



Mains Marathon

Day 8: “Despite the many benefits of implementing the Uniform Civil Code (UCC), there are also some downsides to it.” Analyse (250 Words)

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Approach / Explanation / Answer

- Start your answer by describing the Uniform Civil Code (UCC)
- Mention the advantages of implementation of UCC
- Discuss the challenges in the implementation of UCC and downsides of this.
- Conclude your answer by giving a Way Forward

Answer

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.

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.

Based on the recommendations **BN Rau Committee to codify Hindu law in 1941**, 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.

Implications of Uniform Civil Code on Personal Laws

- **Protection of 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 in the implementation of UCC

- **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.
- **Against the diversity of the country:** There has been skepticism whether there could ever be uniformity of personal laws in a democratic and diverse country like India.
- **Lack of national consensus:** UCC still is a politically sensitive issue. There are still many organisations who advocate rights of minorities as well as many religious clerics who oppose UCC.
- **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.

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.
- The 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.