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**THE INDIA'S INHERITENCE LAWS AND THE UNIFORM CIVIL CODE:
HOW TO CONVERT THIS DISTANT DREAM INTO REALITY**

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ABSTRACT

This paper argues the need for a Uniform Civil Code while basing arguments on the very problematic, personal laws of inheritance in India. Not only do the fragmented personal laws have stark differences amongst each other, but are also inherently discriminatory, thereby violating the fundamental rights of the Indian population. While highlighting the discriminatory nature of the different personal laws and stressing on the dire need of a Uniform Civil Code, the paper simultaneously adjudges the feasibility of the same in the socio-political context of India. Since an immediate unification of the varied personal laws seems unachievable at this juncture, an attempt has been made to propose the implementation of the Uniform Civil Code cautiously and gradually in a phase-wise manner, spread across a few years.

INTRODUCTION

The issue on formulation of a Uniform Civil Code has been the subject of continuing debates since 1950. A Directive Principle in the Constitution of India, Article 44, puts an obligation on the State to secure a Uniform Civil Code throughout the territory of India.² However, in 2020, even 70 years later, this seems an idea too far-fetched, or even impossible to be carried out. A Uniform Civil Code is intended to replace the system of fragmented personal laws of different religions which primarily governs marriage, divorce, custody, guardianship, succession and

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² INDIA CONST. art. 44.

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inheritance. This paper puts forth a comprehensive legal analysis with due consideration given to India's social and political climate, while basing arguments solely on the very discriminatory inheritance laws of India, in order to truly examine the desirability and viability of a Uniform Civil Code in India. Although implementing a Uniform Civil Code in India seems like a distant dream, a convergence of inheritance laws in India, where individuals are subject to unequal treatment in family law matters due to application of personal laws, seems to be quite achievable when formulated cautiously and implemented gradually in a phase wise manner.

The inheritance laws, as it exists today, are derived from the personal laws of each religion. The existing personal laws are mostly based on the upper-class patriarchal notions of the society.³ There exist several points of divergence in the various personal laws, which the Uniform Civil Code seeks to equalize. The Hindu Succession Act, 1956 retains the concept of coparcenary joint family property, which is only peculiar to Hindus. No other personal law mentions a similar concept. After the 2005 amendment, the right of a daughter in the coparcenary property is equal to that of a son.⁴ However, Muslim personal law under the Shariat has very specific rules of succession. Both in Sunni and Shia law, a Muslim daughter's share is half to that of the son and a wife's share is half to that of the man. Since this is spelt out in the Quran, there lies little possibility of a gender equal interpretation.⁵ A non-Parsi woman who is either a wife or a widow of a Parsi cannot inherit but their children can inherit. Children of a Parsi woman born to her from a non Parsi man are not considered as Parsis. These two provisions discriminate against a Parsi woman who marries outside her community and a non-Parsi woman who marries a Parsi.⁶ Furthermore, while the Hindu Succession (Amendment) Act, 2005 scrapped the discriminatory

³*Uniform Civil Code (UCC): Pros and Cons in a nutshell*, Clear IAS, (March 23, 2017), <https://www.clearias.com/uniform-civil-code-ucc/>.

⁴ S.6, Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India).

⁵ Bina Agarwal, *Can we unify inheritance law?*, Times of India, (September 19, 2017), <https://timesofindia.indiatimes.com/india/can-we-unify-inheritance-law/articleshow/60740547.cms>.

⁶*Many gender inequalities in personal law*, The Hindu, (October 31, 2016), <https://www.thehindu.com/news/national/Many-gender-inequities-in-personal-laws/article15880303.ece>.

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provision of excluding women from rights in agricultural land, Muslim personal law retained it.⁷ The 2005 amendment was indeed progressive, yet some problems continue to remain unaddressed. If a Hindu woman dies intestate, without a husband or children, her property goes to her husband's heirs and only if they are not alive, the property devolves upon her father's heirs and lastly to her mother's heirs.⁸ This method of succession was upheld by the Supreme Court⁹, despite the recognition of the injustice of this provision. The 207 Law Commission Report also suggested an amendment of the provision, but nothing has been done in this regard until 2020.¹⁰ Nevertheless, personal laws also differ on the right to will. While Hindu, Christians and Parsis face no restrictions, Muslim law restricts the wills to 1/3rd of the property, all the more with Sunni and Shia differences on who can get the property and with whose consent. Additionally, there exist differences within the Hindu law itself. Several State amendments are made with diverging provisions from those contained in the Hindu Succession Act. For instance, in 1976, Kerala abolished joint family property altogether while the Act retained it.¹¹ Lastly, cultural ideas on who deserves to inherit also differ, Hindus emphasize Sapinda in Mitakshara, religious efficacy in Dayabhaga, while other communities focus on various blood and marital ties or proximity of residence among others.¹²

All these observations are although a stark difference in various personal laws, yet commonality is shared amongst all, when it is always the woman who is discriminated in terms of inheriting property. Inheritance laws remain deeply gender unequal, not only in practice but also in law. A gender neutral uniform civil code will eliminate the scope of politicization of issues, the discrimination, the concessions and the privileges that are enjoyed by a particular community on the basis of their personal laws.

⁷ S.2, Shariat Application Act, 1937.

⁸ S.15, Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India).

⁹ Omprakash v. Radhacharan, 2009 (76) ALR 818.

¹⁰ Law Commission Report, *Proposal to amend Section 15 of the Hindu Succession Act, 1956 in case a female dies intestate leaving herself acquired property with no heirs* (207, 2008).

¹¹ Kerala Joint Hindu Family System (Abolition) Act, 1975, No. 30, Acts of Parliament, 1976.

¹² *Supra* note 5.

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PERSONAL LAWS & THE INDIAN CONSTITUTION

At this juncture, it is also important to flag the genesis of personal laws. The British colonial Government simplified vastly heterogeneous family and property arrangements within the ambit of four major religions: Hindu, Muslim, Christian and Parsi.¹³ Despite resistance from all quarters, the Hindu Code was enacted to the exclusion of all other religions.¹⁴ Instead, this would have been the most appropriate time for a Uniform Civil Code to be enacted because people were not even aware of their religious differences. Today, all personal laws discriminate against women, therefore, the tension in Part III of the Constitution is a contradiction between the rights of women as individual citizens versus the rights of religious communities as collective units of democracy.¹⁵ It is claimed by the religious communities that framing a Uniform Civil Code will be an encroachment on their right to religion contained in Article 15, Article 25 and Article 26 of the Constitution. However, one needs to ponder whether the matters relating to personal laws are actually a matter of religion. Religion and personal laws are quite different avenues. In other words, a person can profess and propagate his religion irrespective of uniformity in personal law.

On the contrary, if personal laws of inheritance are actually a part of religion, the women of India will never be able to get equality as enshrined in Article 14 of the Constitution. The Muslim personal law, as it exists today can never provide equality to Muslim women. To reiterate, the respective personal laws that are being defended today in the name of religious freedom, are actually colonial constructions of the late nineteenth and twentieth century. Historical blunders are indeed difficult to correct, however, an absolute submission to those blunders and not having a solid reform is only going to be another blunder for the future generations to witness. Moreover, what the State protects is religious belief and faith, and not discriminatory religious practices.¹⁶ In order to elevate the position of Indian women, the need of the hour is a modern, gender-sensitive civil code. The demand for a Uniform Civil Code was also

¹³ Nivedita Menon, *A Uniform Civil Code in India: The State of Debate in 2014*, 40 JSTOR. 480-486 (2014).

¹⁴*Id.*

¹⁵*Supra* note 13.

¹⁶ 5 D.C. Manooja, *Uniform Civil Code: A suggestion*, 42 JSTOR. 448-457 (2000); INDIA CONST. art. 25(1).

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seen by the judiciary in 1985, in the landmark judgment of Mohd. Ahmed Khan v. Shah Bano Begum. The Supreme Court observed that “A common civil code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies”.¹⁷ Additionally, in Sarla Mudgal v. Union of India, Justice Kuldeep Singh reiterated the need for the Parliament to frame a Uniform Civil Code, and implement the directive of Article 44.¹⁸

FEASIBILITY OF A UNIFORM CIVIL CODE IN INDIA, GIVEN ITS DIRE NEED

After having asserted that enacting a gender neutral Uniform Civil Code would be the ideal thing to do, it is important to scrutinize whether the implementation of the same in its true sense is feasible in the socio-political landscape of India. In August 2018, the Law Commission submitted a consultation paper on the ‘Reform of Family Law’.¹⁹ It suggested that providing a Uniform Civil Code is ‘neither necessary nor desirable’, but emphasis should be laid on gradual reforms in personal laws such that the weaker sections of the society are not dis-privileged in the process. While partially disagreeing with the stance of the Law Commission, merely asserting that a social reform cannot happen due to the diversities in India is never going to solve the problem. Instead of finding an escape due to the presence of obstacles, efforts should be put so as to tackle those obstacles and come up with a solution. Neither a blanket unification nor a ‘separate but equal’ model is going to solve the problem. Rather than bringing about gradual reforms in the various personal laws, the Government should begin to systematically plant a Uniform Civil Code. Formulating a long code on all the spheres of family law in one stroke will cause immense difficulty. It is not practically possible to change the age-old traditions and customs of all people as a whole suddenly.

Several factors need to be considered before making such a bold step. The path of implementing a religion-specific law at the national level is fraught with serious Constitutional and political ramifications. The nation has already witnessed the protests and flare ups during the agitation on the Citizenship Amendment Act, 2019, which was perceived to be anti-Muslim. On the surface,

¹⁷ AIR 1985 SC 945.

¹⁸ AIR 1995 SC 1531.

¹⁹ Law Commission Consultation Paper, *Reform of Family Law*, (2018).

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unlike the Citizenship Amendment Act, 2020, a Uniform Civil Code appears to be entirely consistent with feminist goals. However, the Bharatiya Muslim Mahila Andolan (BMMA) finds the idea of a Uniform Civil Code for all religious groups a politically motivated project.²⁰ Several other minority communities and Indian feminist positions also oppose the measure and fear that a common code will neglect their concerns and will be dictated and regulated by the majority religious communities.²¹ This is an important time to understand the complexities of Indian feminist positions on this issue, since the majoritarian Hindu Bharatiya Janata Party through its promise on Uniform Civil Code actively seeks to present itself as secular and pro-women, while portraying the opponents of Uniform Civil Code as ‘pseudo-secular’ and ‘anti-women’.²² Perhaps, since the code would favor a majority population of Hindus, it is only logical for minority groups to anticipate that a Uniform Civil Code would look more like a Uniform Hindu Code. A baseless Bharatiya Janata Party tactic to counter this statement is that since Hindus have already given their women equal rights, a Uniform Civil Code is only for the saving of minority women.²³

In *Lily Thomas v. Union of India*, while stressing on the desirability of a Uniform Civil Code, the Apex Court also asserted that it can concretize only when the social climate is properly built up by the elite of the society and statesmen amongst leaders who instead of gaining personal mileage rise above and awaken the masses to accept the change.²⁴ With this rationale, the primary responsibility of the Government before enacting a Uniform Civil Code should be to convince the minority communities that Uniform Civil Code is not to suppress them or interfere with their religious rights and beliefs, but is one to protect their interests in the plural democracy of India. A Committee should be formed with equal representation of members from each

²⁰ Peter Ronald Desouza, Hilal Ahmed and Mohd Sanjeer Alam, *Why a Muslim women's group is pro triple talaq ban, but doesn't support Uniform Civil Code*, The Print (September 14, 2019), <https://theprint.in/pageturner/excerpt/whya-muslim-womens-group-is-pro-triple-talaq-ban-but-doesnt-support-uniform-civil-code/290921/>.

²¹ *Supra* note 13.

²² *Id.*

²³ *Id.*

²⁴ AIR 2000 SC 1650.

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religious community so as to avoid any biases and hear the concerns of each representative. A piecemeal reform instead of a holistic reform should be implemented. The task will indeed be very time and resource consuming; however, the Government should be sensitive and unbiased at each step while dealing with the majority and minority communities. The results must not be counterproductive, thereby rendering the efforts of the legislature futile. Therefore, the need of the hour is to depoliticize Article 44 and thus complete the unfinished agenda of the founding fathers of the Constitution.

ACCOMODATING THE DIVERSE POPULATION WITH VARYING NEEDS

The introduction of a Uniform Civil Code in India is not solely challenged by interreligious conflicts, but also has to face the brunt of intra-religious clashes. To give an instance, in the past few years we have seen several Muslim women mobilize against unfair practices that they are subjected to in the name of Muslim Personal law. Even so, the archaic and conservative demands of the All India Muslim Personal Board are given preference over the demands of the Bhartiya Muslim Mahila Andolan who seek to revolutionize Muslim personal law.²⁵ There was a major difference in opinion between the Hindu Mahasabha and the then government regarding the Hindu Code Bill, and the discourse regarding a Uniform Civil Code is going to be no different.²⁶ Although introducing a 'Uniform Civil Code' in India is a part of the Bharatiya Janta Party's manifesto, due to the party's certain non-traditional undertones, there is a lack of consensus between them and the Rashtriya Swayamsevak Sangh on certain fronts.²⁷ Despite the fact that such religious confrontations in this matter are inevitable, one way to approach 'diverse

²⁵ 4 Shoaib Daniyal, *If Muslim women want to reform personal law, why isn't the Indian state listening to them*, Scroll, (August 23, 2015), <https://scroll.in/article/750271/if-muslim-women-want-to-reform-personal-law-why-isnt-the-indian-state-listening-to-them>; MarkandeyKatju, *A brave initiative of Bhartiya Muslim MahilaAndolan*, Times of India, (June 19, 2014), <https://timesofindia.indiatimes.com/blogs/satyam-bruyat/a-brave-initiative-of-bhartiyamuslim-mahila-andolan/?source=app&frmapp=yes>.

²⁶ Christophe Jaffrelot, *Nehru And The Hindu Code Bill*, Outlook India, (August 8, 2003) <https://www.outlookindia.com/website/story/nehru-and-the-hindu-code-bill/221000>; Komal Kajak, *The Hindu Code Bill — Babasaheb Ambedkar and his Contribution to Women's Rights in India*, Medium, (April 17, 2019), <https://medium.com/@dalithistorynow/the-hindu-code-bill-babasaheb-ambedkar-and-his-contribution-to-womensrights-in-india-872387c53758>.

²⁷ Smriti Kak Ramachandran, *BJP, RSS hope for consensus on Uniform Civil Code*, Hindustan Times, (August 6, 2020), <https://www.hindustantimes.com/india-news/bjp-rss-hope-for-consensus-on-ucc/storyASFagZCCQPEIfQT59HMgkK.html>.

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population requests' is by spearheading this discourse in the name of human rights and not religion based discrimination. Rather than directly targeting oppressive religion-specific practices, the Uniform Civil Code and all the dialogue surrounding it must systematically disintegrate these practices indirectly without reference to any particular religion.

CONFLICT BETWEEN ARTICLE 14 & ARTICLE 25 OF THE CONSTITUTION

Any discourse that highlights the widely followed patriarchal and gender-biased religious practices are often attacked by the never ending conflict between 'Right to freedom of Religion' and 'Right to Equality', guaranteed fundamental rights under the Indian Constitution. Although one should never be compelled to choose between their 'Right to freedom of Religion' or 'Right to Equality', if they are in conflict, 'law should be blind to cultural difference when it comes to matters of human rights'.²⁸ Social evils and untoward practices should not be allowed to hide behind the garb of religious customs and seek protection under Article 25 of the Indian Constitution. Furthermore, it must be noted that the 'Right to Freedom of Religion' is not an absolute one. It is subject to morality and the other provisions of Part III of the Constitution, and therefore subject to the right to equality and protection of dignity.²⁹ Additionally, the State is also empowered by the Constitution to make laws in pursuance of social welfare and reform.³⁰ Therefore, as and when the need to transform social norms arises, the balance and dynamics between these conflicting fundamental rights must be altered accordingly.³¹ Justice Indu Malhotra's ruling in the Sabrimala temple issue, where she justified the illogical practice of barring the entry of women in temples based on Article 25, is a classic example of an unfavorable imbalance tilted towards a regressive and conservative approach that places the

²⁸*Supra* note 19.

²⁹ 8 INDIA CONST. art. 25. Shampa Dev, *Conflicting rights: equality or religion?*, Deccan Herald, (October 15, 2018), <https://www.deccanherald.com/opinion/perspective/conflicting-rights-equality-or-697994.html>.

³⁰ INDIA CONST. art. 25

³¹ Bethany Hastie & Argot Young, *The Act between equality rights and freedom of religion*, The Conversation, (April 4, 2019), <https://theconversation.com/the-legal-conflict-between-equality-rights-and-freedom-of-religion-113645>.

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‘Right to freedom of Religion’ on an unwarranted higher pedestal.³² It is an internationally accepted tenet of law that, ‘where traditional religious practices come into conflict with the basic rights of the individual, it is the former that have to give way’.³³ This tenet has been widely recognized by the Indian judiciary in several controversial matters such as the triple talaq, Sabrimala temple issue, Female genital mutilation by the Dawoodi Bohra community, to name a few.³⁴ It is time that the Legislature and the Judiciary stop cherry-picking matters with either immense severity or less controversy to end gender specific oppression. Rather than trivializing matters and letting them amplify, a well-rounded approach, such as the one proposed below, is necessary to curtail gender based discrimination on maximum fronts.

MODEL UNIFORM CIVIL CODE FOR INDIA

‘Change is the only constant in life’³⁵, and with any significant change in the Indian legal landscape, one that is full of complexities and is diverse, comes inevitable opposition and dissent especially in the case of controversial matters such as personal laws. The codification of Hindu personal laws was no exception to this, and as a result it faced severe backlash and agitation from staunch Hindu Nationalists.³⁶ As a result, waiting for the ‘ideal’ time period, one without obstacles, to work towards a Uniform Civil Code is an endless and hopeless cycle based on unrealistic expectations. This is because the issue concerning the implementation of a Uniform Civil Code in India ‘is vast, and its potential repercussions, untested in India’.³⁷ As a consequence, the State must strive to achieve the long-drawn goals of the Uniform Civil Code by

³²*Supra* note 29.

³³Arcot Krishnaswami, *Study of Discrimination in the matter of religious rights and practices*, OHCHR, United Nations, 17, 1960.

³⁴Kruthika R, *Gender Equality v. Religious Freedom in Personal Law Cases*, Supreme Court Observer, (June 19, 2020), <https://www.scobserver.in/beyond-the-court/on-balancing-gender-equality-and-religious-freedom>; Prabhash K Dutta, *Gender equality or religious freedom, what is more basic human right? SC to decide*, India Today, (January 13, 2020), <https://www.indiatoday.in/news-analysis/story/key-question-before-sabrimala-review-hearing-right-to-equality-versus-religious-freedom-1636498-2020-01-13>.

³⁵ Heraclitus, Greek Philosopher.

³⁶*Supra* note 26.

³⁷ Law Commission Consultation Paper, *Reform of Family Law*, (2018).

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anticipating the possible unrest it can cause and taking proactive steps to mitigate all such risks. In the words of Bina Agarwal, Professor of Development Economics at the University of Manchester, 'formulating a secular law that upholds the constitutional principles of gender equality is a possible alternative'.³⁸ Based on similar lines, a practical and viable model for a Uniform Civil Code in India can be one which will be implemented in a periodic and phase-wise manner to avoid the effects of a sudden blow.

After observing the socio-political climate of India and its tendencies, this paper proposes a phase-wise model, spread across a few years, to begin the implementation of a Uniform Civil Code of India. The first phase involves several systematic steps, beginning with the formulation of an expert committee that shall spearhead this project. The formulation of this independent committee is very critical to remove the effects of 'party politics' from this process and to truly make the discourse democratic and secular. Therefore, sufficient representation of religious identities is very vital while ensuring that no opposing and conflicting party, even of the same religion, is left out. This must be followed by the identification and drafting of core principles that will be listed in the 'Preliminary Code'. In the case of inheritance laws, we have seen that the Hindu Succession Amendment Act, 2005, has incorporated several changes in it to make the inheritance laws applicable to 'Hindus' under the Act comparatively more gender inclusive and equal as opposed to the earlier version of Hindu inheritance laws. In addition to this, the Supreme Court pronouncement in furtherance of the amendment act has actively supplemented this cause.³⁹ However, the non-Hindu communities such as Muslims & Tribal communities among others are still victims to gender-based discrimination in inheritance matters governed by

³⁸ Bina Agarwal, *Can we unify inheritance law?*, Time of India, (September 19, 2017) <https://timesofindia.indiatimes.com/india/can-we-unify-inheritance-law/articleshow/60740547.cms>.

³⁹Arshita Aggarwal, *Towards gender equality*, The Hindu, (September 5, 2020) <https://www.thehindu.com/opinion/open-page/towards-gender-equality/article32530848.ece>; Prabha Sridevan, *For Gender Equality in Ancestral Property, the Journey from 956 Has Been a Long One*, The Wire, (August 14, 2020) <https://thewire.in/law/hindu-personal-law-gender-equality-ancestral-property-coparcenary-supreme-court>; *Right by birth: On daughters and Hindu succession act*, The Hindu, (August 14, 2020) <https://www.thehindu.com/opinion/editorial/right-by-birth-the-hindu-editorial-on-daughters-and-hindu-successionact/article32347299.ece>.

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their respective personal laws.⁴⁰ The position of women in India has been systematically weakened since several years due to the male-controlled inheritance laws. Inheritance property plays a major role in making an individual economically self-sufficient but the manner in which inheritance laws have been drafted and interpreted, it acts as a ‘blanket denial of even a chance of self-development and ownership of property’ for women.⁴¹ As a result, there is a need for certain core principles, based on liberty and equality that must be followed when dealing with all sorts of family law matters. An exhaustive list of principles that must be included in the ‘Preliminary Code’ with respect to personal inheritance laws has been mentioned in Annexure A. The formulation of this ‘Preliminary Code’ does not automatically dissolve the application of the existing personal laws; rather it supplements them with certain rules. After the ‘Preliminary Code’ comes into effect, all personal laws must be read with this code and in case of any conflict between the provisions; the provisions of the ‘Preliminary Code’ must prevail. As a consequence, it is important to ensure that the content of the ‘Preliminary Code’ for the time being shall contain principles that do not challenge any religion-specific practices but merely bring about a sense of clarity and order to do away with the existing oppressive and unequal religious practices.

Once the first phase has been successfully implemented for a suitable amount of time to make certain that the general public has had adequate time to process these changes and accustom themselves, the second and the final phase should largely be based on public response and the rate of acceptance. This leaves the State with two options, if the religious harmony between different communities of India is restored and the political and social climate of India is balanced, there is sufficient reason to take the complete unification path. But the complete unification path must be taken up very cautiously and diligently to keep the process secular and not result in the suppression of minority demands and concerns due to majority domination and wrongful use of privilege and nationalism. The Portuguese Civil Code, 1867’s retention in Goa is often cited as a ‘shining example of a state which has a Uniform Civil Code applicable to all

⁴⁰ Bina Agarwal, Can we unify inheritance law?, Time of India, (September 19, 2017) <https://timesofindia.indiatimes.com/india/can-we-unify-inheritance-law/articleshow/60740547.cms>

⁴¹ Poonam Gandhi, *Succession Laws & Gender Justice*, 284-301

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religions’, but due to the unfortunate realities that come with it, Goa’s version of a Uniform Civil Code is not a fit model for India to follow on a nationwide level. Although on the face of it the Portuguese Civil Code appears to be gender-neutral in several aspects, it is not ‘uniformly and equally’ applicable to all residents of Goa and it also deprives its subjects of the post-independence transformations in family law.⁴² The second option, the more likely and feasible one, shall be applicable in the event that unrest, as a repercussion of the implementation of the ‘Preliminary Code’, still subsists. Herein, the State must either order the complete and compulsory integration of the rules laid down by the ‘Preliminary Code’ in all personal laws or give permanent validity to the ‘Preliminary Code’ document and empower it to overrule the provisions of various personal laws wherever a conflict arises. With this, the State must enforce the codification of all personal laws on an urgent basis as suggested and emphasized in the 207 Law Commission Report.⁴³

Annexure A
Preliminary Uniform Civil Code
[Draft Document]

This is an indicative list of principles that must be followed in inheritance matters irrespective of the existing religion specific inheritances laws. This list only encapsulates core principles related to inheritance laws for the purposes of this paper. The entire version of the code must contain principles for all family law related matters, that is- Marriage, Divorce, Adoption, Maintenance & Inheritance.

- The property of a married woman who dies intestate should be divided equally between her parents and her parents in law, in the absence of her children and husband.
- The property of a female should not be ‘reverted’ back to the heirs of the person from whom she acquired this property, rather the fate of ‘her property’ should solely be decided based on her heirs and her existing relationships.

⁴² Tahir Mahmood, *SC’s example of Goa as a state with a uniform Civil Code is inconsistent with Article 44*, India Express (September 18, 2019), <https://indianexpress.com/article/opinion/columns/uniform-civil-code-supreme-courtarticle-44-6004340/>; Abertina Almeida, *Goa’s Civil Code Shows That Uniformity Does Not Always Mean Equality*, The Wire (August 8, 2016) <https://thewire.in/law/goas-uniform-civil-code-is-not-the-greatest-model-to-follow>.

⁴³ Law Commission Consultation Paper, Reform of Family Law, (2018).

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- Preference should not be given to ‘male relations’ over ‘female relations’ during devolution of property. Relationships that are formed due to a female link must be treated equally. This means ‘uterine-bloods relations’ and ‘half-blood relations’ should be treated equally.
- Females should be treated equally to their male counterparts in both, the family they are born in and the family they marry in.
- A female’s share should be equal to male’s share that lies in the similar relation of the deceased.
- A female cannot be completely excluded from inheriting any kind of property or compelled to settle for a lesser share in the property in the name of traditions or customs.
- These principles shall not interfere with the fragmentation provisions concerning agricultural lands in different regions, but in case of inheritance matters, these principles are applicable to ensure women are not discriminated against.



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