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Uttarakhand Uniform Civil Code

Why in news?

The Uttarakhand government tabled the Uniform Civil Code (UCC) 2024 Bill in the Assembly.

Uniform Civil Code

- It seeks to create a uniform set of laws to replace the distinct personal laws of every religion pertaining to subjects such as marriage, divorce, adoption, and inheritance.
- **Aim-** To replace the existing diverse personal laws that vary based on religious affiliations
- It is defined in Article 44 as part of the *Directive Principles of State Policy* (DPSP), in part of Part IV of the Constitution.
- **Article 44-** It states that 'The State shall endeavour to secure for the citizens a **Uniform Civil Code** throughout the territory of India'.
- **Minerva Mills vs Union of India, 1980-** The Court ruled that striking a balance between fundamental rights and Directive Principles of State Policy was part of the [basic structure of the Constitution](#).
- **Shah Bano Begum case, 1985-** The Court observed that "it is a matter of regret that Article 44 has remained a dead letter" and called for its implementation.
- **Goa-** It is the *only state in India* that has a uniform civil code regardless of religion, gender and caste. It inherited the Portuguese Civil Code, 1867 even after it joined the Indian Union in 1961.
- **Jose Paulo Coutinho case, 2019-** The Court hailed Goa as a shining example where the UCC is applicable to all, regardless of religion except while protecting certain limited rights and urged for its pan-India implementation.
- Dr. B.R. Ambedkar said that although UCC was desirable, it should remain "purely voluntary" during the initial stages. He stated that since the provision was merely recommendatory, it should not be imposed upon all citizens.

What is Uttarakhand Uniform Civil Code?

- **State appointed Committee-** It is led by *retired Supreme Court judge Justice Ranjana P Desai* to examine ways and submit draft for the implementation of a UCC.

If passed by the Assembly, Uttarakhand will be the first State in India to implement such a legislation after Independence.

- **Application-** It is applicable to residents of the state, but only to those who identify

within the binary genders of male and female who are in heterosexual relationships, thus leaving most LGBT persons outside its ambit.

- **Secular laws-** The Code borrows significantly from laws such as The Special Marriage Act, 1954, and The Indian Succession Act, 1925, and repeals all family laws — secular, personal, and customary — to the extent that they are inconsistent with it.
- **Objective-** To establish a legal structure that ensures consistency in marriage, divorce, land, property, and inheritance laws for all citizens within the state, irrespective of their religion.

Key provisions	About
Tribal communities exempted	The tribal communities which comprise 2.9% of Uttarakhand's population have been exempted from the application of the Bill.
Live in relationship	It has been defined as a "relationship between a man and a woman who cohabit in a shared household through a relationship in the nature of marriage."
Registration of live in relationships	<ul style="list-style-type: none"> • It requires compulsory registration of live-in relationships through a "statement of live-in relationship". • It may be terminated by either of the parties to the live-in relationship by submitting a "statement of termination". • A woman is also eligible to claim maintenance in case she is "deserted" by her live-in partner.
Penalty for non-registration of live in relationship	<ul style="list-style-type: none"> • The couples will be served a notice following which criminal prosecution can be initiated against them. • All live-in relationships must be registered within a month or else both partners are liable to Rs 25,000 fine and/or 6 months in jail.
Legal recognition of children born out of wedlock	<ul style="list-style-type: none"> • The Bill abolishes the concept of "illegitimate children". • It extends legal recognition to children born in void and voidable marriages, as well as children born in live-in relationships.
Legal equality of children	• The Code treats adopted, born through surrogacy, or born through assisted reproductive technology on an equal footing with other biological children
Legal age for marriage	The minimum age of marriage to 18 and 21 for Muslim women and men, in line with the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954.
Registration of marriages	<ul style="list-style-type: none"> • Marriages that occur after the enactment of the Bill have to be compulsorily registered regardless of any other existing laws or customs. • The registration will have to be done within 60 days from the date of the marriage. • No marriage can be dissolved without a court order or else it can attract imprisonment up to 3 years.

Divorce proceedings	<ul style="list-style-type: none"> • Men and women have been accorded similar rights with respect to divorce. • Grounds for divorce- Adultery, cruelty, desertion, conversion to another religion, mental disorder, incurable venereal disease, renunciation of the world, absence for 7 years, bigamy and failure to comply with maintenance orders. • In case of divorce, the custody of a child up to 5 years of age remains with the mother.
Voidable marriages	It can be annulled on grounds such as non-consummation, contravention of marriage conditions, force or coercion in obtaining consent, or pregnancy by someone other than the spouse.
Special rights to women to seek divorce	<ul style="list-style-type: none"> • If the husband has been found guilty of rape or any kind of unnatural sexual offence or • If the husband has more than one wife.
Criminalisation grounds in marriage	<ul style="list-style-type: none"> • Child marriage and marrying within prohibited degrees of relationship have been criminalised. • Dissolution of marriage through modes other than the judicial mode of divorce prescribed under the Code is punishable with imprisonment as well as fine. • Compelling, abetting, or inducing any person to observe any condition for remarrying is also punishable with imprisonment up to 3 years.
Prohibition of bigamy or polygamy	The Bill says that neither party has the spouse living at the time of the marriage thus prohibiting bigamy or polygamy.
Degree of prohibited relationship	<ul style="list-style-type: none"> • Two people are considered to be within the "degrees of prohibited relationship" if a common ancestry is shared or if they are the wife/husband of a common ancestor. • This exception applies to those communities where an established custom allow marriage within the degree of prohibited relationship.
Inheritance rights	It ensures equal rights in property for both sons and daughters, regardless of their category.
Equal property rights after death	<ul style="list-style-type: none"> • Following a person's demise, the bill grants equal property rights to the spouse and children. • Additionally, equal rights extend to the deceased person's parents. • This marks a departure from previous laws, where only the mother had rights to the deceased's property.

To know about Kerala's resolution on UCC click [here](#)

What are the cons of the bill?

- **Non recognition of queer relationship-** The bill leaves out the members of [LGBTQIA+](#) community, it is a missed opportunity to follow through on the Supreme Court's decision in the [marriage equality verdict](#).
- **Irretrievable breakdown of marriage-** It has not been included as the ground for divorce despite being recognised in several Supreme Court judgements.
- **Division of matrimonial estate-** The court has the authority to decide how to divide matrimonial property, especially when it is not jointly owned.
- **Against privacy-** The compulsory registration of live-in relationships infringes upon

individual's freedom to choose not to marry, the state should not interfere in the private affairs of the consenting citizens.

It is against the Right to Privacy (Article 21) which is recognised as fundamental right in the Puttaswamy ruling.

What lies ahead?

- Following the footsteps of Uttarakhand, two other States Madhya Pradesh and Gujarat have appointed committees to initiate the formulation of a UCC.
- AS UCC comes under DPSP, it is fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws."

References

1. [The Hindu- What does Uniform Civil Code mean](#)
2. [Indian Express- Uttarakhand Uniform Civil Code](#)
3. [Indian Express- Civil code key changes for Hindus and Muslims](#)



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