



Uttarakhand's UCC Draft Report

For Prelims: [Uniform Civil Code \(UCC\)](#), [Fundamental Rights](#), [Directive Principles of State Policy](#)

For Mains: Challenges in Implementation of Uniform Civil Code.

Source: [TH](#)

Why in News?

Recently, the [Uniform Civil Code \(UCC\) draft report](#) was approved by the **Uttarakhand Cabinet** and is likely to be tabled in the state assembly on 6th February 2024, as a bill for enactment.

- The UCC drafting committee was led by retired [Supreme Court judge Ranjana Prakash Desai](#).
- The UCC is a proposed **set of common laws for all residents of Uttarakhand**, regardless of their religion, caste, or gender.

Note

- **Article 162 of the [Indian Constitution](#)** indicates that the executive power of a State extends to matters with respect to which the Legislature of the State has power to make laws. In view of the provisions of **Entry 5 of the Concurrent List of the [Seventh Schedule](#)**, the constitution of a Committee to introduce and implement Uniform Civil Code (UCC) per se cannot be challenged as ultra vires.
 - **Entry 5 of the Concurrent List deals with “marriage and divorce; infants and minors; adoption; wills, intestacy, and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.**
- This implies that the **state government of Uttarakhand can enact UCC within its territory.**

What are the Key Highlights of Uttarakhand's UCC Draft Report?

- The UCC aims to replace distinct personal laws of every religion, focusing on marriage, divorce, adoption, and inheritance, **guided by Article 44 of the Constitution**.
 - Article 44 of the Indian Constitution is a [Directive Principle of State Policy \(DPSP\)](#). It states that the state should **try to establish a uniform civil code for all citizens throughout India**.
 - This code would be a **single set of personal laws** that would apply to all citizens, regardless of religion.
- Some of the key proposals put forth by the committee include the **prohibition of [polygamy](#), [nikah halala](#), [iddat](#)** (a mandatory period of waiting to be observed by women following the dissolution of a Muslim marriage), [triple talaq](#), and [child marriage](#), uniform age for **girls'**

marriage across all religions, and mandatory registration of **live-in relationships**.

- The draft UCC aims to focus on **gender equality by treating men and women equally** in matters such as **inheritance and marriage**.
 - The Code is also likely to extend an **equal property share to Muslim women against the existing 25% share** accorded under **Muslim personal laws**.
 - The minimum age for marriage for men and women is **set to remain the same, 18 years for women and 21 years for men**.
- **Scheduled tribes (STs)** have been **exempted from the purview of the bill**. The tribal population in the state, which is around 3%, had been voicing its dissent against UCC in the wake of the special status accorded to them.

What are the Concerns Regarding the UCC Draft Report for Uttarakhand?

- The UCC draft report may **infringe upon the fundamental rights** of religious freedom and personal liberty guaranteed by the Constitution of India.
 - Some critics argue that the UCC draft report does not respect the diversity and pluralism of India, and imposes a uniform code that may not suit the customs and practices of different communities.
- The UCC draft report may affect the rights and interests of the **STs of Uttarakhand**.
 - Some activists claim that the **UCC draft report does not adequately address the issues and aspirations of the STs**, and may erode their cultural identity and autonomy.

What is the Uniform Civil Code?

- **About:**
 - The UCC is mentioned in **Article 44 of the Constitution** as part of the **Directive Principles of State Policy**, that the state should work to establish a uniform civil code for all citizens across India.
 - However, the Constitution's framers left it to the government's discretion to implement the UCC.
 - **Goa is the only state in India with a UCC**, following the Portuguese Civil Code of 1867.
- **Supreme Court of India Stance on UCC:**
 - **Mohd. Ahmed Khan vs Shah Bano Begum Case, 1985:**
 - The Court observed that “it is a matter of regret that **Article 44 has remained a dead letter**” and called for its implementation.
 - Such a demand was reiterated in subsequent cases such as **Sarla Mudgal v. Union of India, 1995**, and **John Vallamattom v. Union of India, 2003**.
 - **Jose Paulo Coutinho v. Maria Luiza Valentina Pereira Case, 2019:**
 - The Court hailed **Goa as a “shining example” where “the uniform civil code is applicable to all**, regardless of religion except while protecting certain limited rights” and accordingly urged for its pan-India implementation.
- **Law Commission's Stance:**
 - In 2018, the **21st Law Commission** headed by former Supreme Court judge Justice Balbir Singh Chauhan submitted a consultation paper on “Reforms of family law” wherein it observed that the **“formulation of a Uniform Civil Code is neither necessary nor desirable at this stage”**.
 - It underscored that **secularism should coexist with the prevailing plurality in the country**. It however recommended that **discriminatory practices and stereotypes** within existing personal laws **should be amended**.
 - Acknowledging the lapse of more than three years since the issuance of the initial consultation paper. In 2022, the **22nd Law Commission** headed by Justice (Retd) Rituraj Awasthi, issued a notification seeking opinions from various stakeholders, including the public and religious organisations, on the UCC.

Read More: [Just \(Uniform\) Civil Code](#).

UPSC Civil Services Examination Previous Year's Question (PYQs)

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)