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**SECULAR CIVIL CODE IN  
INDIA**

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## SECULAR CIVIL CODE IN INDIA

### Context

- On the occasion of Independence Day, the Prime Minister echoed his bold call for the implementation of a **Secular Civil Code (SCC)** reigniting a debate that has been lingering for decades.

### Understanding the Concept

- A **Uniform Civil Code (UCC)** aims to provide a single set of laws governing personal matters—such as marriage, divorce, inheritance, and property rights—for all citizens, regardless of their religious affiliations.
- Currently, India follows different **personal laws** based on religion: **Hindu law, Muslim law (Sharia), Christian law, and others.**
- The idea behind a UCC is **to replace these diverse legal frameworks with a common code** applicable to everyone.
- The Supreme Court in 2019 hailed Goa as a 'shining example' of an Indian State which has a functioning UCC.

### Historical Context

- The debate over a UCC dates back to the **drafting of the Indian Constitution. Dr. B.R. Ambedkar**, the chief architect of the Constitution, advocated for a secular approach to the civil code.
- He believed that the UCC should be seen as a secular law—one that treats all citizens equally, irrespective of their faith. Ambedkar argued that other laws, such as criminal procedure codes and property laws, already applied uniformly to all Indians.

### Current Scenario

- The Prime Minister's call for a secular civil code **echoes Ambedkar's vision.** He highlighted that the existing civil code is often perceived as communal and discriminatory.
- Indeed, the Supreme Court has repeatedly discussed the need for a UCC, emphasising that laws dividing the country along religious lines should be eliminated.
- By advocating for a secular approach, the Prime Minister aims to bridge the gap and create a legal framework that unifies rather than divides Indians.

### Constitutional Provisions

- **Article 44 contained in Part IV** of the Constitution says that the state 'shall endeavour to secure for the citizens a uniform civil code throughout the territory of India'.
- **Part IV** of the Constitution outlines the **Directive Principles of State Policy**, which, while not enforceable or justiciable in a court of law, are fundamental to the country's governance.

### UCC in India

- It follows the **Portuguese Civil Code of 1867**, which means that people of all religions in Goa are subject to the same laws on marriage, divorce, and succession.
- **The Goa Daman and Diu Administration Act of 1962**, which was passed after Goa joined the union as a territory in 1961, gave Goa permission to apply the Civil Code.
- States like **Gujarat, Madhya Pradesh and Assam** have expressed their willingness to follow the UCC, none have officially adopted it.

### Challenges and Controversies

- Implementing a UCC is not without challenges. India's diversity—linguistic, cultural, and religious—poses complexities. Critics argue that imposing a uniform code might infringe upon religious freedom and traditions.
- However, proponents emphasise that a UCC would promote gender equality, protect individual rights, and foster national unity.

### Arguments Favouring UCC

- **Uniformity in Governance:** Having a common set of laws would streamline governance and administrative processes, making it easier for the state to administer justice and ensure the rights of its citizens.
- **Women's Rights:** Personal laws in different religions may have discriminatory provisions, particularly against women, and a uniform code will provide a more egalitarian legal framework.
- **Secularism:** A Uniform Civil Code is seen as a way to reinforce the secular fabric of the country by treating all citizens equally irrespective of their religious affiliations.
- **International Image:** Implementing a UCC may enhance India's international image by demonstrating a commitment to principles of equality, secularism, and human rights.
  - ♦ The **Supreme Court** in various judgments including **Mohd. Ahmed Khan vs Shah Bano Begum** (1985) has called for the implementation of the Uniform Civil Code.
- **Promote national Spirit:** The implementation of a UCC will promote the integration of India by establishing a shared platform for diverse communities.

### Arguments Opposing UCC

- **Plurality in existing laws:** Experts argue that if there is plurality in already codified civil and criminal laws, how can the concept of 'one nation, one law' be applied to diverse personal laws of various communities.
- **Issues with implementation:** The implementation of the code has been difficult because India is a diverse country with various religious communities following their own personal laws.
  - ♦ It has been argued that the marriage and death rituals observed by tribal communities differ from Hindu customs, and there is concern that these practices may also face prohibition.
- **Challenge for Law and Order:** It would be a tyranny to the minority and when implemented could bring a lot of unrest in the country.
- **Against Constitutional Provisions:** UCC is perceived as an infringement upon the constitutional right to freely exercise one's chosen religion found in Article 25 and 26 and the Sixth Schedule of the Constitution
- **Fear among minorities:** There is a contention that the Uniform Civil Code may potentially enforce a code that is influenced by Hindu practices in all communities.
  - ♦ The Law Commission of India stated that a UCC "is neither necessary nor desirable at this stage". It recommended that discriminatory practices, prejudices and stereotypes within a particular religion and its personal laws should be studied and amended.

### Conclusion and Way Ahead

- The debate around the secular civil code is multifaceted, touching upon constitutional principles, social justice, and cultural sensitivity. As India continues to evolve, finding a balance between unity and diversity remains crucial.
  - ♦ Perhaps, in the spirit of Ambedkar's vision, a secular civil code can be a step toward a more harmonious and equitable society.
- The authorities should consult with different sections of society before implementing the UCC to foster an environment of inclusivity, transparency, and respect for diverse perspectives throughout the process.
- The Law Commission expressed its support for achieving "equality within communities" as opposed to pursuing "equality between" communities.

Source: IE



### Mains Practice Question

[Q] To what extent do you believe a Secular Civil Code will foster unity among India's diverse population, rather than deepen existing cultural and religious divides? What potential challenges or concerns might arise in its implementation?