



## Uniform Civil Code

**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, the Ministry of Law and Justice said in response to a [PIL](#) filed in 2019 that the implementation of the **Uniform Civil Code (UCC)**, a directive principle under the Constitution (Article 44), is a matter of public policy and that no direction in this regard can be issued by the Court.

- The Centre has **requested the Law Commission of India (21<sup>st</sup>)** to undertake examination of various issues relating to UCC and to make recommendations thereof.

### 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 legislation dealing with personal issues in the far end of 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, chirstian 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: IE](#)

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