



UNIFORM CIVIL CODE (UCC)

POSSIBLE QUESTION FOR MAINS

1. Write the pros and cons of implementing UCC in INDIA.
2. UCC is already introduced in GOA. Analyze the reason for not implementing it in INDIA.
3. Implementing UCC is against the concept of secularism. write your view.

Uniform Civil Code (UCC) is defined in our Constitution under Article 44 of Directive Principles of State Policy. It states that it is the duty of the state to secure for the citizens a Uniform Civil Code throughout the territory of India. In other words we can say that it means one country one rule. Let us find out more about Uniform Civil Code, its pros and cons.

Uniform Civil Code place a set of laws to govern personal matters of all citizens irrespective of religion is perhaps the need of the hour and ensuring that their fundamental and Constitutional rights are protected.

The British Government in 1840 on the basis of Lex Loci report had framed Uniform laws for crimes, evidences and contract but personal laws of Hindus and Muslims are left by them somewhere intentionally. On the other hand British India Judiciary provided for application of Hindu, Muslim and English law by British Judges. Also, in those days reformers were raising voice to frame laws related to women against the discrimination done by them basically under religious customs.

Constituent Assembly was set up to frame our Constitution in **1946** in Independent India which consists of both types of members: those who wanted to reform the society by adopting Uniform Civil Code like Dr. B. R Ambedkar and other was basically Muslim representatives who perpetuate personal laws. Also, the proponents of Uniform Civil Code were opposed by the minority communities in the Constituent Assembly. As a result only one line is added in the Constitution under **Article 44 in Part IV of DPSP.**

The State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India. As it is incorporated in DPSP they are neither enforceable in the court nor any political discrepancy been able to go beyond it because minorities mainly Muslims felt that their personal laws are violated or abrogated by it. Then a **series of Bills were passed** to codify Hindu laws in the form of Hindu Marriage Act, 1955, The Hindu Succession Act, 1956, The Hindu Minority and Guardianship Act, 1956 and the Hindu Adoption and Maintenance Act, 1956, are collectively known as **Hindu Code Bill** (covers Buddhist, Sikhs, Jains as well



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as different religious denominations of Hindus) which allows right to divorce and inheritance to women, made caste irrelevant to marriage and abolished bigamy and polygamy.

RELATED CASE LAWS

Mohammad Ahmed Khan v. Shah Bano Begum mainly known as Shah Bano Case. In this case in **1985**, Shah Bano moved to Supreme Court for seeking maintenance under section 125 of the Code of Criminal Procedure when her husband divorced her after 40 years of marriage by giving triple talaq and denied her regular maintenance. *The Supreme Court gave verdict in favour of Shah Bano by applying section 125 of Indian Criminal Code* and it is applied to all citizens irrespective of religion. Then Chief Justice, *Y.V Chandrachud*, observed that a Common Civil Code would help the cause of national integration by removing disparate loyalties to law. And so, the court directed Parliament to frame a UCC. On the other hand *Rajiv Gandhi Government* was not satisfied from the court decision; instead of supporting it the government enacted the *Muslim Women (Protection of Rights on Divorce) Act, 1986* to nullify the Supreme Court judgement in Shah Bano Case and let the Muslim Personal Law prevails in divorce matter. In this act it was mentioned that Muslim woman has right for maintenance only for three months after the divorce i.e. iddat and then shifted her maintenance to her relatives or Wakf Board.

This is the second instance in which the Supreme Court again directed the government under Article 44. In this case **Sarla Mudgal v Union of India**, the question was whether a Hindu husband, married under the Hindu law, by embracing Islam can solemnise second marriage. The Supreme Court held that adopting Islam for a second marriage is an abuse of Personal laws. Further said that Hindu marriage can be dissolved under Hindu Marriage Act, 1955 i.e. mere by converting itself in to Islam and marry again does not dissolve the marriage under Hindu Marriage Law and thus will be an offence under *Section 494[5] of the Indian Penal Code*.

Common Civil Code would put in place a set of laws to govern personal matters of all citizens irrespective of religion is perhaps the need of the hour. In fact, it is the cornerstone of true secularism. Such a progressive reform would not only help end discrimination against women on religious grounds but also strengthen the secular fabric of the country and promote unity. There is a need to reform our social system, which is full of inequities, discriminations and other things which conflict with our Fundamental Rights. As we know that there is a **Criminal Code** which is applicable to all people irrespective of religion, caste, tribe and domicile in the country but there is no similar code related to divorce and succession which are governed by Personal laws.

Need of UCC is related to inconsistencies in Tax laws. Like in Hindu Undivided Families they are exempted from taxes where as Muslims are exempted from paying stamps duty on gift deeds and also it deals with the problem of Honour killings by extra constitutional bodies like Khap Panchayats.



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As we have seen that the success of the contentious bill to ban instant triple talaq is now punishable. Suddenly the possibility of a UCC, though by no means an easy task but it does not appear as unachievable. Also, more aspects of personal laws are likely to be taken up for scrutiny which marks the incremental progress towards UCC. Moreover, the government's decision in relation to Article 370 is also a monumental decision towards national integration.

Article 25 states Freedom of conscience and free profession, practice and propagation of religion. So, the UCC cannot be forcefully imposed on the people as then it will be clearly violation of Article 25 if the Indian Constitution. Therefore, UCC and Personal laws should be co-existed. As, UCC is nothing but the incorporation of modern and progressive aspects for all existing personal laws which can't be ignored.