



Uniform Civil Code in Uttarakhand

For Prelims: Uniform Civil Code, Article 44, Article 25, Article 14

For Mains: Implications of Uniform Civil Code on Personal Laws

Why in News?

Recently, **an expert committee** headed by a retired [Supreme Court \(SC\)](#) judge has been constituted by Uttarakhand to implement [Uniform Civil Code \(UCC\)](#) and for checking all the relevant laws that control personal matters for those living in Uttarakhand.

- A few months ago, the [Allahabad High Court also called upon the Central government to initiate the process for implementation of UCC.](#)

What is Uniform Civil Code (UCC)?

- **About:**
 - UCC would provide **one law for the entire nation** (including 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 Indian territory.
 - [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). However, the principles laid down therein are fundamental in governance.
- **Status of UCC in India:**
 - In most civil matters, India follows UCC such as [Indian Contract Act 1872](#), Civil Procedure Code, Transfer of Property Act 1882, Partnership Act 1932, [Evidence Act, 1872](#) etc.
 - In certain matters, however, there is diversity even under these civil laws as states have made hundreds of amendments to these.
 - Several states refused to be governed by the uniform [Motor Vehicles Act, 2019](#).
 - At present, **Goa is the only India state that has implemented UCC.**
- **Origin:**
 - UCC's origin dates back to **British India when a report was submitted in 1835**.
 - This report stressed on 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.**
 - **Legislation dealing with personal issues increased.** This forced the government to form the **B N Rau Committee to codify Hindu law in 1941.**
 - **Hindu Succession Act, 1956:**
 - Based on B.N. Rau Committee's recommendations, [the Hindu Succession Act \(1956\)](#) was adopted 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.**
- **SC Judgements:**
 - 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.**
 - The Supreme Court in [Shayara Bano case \(2017\)](#) had declared the practice of **Triple Talaq (talaq-e-biddat) as unconstitutional.**
 - By arguing that practices such as [triple talaq](#) and polygamy adversely affect 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.**

What is the need of UCC?

- **All citizens must be treated as equals** and government sponsorship/regulation of religious places/events must be barred in the constitution.
- The enforcement of UCC **would help narrow down the religious divide in a country like India where people** of different religions reside.
- The enforcement of UCC would **provide protection to vulnerable sections, simplify laws and ensure gender justice adhering to the ideal of secularism.**

What are the Challenges in Adoption of the UCC?

- **Against Indian Concept of Secularism:**
 - It is feared by many that by attempting to implement UCC, the parliament is only duplicating the western model of law which is based on uniformity but Indian concept of Secularism is based on diversity of religion and people.
 - In India, people are having different religious faiths. Diverse religious practices make it to implement a basic platform of practices for every religion.
 - Minorities i.e., Muslims, Sikhs, Christians, Buddhists, Jain, and Zoroastrians have a misconception that UCC will destroy their religious practices and they will be compelled to follow the religious practice of majorities.
- **Unawareness of People:**
 - The most significant issue is the unawareness of people regarding the objects of UCC, and the reason for such unawareness is the lack of education, fake news, irrational religious beliefs, etc.
- **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.

- A balance between protection of fundamental rights and religious dogmas of individuals must be carved out. It should be a code, without any bias with regards to religious or political considerations.

UPSC Civil Services Examination, Previous Year Question

Q. Which one of the following categories of Fundamental Rights incorporates protection against untouchability as a form of discrimination? (2020)

- (a) Right against Exploitation
- (b) Right to Freedom
- (c) Right to Constitutional Remedies
- (d) Right to Equality

Ans: (d)

Exp:

- There are six categories of Fundamental Rights under the Indian Constitution:
 - **Right to Equality (Articles 14-18)**
 - **Right to Freedom (Articles 19-22)**
 - **Right against Exploitation (Articles 23-24)**
 - **Right to Freedom of Religion (Articles 25-28)**
 - **Cultural and Educational Rights (Articles 29-30)**
 - **Right to Constitutional Remedies (Articles 32)**
- **Article 17, under the Rights to Equality (Articles 14-18), talks about the abolition of untouchability** and prohibition of its practice. It abolishes 'untouchability' and forbids its practice in any form. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.
- **Therefore, option (d) is the correct answer.**

Q. 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. Organizing 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)

- The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, Socialistic, Gandhian and Liberal-intellectual.
- In order to fulfil the dreams of Gandhi, some of his ideas were included as Directive Principles. These state policies are as follows:
 - To organise village panchayats and endow them with the necessary powers and authority to enable them to function as units of self-government (Article 40). **Hence, 2 is correct.**
 - To promote cottage industries on an individual or co-operation basis in rural areas (Article

43). **Hence, 3 is correct.**

- To promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies (Article 43B).
 - To promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation (Article 46).
 - To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (Article 47).
 - To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds (Article 48).
- Securing a uniform civil code to all citizens is classified under liberal-intellectual. **Hence, 1 is not correct.**
 - Securing for all workers' leisure and cultural opportunities has been classified as socialistic principle. **Hence, 4 is not correct.**

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