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The Uniform Civil Code (UCC) in ASSAM: Debates, Impact and Possible steps

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Abstract: ***Article 44 of the Constitution says, "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." Assam is the third state, following Uttarakhand and Gujarat, all ruled by the Hindu nationalist BJP, to move toward a unified civil law for all religious groups, however the tribal communities, comprising 12.45 percent of the state's population, will be exempted from the code. As per the government UCC will deal with four points — preventing underage marriage, banning polygamy, inheritance laws and registration of live-in relationships. It will not deal with traditional rituals or practices," Even if the communities governed under the sixth schedule areas will be exempted, it will affect the other communities practising their customary rights. Based on the enumeration of the 2011 census, Assam has a population of 61.47 per cent Hindus, 34.22 per cent Muslims and 3.7 per cent Christians.***
Keywords: UCC, Assam, Inclusive, Culture, Uniform

I. INTRODUCTION

The Uniform Civil Code embodies the concept of one country, one code that applies to all religious sects. The term 'Uniform Civil Code' is used specifically in Part 4, Article 44 of the Indian Constitution. Historically, the idea of UCC was influenced by similar codes drafted in European countries during the nineteenth and early twentieth centuries, particularly the French code of 1804, which abolished all forms of customary or statutory laws in place at the time and replaced them with a uniform code on a larger scale, it was an attempt to 'civilise' the country as part of a bigger imperial project that followed the West. However, the First War of Indian Independence in 1857 delivered a clear message to the British to respect India's social fabric and the personal norms controlling marriage, divorce, maintenance, adoption, and succession. Post-Independence, against the backdrop of Partition, which resulted in communal disharmony and resistance to remove personal laws resulted in accommodating the UCC as a directive principle.

According to the 2011 census, 61.47% were Hindus, 34.22% were Muslims, Christian minorities (3.7%) are found among the Scheduled Tribe and Castes population. Other religions followed include Jainism (0.1%), Buddhism (0.2%), Sikhism (0.1%) and Animism (amongst Khamti, Phake, Aiton etc. communities). Many Hindus in Assam are followers of the Ekasarana Dharma sect of Hinduism, which gave rise to Namghar, designed to be simpler places of worship than traditional Hindu temples. Religion in Assam is closely related to ethnicity, closely around 65% of Assamese people, 90% of Bodo tribe, 83% of Karbi tribe, 95% of Ahom tribe, 94% of Rabha tribe, 97% of Mishing tribe, 99% of Dimasa tribe are mainly Hindu by religion. Christianity is mainly practised by 9% of Assamese Community, 10% of Bodo tribe, 20% of Tea Tribe & 15% of Karbi tribe respectively. About 26% of all Ethnic Assamese are Muslim by faith. Majority of 66% of the Assam Bengalis are Muslim by faith, & a significant population of them about 34% adheres to Hindu faith. Immigrants from other parts of India, like Marwaris, Biharis, Nepalis, Uttar Pradesh is, Odia's etc are mostly Hindu with minority being Muslims. The Assam chief minister declares his government's intention to implement UCC and prohibit polygamy by combining the two as a cohesive legislative package. He further added that, unlike in Uttarakhand, where polygamy is considered a civil offence, it will be criminalized in Assam. It will be a well appreciated legislative step. Once enacted, this will provide legal uniformity throughout the state's religious communities. Uttarakhand in northern India was the first to pass legislation establishing a Uniform civil code, and Gujarat followed suit. All three states are governed by the Hindu nationalist Bharatiya Janata Party (BJP). The implementation of a uniform civil code has been a priority for the BJP, as evidenced by its manifestos in both the general and state assembly elections. This paper primarily talks about the concept of the Uniform Civil Code and its potential impact on Assam. In this paper, the basic essence of the Uniform Civil Code is examined and what are the recent developments in Assam.

II. RESEARCH METHODOLOGY

The researcher has followed secondary data collection related with the main theme. The researcher has also utilized commentaries, books, treatises, articles, notes, comments and other writings to incorporate the various views of the multitude of jurists, with the intention of presenting a holistic view.

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III. UNIFORM CIVIL CODE AND THE PERSONAL LAWS

Personal laws are based on conventions that favoured men in society. In the early 20th century, Hindu and Muslim personal laws were introduced to safeguard family privacy from colonial governmental surveillance. Men are always considered superior in personal concerns such as marriage, adoption, maintenance, and succession. Women face discrimination in every facet of life. Before 1955, polygamy; which is the practice of having more than one wife at the same time, was widespread among Hindus. According to the Hindu Succession Act 1956, the rights of inheritance in ancestral property were not given to daughters. Similarly in Muslim society the discrimination and "Secondary Status" prevailed. Laws like "Triple Talaq" where a Muslim man can give divorce to his wife by saying Talaq thrice and wife cannot do anything about it. India was filled with cases where husband have divorced their wives over phone calls, messages etc. Based on the above personal laws there is demand and need for the Uniform Civil Code to fill the gap of equality.

India is a multi-religious country yet united by nationalist spirit. People are governed by their personal laws with respect to marriage, succession, divorce, etc. There are differences and discrepancies within the personal laws. There is no uniformity. Also, there has been instances where the personal laws denied the rights of women. To counter these shortcomings, the Uniform Civil Code can be appropriate. It will replace all the existing personal laws; formula of a uniform personal law is introduced and uniformity is presented as a solution to undo all the repressive evils that have crept inside our existing personal laws. In India, the Vedas are the fundamental source of Hindu law, alongside Shrutis, Smritis, commentaries, and digests. They are regarded infallible and supreme. In ancient Indian law, the king had no jurisdiction to meddle with personal laws, which were established by the sages. The introduction of personal laws by Muslims, Parsis, and Christians in India added to the existing Hindu rules, resulting in a diverse and complicated set of laws. The UCC proposes that personal laws, like the criminal code, should be governed by uniform laws, known as the 'civil code'.

IV. UNIFORM CIVIL CODE AND IDEOLOGICAL FOUNDATIONS

According to Article 44 of the Indian Constitution, states must strive to give UCC to all citizens across their territory. The fundamental difficulty is that UCC falls under Article 44 of the State's Directive Principles, which are not enforceable by the court and are simply guidelines for the state. Although the Constitution recognizes the importance of UCC for citizens' welfare, it does not mandate its implementation. India's Uniform Civil Code (UCC) is based on the values of equality, fairness, and secularism. The UCC advocates for a single set of regulations for personal matters such as marriage, divorce, inheritance, and adoption, regardless of religious affiliation, to promote equality. The UCC is viewed as a tool for preserving individual liberty, national unity, and gender fairness. Advocates emphasize the importance of expanding legal protections beyond religious boundaries to ensure a fair and consistent system for all citizens, in line with the values of the Constitution.

V. RECENT DEVELOPMENTS IN ASSAM

Assam is a state of heterogeneous population with socio-cultural and ethnic diversity. The primary idea in Assamese society is sociological diversity. Assamese society is shaped by various elements such as castes and sub-castes, including pre-Aryan races, tribes, and Aryans. The presence of different castes and sub-castes contributes to the dynamic social fabric of Assam. The religious composition of Assamese society also contributes a unique aspect to social culture. Assam is a place where individuals from various major religious communities reside. Specifically, Hindus and Muslims coexist. Similarly, Sikhs, along with other religious groups, also Buddhists, Christians, Jains, and others also make up the population composition of Assam. Being. The main factor behind the diverse social culture of Assam is primarily the presence of various social groups.

According to the government of Assam, UCC will address four areas: stopping underage marriage, prohibiting polygamy, regulating inheritance laws, and registering live-in relationships. It will not address traditional rituals or practices when exempting communities governed under the sixth schedule, impacting other communities' customary rights. Government of Assam wants to curb evangelism in the State apart from aligning a proposed anti-polygamy law with Uttarakhand's Uniform Civil Code (UCC).

2001 census data shows that in 15-19 age group most of the children and especially girl child leaves the school because of attaining puberty and or getting married. As per the data, Dhubri District has the highest percentage of child marriage followed by Goalpara, Bongaigaon and Barpeta districts in lower Assam, Tinsukia in upper Assam, and Morigaon and Kamrup districts in central Assam. The Percentage of child marriage is lowest in NC Hills district, followed by Cachar, Hailakandi and Karimganj districts in southern Assam. Persistent poverty and gender inequality seems to be the most dominant and overarching reason in Assam. Specific reasons of child marriage include poverty, lack of education and job opportunities and the force of custom and tradition.

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Assam cabinet made a significant decision to repeal the age-old Assam Muslim Marriages & Divorces Registration Act. This Act contained provisions allowing marriage registration even if the bride and groom had not reached the legal ages of 18 and 21, as required by law. This move marks another significant step towards prohibiting child marriages in Assam. The Assam Muslim Marriage and Divorce Registration Act 1935 has been repealed. Cabinet has removed this Act as a result of which Muslim marriage registration or divorce registration cannot happen through this Act. The Assam government is working towards introducing a UCC. At the same time, it has also been working on a Bill to ban polygamy, making it a criminal offence. But this prompting anger among the minority community. This can polarise voters on religious lines ahead of the national election.

Assam has the highest percentage of Muslims among Indian states at 34 percent. The state government's crackdown on child marriages has included several thousand arrests under the Protection of Children from Sexual Offences (POCSO) Act in a quest to "eradicate" child marriages by 2026. But it seems the crackdown was largely directed against the Muslim community. Cabinet's decision on the Muslim marriage and divorce law prompted Muslim leaders to accuse the BJP of trying to use the colonial-era law as an election ploy. Similarly, Assam assembly passed a bill which wants to eradicate non-scientific healing practices with ulterior motives. As per the Bill, no person shall take any part in healing practices and magical healing propagation for treatment of any diseases, any disorder or any condition relating to the health of a person (relating to human body) directly or indirectly giving a false impression of treatment to cure diseases, pain or trouble to the human health. Along with it the question on Freedom of Religion (Art. 25-28 constitution of India), Secularism, Religious intolerance and Autonomy of the religious communities arises.

VI. ASSAM'S CONTEXT

Assam boasts a rich tapestry of ethnicities, religions, and tribal communities. Tribal communities have customary laws regarding inheritance, land ownership, and social practices. The UCC might supersede these, potentially threatening their cultural identity and land rights. Assam has a significant Muslim population with personal laws based on Sharia principles. The UCC could be seen as an imposition on their religious practices. The UCC's implementation in Assam could have both positive and negative consequences. The UCC could streamline legal processes and provide clearer guidelines for personal matters across the state. If the UCC addresses gender bias in existing personal laws, it could be beneficial for Assamese women. Implementing the UCC without considering Assam's unique demographics could lead to social unrest and alienation of certain communities. The UCC might be perceived as a threat to the cultural and religious practices of various communities in Assam.

The main worry is that the UCC will infringe the communities constitutionally protected sociocultural practices and customary laws. Might be assimilated into the broader citizenry, risking the erosion of their religious multiplicity and cultural essence beneath the dominant practices of the majority religion. Critics of the UCC contend that the adoption of a uniform code may violate people's right to practice their religion and maintain their cultural identity. They argue for the preservation of variety in legal concerns, arguing that personal laws are essential to religious practices and cultural standards. Some groups believe that a unified code will weaken the distinctive cultural identities of various cultures, and thus view the UCC discussion as a possible danger to minority rights.

VII. GENDER DYNAMICS AND UCC

Supporters argue that gender equality may be enhanced by eliminating discriminatory practices present in certain personal laws through the implementation of a unified code. Establishing a fair structure that honours diverse gender roles and societal norms is difficult due to the deeply rooted patriarchal values and reluctance to change within the social fabric. It is necessary to determine what is the legal reasoning behind UCC, is it national integration with the motto 'one nation, one people', or is it getting rid of the gender-based injustices embedded in all personal laws? These two future outcomes are quite distinct from one another. In the past, the discourse around UCC tended to focus more on the idea of 'national integration' with the cause of gender equality' as an 'excuse'. But now, in the present day, UCC has emerged as a champion of gender equality. In this case, the dialogues on UCC have missed the mark. It is true that India has a great deal of cultural diversity. However, absolute homogeneity in laws is not desirable. It is also true that uniformity leads to a limited scope for arbitrary acts and unequal protection of law for all individuals, regardless of their background.

VIII. POSSIBLE STEPS

Assam's vast and varied cultural mosaic being should be recognized and protected. As personal laws are closely linked to cultural heritage, any changes or modifications require careful balance between the modernity of the law and the preservation of traditional identities. By preserving cultural sensitivity, the goal of legal consistency can be achieved. This calls for a strategy that recognizes and integrates identities and cultural quirks into the legal system.

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Furthermore, developing an inclusive framework for a UCC necessitates finding a careful middle ground between the need for a consistent code and the inclusion of clauses that allow for adjustments or cultural deviations. There should be emphasize on the possibility of harmonizing laws and treating different religious communities equally, hoping to achieve more consistency in the legal system. Thus, the implementation of a UCC prompts intricate conversations on religious beliefs, cultural identities, and the goal of legal consistency within India's heterogeneous social structure.

IX. CONCLUSION

The UCC debate in Assam is complex and requires careful consideration. While a uniform code could have advantages, it's crucial to address the concerns of the state's diverse population. Public discourse, consultations with stakeholders, and potential exemptions for specific communities might be necessary to ensure a smooth and inclusive implementation. The UCC should act in the best interests of all religions. To fully comprehend the spirit of this code, individuals must have a progressive and broad-minded outlook. A committee of distinguished jurists should be formed to ensure uniformity and avoid hurting anyone community's sensibilities, given the delicate nature of the topic. The issue of UCC has been made sensitive by religious authorities and secular sections of Assamese society. The reason of this can be found in the identity politics. This issue of the need of UCC has recently resurfaced in India’s Political Discourse and the Hindu Nationalist BJP in the state has relates the issues like polygamy, child marriage with the UCC. Though it is not yet implemented, the approach should not just be for the mere political gains, but also for the future inclusion of the “Greater Assamese Community”.

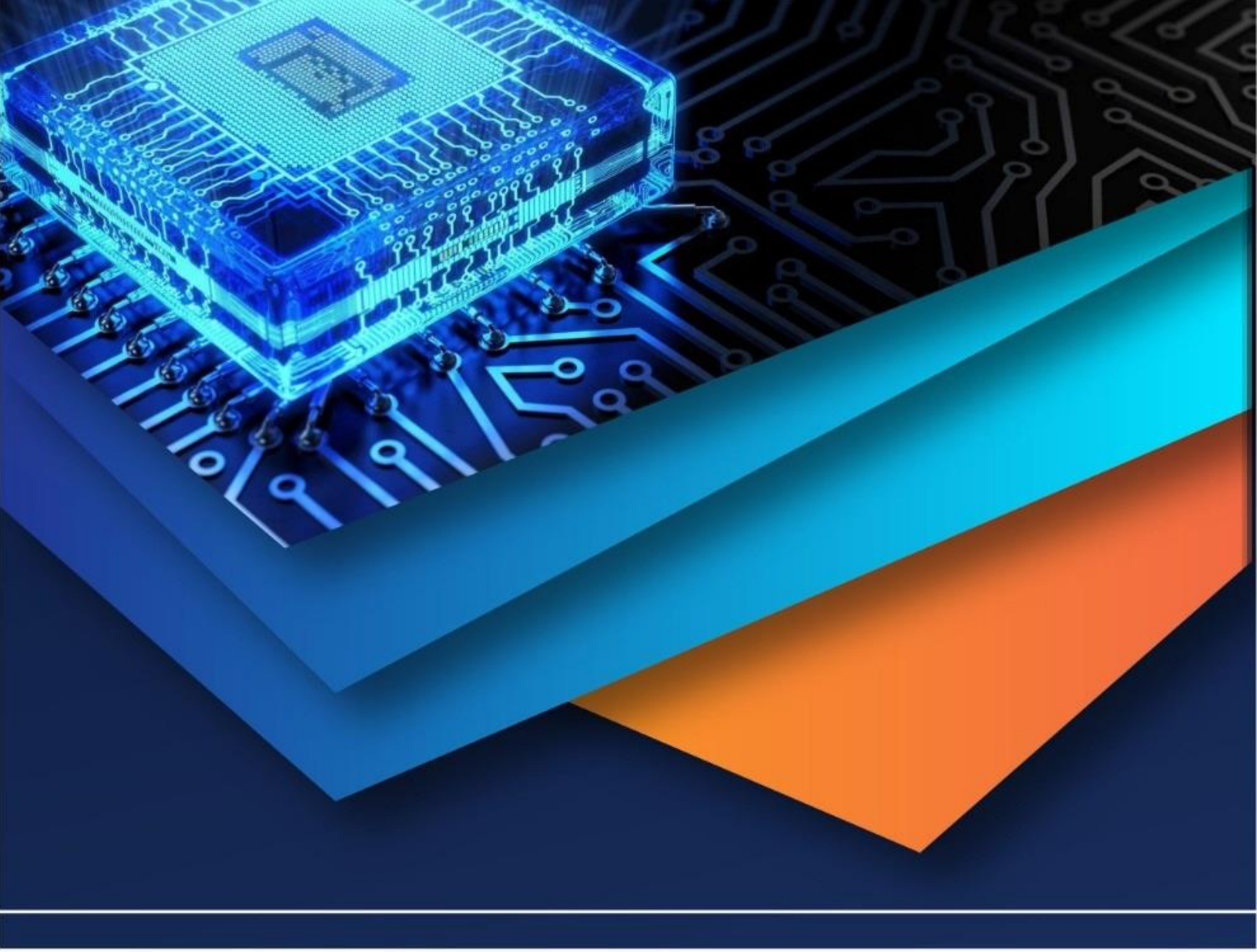
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