

**RSTV**

## **PERSPECTIVE: UNIFORM CIVIL CODE (UCC)**



### **Context**

- **Vishva Hindu Parishad** passed a resolution in favour of the **implementation** of the Uniform Civil Code to find a permanent solution to various challenges the country is facing.
- Earlier the mega **Muslim congregation** organised by **Jamiat Ulama-e-Hind** at **Deoband in the Saharanpur district** of Uttar Pradesh, passed a resolution against the proposed UCC.
- Both the resolution has been passed after several state governments like **Uttarakhand** showed interest in framing by constituting a **drafting committee**.

### **What is UCC?**

- The Uniform Civil Code (UCC) calls for the formulation of **one law for India**, which would apply to **all religious communities** in matters such as marriage, divorce, inheritance, and adoption.
- The code comes under **Article 44 of the Constitution**, which lays down that the state shall endeavour to secure a Uniform Civil Code for the citizens throughout the territory of India.
- The objective of Article 44 of the Directive Principles in the Indian Constitution was to **address the discrimination against vulnerable groups** and harmonise diverse cultural groups across the country.
- **Dr B R Ambedkar**, while formulating the Constitution had said that a **UCC is desirable** but for the moment **it should remain voluntary**, and thus the Article 35 of the draft Constitution was added as a part of the Directive Principles of the State Policy

in part IV of the Constitution of India as Article 44. It was incorporated into the Constitution as an aspect that would be fulfilled when the nation would be ready to accept it and the social acceptance of the UCC could be made.

### Origin of UCC

- 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 the personal laws of Hindus and Muslims be kept outside such codification.
- Increase in **legislation dealing with personal issues** at the far end of British rule forced the government to form the **B N Rau Committee to codify Hindu law in 1941**.
- The task of the Hindu Law Committee was to examine the question of the necessity of **common Hindu laws**.
- The committee, by scriptures, recommended a **codified Hindu law**, which would give equal rights to women. The 1937 Act was reviewed and the committee recommended a civil code of marriage and succession for Hindus.

### What are personal laws?

- Laws that apply to a certain group of people based on their religion, caste, faith, and belief made after due consideration of customs and religious texts.
- The personal laws of Hindus and Muslims find their source and authority in their religious ancient texts.

### About Hindu Code Bill

- The draft of the **Rau Committee report** was submitted to a select committee chaired by B R Ambedkar that came up for discussion in 1951 after the adoption of the Constitution.
- While discussions continued, the Hindu Code Bill lapsed and was resubmitted in 1952.
- The **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.
- The Act **reformed the Hindu personal law** and gave women greater property rights, and ownership. It gave women property rights in their father's estate.

### Issues raised by Muslim congregation

- The Muslim congregation claimed that the **proposed UCC** is in **contravention** of not only the **Constitution of India** but also the **Shariyat Islamic law** (regulate Muslim society in the country). They also highlighted the following issues:
  - Islamic laws on **issues like marriage, divorce, inheritance**, etc. have not been created by some society, community, group or person but have been coming from their **religious texts**.
  - These laws are part of **religious directives**, and any changes to them or **attempts to stop** someone from following them is a **clear interference with Islam** and the guarantee of freedom to practice and propagate religion given in Article 25 of the Constitution.

### What are the contentions and progress related to UCC?

- India is a **diverse country** which composes of different personal laws, reservations for different sects, different communities, etc. based on different ideologies. However, it is not the ideologies which are diving country, it is the **practice of personal laws** which separate one community from another.
- India aspires to become a world leader, and the **misuse of personal laws** in Muslim or Christian are creating hindrances towards gender justice and also India's development agenda.
- As per the **World Bank** report, there is a need for **women's empowerment** as India aspires to become a developed country. Yet, there were several instances where women were not given equal opportunity in various religions.

- The **Islam started in the 18<sup>th</sup> century in Saudi Arabia**, it was the latest religion at a time which asked for equality for women. However, practically women are not given their due, they were divorced forcefully as **Triple Talaq**, women's marriage age among Muslims, issues related to maintenance and alimony, WAQF board laws, etc.
- If there is a **common law it would be easy to regulate**. For example, if someone breaks into the house of a Muslim, the concerned person will go police station and deal with the Indian Penal Code (IPC) and not by Shariyat law.
- Honourable **Supreme Court** mentioned that the UCC is **not going to have any negative impact** on any religion. It further added that the UCC draft should consider and adopt the **good points of all religions**.
  - Under **Articles 25 and 44** of the Constitution it should be drafted and the draft should then be either by the Indian Law Commission or a committee of experts should be **open for debate and feedback**.

#### Why there has been opposition to UCC?

- The **way of living** and the **way of praising god** witnessed in India is not anywhere else. More importantly, **India is a cultural country**, every culture has its origin from its respective religion and India wants to maintain such traditions.
  - Hence, any law or act that attempts to even change or alter any culture will be considered as **direct interference in one's religion**.
- So, the questions raised by communities, will this law end the tradition of their communities or unite the community. If unite, then concerning which community.
- As of now, there is a wait for the final draft upon which open discussion for debate or feedback will be done by the constitution of society.

#### Is UCC neglecting diversity or Article 25?

- The resolution by Jamiat Ulama-e-Hind at Deoband is considered against Article 44 of the Constitution by law communities.
- Supreme Court (SC) time and again mentioned that once the national policy build on the **Directive Principle of State Policy** (DPSP) is enforceable and will uphold the policy.
- On the note of diversity, in the **Karachi resolution of the Indian National Congress (INC)** several leaders pitched for UCC. However, the orthodox Muslim section opposed the UCC and in place of uniform, it turned to be the **Hindu Code Bill** which was further divided into four acts.
- Now all Hindus are under the ambit of this bill and violation is dealt with accordingly.
- The members who are **opposing UCC** are **neglecting the diversity in India** and hence fail equal rights for women.
- UCC is about **unity and integrity** of the country, gender equality and gender justice.
- However, an **orthodox section of Muslims is not yet ready to remove their laws**. There is a need for wider discussion and not rushed through. There can be exceptions related to Schedule Tribe (ST) protected under Constitution to maintain their culture.

#### How feasible UCC is in India?

- **Supreme Court (SC)** time and again has passed several judgements or directives for successive governments to enact UCC.
- At present several BJP-ruled states are coming forward to enact UCC. Ultimately, it would be the Central Government's responsibility to enact a **centralised law** which will be directive for all the states. Then UCC will be feasible.

#### Despite opposition would India be able to develop consensus?

- **Galileo** held that the world is a rectangle, it took quite a long time for people to accept the world is round and further the world is elliptical.
- Chief Minister of Assam, Uttarakhand and Uttar Pradesh have shown willingness to enact UCC. It has already been enacted in **Goa**. However, it should be centralised.
- People across India are now settled with the abrogation of Article 370 & 35A of the Constitution and also with **Triple Talaq**.

- UCC is not yet drafted, it will neither be drafted according to any Shariyat law nor any Vedic law, rather it will be drafted according to the Constitution.

#### Why does one particular community feel targeted or insecure?

- **Quran of Islam** has already considered the practice of triple talaq and halala as wrong, various communities have already accepted this.
- Even in **Shariyat law** it is mentioned that Muslims should follow the law of the land where they are residing to maintain communal harmony.
- The **concerned community** flagged the issue as UCC should be considered by a discussion with the community and should not allow it to become a political issue.

#### By developing consensus, it could see some light of the day

- The debate of UCC is **already on the horizon since independence**. There is a huge amount of discussion and content already on the subject.
- Once the draft law is framed opposition should **constructively participate** in the debate.
- Good in all religions should be considered & adopted and should be reflected in the draft.
- However, **resolution by either of the community against UCC is dividing** more than it is uniting India in the name of religion.
- By looking at the **cultural diversity** of the country, the UCC is not just desirable but also necessary. Various western, as well as Islamic nations, have drafted such uniform codes by placing reforms over politics.

#### What should be done by the Indian government to ensure that reforms are placed over politics?

- Before UCC is enacted, the draft will be **thrown open to the public for debate** among all the religions in India.
- Muslims of India are patriotic, nationalists, and strengthen the arms of government. India will become a \$5 trillion economy for this government should strengthen the arms of good governance and UCC will be part of it.
- The UCC is not against any community and the government must ensure that it will not hurt any community.

#### Conclusion

For now, more and more states make much required more and union government, UCC centralised law. It is already been delayed such decades and should be on the agenda of the government. The Supreme Court (SC) in **John Vallamattom v. Union of India** held that “a common civil code will help the cause of national integration by removing all contradictions based on ideology.

It can be concluded by saying that the UCC amounts to equal laws for all sections of society. All the people of India must be governed by one set of laws. For National unity and secularism, UCC is necessary. Our society is not up to that standard which can utilize the “UCC” and thus still UCC is awaited to be done. What is the reason behind it the researcher observed India is a multi-religious country. A lot of cultures are there and such culture, tendencies and the behaviour of the citizens are full of diversity. Though we say India offers Unity in Diversity but not in all respect otherwise UCC could have been enacted long back.

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