



## ESSAY WRITING

### UNIVERSAL CIVIL CODE

TYPE- A

TYPE- B

### QUOTES

***"Without a Uniform Civil Code, labeling India be Secular nation is just a illusion. Uniform Civil Code is necessary for India so that the same laws are valid for every citizen without taking religion into consideration."***

***All communal dispute will end,  
when Uniform civil code become brand.***



## INTRODUCTION-1

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. They cover areas like- Marriage, divorce, maintenance, inheritance, adoption and succession of the property. It is based on the premise that there is no connection between religion and law in modern civilization.

## INTRODUCTION-2

**Uniform Civil Code** refers formulation and implementation of such personal laws of citizens that apply to all citizens equally regardless of their caste, creed and religion. At present, personal laws of different communities are different and it is governed according to their religious text and scriptures.

Formulation and Implementation of a **uniform civil code** across the nation is one of the contentious matters prevailed in the country since before independence. It is an important issue regarding secularism in Indian politics.

## INTRODUCTION-3

**Uniform Civil Code** is a set of three words i.e. Uniform, Civil and Code. Here, Uniform refers 'not varying or the same in all cases', Civil refers 'connected with the people who live in a country' and code refers 'a systematic statement of law or a set of law'. Thus this denotes that civil rules should be equal for all the people irrespective of their religion.

### What is Article 44?

Article 44 corresponds with Directive Principles of State Policy stating that State shall endeavor to provide for its citizens a uniform civil code (UCC) throughout the territory of India.

## 'DIRECTIVE PRINCIPLES CALL FOR UCC'

- SC favours **UCC throughout India** as envisaged under Article 44 of the Directive Principles in the Constitution
- Cites **example of Goa**, says the **state has a UCC for all** irrespective of their religion and no provision for triple talaq
- Says Muslim men whose marriages are registered in Goa cannot practise polygamy
- Says **no attempt made to frame a UCC despite SC appeals** in Shah Bano and Sarla Mudgal cases
- Hindu laws codified in 1956

“ It is interesting to note that whereas the founders of the Constitution in Article 44 in Part IV dealing with Directive Principles of state policy had hoped and expected that the state shall endeavour to secure for the citizens a uniform civil code throughout the territories of India, till date no action has been taken in this regard

—SUPREME COURT BENCH



## Historical perspective

**Pre-Independence (colonial era)** The Lex Loci Report of October 1840- It stressed the importance and necessity of uniformity in the codification of Indian law, relating to crimes, evidence and contract. But, it also recommended that personal laws of Hindus and Muslims should be kept outside such codification. The Queen's 1859 Proclamation- It promised absolute non-interference in religious matters. So while criminal laws were codified and became common for the whole country, personal laws continue to be governed by separate codes for different communities.

## Historical perspective

### Post-Colonial era (1947-1985)

During the drafting of the constitution, prominent leaders like Jawaharlal Nehru and Dr B.R Ambedkar pushed for a uniform civil code. However, they included the UCC in the Directive Principles of State Policy (DPSP, Article 44) mainly due to opposition from religious fundamentalists and a lack of awareness among the masses during the time.

### Some of the reforms of this period were:-

**The Hindu code bill** -The bill was drafted by Dr.B R Ambedkar to reform Hindu laws, which legalized divorce, opposed polygamy, gave rights of inheritance to daughters. Amidst intense opposition of the code, a diluted version was passed via four different laws.

**Succession Act**-The Hindu Succession Act, 1956, originally did not give daughters inheritance rights in ancestral property. They could only ask for a right to sustenance from a joint Hindu family. But this disparity was removed by an amendment to the Act on September 9, 2005.

- ✚ **The Hindu Marriage Act**
- ✚ **Minority and Guardianship Act**
- ✚ **Adoptions and Maintenance Act**
- ✚ **Special Marriage Act**

It was enacted in 1954 which provided for civil marriages outside of any religious personal law.

### Shah Bano case (1985):-

A 73-year-old woman called Shah Bano was divorced by her husband using triple talaq.

### Daniel Latifi Case:-



Muslim Women's Act (MWA) was challenged on the grounds that it violated the right to equality under Articles 14 & 15 as well as the right to life under Article 21.

### **Sarla Mudgal Case:-**

In this case, the question was whether a Hindu husband married under the Hindu law, by embracing Islam, can solemnise a second marriage.

### **John Vallamattom Case:-**

In this case, a priest from Kerala, John Vallamattom challenged the Constitutional validity of Section 118 of the Indian Succession Act, which is applicable for non-Hindus in India.

## **The Constitution of India on the Uniform Civil Code**

Part IV, Article 44 of the Constitution states that **"The State shall endeavour to secure the citizen a Uniform Civil Code throughout the territory of India"**.

However, Article 37 of the Constitution itself makes it clear the DPSP "shall not be enforceable by any court". Nevertheless, they are "fundamental in the governance of the country". This indicates that although our constitution itself believes that a Uniform Civil Code should be implemented in some manner, it does not make this implementation mandatory.

### **Other constitutional provisions relating to religious freedom and secularism are:**

Article 15- No discrimination on grounds of religion, race, caste, sex or place of birth.

Article 25- Freedom of conscience and free profession, practice and propagation of religion, subject to reasonable restrictions on the grounds of public order, health and morality.

Article 25 (2)-provides for regulating secular activities associated with religious practices, social welfare and reform.

Article 26- Right to establish and administer religious institutions.

Article 27- Prohibits the state from levying a tax, proceeds of which are used for the benefit of a particular religion.

Article 28- deals with the issue of religious instruction in educational institutions.

The 42nd Constitutional Amendment Act inserted the word 'secularism' in the preamble. In the S.R.Bommai vs Union of India case, the Supreme Court held secularism as a basic feature of the constitution.

### **Goa Civil Code**



Goa is the only Indian state to have a UCC in the form of common family law. The Portuguese Civil Code that remains in force even today was introduced in the 19th century in Goa and wasn't replaced after its liberation.

## The Pros and Cons of Uniform Civil Code (UCC)

### The Pros of UCC

1. Provide equal status to all citizens.
2. Promote gender parity.
3. Accommodate the aspirations of the young population.
4. To support the national integration.
5. Bypass the issue of reform of existing personal laws.

### The Cons of UCC

1. Practical difficulties due to diversity in India.
2. Perception of UCC as encroachment on religious freedom.
3. Interference of state in personal matters.
4. It is a sensitive and tough task to implement.
5. The Time is not yet suitable for this reform.



### Suggestions for Implementing a Uniform Civil Code:

To realize the goals of the DPSP and to maintain the uniformity of laws, the following suggestions need immediate consideration:

- A progressive and broadminded outlook should be encouraged among the people to understand the spirit of the UCC. For this, education, awareness and sensitisation programmes must be taken up.
- The Uniform Civil Code should be drafted keeping in mind the best interest of all the religions.
- A committee of eminent jurists should be constituted to maintain uniformity and care must be taken not to hurt the sentiments of any particular community.
- The matter being sensitive in nature, it is always better if the initiative comes from the religious groups concerned.

## CONCLUSION-1

India has a unique blend of codified personal laws of Hindus, Muslims, Christians, Parsis. There exists no uniform family-related law in a single statute book for all Indians which is acceptable to all religious communities who co-exist in India. However, a majority of them believe that UCC is definitely desirable and would go a long way in strengthening and consolidating the Indian nationhood. The differences of opinion are on its timing and the manner in which it should be realized.

## CONCLUSION-2

Instead of using it as an emotive issue to gain political advantage, political and intellectual leaders should try to evolve a consensus. The question is not of





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