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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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CONSTITUTIONAL VALIDITY OF THE UNIFORM CIVIL CODE (UCC) IN INDIA: BALANCING FUNDAMENTAL RIGHTS WITH TRIBAL AUTONOMY AND CUSTOMARY PRACTICES

AUTHORED BY - ATEEBHA SINGH CHOUDHARY
B.A., LLB fourth year at SVKM's NMIMS, Indore, (M.P.) India

ABSTRACT

This paper examines whether the Uniform Civil Code (UCC) in India is constitutionally valid, looking into its alignment with fundamental rights and its possible effects on tribal communities and religious groups. The implementation of a Uniform Civil Code (UCC) in India is often seen as an important step towards equality and secularism. But on the other hand, it creates a tension between the constitutional ideals of equality and respect for cultural freedom especially among tribal and minority groups. This paper seeks to find out if UCC violates the right of these groups exercising their custom preservation as envisaged under fundamental rights such as Article 14, Article 25 and Article 29 of our Constitution. Moreover, issues related to whether these groups should be exempted from UCC will also be discussed based on India's obligations under international legal instruments like (UNDRIP) and (ICCPR). The research proposes a more nuanced, gradualistic approach towards UCC much that would keep cultural diversity intact while facilitating gender equity as well as social justice.

KEYWORDS: Religion, Uniform Civil Code, Tribal Rights, Fundamental Rights, Constitution.

1. INTRODUCTION

In the Indian legal and political discourse, the UCC has been a topic of much debate arounds the need to unify the civil laws applicable for everyone irrespective of their religious practices. This is aimed at promoting national integration as well as equality among citizens, but its implementation raises constitutional questions especially about fundamental rights provided in Part III of the Indian Constitution. The assortment of personal laws that govern marriage, divorce, inheritance or adoption in various religions in India is vast. There are significant

differences among different faiths, and over time criticisms have emerged concerning some provisions which may discriminate on the basis gender rights. To this end therefore, to foster equal treatment and secularism in personal laws it has been suggested that we adopt a Uniform Civil Code (UCC).

Even so, the discourse over the UCC is filled with complexities especially regarding claims of tribal and minority communities. They have their own unique practices and customs which are deeply embedded in social and religious fabric. As a result, imposing a uniform law could lead to loss of cultural identity as well as violation of rights like freedom of religion (Article 25) and preservation of distinct culture (Article 29).

Diversity is something that India, as a country takes pride in; be it culturally, religiously or linguistically. This multiplicity is reflected in the Indian Constitution by allowing different religious groups to adhere to their personal laws mainly on matters related to marriage, divorce, inheritance and even adoption. But this pluralism within the legal system has led to considerable variations between individuals from different religions and cultures when it comes to experiencing justice particularly on gender rights and social equality. The present configurations of personal laws based largely on religious traditions frequently give rise to practices that are inconsistent with the constitutional guarantee of equality, resulting in such issues as gender bias and discrimination underlaw.

A proposal has been made for a uniform civil code (UCC) as a measure to address these disparities and this has been in the air for quite some time now and is anchored under Article 44 of the Indian Constitution as one of its directive principles. The UCC aims at replacing personal laws with a single law applicable to all citizens without regard to their religion. Advocates assert that the National unity, gender equity and secularism as enshrined in our Constitution will also be enhanced by UCC.

However, despite being projected as an instrument for equality and secularism, the intended application of the UCC encounters lots of opposition particularly from tribal and minority groups. To them, personal laws remain ingrained in their identity since they have different cultural practices and traditional governing systems. The same time it imposes a set of uniform laws which appear to be an attack on many people's faith&beliefs and hence threaten their own lives. Such aspects are indeed safeguarded by Article 25 (right to freedom of religion) & 29

(right to conserve distinct culture) which raises doubts whether a UCC would mean violation of these basic rights outlined in the Indian Constitution.

The discussion surrounding the UCC has thus turned into a confrontation between conflicting constitutional principles—the right to equality (Article 14) and the right to freedom of religion and cultural preservation (Articles 25 and 29). The potential implementation of the UCC also relates to larger issues about the nature of Indian secularism. Unlike the Western models which advocate a strict separation between the church and state, Indian secularism is characterized by a more accommodating approach in which state intervenes only if it is considered necessary for achieving social justice through modifying some religious customs. In this context, can UCC be justified as an advanced reform or does it put at stake India's pluralistic framework? This paper seeks to achieve two main objectives: first, it will analyze constitutionality of UCC within the framework of fundamental rights in India; secondly, whether tribes/ minorities should be exempted from it under UCC to ensure their cultural independence shall be examined. A balanced perspective on this issue is derived from relevant judicial interpretations, international conventions and comparative perspectives.

PURPOSE OF THE RESEARCH

This paper aims to investigate the constitutional elements of UCC as well as its influence on tribal and minority rights. It will identify whether there is any correlation between UCC and basic rights that are enshrined in the Constitution while assessing if the issues raised by these communities justify their exclusion from the law or special protections. Also, the research investigates whether UCC can coexist with India's commitment to upholding cultural diversity, all through observing equal treatment to all people.

For a thorough examination, the following major questions have been developed:

1. Does UCC promote equality and secularism as it intended to, or does it inflict on Constitution's guarantee for autonomy of religion and culture?
2. Should UCC be allowed to tribes and minorities' rights, or should there be any caveats for those communities?
3. How can past judicial decisions and international frameworks regarding cultural and minority rights inform about the implementation of UCC?

The study intends to provide an analysis of the UCC debate based on its legal constitutional and socio-cultural aspects so as to get a comprehensive proposition that finds balance between

equality promotion and conservation of cultures as possible cure for effective implementation of UCC taking into account India's multiple diversity.

SCOPE AND STRUCTURE OF THE PAPER

The facts that will be examined in this paper are the constitutional underpinnings of the UCC particularly how Article 14 (equality) interacts with Article 25 and 29 (freedom of religion and preservation of culture). It will also explore significant judicial interpretations through landmark cases such as Shah Bano, among others. Furthermore, an investigation into the specific effects of UCC on tribal/minority communities will be carried out to note their unique customs and traditions as well as to ask whether legal exemptions are justifiable or not.

Additionally, a broader international perspective shall be provided by drawing on a comparative analysis of how other countries have managed to integrate minority laws with a uniform legal system. Finally, this paper will recommend ways in which UCC could be implemented to promote equality but respect for cultural and religious diversity.

This research will contribute towards ongoing debates about how UCC can help foster more equitable and just society by situating it within India's constitutional framework of principles and commitment to pluralism.

2. UCC AND THE CONSTITUTIONAL MANDATE

The Uniform Civil Code (UCC) has been envisaged right from the incorporation of the Indian Constitution Article 44 of the Directive Principles of State Policy (DPSP). The UCC aims to replace the personal laws governing civil matters like marriage, divorce, adoption and inheritance with a common law applicable to all citizens irrespective of their religion. The aim of UCC is promoting national integration, equality and secularism; however its constitutional mandate raises significant legal issues related to its relation with fundamental rights. In this section we will examine why it wouldn't be possible to question the legality of the DPSPs, how supreme court has played a role in balancing UCC against part III rights and controversies surrounding implementation of UCC within the constitution.

2.1 THE NON-JUSTICIABLE NATURE OF DIRECTIVE PRINCIPLES

In Part IV of the Indian Constitution lies the Directive Principles of State Policy (DPSP), which

serve as a guiding framework for governments to make laws and policies. However, these principles are not legally enforceable; when it comes to courts, they are simply not justiciable. Among them is Article 44—the one calling for enforcing a Uniform Civil Code (UCC). It is important to bear in mind that despite the fact that there have been progressive ideas about social equality and gender justice stated in this principle, they cannot infringe upon or replace the Fundamental Rights found in Part III of the Constitution.

The DPSPs represent expectations of Indian state and remain subordinate to fundamental rights due to their non-justiciable status. The Supreme Court gave expression to this subordination through its decisions, which characterized the *Minerva Mills case V. Union of India*. With regard to this case, it was ruled by the Court that fundamental rights must be reconciled with Directive Principles but always subordinated if any contradictions arise between them (the former takes precedence). This has far-reaching consequences for UCC as no law meant at enforcing a UCC can violate equality, freedom from religion or cultural rights bounty within the constitution.

2.2 BALANCING THE UCC WITH FUNDAMENTAL RIGHTS

The Indian Constitution provides extensive fundamental rights that can be enforced in courts of law, such as those enshrined in Article 14 (the right to equality), Article 25 (the right to freedom of religion) and Article 29 (the right to conserve distinct culture). These rights are crucial in the UCC debate as they provide a legal framework against which the various community practices of different religious or cultural backgrounds are protected.

For instance, Article 14 assures everyone equal protection before the law and equality before the courts. The proponents of UCC assert that this principle is violated by personal laws depending on religious affiliation that treats citizens differently. In this context, the UCC is seen as an initiative aimed at ensuring that all citizens are given equal treatment irrespective of their religion or sex. However, opponents contend that implementation of UCC might violate freedom of religion provided under Article 25 which allows practising submit unto God, propagating one's beliefs and also professing them.

Furthermore, Article 29 safeguards the right for minority groups to maintain their own languages, scripts or cultures inclusive but not limited to their traditional practices. Tribal and minority communities are especially concerned about this because their customs may contradict with what a universal standard legal code requires. Consequently, the obstacle is to

maintain these contending constitutional principles in equilibrium- equality and uniformity on one side while safeguarding religious as well as cultural independence on the other side.

These constitutional clauses have been interpreted by the supreme court before considering UCC. An example is that of *Shah Bano v. Union of India* which underscores urgent needs for gender justice in Muslim women who are victims of inequitable personal laws through enactment of UCC. Nevertheless, subsequent judgments have underscored the significance of preserving religious liberty and customs stating that imposition of UCC should not violate basic liberties for minority groups.

2.3 JUDICIAL PRECEDENTS AND THE UCC

Through the years, the Supreme Court of India has given many rulings concerning the issue of UCC. These judgments provide essential information on how the relationship between the UCC and fundamental rights as well as personal laws are perceived by this Court. Some notable cases have arisen from this area; for instance:

1. *Shah Bano Case (1985)*, Muslim woman after divorce sought maintenance by the husband under Criminal Procedure Code, and the Court ruled in her favour. The judgment raised a national debate for the demand of UCC because this ruling was perceived as an invasion of Muslim personal law. While advocating for gender justice, the Court acknowledged that there are sensitivities surrounding religious personal laws and urged upon government to make gradual steps for UCC.
2. *Sarla Mudgal v. Union of India (1995)*: The Court reiterated need of UCC which should resolve conflicts arising from application of personal laws especially in cases of bigamy where people switched religion so as to avoid the consequences of their original personal law. The government was called upon to enforce UCC by the Court in order to promote consistency and equality throughout the entire legal system.
3. *John Vallamattom v. Union of India (2003)*: this case was decided in when the court made it clear that the provision in the Christian personal law that was unfavorable to Christians on issues concerning inheritance would have no place within that law. It was also an encouragement for discussion concerning both UCC and judicial activism with respect to legal reform.

Hence, through these judgments, one can observe how legal professionals are leaning towards UCC but stressing out on the need to protect basic human rights. The Court has emphasized time and again that in order for any attempt at implementing UCC to be successful it must also

take into consideration the values established by our Constitution as well as not infringing on people's religious or cultural rights.

2.4 THE ROLE OF ARTICLE 44 AND ITS ASPIRATIONAL NATURE

The aspiration for uniformity in personal laws is actually explainable through this way – the framers wanted article 44 in the constitution so that there would be a common legal system transcending religion which could assist in national integration. Nonetheless, they realized that with India being such a diverse nation having personal laws rooted history, it was placed within part of Constitution dealing with non-justiciable issues.

Thus, it can be deduced that although UCC is anticipated to be implemented by the state ever time, it should be done without distorting the many hues making up Indian society. What has become clear from various judicial pronouncements is that imposition of UCC should not come overnight but rather gradually for fear of social disturbances or protests from minority communities.

2.5 UCC AS A TOOL FOR SOCIAL REFORM AND THE NEED FOR CAUTION

The United Code of Conduct (UCC) debate is tightly knitted with India's larger strategy of social transformation. In their advocacy for this Bill, proponents argue that personal laws especially those on marriage, divorce and inheritance are usually gender-biased – towards women – thus indicating that UCC would be beneficial in achieving gender equality. However, social transformation in such a diverse country like India should be carefully approached especially on sensitive matters such as religion or culture-related issues.

Unlike secularism as understood in the West where there total separation between religion and state, Indian secularism operates on the principle that state can intervene into religious affairs when it is about protecting rights of vulnerable groups or for purposes of promoting social justice. Therefore, UCC as an instrument for social progress needs to integrate equal rights with the freedom of religion without alienating or marginalising minority groups through its execution.

Investigating constitutional mandate of UCC in relation to the non-justiciable nature of the DPSPs, need for balance between fundamental rights; judicial precedents that have shaped UCC debate is what this section highlights. Although UCC is an instrument for achieving

uniformity of law and social change, caution must be taken while acknowledging that Indian state remains plural and secular. The next section will focus on UCC's impact on tribal and minority groups by analyzing whether their cultural or religious rights need to be protected through exemptions.

3. UCC AND FUNDAMENTAL RIGHTS

3.1 RIGHT TO RELIGION (ARTICLE 25 & 26)

Article 25 of the Constitution of India provides for freedom of conscience and right to profess, practice and propagate any religion. In matters concerning marriage, divorce, inheritance and adoption, religious groups in India adhere to personal laws. This could be perceived as an infringement on the right to administer religious matters as guaranteed under Article 26 if these personal laws were replaced by a uniform code.

Additionally, imposing a standard code by the state might stir up different views between secularism and religious independence. For example, in Mohd.Ahmed Khan v.Shah Bano Begum case the Supreme Court upheld the application of Muslim personal law with regards to maintenance that emphasizes that several personal laws can exist in harmony within pluralistic Indian society. It can similarly be argued that UCC has the potentiality of overriding such religious practices which thereby violates both Articles 25 and 26.

3.2 RIGHT TO EQUALITY (ARTICLE 14)

article 14 provides that there is equality before the law within India and equal protection of law. Whereas UCC intended uniformity in civil matters, it threatens Article 14 by not taking into account reasonable classifications between various religious and tribal communities. According to Indian laws, different classes of individuals may be treated differently if they possess reasonable classifications. The personal laws are such classifications since they are based on the religions and cultures. The UCC therefore ignores these differences thus breaching the principle of reasonable classification and hence violating Article 14.

4. UCC AND TRIBAL COMMUNITIES

The distinct laws exist for Indian tribes under the Constitution, which they have enjoyed for a long time. To preserve their traditional customs, habits and mores this legislation provides protection against outside interference. These tribes are frequently known as Adivasis and

follow their own customary practices such as marriage, divorce, inheritance or land ownership. On one side the UCC intends to bring about parity and uniformity within personal laws but on the other hand it has serious consequences for these communities' rights. If implemented without sufficient safeguards in place then, it may disrupt tribal societies' social and cultural fabric by forcing them to adopt a standard set of laws that do not consider their diversity. This section discusses how the UCC could alienate from the perspective of tribes, constitutional protections granted by Fifth and sixth schedules and effect on the culturally varied tribal groups due to imposing of a uniform legal framework.

4.1 VIOLATION OF TRIBAL RIGHTS

The customary laws of various tribes in India mirror their cultural background which is rich and diverse. Such laws cover important aspects of life such as marriage, divorce, inheritance and land ownership among others; they are normally closely connected with religion and societal practices. The Constitution of India has recognized and enshrined the importance of protecting these customs that are distinct in nature from others, while also ensuring that tribals do not lose their rights due to mainstream law enforcement. In relation to this issue therefore, it is worth noting that provisions in relation to tribal areas contained in the Fifth Schedule and Sixth Schedule of the Constitution provide for special protections hence maintaining their autonomy, cultural identity as well as legal practices.

Nonetheless, with the introduction of UCC this provision may become outdated because it would bring about a type of legislation which does not take into account different tribal ways of living. This predicament raises fears over possible infringement on tribal rights since UCC could disrupt traditional means by which marriage; inheritance or property control is managed among members within such societies. Tribal communities can either adopt matrilineal or patrilineal inheritance systems based on where they are located; these usually contradict principles surrounding UCC. Following that, several native traditions are reliant on verbal traditions, hence cannot simply be inscribed into formal codes of law making it hard for them to be totally uniform in their legal systems.

Tribal regions in various states are listed under the Fifth Schedule of the Constitution and each state governor is given special authorities to supervise application of laws in these particular regions. Northeast's tribal areas gain more independence through the Sixth Schedule which is aimed at giving them regional councilors and judicial systems. Such terms mostly protect tribal

jurisdictions from external forces or threats so as allowing them free rule over their customs and practices. Nevertheless, imposition of a UCC on top of those constitutional safeguards could result into loss of independence on one hand while at same time eroding unique characteristics belonging to indigenous peoples on the other.

4.2 CULTURAL EROSION AND IDENTITY LOSS

This follows that UCC will make tribal communities lose their cultural identities. The tribes comprising a culturally distinct unit in India with customs and practices as critical elements of its identity. The UCC may not be able to accommodate the cultural plurality of India's tribal populations since it seeks to standardize personal laws across the country. Often, tribal customs are associated with their land and community structures, which is very significant for them. For instance, in many tribes, the whole community is collectively owning the land, not just individuals. Such a system preserves the social fabric of tribal societies by ensuring that land remains in the hands of the people living within it and preventing alienation from it. Therefore, if the UCC would impose on people individualistic property rights concepts, it destructively alters the traditional systems leading to loss of tribal land and weakening communal bonds among tribal societies.

On top of that, tribal groups frequently possess exceptional marriage and divorce traditions that stridently deviate from common practices among Hindus, Muslims or Christians. For example, several tribal uprisings have greater custodial prerogatives in regard to inheritance and ownership of property than their counterparts who do not belong to these societies. On the other hand, a UCC which does not recognize such rights would be detrimental to them as tribal women would lose their autonomy; subjected to a legal system that provides them with fewer protections than their traditional laws. This may exacerbate gender disparities within the tribal communities when UCC aims at universal justice.

4.3 SUPREME COURT'S STANCE ON TRIBAL CUSTOMS

the Supreme Court of India, on a number of occasions, has put emphasis on the essentiality of safeguarding tribal customs and traditions especially when they are not in contradiction to statutory laws. The Court also acknowledged that as long as these systems do not breach fundamental rights or statutory provisions, then tribal communities have a right to maintain their distinctive legal systems. This judicial position underscores the significance of finding a middle ground between legal reform requirements and the preservation of tribal autonomy.

In some instances such as *Madan Mohan Singh v. State of Orissa* (1956) and *Ram Nandan Prasad v. State of Orissa* (1977), the Court has upheld customary practices among tribes concerning land ownership and inheritance issues. The judgments recognize that these groups have their own social and legal systems that should be allowed to function independently from main stream laws. The Sixth Schedule provides an instrument for protecting such customs through a provision whereby autonomous district councils are authorized to administer civil and criminal justice according to tribal customs.

Nonetheless, it has been made clear by the court that they must not be discriminatory or oppressive in nature. For example, when there is a clash between tribal customs and gender equality laws or other basic rights, the court has ruled for reform in favor of women. Striking a balance between this protection of tribal customs and the application of constitutional principles will be an important point of reference in the discussion on UCC.

4.4 SPECIAL LEGAL PROVISIONS FOR TRIBAL COMMUNITIES

By recognizing the unique legal and cultural practices of tribal communities, the question arises whether the UCC needs to make special provisions for this. The Constitution already provides for legal pluralism in tribal areas, thus acknowledging that one size does not fit all in a diverse country like India. This understanding is reflected in the Fifth and Sixth Schedules, which provide special protections to tribal communities so that they can continue to govern themselves according to their customs.

For a UCC to be implemented, it must also consider these protections so that tribal communities are not subjected to a legal regime that ignores their cultural autonomy. One probable way out is permitting certain exemptions on some parts of UCC vis-a-vis tribal regions enabling them to keep their customary laws regarding marriage, divorce, inheritance or land ownership among others. It makes sure that tribal communities can maintain their distinct cultural identities as they gain from the larger legal changes which look toward equality and justice for all. Nevertheless, exemptions may not be enough to address the concerns of tribes. There is also a need for a more nuanced legal framework that recognizes the unique needs of tribal societies and ensures that the UCC does not result in unequal outcomes for these groups. For instance, this could involve creating special legal provisions within the UCC that will respect tribal customs but also comply with constitutional values such as gender equality and non-discrimination.

5. UCC AND INTERNATIONAL CONVENTIONS

India's dedication to the Uniform Civil Code (UCC) poses not only domestic constitutional problems but also requires having a look at international norms to which she is a signatory. There is considerable stress on safeguarding cultural rights, safeguarding religious autonomy, minority rights within international human rights law. These have been included in treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR) and the United Nations Declaration of Indigenous Peoples Rights (UNDRIP). Therefore, as a state party to these global instruments, India must ensure that its domestic laws conform to her international commitments.

The implementation of uniformity in the UCC that seeks to harmonize personal laws across various religions and cultures within India may hinder these obligations placed on India by treaty undertakings. Such imposition of uniformity particularly over personal laws whose foundations lie deep within religion or tribe may amount to infringement on these communities' rights for cultural autonomy as well as freedom of religion. This section explores related international conventions and analyzes how far the UCC may contradict with India's obligations under international law.

5.1 THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS (ICESCR)

The ICESCR (International Covenant on Economic, Social and Cultural Rights) is one of the main human rights treaties that India has signed. It provides a variety of economic, social and cultural rights for individuals, which includes the right to participate in cultural activities. The specific article 15 of ICESCR protects this right to participation in culture by individuals with an emphasis on the need for maintaining cultural diversity and autonomy.

In this context, UCC could seem like an infringement on this particular right since it would impose uniform legal frameworks over all religious and cultural communities. In India, tribal communities, religious minorities as well as other cultural groups have their own distinct personal laws based on their respective practices or beliefs. In light of these factors, if UCC is completely implemented without respecting these differences, then full participation by such communities into their own cultures may not be possible anymore. This action would probably violate article 15 because it forces the state authority to protect as well as respect variation

among cultures.

And moreover, the committee looking into Economic, Social, and Cultural Rights, which is responsible for carrying out the ICESCR has stated that states should adopt positive measures to support the cultural rights of minority groups and indigenous populations. Therefore, instead of enforcing sameness, the state should aim at establishing a legal system that honors and incorporates the various cultures. As it stands today, the UCC might not fully address these responsibilities; therefore possibly putting India in contradiction with its global undertakings according to ICESCR.

5.2 THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

India is party to the ICCPR, which protects fundamental human rights including freedom of religion, freedom of thought and freedom from conscience. The ICCPR guarantees through Article 18 that everyone has the right to freedom of thought, conscience and religion, including the freedom to practice any religion or belief in worship and observance. This right belongs both to individuals and communities, allowing them to live according to their own religious beliefs.

The UCC may be seen as infringing on Article 18 rights protected by ICCPR because it seeks to impose uniform personal laws on all citizens regardless of their religion or culture. For many religious communities in India, personal laws regulating marriage, divorce, inheritance and adoption are not mere legal structures but rather an expression of one's spiritual identity. A uniform code would limit their capacity to freely practice their religion especially in matters that are closely linked to individual's private life as well as family life.

As you read through the ICCPR, you will see that there are situations under which it allows for some restrictions on freedom of worship like maintaining public safety, order, health or morals but these restrictions should always be reasonable and justifiable. For example, introducing UCC intended to standardise laws among different religions may not be reasonable thresholds especially if such a move discriminates against certain minority faiths. This is a point made by the Human Rights Committee monitoring compliance with the ICCPR which stated clearly that member states have an obligation to respect pluralism of religions and ensure their laws do not unduly interfere with religious practices.

5.3 UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP)

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) although it is not legally binding is vital international agreement on indigenous people's rights. It allows indigenous people to decide for themselves and protect their cultural identity. Article 3 of UNDRIP accords the indigenous peoples with a right to self-determination in terms of political status as well as their economic, social and cultural development. Moreover, it states under Article 5 that the distinct political, legal, economic and social institutions of the indigenous communities must be maintained and strengthened.

In India, implementation of a UCC may conflict with tribal rights recognized in UNDRIP. Especially in Fifth and Sixth Schedule areas, tribal communities have their customary laws that guide them primarily in matters such as marriages, inheritance and land ownership. These laws are intertwined with social and cultural elements found within these societies, therefore enforcing uniform legal systems would strip off an entire culture's identity.

UNDRIP Article 34 asserts the right of indigenous communities to advance, pursue and nurture their institutional frameworks including unique legal systems based on their customs and traditions. Nonetheless, the introduction of UCC might be seen as violating these rights by enforcing one set of laws across all tribal regions. In an attempt for equality and uniformity, however with its focus on promoting sameness rather than recognizing diversity within different groups, it fails to consider indigenous self-governance in India.

5.4 RECONCILING THE UCC WITH INTERNATIONAL OBLIGATIONS

India has signed numerous international treaties including ICESCR, ICCPR and UNDRIP which emphasize the need to protect cultural rights, religious freedoms and self-determination of indigenous people. However, while promoting national integration and gender equality via a universal civil code (UCC), its introduction must also be considered carefully as it may end up marginalizing certain religious and tribal minority groups.

One way out of this dilemma is to have personal laws existing along a universal civil code. Pluralistic legal frameworks would allow communities governed by religions or tribes to maintain their own customs with regard to personal matters while at the same time enabling individuals who so desire to join into a common civil code. This will ensure that concepts of

equality and secularism prevail without infringing on concepts such as cultural autonomy adhered to by minority communities.

Moreover, the UCC could include specific exemptions or provisions that are tailor-made for specific communities, mainly those considered as indigenous or different in culture. This will enable these communities to have their cultural rights protected consistent with the obligation on India under various international human rights instruments. On one hand, the UCC can be instituted to deal with within personal laws gender-related discrimination as well as violations of fundamental rights to ensure justice and fairness in the eyes of all citizens within the law.

7. CONCLUSION

It should be noted that, though the Uniform Civil Code (UCC) appears to be an advanced move towards national unity and uniformity of laws, its implementation should be done in a way to safeguard fundamental rights given in Indian Constitution. Furthermore, there are major constitutional issues with it regarding religious liberty, tribal freedom as well as cultural heterogeneity which cannot be overlooked. This debate centers on a fine line where we can either promote equality or uphold the multiformity character of Indian society.

The other consideration in UCC debate is also India's obligations under international conventions. India being a signatory to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) has committed itself to protect freedom of religion, rights over cultures and self-determination among indigenous communities. This means that if such a law were introduced without regard for minority communities' cultural and religious autonomy it would be inconsistent with these international commitments. This is concerning the right to self-determination as well as the preservation of separate legal systems for indigenous peoples which have been recognized by UNDRIP. In order not to violate the rights of indigenous people and minorities, UCC needs to comply with these international obligations.

While the Uniform Civil Code serves to enforce equality and secularism, its enforcement has to be done carefully in order not to infringe on individual personal freedoms given by law. Exemptions or special provisions for such groups should be made so that their customary laws and cultural customs are protected from being overridden by mainstream laws.... This means that UCC needs to create a legal platform that encourages fair treatment while recognizing

India's pluralistic social base.... Implementing this way will help India stay united but still respect herself; especially since cultural multiplicity is one big element upon which every country relies for her uniqueness.

