



Allahabad High Court Decision on Uniform Civil Code

Why in News

Recently, the Allahabad High Court has **called upon the Central government to initiate the process for implementation of [Uniform Civil Code \(UCC\)](#)**.

- The court's direction came in the context of a bunch of **17 petitions** filed by interfaith couples, who contracted marriage upon conversion, seeking protection of their life, liberty and privacy guaranteed under **Article 21** of the Constitution.

Key Points

- **Background - New Anti-Conversion Law:** The Government of Uttar Pradesh has recently passed an anti-conversion law called the **[Uttar Pradesh Prevention of Unlawful Conversion of Religion Act, 2021](#)**.
 - The marriage cannot be registered without the district authority making an enquiry as to whether the **conversion is voluntary and not induced by coercion, allurement and threat**.
 - The Act mandates that the **approval of the District Magistrate (DM) is necessary** to be obtained before conversion or marriage.
 - The Act makes religious conversion for marriage a **non-bailable offence**.
- **Observation by the Court:**
 - The **marriage registrar lacks the power to withhold** the registration of marriage merely for the reason that the parties have not obtained the necessary approval of conversion from the district authority.
 - The court directed the marriage registrar to forthwith register the marriage of such couples.
 - The Court observed that **such an approval is directory and not mandatory**.
 - The Act would not satisfy the test of **reasonableness and fairness, and would fail to pass the muster of [Article 14](#)** (Equality before law) **and [Article 21](#)** (Protection of Life and Personal Liberty).
 - It observed that the **consent of the family or the community or the clan or the State or executive is not necessary**, once two adult individuals agree to enter into a wedlock which is lawful and legal.
 - The court **directed the police** of the respective districts to **ensure the safety of these couples**.
 - Further, the court **urged the central government to make a law implementing the UCC**, so that such atrocities are not repeated.
 - This is because after implementation there will be less need for anti-conversion laws.

Uniform Civil Code

▪ **Background:**

- Increase in legislation dealing with personal issues in the far end of British rule forced the government to form the **B N Rau Committee** to codify **Hindu law in 1941**.
- UCC is one that would provide for one law for the entire country, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc.
- **Article 44 of the Constitution** lays down that the state shall endeavour to secure a UCC for the citizens throughout the territory of India.
 - Article 44 is one of the **[Directive Principles of State Policy \(DPSP\)](#)**.
- In order to bring uniformity, the courts have often said in their judgements that the government should move towards a UCC.
 - The judgement in the **[Shah Bano case \(1985\)](#)** is well known.
 - The Supreme Court in **[Shayara Bano case \(2017\)](#)** had declared the practise of Triple Talaq (talaq-e-biddat) as unconstitutional.

▪ **Need for UCC:**

- **National Integration:** A common civil code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies.
- **In Conformity With Changing Times:** There has been a steep rise in inter-community, inter-caste and interfaith marriages and relationships, in recent times.
 - Also, coupled with the rise in the number of single women, a comprehensive UCC will be in conformity with the changing times.
- **Protection to Vulnerable Section of Society:** The UCC aims to provide protection to vulnerable sections as envisaged by Ambedkar including women and religious minorities.
- **Adhering to Ideal of Secularism:** Secularism is the objective enshrined in the Preamble, a secular republic needs a common law for all citizens rather than differentiated rules based on religious practices.
- **Simplification of Laws:** The code will simplify the complex laws around marriage ceremonies, inheritance, succession, adoptions making them one for all. The same civil law will then be applicable to all citizens irrespective of their faith.

▪ **Associated Challenges:**

- **Communal Politics:** The demand for a uniform civil code has been framed in the context of communal politics.
 - A large section of society sees it as majoritarianism under the garb of social reform.
- **Constitutional Hurdle:** **Article 25** of Indian constitution, that seeks to preserve the freedom to practise and propagate any religion gets into conflict with the concepts of equality enshrined under **Article 14** of Indian Constitution.

Way Forward

- The government and society will have to work hard to build trust, but more importantly, make common cause with social reformers rather than religious conservatives.
- Rather than an omnibus approach, the government could bring separate aspects such as marriage, adoption, succession and maintenance into a UCC in stages.
- Need of the hour is the codification of all personal laws so that prejudices and stereotypes in every one of them would come to light and can be tested on the anvil of fundamental rights of the Constitution.

[Source: TH](#)

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