



Uniform Civil Code: Balancing Tradition and Modernity

This article is based on [“Uniform Civil Code: Reframe the debate”](#) which was published in Hindustan Times on 27/12/2022. It talks about Uniform Civil Code in India and the need of gender-just civil code.

For Prelims: Uniform Civil Code, Directive Principle in the Indian Constitution, Secularism, Hindu personal laws, Shariat law of 1937, Right to freedom of religion, Paulo Coutinho vs Maria Luiza Valentina Pereira case (2019), Section 125 of Code of Criminal Procedure (CrPC), Shah Bano Case

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

The idea of a [Uniform Civil Code](#) has been debated in India for decades, and it has been a longstanding demand of **some political and social reform movements**. The UCC was included as a [Directive Principle in the Indian Constitution](#), which means that it is not legally enforceable, but is considered a guiding principle for the government to follow.

The **UCC is a divisive issue in India**, with proponents arguing that it would promote **equality and secularism**, and opponents arguing that **it would interfere with religious freedoms and cultural practices**.

Overall, the **debate over the UCC in India highlights the complex and sensitive relationship** between law, religion, and culture in the country that **should be scrutinised from a detached point of view** and should be addressed in a phased and holistic manner.

What is Uniform Civil Code?

- The **Uniform Civil Code (UCC)** is a **proposed legal framework in India** that would codify and apply a set of **uniform laws related to personal matters such as marriage, divorce, adoption, and inheritance** to all citizens, regardless of their religion.
- The code comes under [Article 44 of the Constitution](#), which lays down that the state shall endeavour to **secure a Uniform Civil Code** for the citizens throughout the territory of India.

What is the Status of Personal Laws in India?

- Personal law subjects like **marriage, divorce, inheritance come under Concurrent list**.
- The [Hindu personal laws](#) (that apply also to the Sikhs, Jains and Buddhists) have been codified by the **Parliament in 1956**
 - This Code Bill has been split into four parts:
 - **The Hindu Marriage Act, 1955**

- **The Hindu Succession Act, 1956**
- **The Hindu Minority and Guardianship Act, 1956**
- **The Hindu Adoption and Maintenance Act, 1956**
- On the other hand, [Shariat law of 1937](#) governs all personal matters of Indian Muslims in India.
 - It clearly states that the **State shall not interfere in matters of personal disputes, and a religious authority would make a declaration** based on his interpretation of the Quran and Hadith.

What are the Arguments in Favour of Uniform Civil Code in India?

- **Step Towards Gender Equality:** Personal laws in India often discriminate against women, particularly in matters related to **marriage, divorce, inheritance, and custody**.
 - A uniform civil code would help to eliminate such discrimination and promote [gender equality](#).
- **Simplicity and Clarity of Laws:** A uniform civil code would **simplify the legal system by replacing the current patchwork of personal laws** with a single set of rules that apply to everyone.
 - This would make the law more accessible and easier to understand for all citizens.
- **Uniformity and Consistency:** A uniform civil code would **ensure consistency in the application of the law, as it would apply equally to everyone**. This would reduce the risk of discrimination or inconsistency in the application of the law.
 - It would **eliminate discrimination based on religion or personal laws**, and ensure that everyone has the same rights and protections under the law.
- **Modernization and Reform:** A uniform civil code would allow for the **modernization and reform of India's legal system**, as it would provide an opportunity to **update and harmonise the laws with contemporary values and principles**.
- **Meeting the Aspirations of the Youth:** With the world moving into the digital age, the social attitude and aspirations of the youth are being influenced by universal and global principles of **equality, humanity, and modernity**.
 - The enactment of the **Uniform Civil Code** will help to maximise their potential in **nation-building**.
- **Social harmony:** The UCC could help to **reduce tension and conflict between different religious or community groups** by providing a common set of rules for everyone to follow.

What are the Arguments Against Uniform Civil Code in India?

- **Religious and Cultural Diversity:** India is a **diverse country with a rich tapestry of religions, cultures, and traditions**.
 - A **uniform civil code could be seen as a threat to this diversity**, as it would require the abandonment of personal laws that are specific to particular religious or cultural communities.
- **Against the Right to Freedom of Religion:** The [right to freedom of religion](#) is protected under the **Indian Constitution**. (Article 25-28)
 - Some argue that a **uniform civil code would infringe on this right**, as it would require **individuals to follow laws that may not be in accordance with their religious beliefs and practices**.
- **Lack of Consensus:** There is a lack of consensus among the various religious and **cultural communities in India on the issue of a uniform civil code**.
 - This makes it difficult to implement such a code, as it would require the **buy-in and support of all communities**.
- **Practical Challenges:** There are also practical challenges to implementing a uniform civil code in India, such as the **need to harmonise a wide range of laws and practices**, and the potential for **conflicts with other provisions of the Constitution**.
- **Political Sensitivity:** The issue of a uniform civil code is a **highly sensitive and politicised issue in India**, and it has often been used for political gain by various parties.
 - This has made it **difficult to address the issue in a constructive and non-divisive manner**.

What are the Efforts Towards UCC in India?

- **Special Marriage Act, 1954:** Under the [Special Marriage Act of 1954](#), **civil marriage is permitted for any citizen, regardless of religion**, allowing any Indian to get married outside of religious custom.
- **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 Should be the Way Forward?

- **Brick by Brick Approach:** In order to achieve a **UCC in India**, a brick-by-brick approach should be taken rather than an omnibus approach. A **just code is far more important than a uniform code**.
- **Checking the Social Adaptability:** There is a need to **consider social adaptability of UCC** while forming a blueprint for a **uniform civil code**.
 - Starting with the **areas of personal law that are most widely accepted and uncontroversial**, such as laws related to marriage and divorce.
 - This could **help to build consensus and support for the UCC**, while also addressing some of the most pressing issues faced by citizens.
- **Discussion and Deliberations with Stakeholders:** Also, involving a **broad range of stakeholders, including religious leaders, legal experts, and community representatives**, in the process of developing and implementing the UCC.
 - This could help to **ensure that the UCC takes into account the diverse perspectives and needs of different groups**, and that it is seen as fair and legitimate by all citizens.

Drishti Mains Question

Examine the arguments in favour of and against the implementation of a Uniform Civil Code in India, and evaluate the potential impact of such a code on the country's social and political landscape.

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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