



Uniform Civil Code

Why in News

Recently, a petition has been filed in [Supreme Court](#) against [Uniform Civil Code \(UCC\)](#) on divorce and alimony.

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UNIFORM CIVIL CODE

All sections of the society irrespective of their religion shall be treated equally according to a National Civil Code - the Uniform Civil Code.

THEY COVER AREAS LIKE



Marriage



Divorce



Maintenance



Inheritance



Adoption



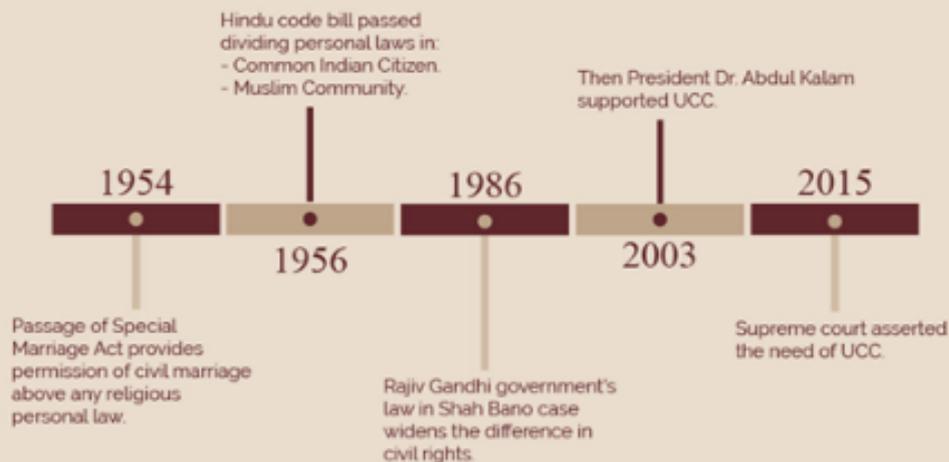
Succession of Property

It is based on the premise that there is necessarily no connection between religion and personal law in a civilized society.

"UCC refers to a common set of laws governing civil rights of every citizen."

Article 44 of Directive Principles sets duty of state for implementing UCC.

TIMELINE



The dialogue for UCC was started by the Law Commission in the year 2016

Key Points

▪ About:

- UCC is one that would **provide for one law for the entire country, applicable to all religious communities in their personal matters** such as marriage, divorce, inheritance, adoption etc.
- **Article 44** of the Constitution lays down that the **state shall endeavour to secure a UCC** for the citizens throughout the territory of India.
 - Article 44 is one of the **Directive Principles of State Policy (DPSP)**.
 - DPSP as defined in **Article 37**, are not justiciable (not enforceable by any court)

but the principles laid down therein are fundamental in governance.

▪ **Status of Uniform Codes in India:**

- Indian laws do follow a uniform code in most civil matters such as [Indian Contract Act 1872](#), Civil Procedure Code, Transfer of Property Act 1882, Partnership Act 1932, [Evidence Act, 1872](#) etc.
- States, however, have made hundreds of amendments and, therefore, in certain matters, there is diversity even under these secular civil laws.
 - Recently, several states refused to be governed by the [uniform Motor Vehicles Act, 2019](#).

▪ **Background:**

- The origin of the UCC dates back to colonial India when the British government submitted its report in 1835 stressing the need for **uniformity in the codification of Indian law relating to crimes, evidence, and contracts**, specifically **recommending that personal laws of Hindus and Muslims be kept outside such codification**.
- Increase in legislations dealing with personal issues in the far end of the British rule forced the government to form the **B N Rau Committee to codify Hindu law in 1941**.
- Based on these recommendations, **a bill was then adopted in 1956 as the Hindu Succession Act** to amend and codify the law relating to intestate or unwilled succession, among Hindus, Buddhists, Jains, and Sikhs.
 - However, there were separate personal laws for muslim, christian and Parsis.
- In order to bring uniformity, the courts have often said in their judgements that the **government should move towards a UCC**.
 - The judgement in the [Shah Bano case \(1985\)](#) is well known.
 - Another case was the **Sarla Mudgal Case (1995)**, which dealt with issue of bigamy and conflict between the personal laws existing on matters of marriage.
- By arguing that practices such as [triple talaq](#) and **polygamy** impact adversely the right of a woman to a life of dignity, the Centre has raised the question whether constitutional protection given to religious practices should extend even to those that are not in compliance with fundamental rights.

▪ **Implications of Uniform Civil Code on Personal Laws:**

- **Protection to Vulnerable Section of Society:**
 - The UCC aims to provide protection to vulnerable sections as envisaged by Ambedkar including **women and religious minorities**, while also promoting **nationalistic fervour through unity**.
- **Simplification of Laws:**
 - The code will **simplify the complex laws around marriage ceremonies, inheritance, succession, adoptions** making them one for all. The same civil law will then be applicable to all citizens irrespective of their faith.
- **Adhering to Ideal of Secularism:**
 - Secularism is the objective enshrined in the Preamble, a **secular republic needs a common law for all citizens** rather than differentiated rules based on religious practices.
- **Gender Justice:**
 - If a UCC is enacted, all personal laws will cease to exist. It will **do away with gender biases in existing laws**.

▪ **Challenges:**

- **Exceptions in Central Family Laws:**

- The preliminary sections in all central family law Acts enacted by Parliament since Independence declare that they will apply to “the whole of India except the state of **Jammu and Kashmir.**”
 - A Second exception was added in 1968 in all these Acts, pronouncing that “nothing herein contained shall apply to the Renoncants in the **Union Territory of Pondicherry.**”
 - A third exception, none of these Acts applies in Goa, Daman and Diu.
 - A fourth exception, relating to the north-eastern states of Nagaland and Mizoram, emanates from **Articles 371A and 371G** of the Constitution, decreeing that no parliamentary legislation will replace the customary law and religion-based system for its administration.
- **Communal Politics:**
 - The demand for a uniform civil code has been framed in the context of communal politics.
 - A large section of society sees it as **majoritarianism under the garb of social reform.**
- **Constitutional Hurdle:**
 - **Article 25** of Indian constitution, that seeks to preserve the **freedom to practise and propagate any religion** gets into conflict with the concepts of **equality enshrined under Article 14** of indian Constitution.

Way Forward

- The government and society will have to work hard to **build trust, but more importantly, make common cause** with social reformers rather than religious conservatives.
- Rather than an omnibus approach, the **government could bring separate aspects** such as marriage, adoption, succession and maintenance into a **UCC in stages.**
- Need of the hour is 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.

Source:TH

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