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Mains Practice Questions

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Q. What do you understand by Uniform Civil Code? Examine its relevance for a secular country like India and challenges in its implementation. (250 words)

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Approach

- Explain the concept of Uniform Civil Code in the introduction.
- Mention the relevance of UCC and challenges in its implementation.
- Conclude by suggesting whether there is a need to implement UCC at this point of time.

Introduction

- A Uniform Civil Code means that all sections of the society irrespective of their religion shall be treated equally according to a national civil code, which shall be applicable to all uniformly.
- It shall cover areas like marriage, divorce, maintenance, inheritance, adoption and succession of the property.
- It is based on the premise that there is no connection between religion and law in modern civilization.

Body

Relevance of UCC for a secular country like India:

- **Spirit of secularism:** A secular republic needs a common law for all citizens rather than differentiated rules based on religious practices.
- **Ensuring gender justice:** The rights of women are usually limited under religious law, be it Hindu or Muslim personal laws. The practice of triple talaq is a classic example.
- **Adhering to constitutional vision:** Many practices governed by religious traditions are at odds with the fundamental rights guaranteed in the Indian Constitution. Hence, constitutional principles of equality, liberty, justice can only be achieved under a UCC.

Supreme Court has repeatedly exhorted the Parliament to implement UCC in its judgements in the **Shah Bano case 1985, Sarla Mudgal Case 1995** and more recently it argued that “Portuguese Civil Code of 1867” in Goa is a shining example and should be a model for the entire country.

Challenges in its implementation

- **Difficulty in formation of common laws:** The task of actually devising a set of rules that will govern all communities is difficult considering the vast range of interests and sentiments to be accounted for.
- **Plurality of Indian society:** Cultural diversity cannot be compromised for the sake of uniformity.

- **Threat to territorial integrity:** The idea of UCC faces opposition from different cultural groups. This opposition may give rise to communalism, regionalism and a threat to the territorial integrity of the nation.
- **Politicization of the issue:** Attempts to arrive at UCC is perceived as imposition of majoritarian views on certain section of minorities.
- Impacts Fundamental Right to practise religion enshrined in Article 25 of the Constitution.
- **Non justifiable nature of DPSPs:** UCC is mentioned in Article 44, Part IV-A – Directive Principles of State Policy which states that “the State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India”. DPSPs are only guidelines which can be implemented as per time and situation.

Conclusion

- As recommended by the **Law Commission** in its consultation paper in 2018, UCC is “neither necessary nor desirable at this stage.” The commission stresses on efforts to reconcile the country's diversity with universal arguments on human rights.
- There is a need for 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.
- Codification could help arrive at certain **universal principles** which may facilitate prioritising equity rather than imposition of a Uniform Code.
- Meanwhile the judiciary and the legislature should continue with its piecemeal approach in reforming illegitimate cultural practices like the Triple Talaq law.