

FAQs

Uniform Civil Code (UCC)

Q What is the context ?

A States are empowered to enact personal laws that decide issues such as succession, marriage and divorce, in their endeavor to secure a uniform civil code (UCC), Law Minister informed the Rajya Sabha.

Q What did Law Minister say?

A

- Personal laws such as intestacy and succession; wills; joint family and partition; marriage and divorce, relate to Entry 5 of List-III-Concurrent List of the Seventh Schedule to the Constitution.
- Hence, the States are also empowered to legislate upon them.
- And many states are announcing the implementation of UCC in the election manifestos.

Q What is a Uniform Civil Code (UCC)?

A

- A UCC is one that would provide for one personal civil law for the entire country.
- This would be applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc.

Q What is Basis for UCC ?

A

- **Article 44**, one of the **Directive Principles** of the Constitution lays down that the state shall endeavour to secure a UCC for the citizens throughout the territory of India.
- These, as defined in **Article 37**, are **not justiciable (not enforceable by any court)** but the principles laid down therein are fundamental in governance.

UCC vs. Right to Freedom of Religion

1. **Article 25** lays down an individual's fundamental right to religion
2. **Article 26(b)** upholds the right of each religious denomination or any section thereof to "manage its own affairs in matters of religion"
3. **Article 29** defines the right to conserve distinctive culture

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Q What are Reasonable restrictions on the Freedom of Religion ?

A

- An individual's freedom of religion under **Article 25 is subject to “public order, health, morality”** and other provisions relating to FRs, but a group's freedom under Article 26 has not been subjected to other FRs.
- In the Constituent Assembly, there was division on the issue of putting UCC in the fundamental rights chapter. The matter was settled by a vote.
- By a 5:4 majority, the fundamental rights sub-committee headed by Sardar Patel held that the provision was outside the scope of FRs and therefore the UCC was made less important.

Enacting and Enforcing UCC

- Fundamental rights are enforceable in a court of law.
- While Article 44 uses the words “state shall endeavour”, other Articles in the ‘Directive Principles’ chapter use words such as “in particular strive”; “shall in particular direct its policy”; “shall be obligation of the state” etc.
- Article 43 mentions “state shall endeavour by suitable legislation” while the phrase “by suitable legislation” is absent in Article 44.
- All this implies that **the duty of the state is greater in other directive principles than in Article 44.**

Q What are more important — fundamental rights or directive principles?

A

- There is no doubt that **fundamental rights are more important.**
- The Supreme Court held in *Minerva Mills* (1980): Indian Constitution is founded on the bed-rock of the balance between Parts III (Fundamental Rights) and IV (Directive Principles).
- To give absolute primacy to one over the other is to disturb the harmony of the Constitution.
- Article 31C inserted by the 42nd Amendment in 1976, however, lays down that if a law is made to implement any directive principle, it cannot be challenged on the ground of being violative of the FRs under Articles 14 and 19.

Q What about Personal Laws?

A

- Citizens belonging to different religions and denominations follow different property and matrimonial laws which **are an affront to the nation's unity.**

FAQs

- If the framers of the Constitution had intended to have a UCC, they would have given exclusive jurisdiction to Parliament in respect of personal laws, by including this subject in the Union List.
- **“Personal Laws” are mentioned in the Concurrent List.**

Q What are Various customary laws ?

A

- All Hindus of the country are not governed by one law, nor are all Muslims or all Christians.
- Muslims of Kashmir were governed by a customary law, which in many ways was at variance with Muslim Personal Law in the rest of the country and was, in fact, closer to Hindu law.
- Even on registration of marriage among Muslims, laws differ from place to place.
- In the Northeast, there are more than 200 tribes with their own varied customary laws.
- The Constitution itself protects local customs in Nagaland. Similar protections are enjoyed by Meghalaya and Mizoram.
- Even reformed Hindu law, in spite of codification, protects customary practices.

Q Why need UCC?

A

- UCC would provide **equal status to all citizens**
- It would promote **gender parity** in Indian society.
- UCC would accommodate the **aspirations of the young population** who imbibe liberal ideology.
- Its implementation would thus support the **national integration**.

Q What are Hurdles to UCC implementation ?

A

- There are practical difficulties due to **religious and cultural diversity** in India.
- The UCC is often perceived by the minorities as an **encroachment of religious freedom**.
- It is often regarded as **interference of the state in personal matters** of the minorities.
- Experts often argue that the **time is not ripe for Indian society** to embrace such UCC.

FAQs

These questions need to be addressed which are being completely ignored in the present din around UCC.

1. Firstly, how can uniformity in personal laws are brought without disturbing the distinct essence of each and every component of the society.
2. Secondly, what makes us believe that practices of one community are backward and unjust?
3. Thirdly, has other uniformities been able to eradicate inequalities which diminish the status of our society as a whole?

Q What can be the Way forward ?

A

- It should be the duty of the religious intelligentsia to educate the community about its rights and obligations based on modern liberal interpretations.
- A good environment for the UCC must be prepared by the government by explaining the contents and significance of Article 44 taking all into confidence.
- Social reforms are not overnight but gradual phenomenon. They are often vulnerable to media evils such as fake news and disinformation.
- Social harmony and cultural fabric of our nation must be the priority.