



QUINTESSENCE YOUTH SUMMIT 2022

AIPPM BACKGROUND GUIDE

**Agenda - Deliberation upon uniform
civil code in light of recent events**

Letter from the Executive Board

Greetings Members !

It gives us immense pleasure to welcome you to this simulation of AIPPM at Quintessence MUN 2022. We look forward to an enriching and rewarding experience.

This study guide is by no means the end of research, we would very much appreciate if the leaders are able to find new realms in the agenda and bring it forth in the committee. Such research combined with good argumentation and a solid representation of facts is what makes an excellent performance. In the session, the executive board will encourage you to speak as much as possible, as fluency, diction or oratory skills have very little importance as opposed to the content you deliver. So just research and speak and you are bound to make a lot of sense. We are certain that we will be learning from you immensely and we also hope that you all will have an equally enriching experience. In case of any queries feel free to contact us. We will try our best to answer the questions to the best of our abilities.

We look forward to an exciting and interesting committee, which should certainly be helped by the all-pervasive nature of the issue. Hopefully we, as members of the Executive Board, do also have a chance to gain from being a part of this committee. Please do not hesitate to contact us regarding any doubts that you may have.

All the Best !

Executive Board

Valid Sources :-

- Government Reports (Each ministry publishes its own reports including External Affairs Ministry)
- PTI, PIB
- Government Websites
- Government run News channels i.e., RSTV, LSTV, DD News
- Standing Committee Reports/ Commission Reports
- RTI Proofs
- Parliamentary Standing Committee reports
- Questions and Answers of the parliament

Introduction

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 principles of the Directive are established by Article 37, which proclaims: "The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country, and it shall be the duty of the State to apply these principles in making laws."

This essentially means that 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.

But that doesn't mean that the courts can't give an opinion on the subject.

In fact, in the judgment pronounced in the Shah Bano case in 1985, more than three decades after the Constitution was written, the argument for a UCC came to the fore. After her husband divorced her after 40 years of marriage by giving triple talaq, Shah Bano moved to the Supreme Court seeking maintenance and refused her routine maintenance. In a decision in favor of Bano, the SC bench observed:

"There is no evidence of any official activity for framing a common civil code for the country. A common Civil Code will help the cause of national integration by removing disparate loyalties to laws with conflicting ideologies."

Justice Kuldeep Singh reiterated the need for Parliament to frame a Uniform Civil Code in the 1995 Sarla Mudgal Case, which would aid the cause of national integration by avoiding ideological contradictions. The same proposal represents other landmark cases, such as *Jordan Diengdeh v/s SS Chopra* and *John Vallamattom v/s Union of India*, in their verdicts.

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. These laws concentrate primarily on the following areas:

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

Four bills, for example, codify Hindu personal law: the Hindu Marriage Act, the Hindu Succession Act, the Hindu Minority and Guardianship Act, and the Hindu Adoptions and Maintenance Act. For these rules, the term 'Hindu' also includes Sikhs, Jains, and Buddhists.

“The reference Hindus shall be construed as including a reference to persons professing Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.” Muslim personal law is not codified per se. It is based on their religious scriptures, while acts such as the Shariat Application Act and Dissolution of Muslim Marriages Act explicitly acknowledge some aspects of this in India.

The Indian Christian Marriages Act and the Indian Divorce Act control Christian marriages and divorces, while the Parsi Marriage and Divorce Act governs Zoroastrians. Then, there are more 'secular' laws that entirely ignore faith, such as the Special Marriage Act, in which marriages across religions take place, and the Guardians and Wards Act, which defines guardians' rights and duties.

Besides, to preserve distinct regional identities, the Constitution provides such exceptions concerning family law for the states of Assam, Nagaland, Mizoram, Andhra Pradesh, and Goa.

Goa is, at present, India's only state with a uniform civil code.

The Portuguese Civil Code of 1867 continues to apply after India took over the state in 1961. It refers to all Goans, regardless of their religious or ethnic group. It doesn't matter whether you're Hindu, Muslim, or Christian; the same set of civil laws will apply to you if you're a Goan domicile.

The Portuguese Code, however, is not a civil code that is entirely standardized. They make those rules based on religion. The most prominent example is that when the wife fails to produce a child by the age of 25 or a male child by 30, Hindu men are allowed bigamy.

The UCC must carve a balance between the protection of fundamental rights and religious dogmas of individuals. It should be a code, which is just and proper according to a man of ordinary prudence, without any bias regarding religious and political considerations. India has a unique blend of codified

personal laws of Hindus, Muslims, Christians, Parsis. There is no uniform family-related law in a single statute book for all Indians, acceptable to all religious communities who co-exist in India. However, most of them believe that UCC is definitely desirable and would go a long way in strengthening and consolidating the Indian nationhood. The differences of opinion are on its timing and how it should be realized.

Instead of using it as an emotive issue to gain political advantage, political and intellectual leaders should try to evolve a consensus. The question is not of minority protection or even of national unity. It is merely one of treating each human with dignity, something which personal laws have so far failed to do.

1757-
1858

East India Company tried to reform local, social and religious customs

1829

The Bengal Sati Regulation

Lord William Bentinck, the Governor-General of India, tried to suppress 'sati', the prescribed death of a widow on her husband's funeral pyre, and passed 'the Bengal Sati Regulation'. This was later extended outside Bengal to all English territories in India

1840

The Lex Loci Report

The Lex Loci Report of October 1840 emphasized the importance and necessity of uniformity in the codification of Indian law, relating to crimes, shreds of evidence, and contract, but it recommended that 'personal laws (inheritance, succession, marriage, and religious ceremonies) of Hindus and Muslims should be kept outside such codification'.

1865

Indian Succession Act

Indian Succession Act 1865, which was also one of the first laws to ensure women's economic security, attempted to shift the personal laws to the realm of civil

1870

Goa Civil Code

The Goan civil code is an Indianised variant of the Portuguese legal system that draws mainly from the Code Napoleon, a standard legal system in several Continental European nations. Indian law mostly derives from English common law that was formulated and applied in British India and remained pegged to developments in the Charter of the British Commonwealth

1937

The Shariat Law

Due to pressure from the Muslim elite, the Shariat law of 1937 was passed, which stipulated that 'all Indian Muslims would be governed by Islamic laws on marriage, divorce, maintenance, adoption, succession, and inheritance'.

Hindu law

In its most common current denotation, Hindu law refers to a system of personal laws in India first taught by the British and subsequently maintained and guaranteed by the Constitution of India (1950) after Indian independence in 1947

1. Hindu Marriage Act (1955),
2. Hindu Succession Act (1956)
3. Hindu Minority and Guardianship Act (1956)
4. Hindu Adoptions and Maintenance Act (1956)

1955

1985

Shah Bano Case

Shah Bano Begum [1985 (1) SCALE 767 = 1985 (3) SCR 844 = 1985 (2) SCC 556 = AIR 1985 SC 945], commonly referred to as the Shah Bano case, was a controversial maintenance lawsuit in India, in which the Supreme Court delivered a judgment favoring maintenance given to an aggrieved divorced Muslim woman.

Jordan Diengdeh v/s SS Chopra

The Court was concerned with the irretrievable breakdown of the marriage between the parties and the fact that a divorce could not be granted on this basis alone.

1985

1995

Sarla Mudgal Case

The Court urged the government to come up with a UCC once again a decade later in public interest litigation seeking to outlaw the practice of Hindu men abandoning their wives, without lawfully divorcing them, and converting to Islam for the sole purpose of marrying a second time.

John Vallamattom v/s Union of India

The Supreme Court held that Section – 118 of the Indian Succession Act, 1925 is unconstitutional as it violates Article 14 of the Constitution. The rigorous procedure mentioned under Section 118 of the said Act for testamentary disposition of property for religious or charitable purposes applies to Christians only and not to a person belonging to any other religion.

2003

2005

Amendment to the Hindu Succession Act

The Hindu Succession (Amendment) Act, 2005, an amendment to the Hindu Succession Act, 1956, received permission from the President of India on 5 September 2005 and was given effect from 9 September 2005. It was essentially meant for removing gender-discriminatory provisions regarding property rights in the Hindu Succession Act, 1956. It was a revolutionary step in the field of Indian legislation regarding the rights of women in India.

2015

Supreme Court Statement

In October 2015, the Supreme Court of India asserted the need for a Uniform Civil Code and said that "This cannot be accepted; otherwise every religion will say it has a right to decide various issues as a matter of its personal law. We don't agree with this at all. It has to be done through a decree of a court."

2018

Law Commission Formation

The Law Commission's report on reform of family law comments that a uniform civil code "is neither necessary nor desirable at this stage."

2018

Gay Rights Law

On 6 September 2018, the Supreme Court issued its verdict. The Court unanimously ruled that Section 377 is unconstitutional as it infringed on the fundamental rights of autonomy, intimacy, and identity, thus legalizing homosexuality in India.

2019

Triple Talaq Law

The Muslim Women (Protection of Rights on Marriage) Act, 2019 passed on 26 July 2019 after a very long discussion, and opposition finally got the verdict (the Indian Supreme Court judgement of August 2017 described below) to all women. It made triple talaq illegal in India on 1 August 2019, replacing the triple talaq ordinance promulgated in February 2019. It stipulates that instant triple talaq (talaq-e-biddat) in any form – spoken, written, or by electronic means such as email or SMS – is illegal and void, with up to three years jail for the husband. Under the new law, an aggrieved woman is entitled to demand maintenance for her dependent children.

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 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.'

- The All India Muslim Board has fiercely opposed UCC. They have alleged that the ruling party's real agenda is to further polarise 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 of 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.

Significance and Implications

Starting from Late Rajiv Gandhi's time till now, the call for a Uniform Civil Code has always featured on the agenda of the Bharatiya Janta Party (BJP), and it has also found mention in the manifesto of BJP for the 2019 Lok Sabha Election. As now, BJP is in power and has already declared the practice of Triple Talaq illegal and unconstitutional; it may be a matter of days now the subject leapfrogs from the

cycle of debates to actual law. Therefore, it becomes quite essential to look at what can be the significance of UCC in India and what could be the potential implications of this.

At first, one should understand that a Uniform Code need not be progressive also. Like a coin, it has also got both faces. Keeping this in mind, opinions and verdicts should be given.

Impact on Judgement

It is quite clear from India's post-Independence history that our honorable judges have always found it difficult to decide or order anything on the issues that have their roots based on religious grounds. There are or have been many practices in different religions that are quite controversial in terms of discrimination, especially against women. On one side is the Article 25 that gives freedom to every citizen, the Freedom of conscience and free profession, practice, and propagation of religion, while on the other side are Articles 14, 15, 21 and 44, which protect fundamental rights like equality before the law, no discrimination based on sex, caste, race and religion; freedom to live with dignity.

As both the sides are equally important and are also contradicting, the decisions have also been so.

There is one case of the Sabarimala verdict in which one of the judges, DY Chandrachud, of the Supreme Court condemned the judgment of the Narasu Appa Mali case of 1951. This situation arose because of looking at these articles from different perspectives. Looking at all these things the Supreme Court has always been seen in favor of UCC as this will make the decision-making process simpler and more transparent. It will also close all those questions often raised in the court regarding equal treatment of all the citizens, which would be quite helpful in strengthening citizens' faith in the Judiciary and Constitution of India.

Every religion has its own beliefs and practices. In India, these are governed by a system of personal laws that have been codified from time to time through various legislation pieces.

These laws mainly focus on the areas as:

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

Implementing UCC over this will have an impact. Therefore, to look at its significance and implication, it is advisable to study religion-wise how it will affect.

Effect on Hindus

The process of forming the Uniform Civil Code in the religion of Hindus for Hindus started at a very early stage. The term 'Hindu' also includes Sikhs, Jains and Buddhists for the purpose of these laws. Hindu personal law is codified in the following four bills:

- Hindu Marriage Act, 1955
- Hindu Succession Act, 1956
- Hindu Minority and Guardianship Act, 1956
- Hindu Adoptions and Maintenance Act, 1956

However, there are some more things that need to be unified. In Hindu Undivided Families, they are exempted from paying taxes which is not there in other religions. In another example, although there has been an amendment in the Hindu Succession Act in 2005, women are still considered part of their husbands' families after marriage. So, if a Hindu widow dies without any heirs or will, her property will automatically go to her husband's family.

Men (fathers) are also treated as 'natural guardians' and are given preference under the Hindu Minority and Guardianship Act. These are some of the essential points which will get changed after the implication of UCC in India.

Effect on Christians

The religious laws of Christians were quite progressive from the very start. The Civil Code of Christians is codified under the following bills:

- Christian Marriage Act, 1872
- Indian Divorce Act, 1869
- Indian Succession Act, 1925
- Guardians and Wards Act, 1890

One of the significant differences in the religious laws of Christians is that the judicial separation duration in case any couple wants to get divorces is of 2 years which is in the Hindu Marriage Act, Special Marriage Act and also in the case of Parsi Marriage and Divorce Act is of 1 year. It was the first time in 2015 during the hearing of the Albert Anthony case; the Supreme Court asked the government to come with a bill to change this law as it is a case of discrimination based only on religion. The government agreed to make a bill on the issues as stated below:

- Judicial separation time required for divorce to be reduced to 1 year.

- It should not be necessary for both partners to be present while submitting a petition for divorce.
- Also, it should not be necessary that the petition can be filed only at the place where the couple has been married.

According to the government, the bill has been made. Therefore, it is again a step in the Uniform Civil Code's direction, which will bring the above-said changes.

Effect on Zoroastrians

The Civil Code of Zoroastrians is codified under the following bills:

- Parsi Marriage and Divorce Act, 1936
- Indian Succession Act, 1925
- Guardians and Wards Act, 1890

There is not much space for discrimination among Zoroastrians, but one major issue is their children's rights. If a Zoroastrian man marries a Non-Zoroastrian woman, then their children will get all the rights. Still, if a Zoroastrian woman marries a Non-Zoroastrian man, their children won't get any of a Zoroastrian child's rights, which is a case of discrimination based on sex. It is expected that after the implementation of UCC, it will also get changed.

Effect on Jews

The Civil Code of Jews is codified under the following bills:

- Indian Succession Act, 1925
- Guardians and Wards Act, 1890

One major problem with the Jews is that there is no legal or religious way for a Jews couple to get divorced which means that neither can get separated nor can anyone have a second marriage. It is expected that after UCC comes, Jews will also have this right.

Effect on Muslims

There have not been many changes in the religious laws of Muslims like other religions. Muslim personal law is not codified per se and is based on their sacred texts. However, certain aspects of these are expressly recognized in India in acts such as the Shariat Application Act and the Dissolution of Muslim Marriages Act.

- According to the quran polygamy is allowed only if it is to maintain sex ratio and the person can respect all the wives equally

- Follow the rules according to sharia which means divine law
- Civil affairs settled by qazi who in need takes advice from mufti
- Very different maintenance law in the form of mehr
- Maintenance law for children and wife
- Adoption is not allowed in any religion except hindu. In other religions it is done using Juvenile Justice (Care and Protection of Children) Act, 2015
- One of them i.e., khiyaar is quite progressive according to which if a girl is married before attaining puberty, she has the full rights to take talaq once she becomes an adult.¹

Effect on Tribals

Apart from different religions, tribal people also have some special rights and powers which most probably would get affected after the implementation of UCC. For example, under Article 371(A), Nagaland and Article 371(F), Mizoram (in these two states the population of tribal people is high) have some unique powers. Suppose any customary law, civil or criminal law is made in the Parliament of India. In that case, they can't be implemented in these two states unless or until a Resolution is passed in the Legislative Assembly of these two states.

Also, in India's ten identified tribal areas, Regional/District Autonomous Councils have the powers to proceed for civil and criminal hearings as well and give their verdict. All these are for the welfare of tribal people. If UCC comes, these special rights may go away from them.

These were some of the expected outcomes after the implementation of UCC. These may seem correct to some and some may find them contradicting as well. The thing is to settle this issue in the best possible peaceful way and care for everyone's religious beliefs and make sure that no discrimination is there. Remember that diversity is allowed in the name of religion but discrimination can never be.

Pros and Cons

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.

Pros of UCC

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 undermines 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 religion.
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 enhance their democratic experience.²
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 recognize 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.

Cons of UCC

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.

Constitutional validity of UCC as a Law

Implementation of UCC in India- A boon or bane

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. The institution of UCC will advance Gender correspondence and government assistance for ladies. It may very well be contended that the Personal Law framework abuses the rule of fairness of the Constitution on the grounds that by having distinctive individual laws for various religions, we are conflicting with secularism and equality. However, UCC can advance equity and equity by fusing comparable laws for all residents. UCC will also promote national integration. There will be no extent of politicization of issues of the separation or concessions or exceptional advantages appreciated by a specific local area based on their specific strict individual laws. The interest of UCC is ordinarily made by bothered ladies as a substitute for existing individual laws as male centric standard individuals actually consider the changes in close to home laws will annihilate their holiness and restrict it lavishly.

On the other hand, It is essentially difficult to concoct a typical and uniform arrangement of rules for private matters like marriage because of colossal social variety India across the religions, organizations, ranks, states and so on. Numerous people group, 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 strict networks. The constitution accommodates the privilege to opportunity of religion. With codification of uniform guidelines and its impulse, the extent of the opportunity of religion will be decreased.

How other countries have dealt with uniform civil code

Quite possibly the most mainstream wards for U.S. moneylenders to document or look for a UCC comparable is Canada, basically for reasons of nearness, openings emerging out of NAFTA, and comparative strategic approaches.

Canada has accepted the United States' model of the UCC. In 1967, Ontario turned into the main territory to pass the PPSA, which depended on UCC Article 9. Any remaining custom-based law regions have stuck to this same pattern. It ought to be noticed that Quebec is a common law purview and has a common code that matches the PPSA and UCC model.

Truly in Canada, all contrasting types of security interests, for example, corporate protections and transfers have their own controlling resolutions. Consequently, each unique sort of interest had its own

arrangement of specialized principles concerning connection, documenting, need, and requirement. Today, all security exchanges of substance fall under the meaning of "security interests" and are covered by a particular demonstration, the PPSA. From construction to phrasing to security classes, the Canadian PPSA and the UCC are fundamentally the same as. Notwithstanding, since the reception of Revised Article 9 (RA9) and the new decision of law rules, there is a critical distinction between the two systems.^{1 2}

Conclusion

UCC will advance equity, Gender correspondence and public coordination and it will improve on the bulky legitimate issue administered by close to home laws. 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 fuse Uniform Civil Code for every one of its residents.

The Prohibition of Child Marriage (Amendment) Bill, 2021

About:

- **Intent:**
 - The Bill aims to raise the legal age of marriage of women in the country to 21 years from the present 18 years.
 - The law prescribes a minimum age of marriage to essentially outlaw child marriages and prevent the abuse of minors.
- **Extent:**
 - Personal laws of various religions that deal with marriage have their own standards, often reflecting custom.
 - The amendment in the Prohibition of Child Marriages Act, 2006, is proposed to extend to all communities, irrespective of religion.

Key Provisions of the Bill

- **Introduction:**
 - The Prohibition of Child Marriage (Amendment) Bill, 2021 was introduced in Lok Sabha in 2021.
 - The Bill amends the Prohibition of Child Marriage Act, 2006 to increase the minimum age of marriage of females.

- **Increasing the minimum age of marriage of females:**
 - The Act provides that the minimum age of marriage is 21 years in case of males, and 18 years in case of females.
 - The Bill increases the minimum age in case of females to 21 years. ○
The Bill also amends certain other laws relating to marriage to increase the minimum age of marriage of females under those laws to 21 years. These are:
 - Indian Christian Marriage Act, 1872,
 - Parsi Marriage and Divorce Act, 1936,
 - Special Marriage Act, 1954,
 - Hindu Marriage Act, 1955, and ▪ Foreign Marriage Act, 1969.
- **Time period for filing petition to annul child marriage:**
 - Under the Act, a child marriage is one where either of the parties to the marriage is a child (i.e., their age is less than the minimum age of marriage).
 - The Act provides that a child marriage may be annulled by the party who was a child at the time of marriage.
 - Such parties may file a petition in a district court for a decree of nullity. ○
The petition should be filed before such party completes two years of attaining majority (i.e., completes 20 years of age).
 - The Bill amends this to allow such party to file the petition before completing five years of *attaining majority* (i.e., completes 23 years of age).
- **Implementation:**
 - Amendments relating to the increase of minimum age of marriage of females and time period for filing petition to annul child marriage shall come into force two years from the date of assent.
- **Overriding effect:**
 - The Bill adds that the provisions of the Act shall have an overriding effect over any other law, custom, usage or practice governing the parties to the marriage.

Reasons why marriage age should be increased?

- **Marriage and voting are not same:**
 - Equating age for marriage with the age to vote or sign other agreements does not fit in here because marriage is considered a life-long settlement in our

society for which both the boy and the girl have to be mature in mind and body.

- **Time for building career:**
 - When girls wish to go in for higher studies or research or eye a career in civil services or sports, they do require time to prepare.
 - Marriage comes in the way in such cases whereas raising the age limit will allow them this valuable space to rise in life.
- **Stops malpractices:**
 - It will help in putting a stop to malpractices like child marriage which still exists in some areas in the country.
- **Applicable to all communities** ○ Even though terming the below 21-year person a child will raise hackles of the committee members, the bill fulfils the spirit of the Constitution as its provisions shall apply to all communities “irrespective of any law, custom, usage or practice governing the parties” as the bill mentions it.

Result of previous amendment

- The age of marriage was increased from 16 to 18 in **1978**.
- The objective was to provide better opportunities for women’s education and improve their health.
- **Results:**
 - The latest National Family Health Survey (NFHS 5 2019–’21) has brought out the dismal fact that 40 years later, we still have an alarming rate of **child marriages at 23%**.
- **Conclusion:**
 - This points to the failure on the part of the government to reach its target of providing opportunities for girls in backward and poverty-stricken areas or better access to healthcare.
 - It has also not changed conservative and anti-women attitudes towards women.

Challenges

- **Not a big deterrent:**
 - Even with the legal age of marriage for women being 18 years, child marriages continue in India and a decrease in such marriages has been not

because of the existing law, but increase in girls' education and employment opportunities.

- **Major effect on marginalised sections:**
 - The law would end up being coercive, and particularly impact marginalised communities such as the scheduled castes and scheduled tribes.
- **Curtailed freedom:**
 - The concern is over the infringement of the rights of the minorities in deciding their own code for marriages within their communities.
- **Illegal marriages:**
 - Such legislation would push a large portion of the population into illegal marriages.
- **Not the root cause:**
 - Increasing the age of marriage will either harm or have no impact by itself unless the root causes of women's disempowerment are addressed.
 - This law will unfold within a society that is deeply entrenched in patriarchy and that it will be used primarily by parents to control the autonomy of young girls and to penalise them for their sexual choices, with the active collusion of state functionaries such as the police and welfare officers.
- **Age security and matrimonial problems:**
 - If a girl married at 18 or 19 faces matrimonial problems, and approaches the court for redress, her husband may plead that the marriage is not valid, and she is devoid of rights. This is a cause of grave concern.

Way Ahead

- It is necessary to have a clear direction within the statute that a woman in an underage marriage will not lose her matrimonial rights or rights of inheritance, in the event she becomes a widow.
- Implement quickly the increase in access to schools and colleges for girls, including their transportation to these institutes from far-flung areas, skill and business training and sex education in schools.

- The need of the hour is focussed programmes and necessary budgetary allocations to ensure that every child receives basic education. Only when a girl is in school, will under-age marriages