

All India Political Parties Meet



सत्यमेव जयते

AGENDA – Discussion on Non-Uniformities in Indian Legislation with special emphasis on a Uniform Civil Code

Dear prospective members of the All India Political Parties Meet,

At the outset, we congratulate you on your allotment in All India Political Parties Meet and extend you all a very cordial welcome. Many of you would be first timers wishing to explore the world of public speaking and debate, while there may be some who may have participated in quite a few Indian Political Committees, and specifically speaking AIPPM. For the first timers we will ensure you that we would be sensitive and modest towards your queries and ensure that we impart a splendid learning experience for all members. We have tried to come up with an agenda that is fresh, imperative and holds high potentials of intense levels debating. The agendas are quite generalised and thus, we expect full scale participation from the delegates of our committee. This guide has been prepared with the idea that it will brief you about the issues to be deliberated upon and give you a good starting point for further research. So, we request you to not see it as an end in itself in terms of preparation. Going beyond the scope of this guide during preparation is not only suggested but is a necessity if you wish to perform well. Good Luck! Hoping to see all of you soon.

Best Regards,
Krishay Srivastav
Moderator
AIPPM

Gauri Mishra
Deputy Moderator
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INTRODUCTION

One of the primary pillars in any kind of democracy is the uniformity in all aspects of our lives, from the general elections to university examinations, a clearly defined set of uniform rules and laws is must. Same major principle is supposed to be the foundation of the Indian Constitution. However, because of certain (reasonable) circumstances and the demand of the public, the formulators of the Indian constitution left a few holes to be filled ofr later, whenever the right time arrived.

One of such holes and points of discussion left is the Uniform Civil Code (UCC) which will also be one of the most intensely discussed topics in our 3 day conference.

UCC

The Uniform Civil Code (UCC) calls for the formulation of one law for India, which would be applicable to all religious communities in matters such as marriage, divorce, inheritance, 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 issue has been at the centre of political narrative and debate for over a century and a priority agenda for the Bharatiya Janata Party (BJP) which has been pushing for the legislation in Parliament. The saffron party was the first to promise the implementation of UCC if it comes to power and the issue was part of its 2019 Lok Sabha election manifesto.

Article 44

- 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 in the Constitution as an aspect that would be fulfilled when the nation would be ready to accept it and the social acceptance to the UCC could be made.
- Ambedkar in his speech in the Constituent Assembly had said, "No one need be apprehensive that if the State has the power, the State will immediately proceed to execute...that power in a manner may be found to be objectionable by the Muslims or by the Christians or by any other community. I think it would be a mad government if it did so."

Origin of Uniform Civil Code

- 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 personal laws of Hindus and Muslims be kept outside such codification.
- Increase in legislation dealing with personal issues in 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, in accordance with 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 is the 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.
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- The general rules of succession under the Act 1956 for a male who dies intestate is that heirs in Class I succeed in preference to heirs in other classes. An amendment to the Act in the year 2005 added more descendants elevating females to Class I heirs. The daughter is allotted the same share as is allotted to a son.

Difference between civil laws and criminal laws

While the criminal laws in India are uniform and applicable equally on all, no matter what their religious beliefs are, the civil laws are influenced by faith. Swayed by religious texts, the personal laws which come into effect in civil cases have always been implemented according to constitutional norms.

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.

- In Hinduism, personal laws are applicable to legal issues related to inheritance, succession, marriage, adoption, co-parenting, obligations of sons to pay their father's debts, the partition of family property, maintenance, guardianship, and charitable donations. In Islam, personal laws apply to matters relating to inheritance, wills, succession, legacies, marriage, wakfs, dowry, guardianship, divorce, gifts, and pre-emption taking roots from Quran.

What will Uniform Civil Code do?

The UCC aims to provide protection to vulnerable sections as envisaged by Ambedkar including women and religious minorities, while also promoting nationalistic fervour through unity. When enacted the code will work to simplify laws that are segregated at present on the basis of religious beliefs like the Hindu code bill, Shariat law, and others. The code will simplify the complex laws around marriage ceremonies, inheritance, succession, adoptions making them one for all. The same civil law will then be applicable to all citizens irrespective of their faith.

What rules are under debate?

- Legislating the UCC hangs on several crucial questions, such as criteria for marriage and divorce, the processes for adoption, and property inheritance rules.
- For instance, property succession and marriage laws among tribes in the northeastern state of Meghalaya are governed by their traditional matrilineal code.
- Similarly, indigenous communities in other northeastern states have their own distinct laws and bringing in a UCC is likely to meet complications.

- However, Rakesh Sinha, a BJP lawmaker who is tabling a bill to legislate the UCC, told the UCC will not marginalise any community.
 - "In a liberal democracy equal treatment on certain basic issues like marriage and divorce inheritance without diluting the internal autonomy and identity of any group is essentially a powerful tool for constitutional governance," Sinha told.
 - "Rituals, customs and certain practices that do not harm the cardinal principles of liberty, equality and justice will remain uncontested by the UCC," he added.
 - However, Vasundhara Shankar, managing partner of Verum Legal, a law firm, told that it is far from certain whether the BJP will be able to pull off pushing through the UCC.
 - "To be able to convince one and all about the benefits of a law which questions the very grounds of one's religious beliefs, and sanctioned applicability of their faith in their lives, is going to be a difficult task at hand, especially in a diverse and polarised India."
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Recent Developments

- In April, the BJP Chief Minister of the northern Uttarakhand state, Pushkar Singh Dhami, announced an expert panel that would examine the possibility of applying the UCC in the state.
- Besides Uttarakhand, two other BJP-ruled states, Himachal Pradesh, and Uttar Pradesh, have also pushed for bringing the UCC.
- India's Home Minister, Amit Shah, recently told party functionaries at the BJP office in Madhya Pradesh that it was "time to focus" on a uniform civil code.
- The issue has also gained traction recently in India's Supreme Court, especially after the top court indicated that the government

should explore the UCC as a means to secure gender justice, equality and dignity of women.

- Hindu religious codes apply in cases such as the division of matrimonial assets and child support after divorce.

However, replacing these so-called personal laws with a uniform law is likely to meet resistance among Hindus and other tribal communities in India.

India's communal tensions

- There is also concern that the UCC will be used by India's government to further entrench policies favouring India's Hindu majority.
- Rebecca Mammen, a criminal lawyer, told that the UCC could provide a vehicle to further alienate minority communities amid a growing climate of intolerance and prejudice.
- "I fear the uniform civil code will seek to impose an unwelcome set of rules and regulations on minority communities, disregarding their own cultural and religious tenets. In a country as diverse as India, that would further marginalise vulnerable communities," Mammen said.
- "The scrapping of special status of Kashmir and the so-called "anti-love jihad" campaign, a revolting term used to describe interfaith marriages, are all part of a basket of communal measures introduced by the ruling party for consolidating their majoritarian vote bank," added Mammen.
- Kavita Krishnan of the All India Progressive Women's Association said that the bid to open the debate on UCC must be viewed with caution amid the current communal tensions.
- "The manner in which the government frames the issue of UCC and reforms of personal laws suggests that they are concerned more with imposing a communally defined uniformity on minorities in the country, rather than addressing concerns of gender justice," Krishnan told

RESEARCH AID

https://www.business-standard.com/article/current-affairs/all-states-should-enact-uniform-civil-code-like-uttarakhand-will-dharm-122070200005_1.html

[Jamiat Ulama-e-Hind opposes UCC, passes resolution on Gyanvapi issue | Business Standard News \(business-standard.com\)](#)

[U'khand cabinet to form committee on implementation of Uniform Civil Code | Business Standard News \(business-standard.com\)](#)

[Focus needed on employment & economy, not on bringing Uniform Civil Code: Asaduddin Owaisi | Business Standard News \(business-standard.com\)](#)

<https://www.bbc.com/news/world-asia-india-61589491>

<https://www.thehindu.com/opinion/op-ed/the-future-of-a-uniform-civil-code/article65507283.ece>

<https://theprint.in/campus-voice/uniform-civil-code-is-as-old-as-british-rule-it-can-help-in-better-implementation-of-law/979470/>