



Uniform Civil Code

For Prelims: Uniform Civil Code, Article 44, Article 25, Article 14

For Mains: Implications of Uniform Civil Code on Personal Laws

Why in News?

The Ministry of Law and Justice has told the [Supreme Court](#) that the court cannot direct Parliament to frame any law and it sought dismissal of [PILs \(Public Interest Litigation\)](#) seeking a [Uniform Civil Code \(UCC\)](#) in the country.

What are the PILs about?

- Petitioners sought uniformity in the [personal laws regulating marriage divorce, maintenance and alimony](#) (money that has to be paid by law to former wife or husband).
- The petitions sought steps to **remove anomalies regarding laws for divorce and make them uniform for all citizens** and uniform guidelines for adoption and guardianship of children.

What is the Government's Stand?

- This is a matter of policy for the **elected representatives of the people to decide and no direction in this regard can be issued** by the court. It is for the legislature to enact or not enact a piece of legislation.
- The Law Ministry had requested the [Law Commission](#) to examine various issues relating to the UCC and make recommendations considering the sensitivity and in-depth study involved of various personal laws governing different communities.
 - The 21st Law Commission had uploaded a consultation paper titled 'Reform of Family Law' subsequently in August 2018. But the term of the 21st Law Commission came to an end in August 2018.

What is a Uniform Civil Code?

- **About:**
 - UCC is envisaged to **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 \(DPSP\)](#).
 - The purpose behind Article 44 is to strengthen the object of "**secular democratic republic**" as enshrined in the Preamble of the Constitution.
- **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 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**.
 - 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 Muslims, Christians 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 the 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.
- **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**.
 - **As of now, Goa is the only state in India with a UCC.**

What are the Implications of Uniform Civil Code on Personal Laws?

- **Protection of 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:**
- A Uniform Civil 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 the 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.

What are the Challenges?

- **Diverse Personal Laws:**
- The customary practices among various communities vary a lot.
 - It is also a myth that **Hindus are governed by one uniform law**. Marriage among close relatives is prohibited in the north but considered auspicious in the south.
 - Lack of uniformity in personal laws is **also true of Muslims and Christians**.
 - The Constitution itself protects **local customs of Nagaland, Meghalaya and Mizoram**.
 - The vast diversity of the personal laws, along with the devotion to which they are adhered to, makes uniformity of any sort very difficult to achieve. It is very tough **to find a common ground between different communities**.
- **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.
- The 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.

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. Organizing 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 citizen a uniform civil code as provided for in the Directive Principles of State Policy. **(2015)**

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