



Gender Equity and Uniform Civil Code

This article is based on [“The Uniform Civil Code”](#) which was published in The Hindu on 07/11/2022. It talks about the constitutionality of Uniform Civil Code in India and related issues.

For Prelims: Preamble of the Indian Constitution, Personal laws, Directive Principle of State Policy, Special Marriage Act of 1954, Code of Criminal Procedure (CrPC), 1995 Sarla Mudgal judgement, Shah Bano Case, Law Commission of India, Gender Equality.

For Mains: Efforts Towards UCC in India, Arguments in Favour of UCC, Arguments Against UCC.

The [Preamble of the Indian Constitution](#) states that **India is a Secular Democratic Republic** and thereby it means that the **State does not endorse any specific religion**. A secular State is one which shall not discriminate against anyone on the ground of religion.

The Indian Constitution also contains articles mandating [equality and non-discrimination on the grounds of sex \(Articles 14-18\)](#). However, several laws exist that apparently violate these principles and continue to be there especially in [personal laws of certain communities](#) which contain provisions that are deemed to be **highly discriminatory against women**.

Women, who make up nearly a **half of India**, continue to demand for a **gender just code** to enjoy equality and justice irrespective of the community to which they belong. However, the ideal of [Uniform Civil Code \(UCC\)](#) is yet to be achieved in India.

Since the **Uniform Civil Code was a politically sensitive issue**, the founding fathers of the Constitution arrived at a compromise by placing it under **Article 44** as a [directive principle of state policy](#).

As India strives for **gender equality**, a close examination of the UCC for the country is necessary.

What is Uniform Civil Code?

- **Article 44** of the **Directive Principles of the State Policy (DPSP)** states that it is the duty of the State to secure **Uniform Civil Code (UCC)** for the citizens throughout the country.
- It mainly aims to replace **Personal Laws** based on the scriptures and customs of each major religious community in India with a common set of rules governing every citizen.
- **“Uniform”** in UCC signifies:
 - Uniformity of laws **between communities**.
 - Uniformity of laws **within communities** ensuring equalities between the rights of men and women.

What are the Efforts Towards UCC in India?

- **Special Marriage Act, 1954:** The [Special Marriage Act of 1954](#) provides for **civil marriage for any citizen irrespective of religion**, thus, permitting any Indian to have their marriage outside the boundaries of any religious personal law.
- **Shah Bano Case 1985:** In this case, [Shah Bano](#) was refused her claim for maintenance. The [Supreme Court](#) ruled in her favour under **Section 125 of Code of Criminal Procedure (CrPC)**, which applied to all citizens the order for maintenance of wives, children and parents.
 - The Supreme Court further **recommended that the long pending Uniform Civil Code should be finally enacted.**
- The **Supreme Court** also called on the government to implement the UCC in the [1995 Sarla Mudgal judgement](#) as well as in the **Paulo Coutinho vs Maria Luiza Valentina Pereira case (2019).**

What are the Arguments in Favour of UCC?

- **Accommodating the Aspirations of the Youth:** As the world transitions into the digital age, the social attitude and aspiration of the young population is shaping by universal and global principles of equality, humanity and modernity.
 - Thus, the **enactment of Uniform Civil Code will help in utilising their full potential towards nation building.**
- **Support National Integration: The Constitution guarantees all citizens equal treatment in courts** of law whether it is criminal laws or other civil laws (except Personal Laws).
 - Thus, the implementation of Uniform Civil Code will grant equal set of personal laws to all, resulting in the **end of politicization of issues of the discrimination or concessions or on the other hand exceptional benefits appreciated by a specific community on the basis of their specific religious personal laws.**
- **The Rise Above the Patriarchal Mindset:** The existing personal laws of most religions are based upon the **upper-class patriarchal notions of the society**. Thus, the codification and implementation of the Uniform Civil Code will **destroy the sanctity of the patriarchal orthodox.**
 - Thus, the Uniform Civil Code will **promote gender equality** and will bring both **men and women at par.**
- **Convenient for Judicial Process:** There exist many personal laws, including **Hindu Code, Sharia Law, etc.** The presence of so many laws leads to **confusion, complexity, and inconsistencies** in the adjudication of personal matters, sometimes resulting in **delayed or incomplete justice.**
 - UCC will help the judiciary deliver justice efficiently and within a **reasonable timeframe.**

What are the Arguments Against UCC?

- **21st Law Commission Report:** The [Law Commission of India](#) has opined that a Uniform Civil Code (UCC) is neither necessary nor desirable to reconcile conflicts in personal/family laws.
 - It stated that **many countries are now moving towards recognition of difference**, and the mere existence of difference does not imply discrimination, **but is indicative of a robust democracy.**
 - Therefore, the **Commission has suggested amendments to existing family laws** to tackle discrimination and inequality in personal laws, rather than do away with differences between them altogether.
- **Against Cultural Diversity India:** Practical difficulties due to **diversity in India**, it is difficult to come up with a uniform set of rules for personal issues like marriage due to the tremendous diverse culture in India across the **religions, sects, castes, states, etc.**
- **Encroachment on Religious Freedom: Articles 25 to 28 of Indian Constitution** provide the [Right to Freedom of religion](#). The Uniform Civil Code is viewed as a **threat to religious freedom (Article 25)** by many communities, especially the minority communities.
 - According to them, the **Uniform Civil Code will neglect their traditions and impose rules** which will be mainly influenced by the **majority religious communities.**
- **Against the Indigenous Rights of Tribes:** The [Naga Community](#) has claimed that the implementation of UCC would bring about clear trouble for their **culture and dignity.**
 - It can potentially cause **social disorder**, as the **personal and social life of the tribes**

are quite distinct from the rest of the people in the country.

Conclusion

- The **goal of a UCC should ideally be reached in a piecemeal manner through a brick-by-brick approach** rather than an omnibus approach. **A just code is far more important than a uniform code.**
- There is a need to consider **social adaptability of UCC** while forming a **blueprint for a uniform civil code**. Whether a single law is framed for all religions or reforms are made to our personal laws, **they should be based on gender justice and ensure that the principle of equality enshrined in our Constitution remains intact.**
- The bottom line is that the government and society need to build trust in order to proceed towards a **Uniform Civil Society that respects human rights and promotes gender equality**, that holds more importance than a Uniform Civil Code.

Drishti Mains Question

Examine the significance and roadblocks to the implementation of Uniform Civil Code in India.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q1. Consider the following provisions under the Directive Principles of State Policy as enshrined in the Constitution of India: (2012)

1. Securing for citizens of India a uniform civil code
2. Organising village Panchayats
3. Promoting cottage industries in rural areas
4. Securing for all the workers reasonable leisure and cultural opportunities

Which of the above are the Gandhian Principles that are reflected in the Directive Principles of State Policy?

- (a) 1, 2 and 4 only
- (b) 2 and 3 only
- (c) 1, 3 and 4 only
- (d) 1, 2, 3 and 4

Ans: (b)

Q2. A legislation that confers on the executive or administrative authority an unguided and uncontrolled discretionary power in the matter of the application of law violates which one of the following Articles of the Constitution of India?

- (a) Article 14
- (b) Article 28
- (c) Article 32
- (d) Article 44

Ans: (a)

Mains

Q. Discuss the possible factors that inhibit India from enacting for its citizens a uniform civil code as provided for in the Directive Principles of State Policy. (2015)

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