



सत्यमेव जयते

# LOK SHABA

## BACKGROUND GUIDE

**AGENDA -"An Advanced Examination of the Uniform Civil Code and its Nexus with the 2024 Lok Sabha Election Alliances, with a Special Emphasis on The Indian National Developmental Inclusive Alliance (I.N.D.I.A) and the National Democratic Alliance (N.D.A)."**

### INTRODUCTION TO THE COMMITTEE

The Lok Sabha is composed of representatives of people chosen by direct election on the basis of Universal Adult Suffrage. The Constitution of India allows for a maximum of 550 members in the House, with 530 members representing the States and 20 representing the Union Territories. At present, the Lok Sabha has 543 seats filled by elected representatives. The term of the Lok Sabha, unless dissolved, is five years from the date appointed for its first meeting. However, while a proclamation of emergency is in operation, this period may be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case, beyond a period of six months after the proclamation has ceased to operate.

### INTRODUCTION TO THE ISSUE

In 1840, on the basis of *Lex Loci* Report, Uniform Law was framed for crimes, evidences and contract but some personal laws of the Hindus and the Muslims were left out. On the other hand, the British Indian Judiciary had facilitated uniform application by the British Judges under the English Laws. Besides, in those days many social reformers were voicing to make laws to do away with the discrimination against women done under the *Sati* and other religious customs.

In the Constituent Assembly, while on the one hand there were people like Dr. B.R. Ambedkar who desired reform in the society and wanted to accept the Uniform Civil Code, there were also Muslim representatives who took side to retaining the Personal Laws based on religious

enshrines. As a result, regarding the Uniform Civil Code, only one line could be added as article 44 under Part IV as Directive Principles of State Policy in the Constitution. In this article it is stated that the State shall endeavour to secure for citizens a Uniform Civil Code throughout the territory of India. Since the Uniform Civil Code has been included in the Directive Principles of State Policy of the State, hence this cannot be enforced.

Besides, no Government showed proper will power to implement these constitutional provisions, because the minorities, especially the Muslims believed that the Uniform Civil Code will lead to the violation of their personal laws. Hence, only to compile the Hindu Laws, the Acts like the Hindu Marriage Act, 1955, the Hindu Succession Act 1956, the Hindu Minority and guardianship Act, 1956 and the Hindu Adoptions and Maintenance Act, 1956 were enacted. In these Acts along with the Buddhist, Sikh, Jain, laws related to different religious communities of the Hindus are included *vide* which women have been given right to divorce and succession and caste has been termed irrelevant for marriage. Also, polygamy has been done away with.

In the present context, it seems our country is divided into three classes on Uniform Civil Code, namely political, social and religious. In the ***Shah Bano Case***, the Supreme Court decided that section 125 of the Code of Criminal Procedure 1973 is applicable to all irrespective of religion, caste or community. The court directed that *Shah Bano* must be provided with living expenses. The then Chief Justice Y.V. Chandrachud said that Uniform Civil Code would end the dissimilarities in the Indian law which would help in establishing national unity. Hence, the Supreme Court had observed that the Parliament may make law related to the Uniform Civil Code.

***Sarla Mudgal Case vs. the Union of India*** is the second example *vide* which the Supreme Court under article 44 had again directed the Government. The Supreme Court said that adopting Islam for marriage is a misuse of the personal laws. It said that a Hindu marriage can be dissolved only under the Hindu Marriage Act, 1955 which means after adopting Islam the marriage done thereafter cannot be dissolved under the Hindu Marriage Act and it is a crime under section 494(5) of the Indian Penal Code.

In ***John Vellamettam vs. Union of India***, the Supreme Court declared the section 118 of the Indian Succession Act, 1925 as unconstitutional. The then Chief Justice of India Justice Khare observed that "it is mentioned in article 44 that the State will strive to provide Uniform Civil Code to all citizens in its entire territory, but it is a matter of regret that article 44 has not been given effect to. He also opined that a Uniform Civil Code would help the cause of national integration by removing the contradictions on the grounds of ideologies.

The decision to implement the Juvenile Justice (Care and Protection of Children) Act seems to be a step towards Uniform Civil Code since this Act permits the people of muslim community to adopt children whereas Muslims are not permitted or allowed to adopt children under their personal laws. Recently, the Supreme Court has again asked the Government to implement the Uniform Civil Code so as to end gender inequality and wrong traditions prevalent under the personal laws.

Under the Uniform Civil Code a collection of laws will be prepared which will protect the personal rights of all citizens without considering the religion, which seems to be the need of the hour. In reality this is the foundation stone of secularism. Such progressive reforms will not only help to end discrimination against women but also help in strengthening the secular structure and encourage integrity. In fact our social system is replete with injustice, discrimination and corruption which is in conflict with our fundamental rights, hence it needs to be reformed. Already there is Penal Code in our country which is equally applicable to all without considering the religion, caste and domicile. But there is no uniform law in our country with regard to divorce and succession and these subjects are controlled by the personal laws. Hence the Uniform Civil Code should be ensured to all citizens residing in areas where the population of entire geographical area resides.

## **Uniform Civil Code and Arguments For & Against**

### **Arguments in favour of the Uniform Civil Code:**

- It will Integrate India- India is a country with many religions, customs and practices. A uniform civil code will help in integrating India more than it has ever been since independence. It will help in bringing every Indian, despite his caste, religion or tribe, under one national civil code of conduct.
- Will Help in Reducing Vote Bank Politics- A UCC will also help in reducing vote bank politics that most political parties indulge in during every election.
- Personal Laws Are a Loophole- By allowing personal laws we have constituted an alternate judicial system that still operates on thousands of years old values. A uniform civil code would change that.
- Sign of a modern progressive nation- It is a sign that the nation has moved away from caste and religious politics. While our economic growth has been significant, our social growth has lagged behind. A UCC will help society move forward and take India towards its goal of becoming a truly developed nation.
- It will Give More Rights to Women- Religious personal laws are misogynistic in nature and by allowing old religious rules to continue to govern the family life we are condemning all Indian women to subjugation and mistreatment. A uniform civil code will also help in improving the condition of women in India.
- All Indians Should be Treated the Same- All the laws related to marriage, inheritance, family, land etc. should be equal for all Indians. UCC is the only way to ensure that all Indians are treated the same.
- It Promotes Real Secularism- A uniform civil code doesn't mean that it will limit the freedom of people to follow their religion, it just means that every person will be treated the same and all citizens of India have to follow the same laws regardless of any religion.
- Change has been the law of nature-A minority of people should not be allowed to pick and choose the laws they want to be administered under. These personal laws were formulated in a specific spatiotemporal context and should not stand still in a changed time and context.
- Many provisions of specific personal laws are in violation of human rights.
- Article 25 and Article 26 guarantee the freedom of religion and UCC is not opposed to secularism.

- The codification and unification of the variegated personal laws will produce a more coherent legal system. This will reduce the existing confusion and enable easier and more efficient administration of laws by the judiciary.

The task of actually devising a set of rules that will govern all communities is a very formidable and tedious one considering the vast range of interests and sentiments to be accounted for.

- **Misinformation about UCC** – Content of UCC has not been spelt out leading minorities to believe that it is a way of imposing majority views on them.
- **Lack of political will due to the complexity and sensitivity of the issue.**
- **Different religious communities have different personal laws which lead to the politicisation of the UCC debate.**

Opponents of UCC argue that personal laws are derived from religious beliefs. They maintain that it is prudent not to disturb them, as this runs the risk of engendering a great deal of animosity and tension between various religious communities. Also, India being a secular country guarantees its minorities the right to follow their own religion, culture and customs under Article 29 and 30. They argue that implementing UCC will contravene these articles.

## 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.

### Features-

- The Uniform Civil Code in Goa is a progressive law that allows equal division of income and property between husband and wife and also between children (regardless of gender).
- Every birth, marriage and death have to be compulsorily registered. For divorce, there are several provisions.
- Muslims who have their marriages registered in Goa cannot practice polygamy or divorce through triple talaq.
- During the course of a marriage, all the property and wealth owned or acquired by each spouse is commonly held by the couple.
- Each spouse in case of divorce is entitled to half of the property and in case of death, the ownership of the property is halved for the surviving member.
- The parents cannot disinherit their children entirely. At least half of their property has to be passed on to the children. This inherited property must be shared equally among the children.

However, the code has certain drawbacks and is not strictly a uniform code. For example, Hindu men have the right to bigamy under specific circumstances mentioned in Codes of Usages and Customs of Gentile Hindus of Goa (if the wife fails to deliver a child by the age of 25, or if she fails to deliver a male child by the age of 30). For other communities, the law prohibits polygamy.

## CONCLUSION

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.

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 minority protection, or even of national unity, it is simply one of treating each human person with dignity, something which personal laws have so far failed to do.

## QUESTIONS TO ANSWER

- What are the primary arguments in favor of implementing a Uniform Civil Code, particularly in relation to gender equality and legal uniformity?
- What are the main arguments against the Uniform Civil Code, particularly concerning concerns about cultural diversity and religious freedom?
- What are the specific areas of personal laws that the Uniform Civil Code aims to address, and how do they differ among religious communities?
- What challenges and complexities are associated with drafting and implementing a comprehensive Uniform Civil Code, given India's diverse religious and cultural traditions?
- How can a Uniform Civil Code potentially impact women's rights and gender equality in India, and what safeguards should be in place to protect these rights during the implementation process?
- What are the potential legal and administrative challenges in transitioning from multiple personal laws to a uniform code?
- How can India balance the need for legal uniformity with the preservation of local customs and traditions when implementing a Uniform Civil Code?
- What role do political parties play in shaping the debate and outcomes related to the Uniform Civil Code, and what are the political ramifications of its implementation or non-implementation?
- How does the Uniform Civil Code debate intersect with the broader concept of secularism and the separation of religion and state in India?
- Are there international examples of countries successfully implementing a Uniform Civil Code that can provide insights for India's context?
- How can the concerns of minority religious communities be addressed when discussing the potential implementation of a Uniform Civil Code?
- How does the Uniform Civil Code debate reflect the tension between the principles of individual rights and the preservation of cultural and religious diversity?
- What are the potential social, cultural, and legal implications of implementing or not implementing a Uniform Civil Code for India's society and its legal system?
- How can the Indian government engage with religious and community leaders, legal experts, and civil society to build consensus and address concerns related to the Uniform Civil Code?

## **LETTER FROM THE DIAS**

The information provided above is there to help you with your research and by no means the delegates should limit their research to the above mentioned issues , as earlier mentioned that the agenda covers a wide range of spectrum, some of which are not mentioned here but the delegates should research well so as to take the committee to all the areas which need our focus and need to be worked upon. During the flow of debate, if any motion is raised about any topic which is not covered here but the committee feels is a necessity , the executive board will gladly take it up as learning works both ways. All the delegates are advised to keep a check on their country's internal as well as foreign policies as these play a very important role in the conference. In case of any dispute or issue , the EB can take a decision at any point of time .

Have a fun time debating and learning !

See y'all very soon ! Signing off,

Aly Javid. (AUTHOR)

## **BIBLIOGRAPHY**

[www.india.gov.in](http://www.india.gov.in)

[www.indiacode.nic.in](http://www.indiacode.nic.in)

[www.aljazeera.com](http://www.aljazeera.com)

[www.cambridge.org](http://www.cambridge.org)