

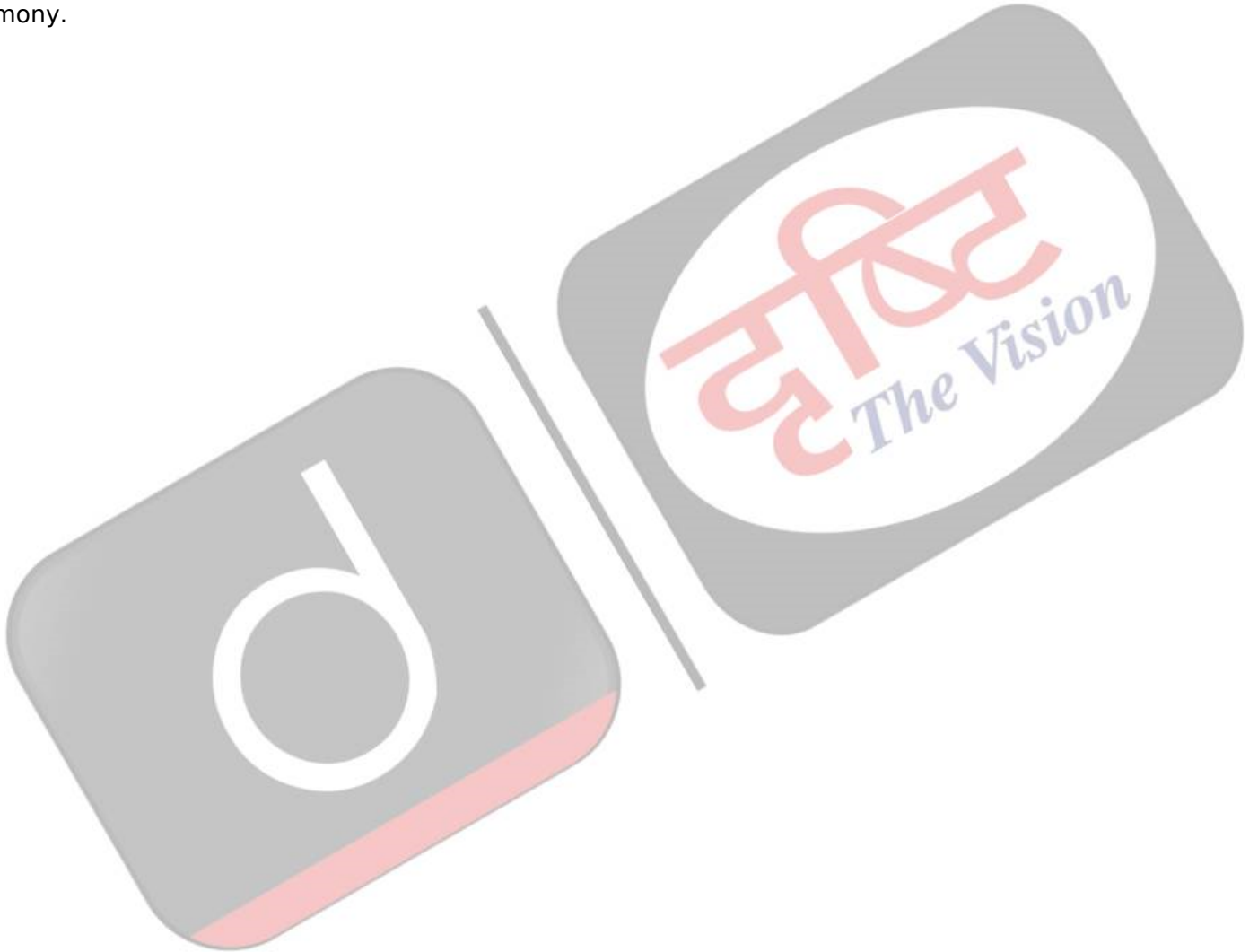


## Uniform Civil Code

### Why in News

Recently, a petition has been filed in [Supreme Court](#) against [Uniform Civil Code \(UCC\)](#) on divorce and alimony.

//





# UNIFORM CIVIL CODE

All sections of the society irrespective of their religion shall be treated equally according to a National Civil Code - the Uniform Civil Code.

## THEY COVER AREAS LIKE



Marriage



Divorce



Maintenance



Inheritance



Adoption



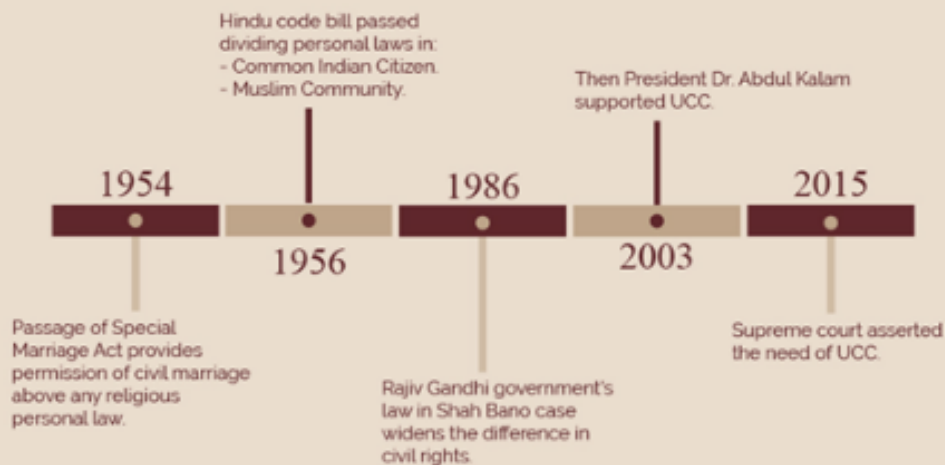
Succession of Property

It is based on the premise that there is necessarily no connection between religion and personal law in a civilized society.

"UCC refers to a common set of laws governing civil rights of every citizen."

Article 44 of Directive Principles sets duty of state for implementing UCC.

## TIMELINE



The dialogue for UCC was started by the Law Commission in the year 2016

## Key Points

### ▪ About:

- 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)**.
  - DPSP as defined in **Article 37**, are not justiciable (not enforceable by any court)

but the principles laid down therein are fundamental in governance.

#### ▪ **Status of Uniform Codes in India:**

- Indian laws do follow a uniform code in most civil matters such as [Indian Contract Act 1872](#), Civil Procedure Code, Transfer of Property Act 1882, Partnership Act 1932, [Evidence Act, 1872](#) etc.
- States, however, have made hundreds of amendments and, therefore, in certain matters, there is diversity even under these secular civil laws.
  - Recently, several states refused to be governed by the [uniform Motor Vehicles Act, 2019](#).

#### ▪ **Background:**

- The origin of the UCC dates back to colonial India when the British government submitted its report in 1835 stressing the need for **uniformity in the codification of Indian law relating to crimes, evidence, and contracts**, specifically **recommending that personal laws of Hindus and Muslims be kept outside such codification**.
- Increase in legislations dealing with personal issues in the far end of the British rule forced the government to form the **B N Rau Committee to codify Hindu law in 1941**.
- Based on these recommendations, **a bill was then adopted in 1956 as the Hindu Succession Act** to amend and codify the law relating to intestate or unwilled succession, among Hindus, Buddhists, Jains, and Sikhs.
  - However, there were separate personal laws for muslim, christian and Parsis.
- 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.
  - Another case was the **Sarla Mudgal Case (1995)**, which dealt with issue of bigamy and conflict between the personal laws existing on matters of marriage.
- By arguing that practices such as [triple talaq](#) and **polygamy** impact adversely the right of a woman to a life of dignity, the Centre has raised the question whether constitutional protection given to religious practices should extend even to those that are not in compliance with fundamental rights.

#### ▪ **Implications of Uniform Civil Code on Personal Laws:**

- **Protection to Vulnerable Section of Society:**
  - The UCC aims to provide protection to vulnerable sections as envisaged by Ambedkar including **women and religious minorities**, while also promoting **nationalistic fervour through unity**.
- **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.
- **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.
- **Gender Justice:**
  - If a UCC is enacted, all personal laws will cease to exist. It will **do away with gender biases in existing laws**.

#### ▪ **Challenges:**

- **Exceptions in Central Family Laws:**

- The preliminary sections in all central family law Acts enacted by Parliament since Independence declare that they will apply to “the whole of India except the state of **Jammu and Kashmir.**”
  - A Second exception was added in 1968 in all these Acts, pronouncing that “nothing herein contained shall apply to the Renoncants in the **Union Territory of Pondicherry.**”
  - A third exception, none of these Acts applies in Goa, Daman and Diu.
  - A fourth exception, relating to the north-eastern states of Nagaland and Mizoram, emanates from **Articles 371A and 371G** of the Constitution, decreeing that no parliamentary legislation will replace the customary law and religion-based system for its administration.
- **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**

PDF Refernece URL: <https://www.drishitias.com/printpdf/uniform-civil-code-2>