
5. Debate around Uniform Civil Code (UCC)

Prelims Level: Policies

Mains Level: GS-II Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Why in News?

- Recently the Supreme Court described Goa as a “shining example” with a Uniform Civil Code and observed that the founders of the Constitution had hoped and expected a Uniform Civil Code for India but there has been no attempt at framing one.

Highlights:

- Article 44 of the Constitution lays down that the state shall endeavour to secure a Uniform Civil Code for the citizens throughout the territory of India.
- A Uniform Civil Code 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 is one of the directive principles. These are not justiciable (not enforceable by any court) but the principles laid down therein are fundamental in governance.
- Article 43 mentions “state shall endeavour by suitable legislation” while the phrase “by suitable legislation” is absent in Article 44. All this implies that the duty of the state is greater in other directive principles than in Article 44.

Fundamental Rights or DPSP?

- The Supreme Court held in *Minerva Mills* (1980): “Indian Constitution is founded on the bed-rock of the balance between Parts III (Fundamental Rights) and IV (Directive Principles).
- To give absolute primacy to one over the other is to disturb the harmony of the Constitution”.
- Article 31C inserted by the 42nd Amendment in 1976, however, lays down that if a law is made to implement any directive principle, it cannot be challenged on the ground of being violative of the fundamental rights under Articles 14 and 19.

Current Civil Code:

- Indian laws do follow a uniform code in most civil matters, Indian Contract Act, Civil Procedure Code, Sale of Goods Act, Transfer of Property Act, Partnership Act, Evidence Act etc.

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- States, however, have made hundreds of amendments and therefore in certain matters, there is diversity even under these secular civil laws.
 - All Hindus of the country are not governed by one law, nor are all Muslims or all Christians. Not only British legal traditions, even those of the Portuguese and the French remain operative in some parts.
 - In the Northeast, there are more than 200 tribes with their own varied customary laws. The Constitution itself protects local customs in Nagaland.
 - Similar protections are enjoyed by Meghalaya and Mizoram. Even reformed Hindu law, in spite of codification, protects customary practices.

