**MOCK PARLIAMENT**

**BACKGROUND**

**GUIDE**

**PCD FORUM-2024**

**LETTER FROM THE EXECUTIVE BOARD**

**Esteemed delegates,**

**On behalf of the Executive Board, we are delighted to welcome you to PCD Forum 2024, hosted by Birla School, Pilani. We congratulate you on your participation in this unique simulation. In this simulation, you are entrusted with discussing a critical issue.**

**This study guide is by no means the end of research, we would very much appreciate it if the leaders were 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 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**

**Hardik Sinha (Speaker)**

**Amritanshu (Deputy Speaker)**

**❖ *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

# Constituent Assembly Debates

## INTRODUCTION

Uniform Civil Code (UCC) is a concept enshrined in Article 44 of the Indian Constitution, which aims to establish a common set of laws governing personal matters such as marriage, divorce, inheritance, and adoption for all citizens of India, regardless of their religious affiliations. The objective behind the UCC is to promote gender equality, secularism, and national integration by replacing the existing system of personal laws that vary based on religious beliefs. This move towards a uniform civil law system seeks to ensure equal rights and treatment for all individuals under the law, irrespective of their religious background. The debate surrounding the implementation of a Uniform Civil Code in India has a long history, dating back to the colonial era. While the Lex Loci report of 1840 recommended uniformity in Indian law, the issue gained prominence post-independence with leaders like Jawaharlal Nehru and **B.R. Ambedkar** advocating for a UCC. However, due to opposition from various religious groups and concerns about cultural sensitivities, the UCC was included in the Directive Principles of State Policy rather than being made a fundamental right. This has led to a fragmented legal system where different personal laws apply to individuals based on their religious community. Currently, India follows a system where personal laws derived from religious scriptures and customs govern matters such as marriage, divorce, inheritance, and adoption for different religious communities. The implementation of a Uniform Civil Code would bring about a significant legal reform, streamlining the legal framework and ensuring a more equitable and uniform application of civil laws across the country. While Goa stands as an exception with its own Uniform Civil Code applicable to all its citizens, the broader implementation of a UCC at a national level remains a topic of ongoing discussion and debate in India, reflecting the complexities and sensitivities involved in harmonizing diverse personal laws under a common civil code.

**HISTORY**

India won independence after a prolonged freedom struggle that saw the participation of women and men from all backgrounds. Democratic principles and such values as justice, equality and pluralism guided the deliberations in the Constituent Assembly as the newborn republic strived to create a constitution by which to rule its citizens. The archives of the Constituent Assembly debates on the question of the UCC are fascinating. The idea was rejected outright by luminaries — all men — of the Hindu Mahasabha, traditionalist Congressmen and Muslims. They united to protect personal laws based on religious identities. The UCC was perceived to be an assault on Hindu civilization as well as a threat to the identity of a religious minority.

The opposition to the UCC grew both inside and outside the legislature, forcing Nehru to abandon the plan to the utter disappointment of the All-India Women’s Conference and Ambedkar. Patriarchy masquerading as religion ensured that the *status quo* of male domination over women would remain undisturbed. The UCC was included as Article 44 of the Directive Principles in the Constitution.

However, proof of the statesmanship of Nehru, Ambedkar and a few others lay in the Hindu code bills being introduced in Parliament. Massive reforms followed. A spate of Hindu family laws governing marriage, divorce, guardianship, succession, and the ownership of property were enacted through the 1950s even as opposition from some quarters persisted.

**NEED FOR UCC: INDIA**

Indians from different religions can follow laws specific to their faiths or opt for a secular code. Laws on who and how many people a person can marry, how to end a marriage and inheritance differ by religion. The code envisions the same set of rules for everyone. The constitution adopted in 1950 placed the code in a section that recommends laws for future governments. It encouraged the state to "endeavor to secure for the citizens a uniform civil code throughout the “territory".

The Uniform Civil Code (UCC) is crucial for India due to several reasons highlighted in the provided sources. Firstly, the UCC aims to establish equality, secularism, and national integration by ensuring that all citizens, regardless of their religion, are treated equally under a common civil law system. This move towards a uniform legal framework seeks to eliminate disparities arising from personal laws based on religious customs and practices, promoting social harmony and gender equality across diverse communities in the country.

The UCC is seen as a means to simplify laws that currently vary based on religious beliefs, such as the Hindu Code Bill and Sharia laws, thereby fostering unity and eliminating the complexities associated with multiple legal systems based on different religions. Moreover, the need for a UCC arises from the fragmented social structure in India, where laws and marriage acts based on caste and religion have led to a divided legal system. The existence of disparate laws not only affects the judicial system but also hinders the resolution of issues like marriage and divorce, as individuals often resort to personal law boards for solutions. By implementing a UCC, vulnerable groups can be protected, and nationalist enthusiasm can be fostered, aligning with the vision of leaders like **Dr B.R. Ambedkar**.

The UCC is envisioned to integrate all castes, religions, classes, and communities into a single legal system, ensuring uniformity and equality in personal matters like marriage, divorce, maintenance, inheritance, adoption, and succession.

## PERSONAL LAWS IN INDIA

Personal laws in India refer to the legal frameworks that apply to individuals based on their religion or community in matters of marriage, divorce, inheritance, adoption, and maintenance. These laws are specific to different religious communities and govern personal matters according to the religious scriptures and traditions of each community. In India, personal laws exist for Hindus, Muslims, Christians, Parsis, and Jews, each having their own set of laws that regulate various aspects of personal life such as marriage, divorce, maintenance, adoption, inheritance, and guardianship. These laws, rooted in religious customs and traditions, coexist alongside secular laws, reflecting the country's diverse cultural and religious landscape.

The existence of personal laws underscores the coexistence of secular legal systems alongside religious laws within a democratic framework, providing a sense of identity and belonging to different communities while also posing challenges in terms of uniformity, gender justice, and national integration.

Ever since the inception of the Indian Constitution to date, the higher judiciary of India including the Supreme Court of India is facing the dilemma of sorting out a satisfactory compromise between two extremes: personal laws which support religious practices and Part III of the Indian Constitution i.e., chapter on fundamental rights. In this connection, it warrants mentioning two important judicial decisions that can throw some light on the dilemma of the interrelation of private law and Part III. The primary such case is the judgment delivered by Bombay High Court in,

*The State of Bombay vs. Narasu Appa Mali.*

This case is per the Bombay prohibition of **Hindu Bigamous Marriage Act, 1946**,’ the Constitutional validity of which was challenged on the idea of Articles 14, 15 and 25 of the Constitution of India.

Two major issues were involved in this case:

* Whether the non-public laws of Hindus or the other community is law within the meaning of Article 13 (3) and (b) and Article 372(3). Explanation?
* Whether an alteration of the private law of one community without an identical alteration in that of others, violates equality?

Bombay supreme court in considering the validity of the Bombay Prevention of the Hindu

Bigamous Marriages Act, 1946, said that private law was not included within the law as under **Article 13(3)** and was not the law in force saved by **Article 372(3)** it had been also declared that Bombay Prevention of **Hindu Bigamous Marriage Act, 1946** is not violative of **Article 14** because the state was free to start social reforms bit by bit. Bombay tribunal during this case ruled that:

* Personal laws do not seem to be laws in force under Article 13 of the Constitution as they are supported religious precepts and customary practice; and
* The principles enshrined within Part III of the Constitution cannot be applied to the personal laws.

It is pertinent that the Bombay tribunal has said a sharp distinction must be drawn between religious faith and belief and spiritual practices. In keeping with the court, what the state protects is religious faith and belief. If religious practices run counter to public order, morality, health, or policy of welfare upon which has embarked, then the religious practices must settle before the great process of the state as a full.

**CONSTITUTIONAL VALIDITY OF PERSONAL LAWS**

In the context of personal laws, the doctrine of the reviewing was always surrounded by the constitutional objectives i.e., Uniform Civil Code (UCC). The courts, while managing the constitutional validity of personal laws, and being concerned for Uniform Civil Code (UCC) could not refrain itself from discussing it. The Supreme Court of India in Md. Ahmed Khan v. Shah Bano Begum, ruled against the beliefs of Muslim personal laws by granting maintenance appeal to a Muslim divorced lady under Section 125 of Cr.P.C, despite refusal under Muslim personal law. Shah Bano, a Muslim woman, had been divorced by her husband. She had then filed a suit for maintenance under Section 125 of Cr.P.C. When the case was before the Magistrate Court, the difficulty was regarding the right of a divorced Muslim woman to assert maintenance from her husband under the secular legal provision, Section 125 of Cr.P.C, which the court have given an order for maintenance of a sum not surpassing Rs. 500/-. But when the matter was transferred to the Supreme Court of India, the case involved a considerable question of law. By supporting the appeal of Shah Bano, refuses for the identity under Muslim personal law, as forbidden under Article 44 of the Constitution of India, the Supreme Court declared that Parliament would take steps to establish UCC. The Muslim fundamentalists were distributed by that call. In Shayara Bano v Union of India, **Ms. Shayara Bano** and her husband, **Mr. Rizwan**

**Ahmed** got married in April 2002 in Uttar Pradesh. Ms. Bano claimed that her husband ‘compelled’ her family to give dowry for the marriage. She stated that her husband and his family drugged, abused, and eventually abandoned her while she was sick when her family could not provide additional dowry.

In October 2015 **Mr. Ahmed** divorced **Ms. Bano** through the practice of talaq-e-biddat, also known as instantaneous triple talaq. Talaq-e-biddat is a religious practice that allows a man to divorce his wife instantly by saying the word ‘talaq’ thrice. The practice does not require the wife’s consent.

**Ms. Bano** filed a writ petition at the Supreme Court in February 2016 challenging the constitutionality of talaq-e-biddat, polygamy, and nikah-halala. Polygamy as an Islamic religious practice allows men to marry more than one woman at a time. If a Muslim woman wants to remarry their first husband following a divorce, nikah-halala requires them to first marry and subsequently divorce her second husband.

**Ms. Bano** claimed that these practices violate the Right to Equality, the Right against Discrimination, and the Right to Livelihood. She further argued that these practices were not protected by the Right to Freedom of Religion—religious freedom is subject to other fundamental rights, public order, morality, and health.

On February 16th, 2017, the SC directed the All-India Muslim Personal Law Board (AIMPLB), the Union Government, and women’s rights groups such as the Bebaak Collective and the Bhartiya Muslim Mahila Andolan, to give written submissions addressing the matter. All of these groups, besides the AIMPLB, filed submissions in support of **Ms.**

**Bano.**

While the AIMPLB conceded that Shariat strongly condemns the practice of talaq-e-biddat, they argued that the Court could not review uncodified Muslim personal law. They further argued that these practices were essential to Islam and protected by the Right to Freedom of Religion.

On March 30th, 2017, the SC created a 5-Judge Constitution Bench to hear the matter. The Bench comprised Chief Justice J.S. Khehar and Justices Kurian Joseph, R.F. Nariman, U.U. Lalit and Abdul Nazeer. The Bench heard the case between May 11th and May 19th, 2017, and delivered the Judgment on August 22nd, 2017. In a 3:2 split, the majority held that the practice of talaq-e- biddat was ‘manifestly arbitrary’ and unconstitutional. Chief Justice Khehar and Justice Nazeer dissented, stating that talaq-e-biddat was protected by the Right to Religion and that it was the job of Parliament to frame a law to govern the practice.

Two years later in July, Parliament enacted the Muslim Women (Protection of Rights on Marriage) Act, 2019 which made the practice of talaq-e-biddat a criminal act, punishable with up to three years imprisonment. The Jamiat Ulama-I-Hind, Samastha Kerala Jamiathul Ulema, and the President of the Rashtriya Ulema Council challenged this Act in separate petitions at the Supreme Court in August 2019. However, the Court is yet to begin hearing arguments in the matter.

**CONSTITUTIONAL PROVISIONS**

The Constitution of India, under Article 44, enshrines the Directive Principle that the state shall endeavor to secure a Uniform Civil Code for its citizens. Yet, the decision to enact a UCC is left to the discretion of the government, recognizing the intricate nature of the issue.

Despite numerous discussions over the years, successive governments have grappled with the challenge of implementing a UCC due to its contentious and politically sensitive nature.

**Different Civil Codes in India:**

In India, personal laws governing various aspects of life are deeply rooted in religious texts and customs, resulting in distinct civil codes for different religious communities.

**Hindu Personal Law:**

Governed by acts like the Hindu Marriage Act, 1955, and the Hindu Succession Act, 1956, Hindu personal laws derive from ancient religious texts and customs. These laws ensure equal inheritance rights for Hindu women, a significant step towards gender equality.

**Muslim Personal Law:**

Muslims in India follow the Muslim Personal Law, based on Shariah principles. The Muslim Personal Law (Shariat) Application Act, 1937, regulates matters such as marriage, divorce, inheritance, and maintenance among Muslims.

**Other Communities:**

Christians, Parsis, and Jews are governed by the Indian Succession Act of 1925, each with its own provisions concerning marriage, inheritance, and related matters.

## Law Commission’s Views on Uniform Civil Code

The Law Commission of India has periodically examined the issue of the Uniform Civil Code (UCC) and its implications for Indian society. Some notable observations made by the Law

Commission are as follows:

21st Law Commission of India (headed by **Justice Balbir Singh** Chauhan)

* This commission expressed the view that implementing a UCC might not be necessary or desirable at this time. Instead, it suggested a series of reforms within various personal laws pertaining to different communities.
* Thus, it recommended amendments and changes to existing family laws with the aim of ensuring justice and equality within all religions, rather than proposing a single uniform law. 22nd Law Commission of India (headed by **Justice Rituraj Awasthi**)
* This commission has issued a consultation paper on the UCC, seeking public feedback on the issue.
* Diverse sections of the population including religious organizations, legal experts, policymakers, and civil society groups have been asked to furnish their views regarding the feasibility, implications, and potential framework for a UCC.

## Controversies Surrounding UCC

The debate on the Uniform Civil Code is multifaceted, reflecting India's religious, cultural, and political diversity.

* Religious and Cultural Diversity: Critics argue that a UCC could undermine India's rich religious and cultural diversity by replacing individual religious laws with a uniform code. They fear it might impinge upon religious freedom and erode the country's cultural fabric.
* Protection of Minority Rights: Opponents express concerns about the impact on minority communities, whose personal laws are integral to their religious identity. They worry that a UCC could dilute their rights and cultural autonomy, essential in a pluralistic society like India.
* Political Considerations: The UCC often becomes a tool for political maneuvering, with parties using it to appeal to their voter base. However, genuine discussions on its merits and drawbacks often take a back seat to political calculations.
* Gender Equality and Women's Rights: Proponents argue that a UCC would promote gender equality by eliminating discriminatory practices in certain personal laws. However, opponents believe gender justice can be achieved within existing frameworks without compromising religious freedoms.
* National Integration: Some view a UCC as a means to foster national integration and strengthen secular values. Yet, the complexity and sensitivity of the issue highlight the challenges of achieving consensus in a diverse society like India.

## Status of the Uniform Civil Code in India

● As of now, India does not have a Uniform Civil Code (UCC) implemented at the national level. Instead, different personal laws based on religious customs and practices govern matters such as marriage, divorce, inheritance, and adoption for different religious communities. ● However, over the years, the central government as well as some states have made certain efforts towards the implementation of UCC. These efforts can be seen under the following two heads:

Steps taken by the Centre

### Special Marriage Act, 1954

It was enacted to provide a secular alternative in marriages. It lays down provisions for civil marriage for the people of India and all Indian nationals in foreign countries, irrespective of religion or faith followed by either party.

### Hindu Code Bills

The Hindu Code Bills, passed by the Parliament during the 1950s, are seen as a step towards the UCC. The following 4 Acts enacted under it seek to codify and bring uniformity in personal laws within the Hindu community:

* The Hindu Marriage Act, 1955
* The Hindu Succession Act, 1956
* The Hindu Minority and Guardianship Act, 1956
* The Hindu Adoption and Maintenance Act, 1956

Note: The term ‘Hindu’ also includes Sikhs, Jains, and Buddhists for the purpose of these laws.

Steps taken by the States

### Goa

● Goa is the first state in India to have a Uniform Civil Code. After India annexed the territory in 1961, the Parliament enacted a law for continued application of the Portuguese Civil Code of 1867.

○ This law in Goa is known as the Goa Civil Code or Goa Family Code and applies to all Goans, irrespective of their religious or ethnic community.

### Uttarakhand

● Recently, Uttarakhand has passed the Uttarakhand Uniform Civil Code Bill 2024, becoming the first state in India to implement a Uniform Civil Code (UCC).

○ The Bill provides for a common law for matters such as marriage, divorce, inheritance of property, etc., and applies to all residents of Uttarakhand except Scheduled Tribes.

### Present Status

* Nationwide implementation of a Uniform Civil Code remains an elusive goal.
* As of now, most of the aspects related to marriage and divorces of persons belonging to different religions continue to be governed by their respective personal laws such as:

○ Hindu Marriage Act (1955)

○ Muslim Personal Law (Shariat) Application Act (1937)

○ Christian Marriage Act (1872)

○ Parsee Marriage and Divorce Act (1937)

**Minority Rights in Context of UCC**

Minority rights are enshrined in the Indian Constitution to protect cultural, religious, and educational freedoms of religious and linguistic minorities. Articles 25-28 guarantee freedom of religion, while Articles 29 and 30 specifically protect the rights of minorities to preserve their distinct cultural and religious identities. The introduction of a UCC brings to the forefront concerns about safeguarding these rights in a diverse society where personal laws are closely tied to religious identities.

**Freedom of Religion**: Article 25 guarantees individuals the freedom to profess, practice, and propagate religion, which implies a choice in adhering to personal laws that align with one's faith. With the UCC, there's concern that minority communities may perceive a threat to these freedoms if uniform laws override specific religious practices.

**Cultural Autonomy**: Article 29 protects the right to conserve distinct languages, scripts, or cultures, and personal laws form part of cultural identity for many communities. The implementation of the UCC needs to balance these sensitivities to avoid diminishing cultural diversity or imposing a homogenous standard that may dilute minority identities.

**Educational Rights and Property**: Articles 30 and 31 allow minorities to establish and administer educational institutions, and property rights under personal laws (such as inheritance and succession) are integral. The UCC could potentially affect these traditional rights, particularly for communities that adhere to different rules for property distribution or seek specific inheritance structures aligned with their religious beliefs.

Critics of the UCC argue that religious pluralism and minority rights may be jeopardized if a standardized code overrides personal laws. They suggest that the UCC should be crafted with input from all communities, ensuring that the diverse beliefs and practices of India's religious groups are respected and accommodated. The Supreme Court of India has stressed that the UCC should evolve gradually and inclusively, reflecting the multi-religious nature of Indian society.

In conclusion, the UCC debate in India underscores a delicate balance between advancing equality and preserving minority rights. A thoughtful, consultative approach that respects India's pluralistic ethos while seeking to remove inequalities is vital for any progression toward a UCC that safeguards minority rights.

**Way Forward**

■ **Inclusive Dialogue- Building Consensus Through Consultation**: The way forward for **UCC must involve extensive, nationwide consultations** with diverse stakeholders. There is need to be extensive dialogue and consultation with all stakeholders, including religious communities, legal experts, policymakers, and civil society organizations, to understand concerns and perspectives regarding the UCC.

■ **Phased Implementation-A Gradual Approach to Change:** Rather than an abrupt overhaul, a **phased implementation of UCC could be more feasible** and less disruptive.

○ This could start with **areas of broad agreement**, such as **standardizing the legal age of marriage, equal rights to female or inheritance rights.**

○ Implementing the UCC in a phased manner, starting with areas where there is least **resistance and gradually expanding its scope**, can help **mitigate concerns and ensure a smoother transition.**

■ **Constitutional Safeguards- Protecting Minority Rights:** Any UCC implementation should include **robust constitutional safeguards to protect minority rights and cultural practices.** A UCC should be drafted in such a manner that respects **religious diversity while promoting gender equality and justice is crucial.**

■ **Evidence-Based Reform-Learning from State-Level Initiatives:** The way forward should involve careful study of existing state-level initiatives related to personal law reforms. This evidence-based approach can inform the design of a national UCC, highlighting successful strategies and potential pitfalls. It can also provide concrete data to support or modify arguments for and against UCC.

■ **Monitoring and Evaluation:** As and when a UCC is implemented, a mechanism should be established for monitoring its implementation and evaluating its impact on society. This will help make necessary adjustments and improvements and smoothen the process of its implementation.

■ **Political Will**: Political leaders must demonstrate leadership and a strong will to navigate through the complexities and challenges associated with the UCC implementation.

■ In conclusion, the Uniform Civil Code (UCC) stands as a critical imperative for India’s journey towards social justice, equality, and secularism. Despite some drawbacks and implementational challenges, UCC offers immense potential benefits. From ensuring gender equality and social cohesion to simplifying legal procedures and fostering modernization, the UCC holds the promise of protecting the oppressed as well as promoting national unity and solidarity.

NOTE FOR THE PARTICIPANTS

The Executive Board hopes that this background guide helped you by serving as the foundation of your research, as it was intended to. This background guide is only the starting point of your research and not an exhaustive document. Since the topic is vast and profoundly linked with the history of India, the executive board recommends all participants delve deep into the agenda, and explore political stances, legal and judicial aspects, case studies etc. This committee aims to have an in-depth look towards UCC which will be full of fruitful discussions and deliberation in order to form a consensus regarding the agenda.

Ensure that you make all efforts to maintain the required decorum and adhere to the rules of procedure of the committee when in session.

**ALL THE BEST.**