



MODEL UNITED
NATIONS
CONFERENCE - JULY 2023



LOK
SABHA

Letter from the Executive Board

Dear Prospective Members,

It gives us immense pleasure to welcome you all to DPSHMUN 2023. We welcome you all on being a part of this committee and look forward to discussions on forming policies for the nation on the said agenda using political intellect. Kindly note that we are not looking for statements that have been made by the leader/portfolio you are representing; instead, we seek an understanding of the issue from you, while knowing and understanding your impending political and ideological limitations as well as an understanding of the immediate and long-term consequences of your statements, actions and solutions. The portfolio that you represent and political stance on a multitude of issues beyond the agenda is an integral part of the proceedings of the committee and we look forward to your portfolio representation.

This background guide is as abstract as possible and would just give you a basic perspective on what you can expect from the committee and the broad areas on which your research should be focused. Given the political nature of this committee, your presence of mind and aptitude is something which we as the executive board would be looking to test. That being said, kindly do not limit your research to the areas highlighted further but ensure that you logically deduce and push your research to areas associated with the issues mentioned.

This background guide should be used as an introductory guide only, no reference to be made from the same. The committee shall focus on the agenda but also touch upon issues that are currently active in the political scenario. Looking forward to meeting you all!

Regards,

Nayan Chandra Veeranki
Speaker

DGV Rithvik
Deputy Speaker

Introduction

Uniform Civil Code is closely linked with the idea of secularism. Secularism in India, did not mean separation of religion from state. Instead, secularism in India means a state that was equally indulgent of all religious groups, and favored none. There was no ‘established’ state religion, the adherents of every faith were a stakeholder in the Indian state. Nor did it mean secularity in the French sense. The French concept keeps religion out of governmental institutions like schools and government out of religious institutions in turn, whereas Indian Secularism cheerfully refuses to forbid such religious interpretation. Whereas it is impermissible to sport any visible sign of religious affiliation in a French Government School or office (a Muslim sporting a hijab, or Sikh donning a turban) all these are permitted in the equivalent Indian institutions. Conversely, the Indian Government embraces the practice of providing financial support to religious schools and the persistence of personal laws for different religious communities. Countries like the United States and France follow secular styles of approach to religious issues and do not interfere in such cases, they follow a policy of non-intervention. India follows a policy of state intervention when there are issues that arise among various communities. Countries in the Middle East and North Africa region such as UAE, Saudi Arabia have a state religion and favor those.

Uniform Civil Code resonates with one country, one rule, to be applied to all religious communities. The term ‘Uniform Civil Code’ is explicitly mentioned in Part 4, Article 44 of the Indian Constitution. Article 44 says, “The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India.” Here, a uniform civil code refers to a single statute applicable in personal matters such as marriage, divorce, custody, adoption, and inheritance to all people of India. It is intended to replace the system of fragmented personal laws that currently regulate interpersonal relationships and related matters within various religious communities.

The idea comes from Article 44 of the Constitution, one of the State Policy Directive Concepts. It provides that the State shall strive to ensure that all people in the territory of India have a Uniform Civil Code. The idea of a Uniform Civil Code is enshrined as an aim for which the nation should aspire in the Indian Constitution. Still, it is not a fundamental right or a constitutional promise. To claim a UCC, one can’t approach the court.

In India, various religious groups are currently regulated by a set of personal rules, which have been codified through different pieces of legislation over the years. Personal laws in India primarily concentrate on the following areas:

- Marriage and divorce
- Custody and Guardianship
- Adoption and Maintenance
- Succession and Inheritance

Arguments over UCC

The two sides of the debate on the UCC arise from two contending principles - of equality and liberty - both of which are enshrined in the constitution itself. Equality before law and equal treatment before law irrespective of religion and other identities are Fundamental Rights guaranteed by Article 14-16 of Part III of the Constitution. Article 25 and 26 guarantee freedom of religion and freedom to manage religious affairs. The debate on UCC then boils down to the question that which fundamental right must be given precedence.

The fundamental principle underlying the need for UCC is equality. Implementation of the UCC would be a equality enhancing in the following ways:

1. Gender Parity - Personal laws of most religions are discriminatory. Liberty to practice religious rules perpetuates existing discriminations. It is observed that women are at a disadvantage in areas of marriage, inheritance, adoption and maintenance as per rules of the various personal laws. Personal laws legitimize the unfair treatment of women in these areas. Continuation of Personal laws would mean continuation of these discriminations. Instating a Universal code would allow for the cessation of these discriminations and ensure democratic equality in these matters.
2. Equal treatment of all religions- The greatest benefit that would result from Uniform Civil Code is an egalitarian society where every individual is subjected to the same laws with regards to personal issues. For example: Bigamy is permissible under Muslim Personal law whereas it is criminalized for followers of all other religions. Multifarious laws can create conflicting positions and thus lead to ambiguity and undermine the credibility of secularism in India. A Uniform Civil Code would create a legal framework of secular laws which shall govern activities that are differentially treated in different religions.
3. Unifying force of secularism- Separate personal laws that are governed entirely by religion have as many interpretations as its followers. This limits the scope for reform and creates tensions in the social fabric in the nation. The British concession on not interfering in the personal laws of the various communities was used as a tool of appeasement and created a divide which later on resulted into the partition of India. A uniform code would propagate equal treatment where no community feels differentially treated hence enhancing their democratic experience.
4. Eradicate Social Evils- The advantage of having a democratic political system is its ability to amend its laws to adjust to the social realities of the time. In a social reality where we recognise the many discriminations perpetuated by religious laws, it is of no use to cling to the past. It is this spirit of reform that helped leaders of the nation criminalize the practice of untouchability, sati and casteism which were drastic reforms at the time it was implemented.

While on the other end of the spectrum, implementing a UCC would be antithetical to the liberties ensured by the Constitution and hinder the growth of liberal democracy in the following ways:

1. Tyranny of the Majority- With the State regulating and deciding on civil matters, it will assume an overbearing position. The laws and political setup would be created based on those principles

which the State deems to be appropriate. In a democracy, the dominant ideology guiding the State is equivalent to that of the ruling political party which again is a caricature of the majority community in the country. Hence it can be argued that majoritarian notions of progressive laws, social reform would swallow the various other minor views on progress and modernity.

2. Muffling Diversity- A UCC requires members of every religious community to follow the same law in civil matters and hence is a grave threat to the cultural diaspora. The existence of a plural society requires that they be allowed to practice their religion with non interference of the State.

3. Infringement of Personal Liberties- personal laws are an inseparable aspect of any religion. Laws regulating relations are based on religion, hence they are unalterable, immutable and permanent. Thus, they cannot be subject to re- interpretation. Regulating aspects of personal laws would tamper with the religious identity of the minorities and result in an unwarranted intrusion into religion and culture.

4. Post-Colonial Perspective- The idea of a secular state is a gift of the “civilized” western nations where the State was free from any religious influences, and due to our biases towards the “progressiveness” of the west, their secularism is considered to be some ideal to be achieved. However, the secularism of the west has resulted into the suppression of many faith systems, beliefs and has created hegemony of one set of principles which are considered to be better, more progressive than other faith systems whose principles are adjudged to be oppressive and archaic.

5. The Indian Constitution, under Article 13(3)(a), considers custom or usage, as part of “law”. It raises questions on whether a Uniform Civil Code would violate this assumption which has been presumed in the law.

Constitutional Validity of UCC

India is a sovereign, socialist, secular, democratic, republic. This means that the State does not have a religion of its own. The UCC, therefore, has been interpreted by its opponents to mean a common state religion, and thus it goes against the soul of the preamble and the freedom of religion as mentioned above. They are mistaken in that the state though irreligious is not anti-religious. The UCC will not hinder man’s belief. It will not interfere in the mundane monotonous activities of

day-to-day life. The doctrine of secularism as accepted in other country states like America and Europe is one that completely does non-interference in matters of religion. It has to be understood that these countries have undergone a completely different evolutionary process consisting of renaissance, reformation and enlightenment. Very inverse to that, India has not experienced these stages and in this manner the obligation lies on the State to meddle in the issue of religion in order to eliminate the obstructions in the administration of the State. In India, there exists an idea of "positive secularism". The onus lies with the state to guarantee that religion isn't a hindrance to the general advancement of the country. Consequently the UCC isn't against secularism and won't disregard Article 25, 26. Article 44 depends on the idea that there is no vital association among religion and individual law in an enlightened society. Marriage, progression and issues are of mainstream nature and, hence, the law can direct them. UCC will advance equity, equity and public joining.

It is essentially difficult to concoct a typical and uniform arrangement of rules for private matters like marriage because of the colossal social variety in India across the religions, organizations, ranks, states and so on. Numerous people, groups, especially minority networks see Uniform Civil Code as an infringement on their privileges to strict opportunity. They dread that a typical code will disregard their practices and force rules which will be chiefly directed and affected by the larger part of strict networks. The constitution accommodates the privilege of opportunity of religion. With codification of uniform guidelines and its impulse, the extent of the opportunity of religion will be decreased.

The Supreme Court of India, in the case of Shah Bano Begum v. Mohd. Ahmed Khan, had discussed about the concepts surrounding Freedom of Religion and the Uniform Civil Code; and opined that the same would be in the greater interest of the nation, and hence supported the implementation of the same. The Supreme Court, in the case of Ashwini Kumar Upadhyay v. Union of India (2023), stated that the Parliament was the competent authority to decide upon the issue of a Uniform Civil Code, not the Supreme Court - hence throwing the ball into the Court of the Parliament.

Interpretation of Statute

In the field of Interpretation of Statutes - one of the primary tools (although contested) which has been employed to be used is the tool of statutory intent. In other words, it is important to look at the intent of the members of the Constituent Assembly in drafting of Article 44 of the Constitution. For the same, it is important to refer to the Constituent Assembly Debates. With reference to the Constituent Assembly Debates on Draft Article 35 (currently Article 44 of the Indian Constitution)

(archives of the particular debate can be found [here](#)), several members of the Assembly had raised objection to the concept of a Uniform Civil Code. While Dr. BR Ambedkar was a proponent of the Uniform Civil Code, he was cautious with the approach with which the Code could be brought into effect by a future Parliament, while exploring the possibility that such a code could be made voluntary for those communities which choose to come under the ambit of the same.

Further, in the debates surrounding Draft Article 13 of the Draft Constitution, which dealt with the Fundamental Right of professing one's religion, it is important to note one of Dr. BR Ambedkar argument on personal laws, wherein he states that *"I should also like to point out that all that the State is claiming in this matter is a power to legislate. There is no obligation upon the State to do away with personal laws. It is only giving a power. Therefore, no one need be apprehensive of the fact that if the State has the power, the State will immediately proceed to execute or enforce that power in a manner that may be found to be objectionable by the Muslims or by the Christians or by any other community in India... We must all remember—including Members of the Muslim community who have spoken on this subject, though one can appreciate their feelings very well—that sovereignty is always limited, no matter even if you assert that it is unlimited, because sovereignty in the exercise of that power must reconcile itself to the sentiments of different communities. No Government can exercise its power in such a manner as to provoke the Muslim community to rise in rebellion. I think it would be a mad Government if it did so. But that is a matter which relates to the exercise of the power and not to the power itself."* (The full context of the quote can be found [here](#) and [here](#), and the entire debate on Draft Article 13 can be found [here](#)).

In addition to the same, there is also a concern of the Uniform Civil Code being applicable to the tribal population of India. There have been special provisions which govern the laws which are applicable to the Scheduled Tribes of India - and the debate is whether a proposed UCC would be applicable to such communities.

These debates provide a look into the background and context behind which Article 44 has been included in the Constitution, and the safeguards which have been envisaged for the same, even if the same are not found in the black and white text of the Constitution.

Law Commission Reports on the Uniform Civil Code

The 22nd Law Commission of India had opened recommendation and comments on the topic of the Uniform Civil Code, which has set into motion the debate surrounding the same again. It is important to note in this context that a similar exercise had been undertaken by the 21st Law Commission of India, whose term ended in 2018, had released a report titled "Reforms of Family Law", in which they had termed the idea of a Uniform Civil Law "neither necessary nor desirable". The report, which can be found [here](#), further states that a united nation need not necessarily have 'uniformity'. The commission instead suggested that the existing laws be amended to bring the

laws in line with the goals gender equality and other issues which exist with the personal laws framework in force at the moment.

Conclusion

Secularism is invaluable for a society like India which is characterized with religious diversity. Secularism regulates the relationship between the State and various religious groups. In a secular State, all groups are treated equally and the State is not aligned to any religion. No person shall be discriminated against on the ground that he or she belongs to a particular religion. The concept of secularism is derived from the principle of democracy. Secularism becomes meaningful only when it refers to democratic equality. No society is secular unless it is committed to democratic principles of freedom and equality.

UCC projects itself with the idea of advancing equity, gender correspondence and public coordination. The goal of solidarity and respectability of India revered in the prelude could be accomplished just when Article 44 is changed into enforceable Uniform Civil Code and it will prompt improvement in the situation of ladies. The advantages of UCC absolutely exceed its constraints and ample opportunity has already passed that India should use Uniform Civil Code for every one of its residents.

The various representatives in the Lok Sabha are expected to put forth their arguments regarding the Uniform Civil Code bearing in mind that there is no current draft of the proposed code. Representatives belonging to the Bharatiya Janata Party, the current party in power, have stated that the UCC would not be applicable on Tribal Populations ([source](#)) and Christians ([source](#)). Argument may be made keeping these statements in mind.

Key Stakeholders

The debate for a uniform civil code has been a long and controversial one. It received many varying opinions when the constitution was being drafted, and that has not changed much since then. In the current scenario, the main stakeholders are the ruling party NDA and opposition parties like Congress, TMC, Shiv Sena, and the All India Muslim Personal Board.

BJP had included UCC in its election manifesto during the 1998 and 2019 elections. It claims that a common civil code would ensure that people of all religions receive equal treatment in all matters of personal law. It cited Article 44 of the Constitution for drafting UCC as a directive principle of state in its manifesto. While condemning the opposition BJP's Rajya Sabha MP Rakesh Sinha said, "It is a scientific and modern way of achieving the goals of gender justice. The law ministry has made progress on the issue, but how it will be implemented will depend on the emerging consensus."

Shiv Sena (Eknath Shinde) has lent support to the ruling party on the matter of UCC. After the triple Talaq judgment, several Shiv Sena leaders applauded Prime Minister Modi and called it a first step in the way to a common code. However, several parties have expressed their concern that the implementation of UCC might not have its desired effect but instead will end up turning India into an 'ethnic state.' Shiv Sena (UBT) sources stated that Uddhav Thackeray favours the UCC but needs to see the fine print.

The All India Muslim Board has fiercely opposed UCC. They have alleged that the ruling party's real agenda is to further polarize the society against Muslims. Meanwhile, MIM's Asaduddin Owaisi has said that "If you enforce something in the name of Uniform Civil Code, then it will kill the diversity and plurality of the country. It's not right to look at it from a Muslim perspective because Indian diversity also comprises Dalits and Tribals."

As a reaction to the opposition by the Muslim board, Congress stated that in a country as diverse as India, it will be challenging to implement UCC and that it should not be compulsory. Congress leader Veerappa Moily maintained his position that nobody should take it as a communal agenda or a Hindu versus Muslim issue as 200-300 personal laws exist in India covering various communities.

Trinamool Congress has opposed the formation of a common code on constitutional grounds that India is a secular country and all religion's beliefs, and customs must be respected.

The Bharatiya Rashtra Samiti (BRS) has stated that it would oppose the UCC and termed it to be a "malicious attempt" by the Union Government "to derive political benefits".

The All India Anna Dravida Munnetra Kazhagam, an ally of the BJP, has opposed the UCC, stating that the UCC "would affect the religious rights of the minorities".

The National People's Party (NPP) from Arunachal Pradesh, an ally of the BJP, has opposed the implementation of the UCC in the state, citing the state's multi-ethnic and multi-tribal composition. Various other parties who are allies of the BJP in the Northeast, including the NDPP and the MNF have opposed the UCC.

The Dravida Munnetra Kazhagam, has opposed the UCC, stating that the move was to target those who were against the BJP.

The Aam Aadmi Party has given mixed signals regarding the UCC. Whereas AAP's General Secretary, Mr. Sandeep Pathak stated that the party supports the UCC in principle, the chief minister of Punjab, from the AAP, Mr. Bhagwat Mann, had opposed the UCC and said that the AAP does not support divisive politics.

Shiromani Akali Dal (SAD), a former ally of the BJP, opposed the UCC, stating that it would impact the minorities.

Suggested/ Recognised Sources

1. Government Reports, that is specific Ministry reports, Press Releases and so on.
2. PTI, PIB
3. Government Websites
4. Standing Committee Reports/ Commission Reports
5. RTI Proofs
6. Parliamentary Standing Committee reports
7. Proceedings of the parliament
8. Debates of the Constituent Assembly (trusted source: constitutionofindia.net).
9. Supreme Court Observer (<https://www.scobserver.in>)
10. "Reforms on Family Law" by the 21st Law Commission of India