Not the Time for Uniform Civil Code (UCC)

What is the issue?

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- The Law Commission of India recently held that a uniform civil code (UCC) is neither feasible nor necessary at this stage. Click here to know more.
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- In this regard, enacting justified laws is more desirable than altering personal laws for the sake of 'uniformity'.
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Why is it a welcome move?

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- There is a consensus that the state is not the only source of law.
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- History has many instances of pluralistic legal systems where multiple sources of law existed.
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- Therefore, the Law Commission has recognised the plurality of diverse personal laws.
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- It has thus rightly proposed internal reforms in personal laws.
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- This is to make them compatible with constitutional provisions of equality and non-discrimination.
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- Hopefully, religious communities, especially Muslims, will now initiate meaningful dialogue on internal reforms in personal laws.
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What calls for a UCC?

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- The Directive Principles envision the existence of a uniform civil code.
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- There is also a section of people who advocates the idea of “one nation, one law”.
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- India believes in one nation and therefore it is at times argued that no community can claim separate religious laws.
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Why is UCC not justifiable now?

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- **Pluralism** - ‘Legal pluralism’ and ‘radical libertarianism’ are well-recognised traditions.
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- B.R. Ambedkar observed, "No government can use its provisions in a way that would force the Muslims to revolt".
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- **Uniform** - ‘Common’ means one and same in all circumstances, and ‘uniform’ means ‘same in similar conditions’.
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- The Constitution framers have thus used the term ‘uniform’ and not ‘common’ in Article 44.
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- **Legal diversity** - It is not only because of religious diversity, but the law differs from region to region as well.
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- Apparently, Constitution framers did not intend total uniformity in the sense of one law for the whole country.
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- Hence ‘personal laws’ were included in the Concurrent List, with power to legislate being given to Parliament and State Assemblies.
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- Clearly, preservation of legal diversity seems to be the reason of inclusion of Personal Law in the Concurrent list.
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- **Criminal laws** - It is a myth to claim that India has uniform criminal laws.
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- States have made amendments to the Indian Penal Code (IPC), 1860, and the Code of Criminal Procedure, 1973.
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- E.g. Punjab recently introduced Section 295AA to the IPC — life term in all sacrilege/ blasphemy cases.
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- **Heterogeneous law** - It is also a myth that Hindus are governed by one homogenous law after the enactment of the Hindu Code Bill.
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- It is also true of Muslims and Christians.
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- Certainly, the Constitution itself protects the local customs of Nagaland.
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- In Goa, Hindus are still governed by the Portuguese Family and Succession Laws.
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- The reformed Hindu Law of 1955-56 is still not applicable to them.
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- In the case of Muslims, the Shariat Act 1937 has not been extended to Goa.
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- They are governed by Portuguese and Shastric Hindu law, and not by Muslim personal law.
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- The Special Marriage Act (a progressive civil code) has not been extended to Goa.
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- Even in Jammu and Kashmir, local Hindu law statutes do differ with the Central enactments.
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- The Shariat Act is also not applicable, and Muslims continue to be governed by customary law which is at variance with the Muslim personal law in the rest of the country.
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- Given these, justified laws are far more important than uniform law. So internal reforms should be the way forward.
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Source: The Hindu

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