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The Big Picture: Special Marriage Act

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Why in News?

The Allahabad high Court has recently expressed its concern over the issue of one changing his/her faith just for the sake of matrimony while the two persons professing different religions can marry under **the Special Marriage Act** which is 'one of the earliest endeavours towards the **Uniform Civil Code**.

The court had made the comments after finding that a Muslim woman had converted to Hinduism, and a month later married as per Hindu rituals.

The Special Marriage Act (SMA), 1954

- The Special Marriage Act is the legislation made to validate and register interreligious and inter-caste marriages in India.
- It allows two individuals to solemnise their marriage through a civil contract.
- No religious formalities are needed to be carried out under the Act.

Provisions Under The Special Marriage Act

- The Special Marriage Act came into effect in 1954 permitting any individual belonging to a faith to marry another person belonging to a different faith provided there are certain conditions. The conditions are laid down in section 4 of the act:
 - It says that neither of the parties should have a spouse living.
 - Both the parties should be capable of giving consent; should be sane at the time of marriage.
 - The parties shall not be within the prohibited degree of relations as prescribed under their law.
 - Relationship by half blood as well as by full blood
 - Illegitimate as well as legitimate blood relationship
 - Relationship by adoption as well as by blood.
 - While considering the age, the male must be at least 21 and the female be 18 at least.
- In case all of these conditions are fulfilled, the parties are supposed to give a notice for their marriage to the Marriage Officer in an area where one of them has been living for the last 30 days.
- Anyone having any objection to the marriage can file against it within a period of 30 days, after a 30 days period of considering the objections, the marriage is permitted with 3 witnesses required to sign the registration of marriage.

Anyone who believes that either of the given parties do not fulfill all the required conditions can file an objection against the marriage and the marriage officer can reject the marriage.

Note: People of the same faith can also marry under this act; but separate laws for marriage also exist in their respective faith.

Issue related to the Act

The act only validates the marriage of two people belonging to different faiths, but there is no punishment for those who forcibly convert the other partner just for the sake of marriage.

This is a serious issue for the communities such as the Parsis which already exist in minorities, due to coerced conversion these communities will soon be vanished.

The Uniform Civil Code

- A uniform civil code here refers to a single law, applicable to all citizens of India in their personal matters such as marriage, divorce, custody, adoption and inheritance.
- The Constitution in Article 44 requires the State to strive to secure for its citizens a **Uniform Civil Code (UCC)** throughout India. However, no action has been taken in this regard till date.
- Uniform Civil Code seeks to replace personal laws based on the scriptures and customs of each major religious community in India with a common set of rules governing every citizen.

Way Forward

- **Effective implementation and amendment:** India has a strong set of laws but they are needed to be implemented strictly.
 - In the purview of interfaith marriages, the Idea should be to eradicate the core issue; coerced conversion.
 - Moreover, the Special Marriage Act, 1954 is now a 66 years old law and it definitely needs to undergo certain changes now.
- **Separating religion and personal matters:** Religion and personal matters are something to be dealt with separately, moreover, marriage and conversion of religion are two things and should definitely not be interconnected.
- **UCC as the silver bullet:** A uniform civil code for all personal matters; marriage, succession, divorce etc of all the communities including all the citizens shall be there leaving aside the religion.
 - Issues such as marriages are secular in nature, therefore, a **uniform law can regulate them.**
- **Articles 44, 25 and 26:** Article 44 mentioning the Uniform Civil Code and articles 25 and 26 are often believed to be contradictory. The balance with these articles is something that is rarely discussed and needs more attention now.

Article 25

Freedom of conscience and free profession, practice and propagation of religion. According to it, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate a religion.

Article 26

Freedom to manage religious affairs. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right to establish and maintain religious institutions and manage its own affairs in matters of religion.

Conclusion

- Religion today has gone far beyond the faith in the almighty and has become quite antagonistic, where people want to impose their values and beliefs on others.
- The time is right to bring in the UCC, by having consultation at a wider level with all the stakeholders.