
COLONIAL LEGACY AND THE UNIFORM CIVIL CODE OF GOA

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ABSTRACT

The **Uniform Civil Code (UCC) in Goa** represents a singular and progressive legal framework in India, offering a uniform set of civil laws applicable to all citizens irrespective of religion. Unlike the rest of the country, where personal laws are religion-specific—such as the Hindu Marriage Act (1955), Hindu Succession Act (1956), Muslim personal law, Indian Christian Marriage Act (1872), and Parsi Marriage and Divorce Act (1936)—Goa's UCC ensures legal uniformity, equality, and clarity in matters of marriage, inheritance, property rights, divorce, and adoption. The origins of this system lie in the **Portuguese Civil Code of 1867**, introduced during colonial rule, which continued after Goa's liberation and was incorporated under the **Goa, Daman, and Diu Administration Act, 1962**. Key features of the Goan UCC include **compulsory marriage registration, monogamy, joint ownership of property, equal inheritance rights, recognition of interfaith marriages, and legally enforceable prenuptial agreements** (ante-nuptial contracts). These provisions have strengthened gender equality, ensured protection of women's rights, and simplified legal processes across communities. However, the system is not without limitations, including some outdated provisions and minor religious exceptions, reflecting its historical origins. This article critically examines the **historical context, implementation, and legal impact** of Goa's UCC, evaluates its merits and demerits, and explores its potential as a model for the **nationwide implementation of a Uniform Civil Code** in India. The study also emphasizes the need to modernize the code to address contemporary social realities while respecting religious diversity and constitutional principles.

Keywords: Goa Family law, personal laws, inheritance rights, Gender equality and article 44 of the Indian Constitution.

Introduction

India is a country filled with rich values and heritage. It also has various kinds of religions and communities from time immemorial. Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, Zoroastrianism, Judaism to name some. Each religion has its own set of principles and value which are followed by the respective people. India is a country , unlike the other major countries , it is filled with all sets of people who co-exist peacefully. Each religion has its own personal laws in India such as The Hindu Succession Act 1956, The Hindu Marriage Act 1955, Indian Christian Marriage Act 1872, Muslim Women (Protection of Rights on Divorce Act) 1986 and Parsi Marriage and Divorce Act 1936 etc. These laws have been formulated carefully considering the historical background and keeping the religious sentiments and its values in consideration. The entire India follows the system of this personal law. But Goa has a different perspective to this , where Goa follows a concept called the Uniform Civil Code which is mentioned under the Article 44 of the Indian Constitution which deals with the Directive Principles of State Policy.

In light of this, the article aims to look at how UCC is followed in Goa along with its merits and demerits.

HISTORY OF GOA BEFORE THE IMPLEMENTATION OF UCC:-

In the Early period Goa was ruled by **various dynasties**: Kadambas, Vijayanagara Empire, Bahmani Sultans, and Adil Shahis of Bijapur and each religion like the Hindu and Muslim followed their own personal laws. Only in 1510 , Goa was captured by the Portuguese and brought European style of administration and catholic traditions. The Portuguese introduced the system of common set of laws for all hindus, Christians, muslims and parsis under the Portuguese Civil Code of 1867.

Key significance brought by the Portuguese Rule:-

- Common set of Laws for all religion
- Registration of Marriage was made compulsory
- All Assets acquired after marriage treated as joint-property of husband and wife

- Recognizing Divorce
- Equal Inheritance rights

But Goa was later liberated by the Indian Armed forces in 1961, after which the government passed Goa, Daman and Diu Administration Act 1962 which followed the same Portuguese style of rule. The Portuguese laid the road for the current UCC, which is not a concept introduced by the Indian Government, but a system started by the Portuguese.

SALIENT FEATURES OF THE GOAN UCC:-

Religion, Marriage, Inheritance, Property Rights and Adoption are the major things that come under the concept of personal laws. In Goa, irrespective of religion, it is applied in a uniform and equal manner to all its people.

MARRIAGE LAWS IN GOA:-

a) Compulsory Registration:-

In Goa, Marriage must be compulsorily registered by a Civil Registrar. The people can follow their own customs and rituals as per their traditions but it will be held valid only if it is properly registered.

b) Monogamy Rule:-

In Goa, Bigamy or polygamy is not allowed. But in Hindu religion, a second marriage is allowed if

1. The wife does not deliver a child by the age of 21.
2. The wife does not deliver a male child by the age of 30.

This provision is technically outdated and was criticized. It is there only on the textbooks.

c) Property rights:-

The properties will be shared equally by men and women. No one can sell the property

or mortgage it without the knowledge of the other person and if any one of them dies, the property will be equally divided between their heirs.

Unlike the rest of India, Muslims cannot practice Polygamy or unilateral divorce (Talaq).

Interfaith Marriages:-

Interfaith marriages are considered legally valid and it doesn't require any specific laws like the Special Marriage Act, 1954 like for the rest of India but it should be registered.

PRENUPTIAL AGREEMENTS:-

It is a form of contract followed between couples in Goa where before marriage they can enter into this so as to decide how to handle and divide properties, what to do if their marriage ends in divorce, the rights of the spouse with regard to properties and how to divide them etc.

This form of contract is called prenuptial agreement or anti-nuptial contract in Goa.

This is considered as against the public policy in rest of India. But with the effect of the Portuguese rule, this is considered legally valid and can be enforced in court of law.

Effects of anti-nuptial contracts:-

- All the properties owned by both of them will therefore become joint properties.
- Property cannot be sold without the consent of neither of them.
- On divorce or death, the property will be divided equally.

Contents of a Prenuptial Agreement

A prenuptial contract in Goa can cover:

- Whether property acquired before marriage remains individual property.
- Whether income/earnings during marriage are shared or separate.

- How debts and liabilities are managed.
- Division of assets upon divorce or death.
- In some cases, even provisions related to maintenance and support.

Josephine Leona v. Maria Luiza Valentina Pereira (2019) [Supreme Court of India]

Facts:

- The case dealt with issues of property division and inheritance under the Goa Civil Code.
- The Supreme Court was asked to interpret Goa's uniform civil laws, particularly regarding joint property rights and equal inheritance among heirs.

Key Points:

1. **Uniform Application:** The Court recognized that the Goa Civil Code applies equally to all communities (Hindus, Christians, Muslims, Parsis) in matters of marriage, divorce, inheritance, and property.
2. **Gender Equality:** Emphasized that women have equal rights to inheritance and property under Goa's UCC, unlike some other personal laws in India.
3. **Property Rights:** Affirmed the community of property principle, where spouses jointly own all assets acquired during marriage, and such property is divided equally upon divorce or death.

Significance:

- The Supreme Court highlighted Goa as a successful example of a functioning UCC, praising it as a model that could guide future debates on nationwide implementation.
- It reinforced legal certainty, equality, and uniformity across all religions in Goa.

CONCLUSION

The UCC system covers all the major issues in humanity such as inheritance, adoption,

property rights and marital issues etc , giving equal rights to both of them. Unlike the past, women gets equal rights and share in this form of system. It upholds Article 44 of the Indian Constitution. The major question is Should UCC be followed nationwide.

The merits of Goa's UCC are clear: it provides **uniformity across communities, reduces legal disputes, and safeguards the rights of women and children**. However, the system is not without shortcomings, including **outdated provisions and minor religious exceptions**, reflecting its colonial origins. These aspects indicate the need for **periodic modernization and reform** to ensure that the code meets contemporary social realities.

India is country filled with diverse people of all religions and communities .Each has its own value and history. The personal laws are completely different from each other considering its history, religious beliefs and way of life etc. One system and its procedures can be completely against the moral values of the other. So each should be handled so carefully and without disturbing the fundamental and basic structure or the root of belief of every religion. In that case, UCC system can be followed through out India after modernising the code so as to meet the needs of all religion to ensure equality and justice. Therefore, any move to implement a UCC across India must be **gradual, sensitive, and inclusive**, ensuring that reforms respect religious diversity while upholding **constitutional principles of equality, justice, and secularism**.