Uniform Civil Code

Why in news?

Prime Minister Narendra Modi had called for the enactment of a Uniform Civil Code (UCC), pointing out the anomaly of having varying laws for different categories of citizens.

What is the Uniform Civil Code?

- Uniform Civil Code (UCC) provides for ***one law for the entire country*** across all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc.
- UCC is defined in ***Article 44*** as part of the ***Directive Principles of State Policy*** (DPSP), in part of ***Part IV*** of the Constitution.
- **Article 44 -** It states that 'The State shall endeavour to secure for the citizens a ***Uniform Civil Code*** throughout the territory of India'.
- UCC aims to enforce a uniform legal framework to all citizens, irrespective of their religion.
- UCC aims to safeguard the fundamental rights of all citizens and reduce social inequalities and gender discrimination.
- **Legality -** The legality of UCC is rooted in the Constitution of India, Constituent Assembly debates and also Supreme Court of India judgments.
- Though DPSP is fundamental to the country's governance, it is not enforceable or justiciable in a court of law.

In Shah Bano Begum Judgement of 1985, where a divorced Muslim woman demanded maintenance from her former husband, the apex court while deciding whether to give prevalence to the CrPC or the Muslim personal law, called for the implementation of the UCC.

What did the Constituent Assembly say about UCC?

- The UCC had been recommended by the authors of the Indian Constitution under the Directive Principles of State Policy.
- **For -** B.R.Ambedkar, the chief architect of the Indian Constitution, stressed the importance of a UCC in ensuring gender equality and eradicating prevailing social evils.
- Other distinguished members of the Constituent Assembly such as Alladi Krishnaswamy Ayyar and K.M. Munshi also advocated the enactment of a UCC.
- **Against -** Many other members including Nazirrudin Ahmad were against it.
- They claimed that the religious laws of different communities should not be tampered

with, without their consent.
- Since a consensus on a UCC could not be reached in the Constituent Assembly, UCC was placed under the Directive Principles.
- **Government's stance -** Evolved over years since 1991

What are the arguments in favour of the UCC?

- A common civil code would reinforce the principles of secularism in India.
- UCC is important for national integrity and equality of genders and religions.
- UCC would eliminate discriminatory practices that deprive women of their rights and provide them with equal opportunities and protections.
- Uniformity in personal laws will empower women and ensure gender equality in matters of marriage, divorce, and inheritance.
- UCC will make legislation in terms of succession and divorce easier and reduces complexities, contradictions and legal ambiguities.
- A unified legal framework is required to foster social cohesion and national integration in a diverse society like India.
- Ensures equality before the law for all Indians under ***Article 14*** of the Constitution.

What are arguments against the UCC?

- UCC could infringe upon religious freedom and might clash with religious practices.
- Implementing UCC would destroy the essential fabric of India, diversity, which is a mosaic of 22 official languages, 398 dialects, and 645 tribes.
- India is a diverse nation and different communities should have the right to maintain their distinct customs and practices.
- A law should not be implemented on minority communities without their consent.
- The "ambit and scope" of religious freedom itself is not yet decided.
- The minority bodies thinks that a common civil code is not in tune with ***Article 25***, which provides protection and freedom for all to practice their religion and customary laws.

What is the status of UCC in Indian States?

- **States -** None of the states have adopted UCC, except Goa, a version of the UCC is in place in Goa.
- It follows the *Portuguese Civil Code of 1867*, under which people of all religions in Goa are subject to the same laws on marriage, divorce, and succession.
- After Goa joined the union as a territory in 1961, the *Goa Daman and Diu Administration Act of 1962* was passed which gave Goa permission to apply the Civil Code.

What is the way forward?

• The factors that must be placed in the common civil code after including all communities in the process of formulating are:
- Process of registration of marriages,
- Abrogation of polygamous rights,
- A transparent system of divorce which upholds the dignity of women,
- A right to maintenance and alimony to the spouse and children in case of separation and divorce,
- A civil process for divorce,
- A right to remarry,
- An equal right to inheritance for all children in parental property, whether inherited or self-acquired,
- Right to adoption and rights of adopted children being the same as biological children.

- **Recognition of difference -** The existence of difference does not imply discrimination, but is indicative of a robust democracy as world moves towards recognising differences.
- **Law Commission Report -** The consultation paper of the *21st Law Commission of India (2018)*, recommends a balancing act between the equal treatment of all religions and religious diversity by codifying personal laws.
- It has also pointed to the dangers of forcing uniformity and the necessity for voluntary reforms in the matter of personal laws.
- **Reiterate Ambedkar's position -** If implemented, UCC should also "make a provision that the Code shall apply only to those who make a declaration that they are prepared to be bound by it".

Quick Facts

- **Article 25** lays down an individual's fundamental right to religion.
- **Article 26(b)** upholds the right of each religious denomination or any section thereof to manage its own affairs in matters of religion.

References

1. Business Line - What is the Uniform Civil Code all about?
2. The Hindu - India needs a Uniform Civil Code
3. IE - Uniform Civil Code: No bad time for a good law

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