



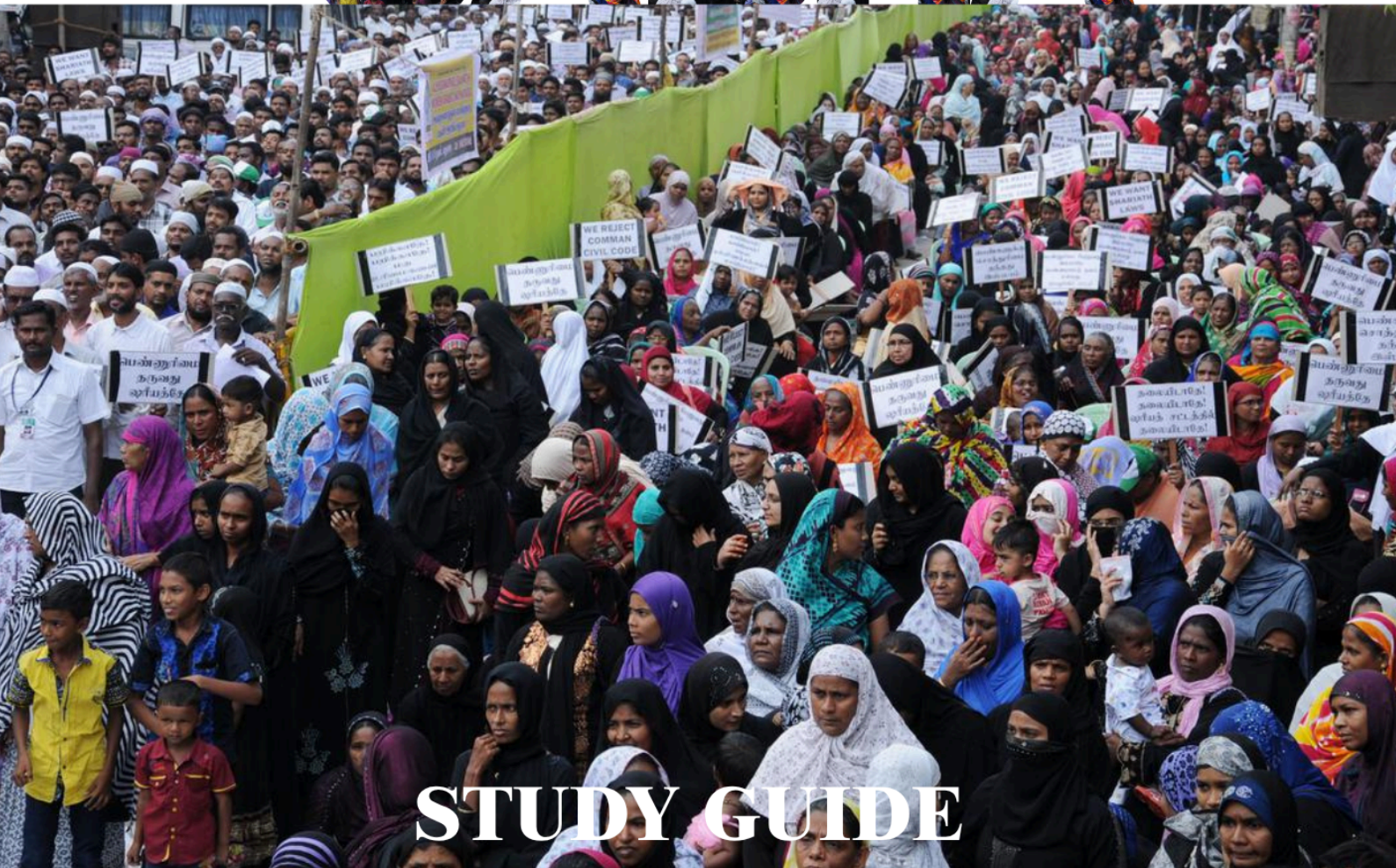
# LOK SABHA



## AGENDA

Deliberating Upon the Implementation of Uniform Civil Code in India and its Impacts.

# LOK SABHA



## STUDY GUIDE



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## LETTER FROM THE BUREAU

Greetings Parliamentarians!

It is our absolute pleasure to welcome you all to the 10th iteration of the Shishukunj MUN, and to this dynamic simulation of the Lok Sabha. The agenda for this year's parliament is **"Deliberating Upon the Implementation of Uniform Civil Code in India and its Impacts"** with no freeze date, that is, the committee will function in present time.

This study guide has been made in order to aid your research, but that does not mean it is the end of it; the conference is all about taking a deep dive into a topic and learning all its aspects. Data-backed arguments, assertiveness and accuracy of information is key. The theme for the Shishukunj MUN is *Samprikti : Bridges to a Better World*, and our agenda emphasises it by establishing the need for unity and peace in these turbulent times. The MUN is a learning experience for us as much as it is for you, and so we are looking forward to valuable discussions. Please reach out to us if you have any confusion or question and we will answer it to the best of our abilities.

We look forward to exciting and fiery debates, and hope that the committee would be able to suggest constructive solutions to the agenda. Looking forward to having an enriching experience together!

Best Wishes

Advita Tiwari, Speaker

Yajat Khanna, Deputy Speaker

Akshita Nyati, Rapporteur



## **INTRODUCTION TO THE COMMITTEE**

The Lok Sabha is composed of representatives of people chosen by direct election on the basis of Universal Adult Suffrage. The Constitution of India allows for a maximum of 550 members in the House, with 530 members representing the States and 20 representing the Union Territories. At present, the Lok Sabha has 543 seats filled by elected representatives. The term of the Lok Sabha, unless dissolved, is five years from the date appointed for its first meeting. However, while a proclamation of emergency is in operation, this period may be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case, beyond a period of six months after the proclamation has ceased to operate.





## INTRODUCTION TO THE AGENDA

The Uniform Civil Code (or the UCC) in India essentially proposes a single set of laws governing personal matters such as marriage, divorce, inheritance, and adoption, among others, that are neither dictated nor affected by religion, region, gender, etc. These are currently taken care of by scattered legal frameworks like the Hindu Marriage Act, Muslim Personal Law, Christian Marriage Act, etc. Article 44 of the Indian Constitution, a Directive Principle of State Policy, outlines the states' endeavour to secure a uniform civil code throughout the territories of India. It means that though not a fundamental right, UCC should be worked towards by each state and secured for its citizens.

There has been much controversy and tension regarding the implementation of UCC. On one hand, there have been political sensitivities and civilian unrest protesting against the implementation of UCC. On the other, the state of Uttarakhand has already applied it and has been functioning with this new set of laws since January of 2025 (which will be discussed later in the study guide). Some claim that UCC aims to promote equality, national unity, and create a simplified and accessible legal framework for the people. Others are of the opinion that it challenges the pluralism and diversity of the country, and there will never be consensus regarding the same.

The committee aims to deliberate upon UCC's implementation: whether it is truly needed or not, and whether the people would accept it or not. Also, it is to discuss the impacts its application would cause in the political, civilian, economic, and social spheres of our country.



## KEY TERMS

1. **Secularism:** It is the principle of separation of the state from religious institutions.
2. **Personal Laws:** These are a set of rules that govern family matters based on a person's religion or community.
3. **Polgamy:** It is the custom of having more than one wife at the same time.
4. **Directive Principles of State Policy:** These are a set of guidelines present in the Indian Constitution that guide the government in framing laws and policies.
5. **Presidential Assent:** It is the approval for a bill from the President of the nation. After the bill is passed by the lower and upper house, it is presented to the President for assent.
6. **Marginalised Communities:** They are a group/community of people that face unequal power dynamics within society, and are often faced with discrimination and pushed to the fringes of society.



## ONE NATION ONE LAW

### 1. Promotion of secularism

It is a basic conclusion that the implementation of a Uniform Civil Code in India would ensure all citizens are treated equally before the law. UCC directly aligns with the secular principles of our nation. Secularism in India means that the state does not favour any particular religion. The government treats all faiths equally, and they are equal before law.

- ❖ By ensuring that the same laws apply to everyone, UCC would remove the differentiation and potential discrimination that arises from having religion-specific laws.
- ❖ Because in the current situation there are separate laws for personal matters, it means that discrimination and disparities among different social groups is more prevalent.
- ❖ It is also important to note that personal laws based on religion can lead to the perception that the government is validating specific religious practices in civil matters, which is against the secular ideology of our nation.

Equality before the law (Article 14) and freedom of religion (Articles 25-28) are fundamental rights guaranteed to all citizens by The Constitution of India.

- ❖ It has been noted that religious personal laws sometimes contain provisions that appear to conflict with these fundamental rights, especially in matters of gender equality and minority rights.
- ❖ Religious personal laws, in some cases, may reflect outdated social norms that are not in line with modern principles of justice and equality or as stated in the legal frameworks of our country.
- ❖ UCC provides space to reform personal laws in a way that ensures justice to all genders, protects vulnerable individuals, and promotes social progress in line with India's development in other fields.
- ❖ An example for this would be that men and women alike can get right to property despite their gender, which is currently not possible across some religious personal laws.

On the contrary, arguments also stand against the implementation of UCC:

- ❖ It has been argued that UCC would threaten the religious freedom guaranteed by the Constitution, as different religions have distinct personal laws that are considered integral to their practice.
- ❖ It has also been feared that implementing UCC would lead to a majoritarianism rule (rule governed by the majority community) which would undermine the importance and uniqueness of other religious communities in the country.



Another major point to be considered is that the 21st Law Commission of India (2018) stated that: UCC is "neither necessary nor desirable at this stage" and suggested reforms within existing personal laws to make them gender-just, emphasizing that secularism should ensure the peaceful coexistence of cultural differences.

- ❖ The implementation of a Uniform Civil Code in India can possibly help promote secularism and ensure equality before the law. It has the potential to separate religious doctrines from civil matters and uphold the fundamental rights as stated in our constitution.
- ❖ However, it has its own challenges and down-sides, hence is still under much debate and discussion.

## **2. Disruption of Federal Structure**

The three lists:

- ❖ A major point to be remembered is that the Indian Constitution consists of three lists: union (matters to be handled by centre), state (matters to be handled by state) and concurrent (matters on which both the state and centre have power to enact laws).
- ❖ Personal laws, including marriage, divorce, inheritance, and adoption, fall under the Concurrent List of the Constitution. This means that UCC could override pre-existing laws of particular states regarding these matters. This may be considered as an undermining of their autonomy and jurisdiction.

The concept of presidential assent:

- ❖ It means that after the bill has been passed by the state and has been presented to the Governor of the state, the Governor has reserved the bill for the consideration and approval of the President of India, and the President has subsequently given their approval or "assent" to that bill.
- ❖ Article 254(2) gives a state right to law over central law on a Concurrent List subject if the state law has received presidential assent.
- ❖ However, UCC might bypass this provision, leading to concerns about the balance of power between the Center and the states.

Further:

- ❖ Due to our large population, consensus-building is the most important part of our country's federal structure. Imposing UCC without the consensus of all states and their communities would strain unity and undermine their power.
- ❖ Our states have people hailing from varied cultures and communities, all with their unique customs and traditions. UCC would potentially threaten this very diversity and pluralism of our country.





- ❖ Pluralism in India refers to the vast social, cultural, religious, linguistic, and ethnic groups within the country. It signifies a society where these diverse groups live together.
- ❖ The most significant example, perhaps, of this pluralism are the various tribes of our countries that are heavily protected by the government. Certain states, particularly in the Northeast, have constitutional protections under Articles 371A to 371G, safeguarding their unique tribal laws and customs related to marriage, inheritance, etc.

Of course, an important point also is that there hasn't been consensus on this matter politically. It has been a topic of heated debate for long, with different parties and groups having their own ideas about the ideal law. The UCC is a politically sensitive issue with diverse opinions across different religious, cultural, and regional groups. If implemented without properly considering all opinions and hearing all voices- a task itself in a country so large- it could lead to significant distress and weakening of federal relations.



## PAST, PRESENT AND FUTURE CONTEXT

### 1. Colonial India:

- Initially, the British prohibited their interference in the personal laws of all religions related to gender, caste, justice system etc.
- To back this policy, multiple formal regulations were introduced:
  - Charter of 1753 - Allowed the citizens to practice their own personal laws. If both parties in a dispute agreed to jurisdiction of the Mayor courts(Also known as british courts).
  - Hastings judicial plan of 1772 - Under the judicial reforms section's subsection A(civil justice) said that "civil cases, containing; property, inheritance, succession, caste, marriage, contracts, accounts etc would be solved with accordance to the laws of Hindus and Muslims separately."
- Gradually, this policy was changed, multiple reforms in the personal laws were seen such as:
  - Sati Abolition Regulation of 1829 - outlawed the sati practice. The burning or burial of women was considered illegal, punishable and a serious criminal offence.
  - The hindu widow's remarriage act of 1856 - This act removed the legal obstacles that prohibited the remarriage of hindu women.
  - Special marriage act of 1872 - Allowed civil marriages outside the preview of personal laws.
  - Child marriage restraint act of 1929(Sarda act) - Fixed the minimum age of marriage for (i)Girls as 14 and for (ii) Boys as 18. This applied to all communities.
  - Christian personal law - Christian marriages and divorces are governed by the Indian Christian Marriages Act of 1872.
  - Caste disabilities removal act of 1850 - prevented the loss of property rights on conversion to another religion or violation of caste rules and regulations.
  - CPC - civil procedure code(final enactment on 1, 1909) outlines the procedures for civil courts to handle civil cases.

### 2. Post - Independent India: After independence, multiple acts in India for particular communities were introduced such as(The term hindu includes sikhs, buddhists and jains):

- Hindu personal laws -
  1. The hindu marriage act of 1955
  2. Hindu Succession act of 1956



### 3. Hindu Minority and Guardianship act of 1956

#### 3. **Hindu Adoptions and maintenance act of 1956**

- Muslim personal laws - 1. Muslim Family laws and ordinance of 1961  
2. Amendments in previous laws such as shariat
- Exceptions to Personal Laws: Article 371 of the constitution - certain exceptions to family law for the states of Assam, Nagaland, Mizoram, etc., to protect distinct regional identities.
- Significant amendments in the Indian Christian personal laws after independence and in the making of the constitution.
- Amendment of cpc in 1999 and 2002 for focusing on reducing delays by restricting the timeframes for filing written statements and limiting the adjournments.
- How the Shah Bano case changed the old ideology and revolutionized the political structure.
- While, the demand for UCC and so against it have taken a boost after the removal of 370 and removal of triple talak.

#### 4. **Current political landscape -**

- a. Currently the Indian personal laws have become complex, the judicial system now has a proper working for the personal laws. The ruling party has been in support of the law while the opposing parties are against the law. The same is the case with the citizens, division among two related to UCC. The demand for UCC has been on the BJP's electoral manifesto since 1989.

#### 5. **Future context -** The future context is divided amongst two, the pros and cons:

##### The benefits -

- a. National integration, A uniform civil code will create and foster a shared identity among all citizens irrespective of their gender, caste, religion etc.
- b. This will help bridge the cultural gaps in the country and promote a more cohesive society .
- c. As you will see later, UCC will eliminate any discriminatory provisions, implementing article 14, 44 etc without much limitations.
- d. Harmonizing the judicial system , UCC would provide the judiciary a single form of justice system for all, reducing the different specifications and burdens.
- e. Modernization and progress, to keep up with the fast paced lifestyle , the society needs to be aligned towards the new legal frameworks, facilitate social reform and remove past barriers for progress.

- f. Promotion of secularism, UCC separates personal laws from the judicial system giving India a better secular nature. 2. The negatives -
  - A. Cultural diversity - the imposition of UCC can be considered as a disregard to Indian diversity, traditions, customs and spirit of democracy.
  - B. Practical challenges - India with a population of almost 1.44 billion, UCC poses a large challenge of implementation of a single code.
  - C. Legal and constitutional complications - Transiting into UCC would require significant changes to the existing legal system and in the existing laws as well as constitution which would be complex as well as time consuming. For example:
  - D. Resistance from extremist groups which will be given a broader approach below.





## FULFILLING INTERNATIONAL OBLIGATIONS

Besides nationally, India will also face international pressure, provocation of Indian people by non-state actors, and fulfillment of international obligations signed by India in the past.

1. **International pressure** - In the current times, multiple non-state organizations may provoke the Indian citizens, not just non-state actors but nations such as Bangladesh and Pakistan may even provoke and pressurize India as seen before. It may become a large issue if extremist groups in multiple parts of the country show resistance due to international influence, not just peaceful resistance but it may lead to violent conflicts. Therefore, if UCC is implemented, India will need a strong voice to avoid complications and representation.

Past treaties - The past treaties signed by India on international level is divided amongst two:

- Obligations in support of UCC -
- UDHR(Universal Declaration of Human Rights):
  - Article 7 - “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”
  - Article 16(Sub-section 1) - “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.”
  - Article 17 (as a whole) - 1. “Everyone has the right to own property alone as well as in association with others.”  
2. “No one shall be arbitrarily deprived of his property.”
- International Covenant on Economic, Social and Cultural Rights -
  - Article 1(subsection 1) - “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”
  - Article 2 (subsection 2) - “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”
  - Article 3 - “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”
  - Article 7(subsection a - {i}) - “Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being





- guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;”
- Article 7(subsection c) - “Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;”
  - International covenant on civil and political rights -
    - Article 1(subsection 1) - “All people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. ”
    - Article 2(subsection 1) - “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
    - Article 14(sub section 1, line one) - “All persons shall be equal before the courts and tribunals.”
    - Article 26 - “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

#### International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

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- Article 1(subsection 1) - “ In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”
- Article 2(subsection 1:(a)) - “ Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;”
- Article 2(subsection 1:(c)) - “Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;”
- Article 2(Sub section 1(e)) - “Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means



of eliminating barriers between races, and to discourage anything which tends to strengthen racial division. ”

- Article 5(sub section d:(iv)) - “The right to marriage and choice of spouse;”
- Article 5(sub section d:(v)) - “The right to own property alone as well as in association with others;”
- Article 5(sub section d:(vi)) - “The right to inherit;”
- Article 5(sub section d:(vii)) - “The right to freedom of thought, conscience and religion;”
- Article 5(sub section e:(vi)) - “The right to equal participation in cultural activities;”
- ILO Convention No. 111:
  - a. Article 1(a) - “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;”
  - b. Article 2 - “Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.”



## ESTABLISHING GENDER EQUALITY

- Initially gender roles in India revolved around customs and traditions. Women were restricted to domestic spaces, denied access to education and were excluded from decision-making processes. Despite constitutional guarantees of equality, discrimination persisted across social, economic, and political grounds.
- Gender equality is when men and women are given the same and equal rights in all aspects of life. For example:

### 1. Equal Rights in Marriage and Divorce

- In the past, marriage and divorce were biased, with women having limited rights. Divorce was seen as a disgrace, especially for women and those who went through it were blamed and socially excluded
- The government gradually introduced several laws which aimed at protecting the rights of both men and women and making marriage and divorce more just and fairer. For example:
  - ❖ Special Marriage Act, 1954: This law allows for the registration of marriages, regardless of the couples religious or caste backgrounds. It also provides a legal framework for marriage ensuring legal recognition and protection for the couple. This act is applicable to all the citizens of India, regardless of their religion.
  - ❖ Hindu Marriage Act, 1955: This law regulates marriage, divorce and related matters for Hindus, Buddhists, Jains and Sikhs. It establishes the legal framework for marriage as the binding union between two individuals, ensuring equality between the spouses. This act allows for divorce on various grounds.
  - ❖ Muslim Personal Law (Shariat) Application Act, 1937 & Dissolution of the Muslim Marriage Act, 1939: Muslim Personal Law, governed by the Shariat (Islamic law) outlines the legal framework for marriage and divorce among Muslims. Under the Dissolution of the Muslim Marriage Act, women were granted the right to seek divorce.
  - ❖ The Muslim Women (Protection of Rights on Marriage) Act (Triple Talaq Act), 2019: This law was enacted to criminalise the practice of Triple Talaq (Talaq-e-Biddat), an instant form of Islamic divorce. It declares the pronouncement of talaq three times as void and illegal.

### 2. Equal Inheritance Rights:

- Historically, inheritance laws in India were formed by patriarchal customs and traditions, with sons receiving more rights to gain the ancestral property. Daughters and other family members were often excluded and had limited inheritance rights, which left them financially dependent.



- After which the government introduced laws to prevent injustice and discrimination and provide equal rights and say in the matter of inheritance:
- ❖ Indian Succession Act, 1925: This law provides a uniform framework for inheritance when a person dies with or without a will and ensures that equal rights are given to both sons and daughters.
- ❖ Hindu Succession Act, 1956 (Amended in 2005): This law initially granted more rights to male heirs but the 2005 amendment gave daughters the same rights as sons in ancestral property.

### **3. Equal Parental Rights**

- In earlier times, the parental rights especially after divorce favoured the father. Custody of a child was believed to be the father's right according to the traditional law.
- But after recognising the need to ensure fairness and the best interest of the child, the government and the legal framework provided laws to uphold equal parental rights:
  - ❖ Custody of Infants Act, 1873: This law allowed mothers to gain the custody of a child up to the age of sixteen regardless of their marital status.
  - ❖ Guardianship of Infants Act, 1886: This law recognised the mother's equal right to petition for custody alongside the father.
  - ❖ Guardianship of Infants Act, 1925: This law further emphasized the welfare of the child stating it as first and paramount, it also puts the claim of the mother and father equally.
  - ❖ Hindu Minority and Guardianship Act, 1956: This law provides the legal framework for the care and custody of the child
  - ❖ Guardians and Wards Act, 1890: This law lays down procedure for the appointment of guardians for minors.

### **4. Elimination of Discriminatory Practices**

- Historically, Indian society was divided on various lines be it gender, race, caste, religion or socio-economic status. These divisions determined one's access to education, land, justice and dignity. Marginalised communities were discriminated against and deprived of these basic amenities. They were socially excluded and treated as untouchables.
- But the need for reforms and constitutional safeguards paved the way for the government to create laws and acts to ensure elimination of discriminatory practices which ensures fair and equal treatment to all the citizens irrespective of their race, gender, religion, and caste:

- ❖ Article 15: Prohibits discrimination on the grounds of religion, race, caste, gender or place of birth.
- ❖ Article 17: Declares abolition of untouchability in any form and makes its practice as a punishable offence
- ❖ The Protection of Civil Rights Act, 1955: This act penalizes the practice of untouchability and enforces Article 17
- ❖ The Scheduled Castes and Schedule Tribes Prevention of Atrocities Act, 1989: This act provides protection to the SC, ST communities from violence, discrimination and social injustice

## 5. Simplified Legal Processes

- Earlier, the legal process in India having to deal with different personal laws and traditions was complex, inaccessible and biased with justice not being served. The justice system discriminated against the marginalised communities, and they faced significant hurdles in getting their rights.
- With UCC being implemented one single legal framework will have a common set of laws for all citizens. This would streamline the legal process and make the legal system more accessible, transparent and efficient.

## 6. Gender Justice under Article 14:

- Article 14 guarantees equality before law to every individual in India irrespective of their caste, gender, race and religion.
- Under Article 14 no one should be discriminated against in the eyes of law and be deprived of justice.







## SOCIO-ECONOMIC IMPACTS

- The term socio-economic impact refers to the effect that a law or a policy has on society both socially and economically.
- Social impacts are the changes in the people's life for example access to education, justice, equality and social harmony.
- Economic impacts refer to factors like employment, income level, property rights and economic participation.
- Socio-economic impact measures the changes in the everyday lives of the citizens after the implementation of a policy or a law.

### 1. Modernization and Social Reforms:

- The implementation of Uniform Civil Code would be a significant step towards modernizing India's legal framework and social norms. By replacing different personal laws with a common civil code, UCC has the potential to eliminate the outdated and discriminatory practices rooted deep within the country. This would ensure uniform and fairness in all matters like marriage, divorce, inheritance etc and also represent the values of a progressive and modern nation. Thus UCC would uphold the values of the constitution and ensure equality, justice and dignity for all.

### 2. Legal Benefits:

- With UCC being implemented it would make the legal system more fair and organised as the same laws and rules will be applied to everyone irrespective of their religion or background. This would reduce the confusion caused by different personal laws and also make it easier for the citizens to understand, saving time and money. It would lead to quicker and more just decisions to be taken and reduce the burden on the courts allowing them to function efficiently

### 3. Reduction of Vote Bank Politics:

- Over the years various political parties have used specific groups or communities for electoral support. This has led to loss of public trust and wrong decisions to take place. UCC could help reduce vote bank politics, by bringing one common law the party cannot put political pressure on any community and ensure that the election is fair.



#### **4. Resistance from Extremist Groups**

- One of the major challenges in implementing the Uniform Civil Code is the strong opposition from certain extremist groups who view it as a threat to their tradition, customs and influence. These groups show UCC as an attack to their religious identity and by using fear and misinformation they provoke unrest, protests and divide communities
- Such resistance can delay reforms and harm social harmony. It is important to address these concerns through open communication, public awareness, making it clear that UCC aims to protect every citizen's right to equality not to target any community or group

#### **5. Gender Justice and Women Empowerment:**

- Uniform Civil Code is a strong step towards gender justice and empowering women socially, legally and economically. Many personal laws over the past years, allowed practices that discriminated against women in matters of marriage, divorce, inheritance, justice and equality. By introducing the common civil code UCC would promote equal treatment of all citizens irrespective of their gender.
- UCC also directly supports women's social and economic empowerment. Equal rights, financial security and protection from outdated practices allow women to stand on their feet. It increases their access to property, legal support and decision making. UCC not only safeguards rights but also opens the doors of opportunity

#### **6. Risk of Majoritarianism**

- Another concern in implementing the Uniform Civil Code is that it might reflect the beliefs and customs of the majority community, while ignoring the traditions of the minority. So if UCC is not introduced carefully then the people might feel their identities, traditions and customs are sidelined. This misunderstanding can lead to majoritarianism and also create social divisions and mistrust.

## CASE STUDY: UNIFORM CIVIL CODE IN UTTARAKHAND



The best way to perhaps understand Uniform Civil Code better is to take up the case study of Uttarakhand, which became the first Indian state to implement UCC, on 27 January 2025. The Uttarakhand UCC covers aspects like marriage, divorce, succession, and live-in relationships, excluding Scheduled Tribes.

How it came into existence:

- ❖ In 2022, a five-member expert committee was formed, headed by retired Supreme Court Justice Ranjana Prakash Desai. The committee's task was to examine existing personal laws and draft a UCC that would be applicable in Uttarakhand.
- ❖ The committee submitted their report in February 2024 after much discussion.
- ❖ The Uttarakhand Uniform Civil Code Act, 2024, was passed by the State Assembly in February 2024 and received presidential assent in March 2024.

Its major objectives:

- ❖ UCC in Uttarakhand aims to bring uniformity in personal civil matters, ensuring equal rights and responsibilities for all citizens, without discrimination based on gender, caste, or religion.
- ❖ It aims to give equal rights and responsibilities to all citizens, irrespective of their religion, caste, or gender.
- ❖ By addressing practices like polygamy, triple talaq, and unequal inheritance rights, it aims to empower women.
- ❖ It aims to create a more simplified legal framework and process.



- ❖ It was enforced on January 27, 2025, after the rules for implementation were finalized and notified.
- ❖ An online portal has been launched by the Uttarakhand government for the registration of marriages, divorces, live-in relationships, and related processes.

#### Key Provisions of UCC in Uttarakhand:

- ❖ Marriage and Divorce:
  - A common minimum age for marriage at 21 years for men and 18 years for women has been set.
  - All marriages that have happened after the implementation of UCC must be registered within 60 days. Marriages that took place before that can be registered within six months
  - The UCC specifies uniform grounds for seeking divorce applicable to all communities.
  - Ban on Polygamy: The code prohibits polygamy for all individuals.
- ❖ Live-in Relationships:
  - People in live-in relationships need to submit a statement for registration.
  - Children born out of registered live-in relationships are considered legitimate and have rights to inheritance.
  - Failure to register a live-in relationship can lead to imprisonment or fines.
- ❖ Inheritance and Succession:
  - The UCC grants equal inheritance rights to sons and daughters.
  - Individuals of sound mind and of the age of majority have the right to dispose of their property through a will. Registration of wills is mandatory.
- ❖ Other Provisions:
  - Child marriage been banned
  - The parameters for legal recognition of children have been widened
  - Jurisdiction of courts has been redetermined

#### Its significance:

- ❖ Uttarakhand is the first state in independent India to implement UCC.
- ❖ This implementation is seen as a step towards gender justice and equality.



- ❖ It is expected to simplify legal procedures and reduce discrimination in personal laws.
- ❖ Some other Indian states have observed interest in this move and are considering adopting a similar code of their own.

Reaction to adoption of the law:

- ❖ A large number of women have welcomed the UCC as a progressive step towards gender equality. It creates room to eliminate discriminatory practices in various personal laws, especially about marriage, divorce, and inheritance.
- ❖ It is expected to simplify legal processes and reduce complexity and time taken and has hence been welcomed by people engaged with law.
- ❖ On the other hand, critics have argued that the drafting and implementation process lacked public consultation and hence is a threat to the various communities.
- ❖ A particular provision, the mandatory registration of live-in relationships has raised concerns about the right to privacy. It also allows third parties to file complaints about live-in relationships and hence has been seen as a potential tool for harassment.





## HISTORY OF COURT RULINGS RELATED TO THE AGENDA

In the past, different codes have caused large problems to the judicial system, we will discuss some of them.

1. Mohd. Ahmed Khan vs Shah Bano Begum and Ors -
  - a. Shah Bano was married to Mohd. Ahmed Khan in 1932 and also had five children. Mohammed Ahmad Khan was an advocate in Indore, MP.
  - b. After 14 years of marriage Mohd. Ahmed Khan remarried and after living with both wives till 1978, she along with her children were kicked out.
  - c. She was aged 62 at that time and was promised by her ex-husband 200 rupees per month.
  - d. In 1978 april he stopped providing her and Shah Bano filed a case against him under section 125(a)(b) of criminal procedure code of 1973(Order for maintenance of wives, children and parents - [a] - his wife, unable to maintain herself, or [b] - his legitimate or illegitimate minor child, whether married or not, unable to maintain itself) for rupees 500.
  - e. In November 1978, her husband in the court defended himself by the muslim personal law, he pronounced tripal talaq arguing that Shah Bano ceased to be his wife after triple talaq and he gave shah bano 5400 rupees according to the islamic law.
  - f. In 1979 August, Mohmaad was given an order to pay rupees 25 per month to Shah Bano.
  - g. But Bano filed a revisional application in MP high court on july 1st 1980 and was provided a maintenance amount of rupees 179.20.
  - h. Mohd. then filed a petition claiming that shah bano was not his responsibility anymore since he had a second wife which was permitted by the islamic law.
  - i. The problems of the case:
    1. Does CRPC Section 125 override personal laws?
    2. Is a muslim husband obliged to take care of his ex wife?
    3. Does the word “WIFE” under section 125 of CRPC signify a muslim woman?



j. The verdict by the Supreme court:

1. Section 125 of CRPC, 1973 is a secular provision and applies to all people. Therefore Mohd. was made liable to pay maintenance to Shah Bano.

k. Analysis:

1. The judgment of SC changed the legal conditions of the nation making this case one of the most important judgments in the Indian judicial history and a big step towards Article 44 of the constitution i.e. UCC. Therefore we conclude that:
2. CRPC is a secular provision and includes all Indians under it. Further, CRPC is a criminal procedure NOT a civil procedure which means any civil provision cannot interfere with CRPC.

Jose Paulo Coutinho v Maria Luiza Valentina Pereira & Ors. (2019)

- a. Joaquim Mariano Pereira was a Goan domicile and owned properties in both Goa and Mumbai. He gave his Mumbai property to his youngest daughter Maria Luiza Pereira while allocating 3000 rupees to both the other daughters.
- b. After his and his wife's demise, inventory proceedings began in Goa but the Mumbai property was not included.
- c. Jose Paulo Coutinho, the son in law of one of the daughters, challenged the exclusion.
- d. The issue: If the succession of immovable property located outside Goa belonging to Goan domicile should be governed by Portuguese civil code of 1867 or the Indian succession Act of 1925.
- e. The verdict: On September 13, 2019 the Apex court of India passed the verdict that the Portuguese civil code applies to all properties of a Goan domicile, whether the property belongs to Goa or any other location in India. The court also emphasized that by the virtue of Goa, Daman and Diu administration act of 1962, is an Indian law applicable to Goan domiciles and so the property was included in Goa inventory proceedings.
- f. Analysis: We understand that despite Article 44 to implement, there has been no progress in the practice of UCC where Goa has been a great example where UCC is practised and each person is equal.



## CONCLUSION

India is a nation of diverse cultures, religions, languages, and traditions. Since before we became a colony up till present times, a spirit of mutual respect has largely shaped our nation and its various communities. Each of them cherishes their unique social and religious customs and respects each other's traditions for the most part. It is one of the biggest charms of our country that despite its diversity and ever-growing population, it manages to live in harmony. Indian laws have reflected this attitude by always recognizing and upholding the dignity of different groups and communities. Our law balances religious freedom with national legal principles and our underlying secular ideology.

The idea of Uniform Civil Code has been present in our constitution as Article 44 - the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. Proposing a move towards a single set of laws governing personal matters like marriage, divorce, inheritance, etc. in a nation of our population and diversity is a big venture. On the other hand, it aligns directly with our secular principles.

Implementing a UCC could have significant and varied effects, both good and bad. It could lead to positive social reform and could play a role in eradicating discriminatory practices. However, its implementation could also lead to social tensions and distress. It is understood without even saying that the ultimate impact will depend upon how the code is formulated and implemented. Keeping all this in mind, discussing Uniform Civil Code and drafting a law that can be agreed upon by all is an important task, and this committee hopes to do just that all the while keeping our diversity and unity in mind.



## **QUESTIONS A BILL MUST ANSWER**

1. What is the role of the state government and the panchayat to ensure fair and uniform implementation of the UCC ?
2. What steps can be taken to make legal processes like marriage, divorce, inheritance etc simpler, faster and accessible to people especially in villages and small towns?
3. How will UCC provide fair and equal treatment to all the genders under the Article 14 of the Constitution while ensuring religious freedom under Article 25
4. How can UCC balance the idea of One Nation One Law with the Federal and the Legal structure of India
5. How will implementing UCC help India meet its International Human Rights Obligations, especially related to gender equality and non-discrimination
6. What have been the biggest obstacles in implementing UCC in the past and how can the government overcome them in the current situation
7. How can India learn from other countries who have already implemented the Uniform Civil Code, while making sure it fits India's diversity



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