

Uniform Civil Code - UCC

[UPSC Notes]

What is Uniform Civil Code?

Uniform as the word says includes personal laws of citizens that are applied equally no matter to which religion, sex, gender, and sexual orientation they belong to. A Uniform Civil Code means that all sections of the society irrespective of their religion shall be treated equally according to a national civil code, which shall be applicable to all uniformly. The UCC is explicitly mentioned in Part 4, Article 44 of the Indian Constitution. It states that- "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India". Though, Part 4, Article 44 of the Indian Constitution, corresponds with Directive Principles of State Policy making it mandatory for the State to provide its citizens with a uniform civil code (UCC) throughout the territory of India. Nonetheless, Article 37 of the Constitution itself makes it clear the DPSP "shall not be enforceable by any court". This indicates that although our constitution itself believes that a Uniform Civil Code should be implemented in some manner, it does not make this implementation mandatory.

History of Uniform Civil Code

The colonial period in India saw the debate for a Uniform Civil Code and hence it dates back that long and originated when the British government submitted their report in 1835 to have a uniform codification of Indian laws making it easier to provide justice. In the pre-independence times (colonial era), criminal laws were codified and became common for the whole country. While the personal laws continued to be governed by separate codes for different communities.

The Post-Colonial era (1947-1985) saw the drafting of the Constitution of India where the prominent leaders pushed for a Uniform Civil Code mainly due to the opposition from religious fundamentalists and ignorant masses during the time. Some reforms that took place during that period were The Hindu code bill, Succession Act, The Hindu Marriage Act, the Minority and Guardianship Act, and the Adoptions and Maintenance Act to name a few.

Cases related to UCC

For the very first time in the year 1985, it was the apex court of India that gave the directions to the Parliament to structure a Uniform Civil Code related to the case of *Mohammad Ahmed Khan v. Shah Bano Begum*, that later on came to be known as the Shah Bano case to the country as a whole. This case of Shah Bano revolved around getting the maintenance amount from her husband once she got triple talaq as per Section 125 of the Code of Criminal Procedure. However, it was the government that

reversed the decision related to her case by coming out with Muslim Women (Right to Protection on Divorce) Act, 1986. As per this Act, a Muslim woman did not have the right to ask for maintenance under the previous Act. Finally, by 2017, the Triple Talaq, or talaq-e-bidat as it was known to the community was pronounced unconstitutional and against the law.

Another important case that came to the limelight was the Sarla Mudgal Case in the year 1995 which brought forward the issue of bigamy and disagreement on matters of marriage under the existing personal laws.

Arguments in Favour of Uniform Civil Code

A Uniform Civil Code is significant in bringing the country together as it is rich in diverse religions, customs, and practices. Though independence did the same thing, the uniform civil code has a lot more to offer. One national civil code of conduct will be followed for bringing all the Indians belonging to different castes, religions, or tribes under the same roof. Equality would be the buzzword with no discrimination of any kind making one and all feel like one. This would mean more power and great force to mankind making the country come out much stronger by following the simple legal system that would benefit all.

Why does India need Uniform Civil Code

The application of the Uniform Civil Code meant bringing India together as a country since different religions, customs, and practices are followed by people from all parts of the country. The aim of bringing the code is to integrate India. One national civil code of conduct for all the citizens of the country will treat them as equals. Uniform Civil Code will cover areas like marriage, divorce, inheritance, maintenance, adoption, and succession of the property, where everyone would be equal.

UCC and the Indian Constitution

As per Article 14 of the Indian Constitution, the citizens of the country should be treated equally without any form of discrimination of any kind. Religion should not separate them at any point in time and keep them united. It covers areas like marriage, divorce, inheritance, maintenance, adoption, and succession of the property where everyone is equal and the same code of conduct must be followed for all.

Uniform Civil Code in Goa

Goa is a great example as called over by the apex court of India, the Supreme Court, due to the applicability of the Uniform Civil Code to one and all. No matter to which religion they belong and in the process securing the limited rights under the Portuguese Civil Code that came into being in 1867. It was the common civil code that got introduced in Goa in 1870. Over time, the code saw many changes based on different decrees. The modern version of the law came to light in 1966.

Implications of Uniform Civil Code on Personal Laws

Uniform Civil Code meant one code over personal laws uniting all the citizens regardless of the religion they follow, the sex to which they belong along with their gender, and sexual orientation. This is because most of the personal laws based in different communities depending on their religious books and related stuff thus bringing a big divide. Hence uniform civil code meant following just one common law irrespective of the community to which one belongs along with the faith being practised.

Defects of Uniform Civil Code

India is a country with vast diversity in religions, castes, traditions, customs, etc. hence it is practically not feasible to bring this code to the country with great ease. People belonging to religious minorities are of the view that the application of the code implies encroachment on their rights to religious freedom. UCC might go against the Constitution by violating the right to freedom of religion.

The introduction of UCC at this particular point of time when the country is already going through a lot of controversies is not suitable or desirable as such.

Challenges in Implementation of Uniform Civil Code

Uniform Civil Code brought people together by following one common code of conduct but many were of the view that it violated the fundamental rights of the people as it was in a conflict with what is stated as part of them. Freedom of sense of right and wrong belonging to a free profession, practise, and propagation of religions as per Article 25, and the freedom to manage religious affairs under Article 26 get infringed.

Suggestions for Successful Implementation of Uniform Civil Code

Uniformity of laws and the accomplishment of common objectives as per the Constitution meant making the people progressive and broad-minded to accept the laws that are good for the society as a whole. Spreading this education by making maximum people aware of the code and coming up with sensitization programs was the need of the hour. All the religions must be given due importance and none of them should be given a backseat by any chance. The sentiments of people from different communities must be preserved and they should not feel hurt at any point in time with the coming up of these laws. It is a sensitive issue that must be taken good care of for the welfare of the country and its people alike.