majority of states in the U.S follow the Uniform Marriage and Divorce Act.

²² *Vineeta Sharma v. Rakesh Sharma*, (2020) AIR 3717 (SC)

²³ *Id.*

²⁴ *Id.*

²⁵ *Supra*, note 12.

²⁶ Hindu Marriage Act 1955 § 13B.

²⁷ *Supra*, note 12.

²⁸ *Danial Latifi v. Union of India*, (2001) SC SCC 740.

Polygamy is illegal in India under Section 17 of HMA, 1955. Similarly, bigamy is a criminal offence, which is punishable under Section 494 of the IPC, 1860.²⁹ Polygamy is prohibited in every state of the U.S.³⁰ Furthermore, the U.S federal government has enacted various legislations that make being married to more than one individual illegal.

MUSLIM PERSONAL LAWS IN INDIA

Inheritance is different under Shia and Sunni laws. With reference to inheritance under Shia law, in comparison to a son, a daughter's portion is half. According to Sunni law, when a son dies, a daughter succeeds as a residuary and receives a part, which is half of the son's share.³¹ Furthermore, if the deceased has a living child or a descendent of a son, the widow's portion is only one-eighth of the inheritance under Shia law. If not, then she is entitled to one-fourth. In case of divorce, only the husband has the capacity by law to pronounce *triple talaq* in case of divorce.³² The Halala system is also widely used in India. In India, the practice of polygamy is legal. On the other hand, to combat the abuse and exploitation of this repulsive practice, Islamic nations such as Syria, Morocco, Iran, Pakistan, etc., have codified their personal laws in which polygamy is either completely forbidden or highly restricted.³³ The irony is that India as a secular country falls behind in welcoming this type of approach.

PERSONAL LAWS AND ITS DISCRIMINATORY APPROACH

In India, the discriminatory nature of both personal laws of Hindus and Muslims are apparent in nature. The adoption of the idea of unilateral divorce is by far the most absurd and discriminatory element of Islamic law. As a result, a 'husband has the right to unilaterally divorce his wife' even if there is no reasonable cause or justification.³⁴ Moreover, Islamic divorce law even supports the happening of the event of a divorce in the absence of the wife,

²⁹ Indian Penal Code 1860 § 494.

³⁰ *Countries Where Polygamy Is Legal 2022*, WORLD POPULATION REVIEW (Feb 23, 2022) <https://worldpopulationreview.com/country-rankings/countries-where-polygamy-is-legal>.

³¹ Sangeetha Sriraam, *Uniform Civil Code: An Instrument for Gender Justice* SSRN (Feb 24, 2022) <https://ssrn.com/abstract=3590351> or <http://dx.doi.org/10.2139/ssrn.3590351>

³² *Supra*, note 12.

³³ *Uniform Civil Code: On fast forward movement*, DAILY EXCELSIOR (Feb 25, 2022), <https://www.dailyexcelsior.com/uniform-civil-code-on-fast-forward-movement/>.

³⁴ *Supra*, note 26.

Personal Laws and Women's Rights : Is UCC Actually a Step Towards Gender Justice ?

just merely pronouncing the phrase. With respect to the age of marriage all men and women across the world have the right to get married at any age by free consent, and with complete freedom of choosing the spouse. Personal laws in India, on the other hand, are deemed unsatisfactory in this regard. The right of guardians to marry underage ward is recognized under Muslim law. There is indeed a cure in the shape of 'option of puberty' but is only available to women. The procurement of permission by fraud or coercion, or consent by proven unsoundness of mind, makes the marriage void under Hindu law.

In order to understand how personal laws are discriminatory, it is pertinent to look into the flipside of codification of all Hindu laws. Much after the enactment of Hindu personal law, the role of Hindu women is still clouded by inferiority complexes. Although the western ideas of monogamy, divorce, and maintenance remedied a few of the afflictions in Hindu law, certain Hindu groups that were far advanced in western ideology were forced towards a more backward personal law system. The Islamic system was seen as somewhat progressive. For example, even before the Shariat Act was enacted in 1937, the *Marumakattayam* system was followed in the state of Kerala, which was only applicable to Muslims living in Kerala, which had liberal divorce and maintenance provisions.³⁵ The female line law-based framework had advanced laws for women relating to succession as well. It is argued that the sanskritization of these practices paved way for washing away a possible social reformation.³⁶

The objective of the maintenance is to provide monetary stability and social security to women of various religious backgrounds, depending on their religious views. A Hindu is legally obligated to support his wife. However, the rights conferred upon the wife are very limited in scope as under Section 18(3) of the Hindu Adoption and Maintenance Act.³⁷ Accordingly, if a Hindu wife is unchaste and changes to another faith, she will not be eligible for separate home and the existing maintenance thereafter. Similarly, the concept of adoption is also discriminatory.³⁸ Mothers have always been given a statutorily passive role under Hindu law when it comes to the custody of their children. A minor child's guardian is naturally and legally the father and the mother will take custody of the second.³⁹ On the other hand, the father would be the sole custodian of his minor child and his property under Muslim

³⁵ Shambhavi, *Uniform Civil Code: The Necessity And The Absurdity*, 1 ILI LAW REVIEW (2017)

³⁶ Proceedings of Constituent Assembly Debates Proceedings, Vol. VII, (Nov. 23, 1948)

³⁷ Hindu Adoption and Maintenance Act 1956 § 18(3).

³⁸ Shruti and Siya, *Adoption Laws in India: Reviews and Recommendation Needed*, SSRN (Feb 26, 2022). <https://ssrn.com/abstract=2021003>.

³⁹ Id.

law.⁴⁰ Hence, looking at the confusion that prevails, adoption is also an area in which the mother is discriminated against solely because of her marital status.

The Hindu code that aimed to provide a common system of laws for all Hindus, is inconsistent with the basic parts of family law. The legality of a marriage is determined by the community's customs. It is interesting to see that inheritance rights differ in Kerala and Tamil Nadu.⁴¹ Also, who is eligible for adoption is determined by custom and traditionally agreed rules and finally, it is shocking to note that automatic application of the Hindu Succession Act, 1956 Scheduled Tribes community is prohibited, as observed under *Butaki Bai's* case.⁴² The issue in this case was whether the legislative bar under Hindu Succession Act, 1956 is exempted for the *Halba* Scheduled Tribe community. The court observed that the community that the parties belong to, still follow their customary succession practices and has failed to establish that they have been "sufficiently Hinduised".⁴³ It was held that the Section 2(2) of the Act of 1956 will apply and thus the provisions of the Act will not be applicable to the parties.⁴⁴ The Hindu code undoubtedly unifies numerous components of Hindu personal law; it also leaves custom and other local practices unaffected in several areas.

Through various decisions, the Hon'ble Supreme Court of India has demonstrated its support for a UCC. The case of *Shah Bano* is one of the decisions made by the apex court in favour of UCC, wherein in addition to covering the claim for maintenance even after the '*Iddat period*' for Muslim women, the Indian Government's reluctance to formulate a UCC was criticized in light of the Muslim community's sensitivity.⁴⁵ Subsequently, the Parliament was highly under pressure to pass the Muslim Women's (Protection of Rights on Divorce) Act of 1986.⁴⁶ The case of *Shayara Banu*, explains how Muslim women become victims of the injustice caused by *triple talaq*.⁴⁷ This has resurfaced only thirty years post the *Shah Bano's* case. However, the current issue is not about obtaining maintenance from the husband, but rather about contesting the legality of her husband's conduct of arbitrarily evicting her out of his life by repeating the word '*Talaq*' three times. This portrays how women's rights are not

⁴⁰ Shujath Ahmed, *Applicability of Muslim personal law (Shariat) to custody matters*, LEXOLOGY, (Feb 26, 2022), <https://www.lexology.com/library/detail.aspx?g=0b7ad5fc-61bc-49f7-a382ee6e2588f6d5>.

⁴¹ *Supra*, note 30.

⁴² *Smt. Butaki Bai v. Sukhbat*, AIR 2014 Chh 110.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Mohammed. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

⁴⁶ *Id.*

⁴⁷ *Shayara Bano v. Union Of India Case Analysis*, AIR 2017 9 SCC 1 (SC).

Personal Laws and Women's Rights : Is UCC Actually a Step Towards Gender Justice ?

prioritized in a country like India, which is Secular, by Constitution. Consequently, the Apex court reaffirmed the necessity for Parliament to bring in a UCC that will aid unity by resolving ideological conflicts.

UCC AS A CATALYST TO GENDER JUSTICE

In the spirit of defending religious institutions' rights, Parliament has already avoided its responsibility to protect the interests of women, who are the most vulnerable in the group. Women's rights must not be sacrificed in the name of state impartiality in religious matters. Religious reformation must not be halted in the name of protection of the rights of minorities. Although the Constitution of India advocates equality, women continue to face injustice, and violence as a result of differing personal law systems. Their status well within the family itself is pitiful. In a modernized and democratic society, wherein an individual's choices are valued and prioritized, personal laws are obsolete. Such laws not only regard women as chattel but are also intended to keep them at a place inferior to that of men. UCC supporters think that by ensuring equality, UCC will ensure religious transformation.⁴⁸ Women have always faced discrimination under personal laws because of which they have faced numerous challenges in their marriages, divorces, and inheritances. Patriarchal dominance arises when a religion determines the laws that will be applicable to an individual with regard to marriage, divorce, adoption, etc. It is argued that a UCC will demolish gender inequality and will act as a touchstone of gender justice.⁴⁹

The twist behind the notion of UCC lies in the process of achieving gender justice and national integrity. On the downside, this acts as an attempt to repress minorities' identities and poses a serious threat to cultural diversity. This issue is again divided into two parts: the challenge to people's distinctive identities as well as communities' collective identities as a whole, and the flawed and partially failed uniformity criteria required to defend women's rights. The former is a much more generally debated and highlighted justification against the UCC,

⁴⁸ Jyotika Kalra, *Uniform Civil Code: A journey not a destination*, INDIA TODAY (Feb 28, 2022), <https://www.indiatoday.in/news-analysis/story/uniform-civil-code-journey-destination-features-1839110-2021-08-10>.

⁴⁹ *Personal Laws versus Gender Justice: Will a Uniform Civil Code Solve the Problem?*, ENGAGE, (March 1, 2022) <https://www.epw.in/engage/article/personal-laws-versus-gender-justice-uniform-civil-code-solution>.

but the latter is a mainly overlooked issue that is believed to be forgotten amidst the political outcry.

In the 2015 Bharatiya Muslim Mahila Andolan (BMMA) survey that consisted of approximately five thousand women from ten states, more than ninety percent of them wanted polygamy as well as *triple talaq* to be abolished.⁵⁰ About seventy-eight percent of five hundred and twenty-five divorced women who were surveyed had been victims to *triple talaq*. Remarriage was forced on them. In some cases, they were even asked to return to their husbands.⁵¹ As mentioned, the case of *Shayara Banu* best explains the need for a reformation. Moreover, the Government of India a few years ago asked the Law Commission to assess and examine the problem in implementing the UCC.⁵² The Law Commission also sought public input on the same from various stakeholders, but their conclusion is still unclear by simply suggesting that the code shall be in lines with Equality, Freedom and Secularism. The Law Commission also emphasized that any reform must be consistent with constitutional principles such as secularism, religious freedom, and inclusivity.⁵³

It can be very well inferred from the Preamble, Fundamental rights, DPSPs as well as the provisions relating to political reservations under Arts. 243D (3)(4) and 243T(3), gender justice has always been considered a cornerstone of the Constitution.⁵⁴ Every religion has its traditions, customs, rituals and local practices, but it is significant to note that any such custom that puts one religion above or below another should be abolished. Gender concerns take precedence over all other discrepancies, imbalances, and injustices that have resulted so far. Gender inequalities cannot be ignored since they are intertwined with several other concerns. There is no reason, and it is futile to claim that gender equity cannot be realized because it is hampered by religious limitations.

Codification of diverse laws and legal principles, customs, and cultural laws provides the legal framework a collective identity and makes laws easier to implement. The rights and obligations that come from such laws and norms are likewise recognized and traceable. Furthermore, a uniform rule governing all citizens equally is the real goal and the society is

⁵⁰ *Supra*, note 12.

⁵¹ *Supra*, note 12.

⁵² Anusha Soni, *Law Commission Chairman on Uniform Civil Code: Each religion would continue to have personal laws*, INDIA TODAY, (March 5, 2022) <http://indiatoday.intoday.in/story/uniform-civil-code-law-commission-chariman-religionpersonal-laws-gender-justice/1/810271.html>.

⁵³ *Id.*

⁵⁴ INDIAN CONST. art. 243D(3)(4), art. 243T(3).

Personal Laws and Women's Rights : Is UCC Actually a Step Towards Gender Justice ?

progressing towards its full realization. J. Kuldip Singh in *Sarla Mudgal V. Union of India* has pointed out that in India, about eighty percent of the citizens have been restricted within the purview of their personal laws and there lies no justification to be not adopting a UCC that would apply through the length and breadth of the territory of India.⁵⁵

Inequality might be defined differently in each culture. It is vital to identify the levels of gender injustices that exist in one culture but not in others. Without even a doubt, many elements of personal law are antithetical to the feeling of women's rights that exists in a community. As a result, the primary step is to eliminate the unfair traditions that are prevalent in that culture. Rather than rushing to create a common definition for inequality, which would be the pervasive viewpoint, all of these cultures must first acknowledge the notions of inequality as well as injustice in their spheres of existence. Alternatively, these civilizations might turn defensive.

CONCLUSION

The UCC is a legal endeavor, which is unique to India since it is a multicultural country. The debate over enacting the UCC has rattled the social, legal and political realms. However, UCC has always been a part of the Constitution of India that 'we the people' had given to ourselves back in 1950. Considering that the goal is closer, the question of whether the UCC is acceptable is no longer viable in India's cultural landscape. The critical question before judges and legislators is what should be included in the newly passed Code. A UCC with impartial family law provisions should be free of religious personal laws and comprise just the reasonable and just elements of each system. The specifications for public dialogue and opinion on the UCC should be provided in the form of a draft Code. The focus should be on gender justice, fairness and equity. This action should never be misconstrued as a violation of the status of minorities and their rights provided for under the Constitution of India. If it is felt that the UCC risks at violating Art. 25 of the Constitution, the best option is to formulate the Code in a way that promotes religious liberty and the State's responsibilities under Art. 44, rather than putting the entire requirement on hold permanently.

⁵⁵ Sarla Mudgal, & Others. v. Union of India, AIR 1995 SC 153.