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Uniform Civil Code

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Why is in news? The Uttarakhand Assembly is likely to pass the State's Uniform Civil Code (UCC) Bill during its four-day-long session in February. A State-appointed panel constituted to draft the UCC submitted its final report to Chief Minister Pushkar Singh Dhami on February 2.

The Uttarakhand government announced the constitution of a **five-member committee** led by former Supreme Court judge **Justice Ranjana Prakash Desai** to draft the legislation.

The committee **received over 2.15 lakh suggestions** from the public and held over 38 public meetings across the state over the course of preparing the draft. The government had granted four extensions to the committee within a span of 20 months for the submission of its report.

About:

UCC is one that would provide for **one law for the entire country**, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc.

Article 44 of the Constitution lays down that the state shall endeavour to secure a UCC for the citizens throughout the territory of India.

Article 44 is one of the Directive Principles of State Policy (DPSP).

DPSP as defined in **Article 37**, are **not justiciable (not enforceable)** by any court) but the principles laid down therein are fundamental in governance.

Personal Laws in India:

Currently, **not only Muslims but also Hindus, Jains, Buddhists, Sikhs, Parsis, and Jews** are governed by their own personal laws.

Personal laws are determined **based on religious identity**.

The reformed Hindu Personal Law still incorporates certain traditional practices.

Differences arise when Hindus and Muslims marry under the Special Marriage Act, where Hindus continue to be governed by Hindu Personal Law, but Muslims are not.

Status of Uniform Codes in India:

Indian laws do follow a **uniform code in most civil matters** such as **Indian Contract Act 1872, Civil Procedure Code, Transfer of Property Act 1882, Partnership Act 1932, Evidence Act, 1872 etc.**

States, however, have made hundreds of amendments and, therefore, in certain matters, there is diversity even under these secular civil laws.

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Recently, several states refused to be governed by the **uniform Motor Vehicles Act, 2019**.

In order to bring uniformity, the courts have often said in their judgements that the government should move towards a UCC.

Important Cases Related to UCC:

Shah Bano Begum v. Mohammad Ahmed Khan (1985):

The Supreme Court **upheld the right of a Muslim woman to claim maintenance from her husband** under Section 125 of the Criminal Procedure Code, **even after the expiry of the Iddat period**. It also observed that a UCC would help in removing contradictions based on ideologies.

Sarla Mudgal v. Union of India (1995):

The Supreme Court held that a **Hindu husband cannot convert to Islam and marry another woman without dissolving his first marriage**. It also stated that a UCC would prevent such fraudulent conversions and bigamous marriages.

Shayara Bano v. Union of India (2017):

The Supreme Court declared the **practice of triple talaq as unconstitutional and violative of the dignity and equality of Muslim women**. It also recommended that the Parliament should enact a law to regulate Muslim marriages and divorces.

Advantages of UCC:

Uniformity in cases: India does have uniformity in most criminal and civil matters like the Criminal Procedure Code, Civil Procedure Code etc.

Gender Justice: If a UCC is enacted, all personal laws will cease to exist. It will do away with gender biases in existing laws.

Secularism: A secular nation needs a common law for all citizens rather than differentiated rules based on religious practices.

Simplification and Rationalisation of the Legal System: UCC would simplify and rationalise the legal system by removing the complexities and contradictions of multiple personal laws.

Modernisation and Reform of Outdated and Regressive Practices: UCC would modernise and reform the outdated and regressive practices that are prevalent in some personal laws.

It would **eliminate the practices** that are **against the human rights and values enshrined in the Constitution of India, such as triple talaq, polygamy, child marriage, etc.**

It would also **accommodate the changing social realities and aspirations** of the people.

Various communities in India: Example: All Hindus are not governed by a homogenous personal law even after the enactment of the Hindu Code Bill.

Shariat Act: There is no uniform applicability when it comes to the Muslim personal law or the Shariat Act 1937.

Hindu Marriage Act of 1955: It prohibits marriages amongst close relatives but they are considered auspicious in the south of India.

Hindu Succession Act of 1956: Wives are not coparceners (a person who shares equally with others in the inheritance of an undivided estate) nor do they have an equal share in inheritance.

Disadvantages of UCC:

Plurality in already codified civil and criminal laws: So concept of 'one nation, one law' cannot be applied to diverse personal laws of various communities.

Constitutional law experts: Framers did not intend total uniformity.

Example: Personal laws were placed in Concurrent List (power to legislate being given to Parliament and State Assemblies).

Customary laws: Many tribal groups in the country, regardless of their religion, follow their own customary laws.

Communal Politics: The demand for a uniform civil code is considered to be framed in the context of communal politics.

Article 25: It seeks to preserve the freedom to practice and propagate any religion.

Lack of political will and consensus: There is a lack of political will and consensus among the government, the legislature, the judiciary and the civil society to initiate and implement UCC. There are also apprehensions that UCC could provoke communal tensions and conflicts in the society.

Practical Difficulties and Complexities: UCC would require a massive exercise of drafting, codifying, harmonising and rationalising the various personal laws and practices in India.

It would require a wide consultation and participation of various stakeholders, including religious leaders, legal experts, women's organisations, etc.