



LOK SABHA

AGENDA

**AGENDA-(A): EXAMINING THE
ROLE AND IMPACT OF ARTICLE
356 IN THE CONTEXT OF
FEDERALISM IN INDIA**

**AGENDA-(B): ANALYSING THE
IMPLICATIONS AND FEASIBILITY
OF IMPLEMENTING A UNIFORM
CIVIL CODE IN INDIA**



Agenda

Agenda (A): Examining the Role and Impact of Article 356 in the Context of Federalism in India;

Agenda-(B): Analyzing the Implications and Feasibility of Implementing a Uniform Civil Code in India.

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Letter From the Executive Board

Dear Delegates,

The Lok Sabha Executive Board expresses its immense pleasure to welcome you to the lower house of the Indian Parliament, at the tenth edition of WELMUN.

Being a member of the Lok Sabha is a weighty charge to bear. You have the responsibility of making laws that would directly affect almost 1.5 billion people. This calls for a very thorough and detailed knowledge of the issue that we are addressing. You, as a delegate or an MP, will have to keep in high esteem your party stances and your party policies, the statements made by your co-party workers, and your actions in the past. All of this simply calls for the importance of relevant and in-depth research. We have two agendas for the committee this year:

Agenda-(A): Examining the Role and Impact of Article 356 in the Context of Federalism in India;

Agenda-(B): Analyzing the Implications and Feasibility of Implementing a Uniform Civil Code in India.

The two agendas entail policies which are both controversial, and have the capacity to dramatically alter the functioning of Indian Democracy. Delegates need to carefully stick to their party policies without hindering the quality of debate that is expected of the committee. The committee will need to effectively divide the sessions between the two agendas and come up with solutions that best suit the India of the 21st century. The premise of each agenda needs special attention in particular. As delegates, you need to be especially clear on what aspects of the agendas need discussion and what aspects need to be foregone. For example, in Article 356, the discussion should revolve around whether to make modifications in the article or keep the current provisions. Similarly, the discussion on UCC should focus on its implications in India and not how similar policies have affected other nations.

It will serve as a good starting point for delegates to strategise their stance by seeing the past instances where article 356 has been implemented, and the instances where a need existed but was not enacted. Was it justified for the article to be enacted in Kerala on the two occasions? Should it be enacted in Punjab? Why was it implemented in Kashmir? Why should it not be implemented in Delhi, when its Chief Minister was jailed? Is article 356 a lifeline, or is it an anti-democratic tool, as many say it is? Thinking out of the standard line of thought may enhance any delegate's purview of the agenda, given the highly unconventional nature of agenda (a).

However, what we also want is for delegates to have an exciting MUN experience, and make memories that will last them a lifetime. Conferences like these are not only an opportunity to win awards, but to take positive learning experiences and have good doses of fun as well. All in all, expect three days of exhilarating debate and artful diplomacy which will hopefully lead to fruitful sessions.

Please feel free to contact the Executive Board for any queries.

Looking forward to seeing you this fall.



The Executive Board Lok Sabha

Jaap Sardana
(Speaker)

Shreyas Shah
(Deputy Speaker)

Krishnam Chawla
(Director)

Adarsh Ranjan
(Director)

Devvardhan Agarwal
(Director)

Yash Singh
(Scribe)

Eshaan Tiwari
(Scribe)

Introduction To MUN:

Position paper

Most Model UN committees require delegates to submit a write-up before the commencement of committee proceedings. This is called a position paper. It is an opportunity for the delegates to express their stance and ideologies concerning the agenda at hand. Its basic framework consists of 3 paragraphs:

- a) The first paragraph should reflect the history and introduction of the agenda, as seen through the particular portfolio's eyes.
- b) Moving forward, the second paragraph is usually used for establishing the stance of the portfolio while also mentioning the past actions taken by them to address the agenda.
- c) Lastly, the third paragraph is considered to be the most important as it gives the basic outline for the actions that the portfolio wishes to take in committee to resolve issues.

All delegates are advised to not omit this part in their position paper. Additionally, all solutions put forth in each delegate's position paper must be drafted while keeping the agenda in mind.

Delegates must also note that the position paper must be composed in a manner that all sentences are direct and information is not repeated.

The position paper to be submitted by the delegates of this committee, should not be over 2 pages (1.5 pages is preferred). The font should be E.B. Garamond with size being 12.

Ensure that the position paper contains a separate section for the bibliography, where each delegate must provide links to the research material used to write their paper. Please note that the bibliography section is not included in the 2-page limit.

Yields

Yields are used when a delegate has time remaining after their speech in formal methods of debate. Delegates may yield their remaining concerns in the following ways:

1. Yield to the Chair - When a delegate yields to the Chair, their remaining time is dissolved with the committee time.
2. Yield to Points of Information (POIs)- When a delegate yields points of information, other delegates may ask them questions based on their speech.
3. Yield to Comments- When a delegate yields to comments, speakers are recognised to make comments regarding the speech for the remaining time.

Delegates are to note that they are not required to yield their time in informal methods of debate.



Points

Through points, delegates can ask a question in the committee, clarify their queries, point out procedural errors, etc. Points can be categorized as follows:

1. Point of Personal Privilege- This point is used when a delegate experiences personal discomfort or inconvenience that hinders their ability to participate in the committee. For example, this point can be used if the delegate wants the Executive Board or a fellow delegate to repeat anything. This is the only point that delegates can raise whilst another delegate has the plaque in committee.
2. Point of Parliamentary Inquiry - This point is used when a delegate needs clarification or has a question about committee procedure. For example, this point can be used if a delegate requires clarification regarding yields.
3. Point of Information - This point is used when a delegate wishes to ask another delegate a question after they complete their speech or during any point in committee.
4. Point of Order - This point is used when an error has been committed in the rules of procedure by the Executive Board.
5. Right to Reply - A right to reply is used by a delegate to communicate a reply when they feel their integrity has been compromised due to personal allegations or insults made about them by any other member of the committee. If a Right to Reply is granted, then the delegate will be allowed to speak immediately, outside the list of speakers.

Introduction To the Agenda A:

Part XVIII of the Constitution speaks of emergency provisions. The emergency provisions therein can be classified into three categories: (a) Articles 352, 353, 354, 358, and 359 which relate to emergency proper - if we can use that expression, (b) Articles 355, 356, and 357 which deal with the imposition of President's rule in States in a certain situation and (c) Article 360 which speaks of financial emergency. Article 356 was inspired by Section 93, Government of India Act, 1935. This section stated that if a Governor of a province believes that the provincial government can't function properly according to the rules laid out in the Act, they can take over some or all the powers of the provincial government. This includes powers of the Ministry and the Legislature, and they can use these powers as they see fit. However, they are not allowed to interfere with the powers of the High Court. In other words, if the Governor or Governor-General felt that the Ministry wasn't acting according to the law, they could step in and take over their powers and use them as they saw fit. This was a way to maintain control and stability in governance, especially in a complex political environment. If the President is satisfied that such a situation has arisen, whether based on a report received from the Governor of the State or otherwise, he may take either any or all the three steps mentioned.

Powers that the president will hold:

According to clause 1, 'If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on following the provisions of this Constitution, the President may by Proclamation.'

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the Legislature of the State.



(b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament.

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to anybody or authority in the State:

Clause (2) says that such a Proclamation may be revoked or varied by a subsequent Proclamation and clause (3) provides a check upon the power contained in clause (1). It says that “every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless, before the expiration of that period, it has been approved by resolutions of both Houses of Parliament.” President’s Rule has been extended for significantly longer periods under specific circumstances.

History of Article 356:

Article 356, although resembling Section 93 of the 1935 Act, where the power of the governor rather than the President, was deemed necessary due to the challenges foreseen for the newly independent Indian republic. The framers of the Constitution were well aware, based on their socio-political experiences, that the security of the nation and the stability of its political system couldn’t be guaranteed. They anticipated that the path to democracy wouldn’t be easy. The significant disparities in social, economic, and political life, along with the diversity in languages, races, and regions, were expected to present numerous difficult situations for the young republic. Therefore, despite its resemblance to a controversial colonial-era provision, Article 356 was included to address the potential challenges that could arise in governing the diverse and complex Indian society.

The debates in the Constituent Assembly reveal that some members were against including Article 356 (initially called draft Article 278) because they saw it as bringing back a legacy of imperial rule. However, Dr. Ambedkar argued against these objections. He pointed out that no provision in any constitution is completely safe from misuse or abuse. He emphasized that just because a provision might be misused doesn’t mean it shouldn’t be included. Essentially, he was saying that the potential for abuse alone shouldn’t be a reason to exclude a provision from the Constitution.

Article 356 was supposed to be an exceptional measure to be invoked to meet a grave and dangerous situation. It should also be remembered that clause (3) does not require a special majority; a simple majority is enough. Ordinarily, the Council of Ministers does command a majority in the Lok Sabha. The difficulty only arises when the Council of Ministers cannot command a majority in the Rajya Sabha. It cannot be forgotten as affirmed by Dr. Ambedkar (his speech in the Constituent Assembly) that the States are supreme - in the words of Dr. Ambedkar, “sovereign” - in the field allotted to them and that notwithstanding a bias in favor of the Centre in our Constitution, ours is a federation - that too a democratic federation.

States with a long duration of 356:

1. Jammu and Kashmir

Duration of President’s Rule: 6 years 264 days (January 19, 1990, to October 9, 1996)

In Jammu and Kashmir (J&K), the Governor, under Section 53(2) of the J&K Constitution, dissolved the State legislative assembly on November 21, 2018. The proclamation of President’s rule under Article 356 was issued a month later, on December 19, 2018. Parliament approved the proclamation of the President on January 3, 2019. The President’s rule was extended in J&K for six months with effect



from July 3, 2019.

On August 5, 2019, the President issued the Constitution (Application to Jammu and Kashmir) Order which inserted a new provision, Article 367(4), in the Indian Constitution. This replaced the expression 'Constituent Assembly of the State' in the proviso to Article 370(3) with 'Legislative Assembly of the State'. The same day saw Parliament abrogate Article 370 and pass the Bill to reorganize the State of Jammu and Kashmir. The next day the President declared that Article 370 had ceased to apply.

Reason: The political situation in Jammu and Kashmir has always been dicey. The state has been the target of Pakistani and Chinese invasions ever since Independence. In 1990, the political scenario went haywire in the northern state. The Indian government applied an Armed Forces Act to curb possible military threats from Pafavor. The state was under the President's Rule for six years and continues to enjoy special autonomy under Article 370 of the Indian Constitution.

Mr. Naphade said "Once the State Assembly was dissolved, there was no question of machinery having failed. Consequently, there cannot be an exercise under Article 356... This Presidential proclamation under Article 356 is clearly without jurisdiction. The reason is the Governor had already dissolved the legislative assembly and assumed all the powers of the State. Now the Governor assumes the powers cannot be a breakdown of the constitutional machinery... It would be absurd to suggest that and have the President intervene under Article 356," he argued.

2. Punjab

Duration of President's Rule: 4 years 259 days (June 11, 1987, to February 25, 1992)

Reason: After the assassination of former Prime Minister Indira Gandhi, the state of Punjab was vulnerable to onslaughts from the Centre to seek out militants and terrorist organizations. In 1987, the President's Rule was imposed in the state following a genocide of 34 Hindu bus passengers in the hands of the Khalistan Commando Force, a Sikhadrganization that operates in Punjab and Haryana.

3. Puducherry

Duration of President's Rule: 3 years 96 days (March 28, 1974 to July 2, 1977)

Reason: The state's assembly was dissolved following the fall of the coalition government of All India Anna Dravida Munnetra Kazhagam (AIADMK) and Congress (Organisation). The fall of the allied forces came following the votes cast by the Congress (Requisition) party and the DMK members. The Union Territory was under the President's Rule for three years.

Recent Arguments to Impose President's Rule:

1. Punjab

The tension between Punjab Governor Banwarilal Purohit and Chief Minister Bhagwant Mann has intensified, with Purohit issuing a warning. He indicated that if his previous letters were not responded to, he might recommend the President's rule in the state and initiate criminal proceedings.

Punjab Governor Banwari Lal Purohit with Chief Minister Bhagwant Mann.

The ruling Aam Aadmi Party (AAP) in Punjab promptly responded to the governor's warning by suggesting that the Centre should consider imposing President's rule in Manipur and Haryana instead.

However, the Shiromani Akali Dal accused the AAP of deliberately taking a confrontational stance.

In his latest communication, the governor expressed his displeasure over not receiving any response to his previous letters. He informed the Punjab chief minister that he could send a report to the President regarding the "failure of the constitutional mechanism" in the state.

Purohit advised Mann to act before he made his "final decision" under Article 356 of the Constitution



and Section 124 of the Indian Penal Code.

Tensions in Punjab: A tragic incident occurred in Hoshiarpur, Punjab, where a man lost his life and another was critically injured during a crossfire between two rival groups. This incident, suspected to be a result of a gang war, took place in Piplanwala on Jalandhar Road.

Two rival groups cross-fired, in an alleged case of a gang war in Punjab's Hoshiarpur. The confrontation arose allegedly due to longstanding animosity between the two groups, led by individuals named Channa and Sajan. They had arranged a meeting in Piplanwala to settle their dispute, but instead of finding a resolution, tensions escalated, leading to a gunfire exchange.

The group under Sajan's leadership was positioned in the middle of the highway in a bustling market area. When Channa's group arrived, the situation turned violent, and both sides fired at each other. The ruling Aam Aadmi Party in Punjab responded quickly to the governor's "threat", telling the Centre to impose President's rule in Manipur and Haryana instead.

2. Haryana

Communal clashes in Haryana, particularly in Sohna town, have recently come to light through emerging videos, more than a week after the incidents occurred. The violence in Sohna coincided with clashes in Nuh on July 31.

Videos show violence in Haryana's Sohna.

According to eyewitnesses, the violence in Sohna erupted around 4 pm. The clashes in Nuh resulted in the deaths of six individuals, including two home guards and a cleric. These clashes occurred when a Vishva Hindu Parishad (VHP) procession, known as the Braj Mandal Yatra, was attacked by mobs. Following these incidents, Gurugram and nearby areas also experienced sporadic episodes of violence. In response to the unrest, a 'mahapanchayat' was convened in Baas village of Hisar district. People from various faiths, farmer groups, and local councils came together to discuss fostering unity among communities.

The mahapanchayat, organized under the banner of Bhartiya Kisan Mazdoor Union, saw participation from Hindus, Muslims, and Sikhs. A resolution passed at the meeting emphasized the commitment of people from different religious backgrounds to collaborate in restoring peace in the Mewat region.

Dismissing Elected Communist Government in Kerala:

On 31 July 1959, on the advice of the Union Cabinet, the President invoked Article 356 of the Constitution to dismiss Kerala's elected Chief Minister E. M. S. Namboodiripad (EMS) and his cabinet ordered the dissolution of the State Assembly.

Rajendra Prasad was President on 31 July 1959 when Article 356 was summarily invoked to dismiss a democratically elected government. He had also been the Chairman of the Constituent Assembly and had presided over the session on 3 and 4 August 1949, when Ambedkar had rested all hopes in the President taking precautions against any abuse of Article 356. Jawaharlal Nehru, whose presence dominated every moment of the making of the Constitution, was Prime Minister, and Gobind Ballabh Pant, who too was a leading light in the life of the Constituent Assembly, was Home Minister on 31 July 1959. Gian Singh Rarewala, sworn in as Chief Minister of the Punjab and East Patiala States Union (PEPSU)



in April 1952, headed the only non-Congress State Government in independent India. Rarewala was dismissed and the State Assembly dissolved invoking Article 356 of the Constitution on 5 March 1953. The fact, however, is that Rarewala had become Chief Minister as leader of an unstable United Front constituted by an amorphous group of parties and independents and his command over his supporters remained in doubt. Interestingly, Rarewala himself joined the Congress Party soon after his dismissal and joined the cabinet of Congress Chief Minister Pratap Singh Khairon in the Punjab State Government in 1957.

The cabinet headed by EMS continued to command majority support in the State Legislative Assembly throughout his term; the Communist Party of India (CPI) had won in 60 constituencies and five of the independents it supported in the elections too had won their elections; and that 65 out of 114 Members of the Legislative Assembly (MLAs) continued to support the ministry until it was dismissed.

If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

On 22 May 1958, the Supreme Court gave its opinion. Even though the Court pointed out infirmities about some of the provisions – particularly those about establishing State control over schools managed by the Anglo-Indian community – it found the Bill as passed by the State Assembly consistent with the Constitution. The State Government reviewed the Bill, amended it following the Supreme Court's opinion and the amended version was passed on 28 November 1958.

By this time, there was nothing in the law that could be held unconstitutional. The reforms that the legislation sought in the education sector were precisely what the Constitution had mandated. The Bill was consistent with such provisions in the directive principles of state policy as Articles 41, 45, and 46 of the Constitution; it read harmoniously with fundamental rights as guaranteed by Articles 14 and 19; and it was also consistent with the rights guaranteed to minority communities by Articles 26, 29 and 30 of the Constitution. The Supreme Court's opinion had taken all these into account and discussed them in elaborate detail.

Violence and vandalism rocked Kerala since 2 September 1958, the day the Bill was passed in the State Assembly. The Congress Party did not side openly with these protests, which were mostly orchestrated by the Church and the management of private schools. Things, however, changed on 4 September 1958 when Socialist Member of Parliament Asoka Mehta raised a debate in the Lok Sabha and called for the intervention of the Union Government. On 18 September 19, the Working Committee followed this with a resolution of concerns similar to Mehta's.

In the meantime, the Nair Service Society (NSS), a caste organization working to preserve the feudal privileges of the Nair community, was "aggrieved" by the land reforms ensuring land rights following the dispossession of absentee landlords moved by the EMS Ministry. The NSS had also aided schools under its management and the Education Reforms Bill would deprive its ranks of the total control over the lives of the teachers they employed. The Bill, while conceding the powers to appoint teachers to the managers, retained the provision that the teachers shall be paid directly by the Government there-



fore denying the teachers their due, as done by the private school managers, was no longer possible. It was in this context that the NSS demanded that the Government withdraw the law and launched an agitation. Indira Gandhi visited Kerala as President of the Congress Party on 28 April 1959 and expressed “concerns” over the deteriorating law and order conditions in the State. This was a clear signal to the groups that had orchestrated the violent agitations that the Congress Party stood by them. A convention of Hindu, Christian, and Muslim private management on 3 May 1959 declared an indefinite agitation to “end the Communist rule in Kerala.” Less than a week later, the Congress Working Committee declared support for this agitation.

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Introduction to the Agenda B:

Uniform, as the word says, includes personal laws of citizens that are applied equally no matter to which religion, sex, gender, and sexual orientation they belong. 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 apply to all uniformly. The Uniform Civil Code is defined in our Constitution under Article 44 of Directive Principles of State Policy which states that the state must secure for the citizens a Uniform Civil Code throughout the territory of India. The Uniform Civil Code is the common set of governing rules for all citizens of India which refers to replacing the personal laws (based on religious scriptures and customs). In other words, it is often defined as one country, one rule. These laws are famous in public law and cover marriage, divorce, inheritance, adoption, and maintenance.

The UCC aims to enforce a uniform legal framework for all citizens, irrespective of their religion. It is part of Part IV of the Constitution which includes the Directive Principles of State Policy (DPSP). Article 44 in DPSP states that “The State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India”. The Uniform Civil Code (UCC) is a legal framework though it is not enforceable by law. It is a set of uniform laws regarding various matters like inheritance, marriage, adoption, succession, divorce, and other important social conflicts as mentioned above applicable to all citizens irrespective of their religion, community, race, sex, and caste.

The Uniform Civil Code (UCC) in the Indian constitution was included in the form of directive principles of state policy. It means it is not enforceable in legal terms but can always be considered a guiding principle for the government. The Directive Principle of State Policy (DPSP) states that the state shall undertake to offer a unified set of laws to its citizens within the Indian boundaries. The Uniform Civil Code (UCC) calls for the formulation of one law for India, which would apply to all religious communities. The issue has been at the center of political narrative and debate for over a century and is a priority agenda for the Bharatiya Janata Party (BJP) which has been pushing for the legislation in Parliament. The saffron party was the first to promise the implementation of UCC if it comes to power and the issue was part of its 2019 Lok Sabha election manifesto. The UCC aims to protect vulnerable sections as envisaged by Ambedkar including women and religious minorities, while also promoting nationalistic fervor through unity. When enacted the code will work to simplify laws that are segregated at present based on religious beliefs like the Hindu code bill, Sharia law, and others. The code will simplify the complex laws around marriage ceremonies, inheritance, succession, and adoptions making them one for all. The same civil law will then apply to all citizens irrespective of their faith. Prime Minister Narendra Modi said India needed a Uniform Civil Code (UCC) as the country could not run with the dual system of “separate laws for separate communities”. The address signaled his government’s intent on bringing the UCC. His statement on the UCC — a divisive issue on which several minority communities have often expressed reservations — comes at a time when the country’s political calendar for the next year is packed with Assembly polls in five States and the 2024 General Elections. It also comes less than a fortnight after the 22nd Law Commission of India sought fresh suggestions from various stakeholders, including public and religious organizations, on the UCC.

**History of the Agenda:**

The origin of the UCC dates back to colonial India when the British government submitted its report in 1835 stressing the need for uniformity in the codification of Indian law relating to crimes, evidence, and contracts, specifically recommending that personal laws of Hindus and Muslims are kept outside such codification. An increase in legislation dealing with personal issues at the far end of British rule forced the government to form the B N Rau Committee to codify Hindu law in 1941. The task of the Hindu Law Committee was to examine the question of the necessity of common Hindu laws. The committee, following scriptures, recommended a codified Hindu law, which would give equal rights to women. The 1937 Act was reviewed and the committee recommended a civil code of marriage and succession for Hindus.

Article 44 of the Constitution of India reads, "The State shall endeavor to secure for citizens a uniform civil code throughout the territory of India." This was introduced before the Constituent Assembly in the form of Draft Article 35. Members spoke in favor of and against the UCC and suggested amendments.

Draft Article 19 (Article 25 – freedom of religion), the State was empowered to interfere in religious or secular activities for regulation or social reform. Further, a State could always enact a UCC without the existence of draft Article 35. Examples of countries such as Turkey and Egypt were provided by early leaders to argue that 'advanced Muslim countries' had a uniform law that did not consider the personal laws of minorities. The early leaders who opposed the UCC argued that either it be an option for citizens to follow or not to follow any UCC or that a provision be added to the Article to require that a UCC will not be enacted without the support of all communities.

Dr B R Ambedkar argued that since the Civil Code includes laws on all matters, several legislations were enacted and the question of whether a UCC was possible was belated. He gave several examples where Muslims were governed by Hindu law in the North-West Frontier, pointing out that it was only in 1937 that Muslim personal law was applied to the entire British India by way of the Muslim Personal Law (Shariat) Application Act, 1937. Dr Ambedkar sought to assure the minority communities that the wording of the provision was conciliatory and would allow Parliament to make provisions that could lead to a flexible application of the law. In his words:

"My second observation is to assure them. I quite realize their feelings on the matter, but I think they have read rather too much into Article 35, which merely proposes that the State shall endeavor to secure a civil code for the citizens of the country. It does not say that after the Code is framed the State shall enforce it upon all citizens merely because they are citizens. The future parliament may make a provision by way of making a beginning that the Code shall apply only to those who make a declaration that they are prepared to be bound by it, so that in the initial stage the application of the Code may be purely voluntary. Parliament may feel the ground by some such method...in the Shariat Act of 1937 when it was applied to territories other than the North-West Frontier Province...said that there is a Shariat law which should be applied to Mussulmans who wanted that he should be bound by the Shariat Act should go to an officer of the state, make a declaration that he is willing to be bound by it, and after he has made that declaration the law will bind him and his successors. It would be perfectly possible for parliament to introduce a provision of that sort; so that the fear which my friends have expressed here



will be altogether nullified...”

Even though the debate over UCC has been there since the inception of the Republic of India, mostly it has been for political gain. Though no Government could overcome the challenge that came due to Personal Laws applicable to people from different religions on family matters, some governments showed courage to secularize and modernize by statutory enactments from time to time. Both Hindu personal law and Christian personal law have been made by and large free from large-scale gender discrimination. However, other personal laws are yet to come with landmark reforms that could set communities at par when it comes to the rights of women and children of a family. However, it is easier said than done. Even the 21st Law Commission emphasized the importance of reforming family laws across various religions to ensure gender equality, rather than solely focusing on the enactment of a Uniform Civil Code (UCC).

Arguments in Favor of UCC:

The Uniform Civil Code was proposed to be implemented to replace personal laws applicable to each religious community based on customs and scriptures. It states the implementation of a unified set of laws intending to govern every citizen.

- Some members of the Constituent Assembly, including Dr BR Ambedkar believed that a UCC was necessary to promote gender equality and national integration.
- The supporters argue that personal laws based on religion can sometimes lead to discriminatory practices, especially against women.
- Another argument is that a common civil code would reinforce the principles of secularism in India.
- Legal experts also say that the implementation of the UCC will make legislation in terms of succession and divorce easier and will oust a lot of outdated religious personal laws.

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 bring 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. 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 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 violate 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.

Arguments Against the UCC:

The implementation of the UCC violates the Fundamental Rights guaranteed by the Constitution, including Article 25 (freedom to profess and practice one's religion) and Article 29 (right to have a distinct culture).

Many were against it, claiming that the religious laws of different communities should not be tampered with, without their consent.

It has various practical difficulties due to diversity in India.

Some groups believe that the UCC infringes on one's right to the freedom of religion.

- Opponents of the UCC in the Constituent Assembly included members such as Nazirudin Ahmad and Mohammad Ismail Khan. They expressed the following reservations about the UCC:
 - Religious Autonomy: It might cause potential infringement upon the religious autonomy of various communities as it would interfere with religious customs and traditions without the consent of those communities.
 - Cultural Sensitivities: A single code might not adequately accommodate the unique customs and sensitivities of different communities. This, in turn, might hamper the diversity of religious and cultural practices in India.
 - Social Unrest: Practices related to personal matters are deeply rooted in the religious and cultural identities of various communities in India. Implementing a uniform civil code might mean forcing them to relinquish their identities and could lead to social unrest and communal tensions.
- Religions, nationalities, and castes coexist peacefully in India. Thus, it is very hard to set universal standards for personal issues like marriage because of the wide range of cultural perspectives. It is necessary to convince every culture to throw off centuries-old traditions to implement new laws.
- Religious minorities see the United Church of Christ (UCC) as compromising their religious freedom. They fear that mainstream religious doctrines and practices may override their customs and beliefs.
- When it comes to religious freedom, governmental interference is strictly prohibited. This right would be violated if UCC were implemented.
- A sensitive and difficult procedure is required to draw from various personal laws, make gradual revisions to each, issue court pronouncements, and ensure gender equality while developing the United Nations Convention on Contracts for the Trade of Goods. Human resources are up against a mountainous task.
- The administration must always display empathy and impartiality while dealing with the majori-



ty and minority communities. A rift in the community might develop otherwise.

- Since there are continuing discussions over beef bans, curriculum revisions in schools and colleges, and topics like “love jihad,” now isn’t the best moment to do it. With the introduction of UCC, Muslim communities would be more vulnerable to extreme and fundamentalist ideas.

Resolutions:

Special Marriage Act, 1954

It was enacted to provide a secular alternative in marriages. It lays down provisions for civil marriage for the people of India and all Indian nationals in foreign countries, irrespective of religion or faith followed by either party.

Hindu Code Bills

The Hindu Code Bills, passed by the Parliament during the 1950s, are seen as a step towards the UCC. The following 4 Acts enacted under it seek to codify and bring uniformity in personal laws within the Hindu community:

- The Hindu Marriage Act, 1955
- The Hindu Succession Act, 1956
- The Hindu Minority and Guardianship Act, 1956
- The Hindu Adoption and Maintenance Act, 1956

Goa

- Goa is the first state in India to have a Uniform Civil Code. After India annexed the territory in 1961, the Parliament enacted a law for continued application of the Portuguese Civil Code of 1867.
- This law in Goa is known as the Goa Civil Code or Goa Family Code and applies to all Goans, irrespective of their religious or ethnic community.

Uttarakhand

- Recently, Uttarakhand has passed the Uttarakhand Uniform Civil Code Bill 2024, becoming the first state in India to implement a Uniform Civil Code (UCC).
- The Bill provides for a common law for matters such as marriage, divorce, inheritance of property, etc., and applies to all residents of Uttarakhand except Scheduled Tribes.

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 has 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 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 owner-



ship 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.
- A unique feature of the Goa civil code is that it aligns with article 44 of the constitution which is the directive principle for the state policy which is a major achievement for the state.
- There are certain provisions in which the Goa civil code is far better than the existing personal law but in this article, we will only deal with the provisions related to marriage and point out how the Goa civil code is better and how it ensures gender equality which is one of the major concerns for the country.

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.

Hindu Code Bills:

This bill was introduced in the parliament on August 1st, 1946 but not acted upon. After independence, it was reintroduced, by law minister Dr. B. R. Ambedkar in the Constituent Assembly on April 11th, 1947. Ambedkar's major concern for women's status has been reflected in the Hindu Code Bill. He has even remarked that his work on the Hindu Code Bill would be as important as his work on the Constitution itself.

The bill itself was an immense exodus from Hinduism and its degrading set of laws regarding gender. Up to that point, "Hindu law" was also randomly interpreted through oral readings of various content from the Vedas, Smritis, and Puranas. There was no real codification or uniformity and often women's lives were at the hands of Hindu male interpreters. It can be said that in Hinduism, there were two laws regarding inheritance, marriage, adoption, etc. which are 'Mitakshra' and 'Dayabhaga'. In Mitakshra's rule of law, the property of a man is not individual whereas belongs to coparceners (shared ownership of male lineage), in other words like father, son, grandson, and great-grandson, by their very birth only. While in the Dayabhaga set of laws, the ownership of property has its individual character - that is to say, anyone who inherits property from their progenitors has absolute rights over that property. This latter strand of the laws was what was adopted in the Hindu Code Bill by Ambedkar and it sought to make it as common law by modifying it according to the needs of modern-day.

Hindu Marriage Act-

- Both parties should be Hindus – This means that both the bride and the groom should be Hindus. In addition to this, the parties should not have converted to any other religion at the time of marriage.
- Monogamy- The Hindu Marriage Act prohibits polygamy, which means that a Hindu man cannot have more than one wife at the same time.
- The bridegroom must be at least 21 years of age, and the bride must be at least 18 years of age at the time of Marriage. Any Marriage performed before this age is considered illegal.
- Consent – Both parties should give their free and informed consent to the marriage. If either party is forced into the marriage or is unable to give consent due to mental illness or incapacity, the marriage is considered invalid.
- Prohibited relationships – Hindu law prohibits marriages between certain close relatives, such as between siblings, parents and children, and uncles and nieces.



- Ceremony – The marriage must be performed according to Hindu customs and ceremonies. The ceremony should be witnessed by at least two people who are not close relatives of either party.

Communities Affected:

The UCC envisages a common law for all citizens of the country, regardless of religion. Personal laws and laws related to marriage, inheritance, adoption, child custody, alimony, polygamy, and succession are likely to be covered by a common code. Many tribal groups fear that the implementation of such a code will violate their fundamental rights by impinging on their customs and traditions, many of which are protected by existing laws.

For instance, Adivasi communities from Jharkhand are concerned about the UCC replacing the Chota Nagpur Tenancy Act as well as the Santhal Parganas Tenancy Act, which explicitly protects their land rights by prohibiting the transfer of tribal land to non-tribals. Dev Kumar Dhan, convener of the Jharkhand Adivasi Mahasabha, echoed these fears in alleging, “It appears that there is a conspiracy to abolish tribal customary laws, the Chota Nagpur Tenancy (CNT) and the Santhal Pargana Tenancy (SPT) Acts, the Wilkinson Rule, PESA law, rules for Fifth Schedule Area, and the existing marriage and divorce laws of tribals on the pretext of implementing the UCC.” Adivasi Jan Parishad (AJP) president Prem Sahi Munda added, “As per our customary laws, women are not given ancestral land rights after marriage. If the UCC is implemented, we fear these customary laws may get diluted.”

Similarly, the Nagaland Tribal Council (NTC) asserted that the UCC would dilute the provisions of Article 371A of the Constitution, which guarantees that no act of Parliament will apply to the state in matters relating to the religious or social practices of the Nagas or interfere in Naga customary laws. Echoing the same concern, the Nagaland Baptist Church Council (NBCC) issued a statement that read, “Codifying the social-cultural and the religious practices by way of negating the deep-rooted values and norms of the people, especially that of the tribals and the religious minority, will amount to a violation of the fundamental rights of marginalized minorities in the country.”

Conclusion:

India has a unique blend of codified personal laws of Hindus, Muslims, Christians, and 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 desirable and would go a long way in strengthening and consolidating Indian nationhood. The differences of opinion are on its timing and how 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.



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QARMAs (Questions A Resolution Must Answer)

QARMAS is a general framework of questions that delegates must keep in mind while deciding the flow of the committee, and when working towards a resolution. These are, in simple words, solutions for the problems that the agenda poses.

QARMAS FOR AGENDA 1:

- Q1) How do you differentiate the past circumstances when article 356 was introduced and the present circumstances while highlighting the importance of the article (if you agree, if not, why?)**
- Q2) How and if the powers given to The President clash with the idea of democracy?**
- Q3) What is your opinion on the powers of The President under the article and if they are justified or not then why?**
- Q4) Is Article 356 misused and does it affect the functioning of the government and the country?**
- Q5) How do you address the sudden dismissal of the elected communist government in Kerala?**

QARMAs FOR AGENDA 2:

- Q1) What are the advantages/disadvantages of the proposed UCC in India?**
- Q2) How does UCC help in the betterment of Indian society or ruin the Indian society?**
- Q3) What are the amendments that the government can make to make the UCC better?**
- Q4) Compare the consequences of the enactment of UCC in different states.**