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Constitutionality of Uniform Civil Code

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Constitutionality of Uniform Civil Code

In News: Uttarakhand's Uniform Civil Code Committee Justice (Retd.) Ranjana Prakash Desai, the committee's chairperson, also launched a web portal (www.ucc.uk.gov.in) through which the residents of Uttarakhand and other stakeholders can directly upload their suggestions.

Uniform Civil Code:

- A Uniform Civil Code means that all sections of the society irrespective of their religion shall be treated equally according to a national civil code, which shall be applicable to all uniformly.
- It covers areas like marriage, divorce, maintenance, inheritance, adoption and succession of property.
- It is based on the premise that there is no connection between religion and law in modern civilization.
- The term, 'Uniform Civil Code' is explicitly mentioned in Part 4, Article 44 of the Indian Constitution.
- Article 44 says, "The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

UCC in India:

- Goa's Portuguese Civil Code of 1867 is an example of a common family law prevalent in a State.
- The promulgation of the UCC emerges as a positive obligation and not a duty of the State under Article 44 of the Constitution in the Directive Principles of State Policy (DPSP).
- It says "the State shall endeavour to secure a UCC for the citizens throughout the territory of India".
- **Does "State" in Article 44 mean the Union or the States?**
- Article 12 of the Constitution defines the "State" to include the Union and State governments, Parliament and State Legislatures, and even local authorities.
- Besides, entry five of the Concurrent List in the Seventh Schedule of the Constitution empowers both the Union and States to make laws on marriage, divorce, infants, minors, adoption, wills, intestacy, and succession.
- However, the Supreme Court argued that promulgation of a UCC by an individual State may clash with Central statutes governing marriage and succession.

Supreme Court judgment on State Right UCC:

1 Jose Paulo Coutinho judgment of the court in 2019

- The Jose Paulo Coutinho judgment of the court in 2019 found Goa a "shining example of an Indian State which has a UCC". But it has also questioned the wisdom of enacting a uniform law in a pluralist society in "one go".

2 Pannalal Bansilal Pitti judgment

- The Supreme Court had observed in the Pannalal Bansilal Pitti judgment that a uniform law may be counterproductive to unity and integrity of the nation. Making law or amendment to a law is a slow process

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and the legislature attempts to remedy where the need is felt most acute.

Uniform Civil Code will be an impactful step towards Article 44 that provides for UCC for all citizens. This UCC will be for equal laws on subjects like marriage, divorce, land, property and inheritance for people of all religions. But at the same time such a move by the state government should not be counterproductive to the unity and integrity of the nation.