

Uniform Civil Code

For Prelims: <u>Uniform Civil Code (UCC)</u>, <u>Directive Principles of State Policy</u>, <u>Hindu laws</u>, <u>Law</u> Commission

For Mains: Significance of Directive Principles of State Policy in Indian Polity, Challenges and significance of Uniform Civil Code (UCC).

Source: IE

Why in News?

In his speech on the occasion of 78th Independence Day, the Prime Minister called for a <u>uniform civil</u> <u>code (UCC)</u>, framing it as a **secular civil code**.

What is the Uniform Civil Code?

- About:
 - The Uniform Civil Code (UCC) is outlined in Article 44 of the Constitution as part of the <u>Directive Principles of State Policy</u>, which states that the government should strive to establish a uniform civil code for all citizens across India.
 - However, its implementation is left to the discretion of the government.
 - Goa is the only state in India where a UCC is in place, following the Portuguese Civil Code of 1867.
- Historical Context:
 - While the British established uniform criminal laws in India, they avoided standardising family laws due to their sensitive nature.
 - During the debates the Constituent Assembly discussed the UCC and Muslim members raised concerns about its impact on community personal laws, proposing safeguards for religious practices.
 - On other hand supporters like **K.M. Munshi, Alladi Krishnaswami, and B.R. Ambedkar** argued for the UCC to promote equality.
- Supreme Court of India's Stance on UCC:
 - Mohd. Ahmed Khan vs Shah Bano Begum Case, 1985: The Court noted with regret that "Article 44 has remained a dead letter" and advocated for its implementation.
 - Sarla Mudgal v. Union of India, 1995 and John Vallamattom v. Union of India, 2003: The Court reiterated the need for implementing the UCC.
 - Shayara Bano v. Union of India, 2017: The Supreme Court ruled that the practice
 of triple talaq was unconstitutional and violated the dignity and equality of Muslim
 women.
 - It also suggested that Parliament should pass legislation to regulate Muslim marriages and divorces.
 - Jose Paulo Coutinho v. Maria Luiza Valentina Pereira Case, 2019: The Court praised Goa as a "shining example" where "the uniform civil code is applicable to all, regardless of religion except while protecting certain limited rights" and called for its implementation

across India.

Law Commission's Stance:

 In 2018, the 21st <u>Law Commission</u>, led by former Supreme Court judge Justice Balbir Singh Chauhan, released a consultation paper on "Reforms of family law," stating that the "formulation of a Uniform Civil Code is neither necessary nor desirable at this stage."

What are the Significances of the UCC?

- National Integration and Secularism:
 - Promotes Unity: The UCC would foster national integration and secularism by creating a shared identity and sense of belonging among all citizens.
 - **Reduces Conflicts**: It would decrease **communal and sectarian conflicts** arising from different personal laws.
 - **Upholds Constitutional Values**: The UCC would reinforce the principles of equality, fraternity, and dignity for all individuals.
- Gender Justice and Equality:
 - Ensures Equality: The UCC would address gender discrimination and oppression by providing equal rights and status to women in marriage, divorce, inheritance, adoption, and maintenance.
 - It would **empower women** to challenge patriarchal and regressive practices that violate their fundamental rights.
- Simplification and Rationalisation of the Legal System:
 - Simplifies Laws: The UCC would streamline and rationalise the legal system by eliminating the complexities and contradictions of multiple personal laws.
 - Harmonizes Legal Frameworks: It would reconcile civil and criminal laws by addressing anomalies and loopholes arising from diverse personal laws.
 - **Enhances Accessibility**: The UCC would make the legal system more accessible and understandable for the general public.
- Modernisation and Reform of Outdated Practices:
 - Updates Practices: The UCC would modernise and reform outdated and regressive practices in some personal laws.
 - Eliminates Harmful Practices: It would remove practices contrary to human rights and constitutional values, such as triple talaq, polygamy, and child marriage.

What are Challenges in Implementing the UCC?

- Diverse Personal Laws: India's numerous communities follow distinct personal laws for marriage, divorce, inheritance, and succession. Harmonising these diverse practices into a single code poses a significant challenge.
- Religious Sensitivities: Different religious communities have deeply rooted traditions and laws.
 - They also argue that the UCC would infringe upon their constitutional rights under Article
 25, which guarantees freedom of conscience and the right to freely profess, practice, and propagate religion.
- Political and Social Opposition: The UCC is often seen through a political lens. Parties and leaders may resist or support the UCC based on electoral considerations, leading to inconsistent policies and delays.
- **Social Concerns:** There is a fear that the UCC could disrupt traditional practices and create social unrest.
- Legislative and Legal Hurdles: Crafting a comprehensive UCC requires extensive legislative work and detailed legal drafting along with administrative capacities to address the nuances of various personal laws.

Way Forward

 Unity and Uniformity: The UCC should acknowledge India's multiculturalism and maintain its diversity, emphasising that unity is more crucial than uniformity.

- The Indian Constitution supports both **integrationist and multicultural approaches** to address cultural differences.
- Discussion and Deliberations with Stakeholders: It is essential to engage a wide range of stakeholders, including religious leaders, legal experts, and community representatives, in the development and implementation of the UCC.
 - This engagement ensures that the UCC reflects diverse perspectives and is perceived as fair and legitimate by all citizens.
- Striking a Balance: The lawmakers should focus on removing practices that conflict with constitutional standards while ensuring cultural practices align with principles of substantive equality and gender justice.
 - Integrating **culturally sensitive practices** into a uniform system without alienating communities is a delicate balancing act.
- Constitutional Perspective: The Indian Constitution supports cultural autonomy and aims for cultural accommodation, with Article 29(1) protecting the unique cultures of all citizens.
 - Communities should assess whether practices such as polygamy and unilateral divorce align with their cultural values. The goal should be to create a just code that promotes equality and justice.
- Education and Awareness: Ensuring that all citizens are aware of and understand the UCC is crucial for effective implementation, requiring extensive outreach and education efforts.

Drishti Mains Question:

Discuss the major challenges in implementing the Uniform Civil Code across India. How can these challenges be addressed effectively?

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

- Q. 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)

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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