

Kerala Resolution on Uniform Civil Code

Why in news?

Recently, Kerala passed a resolution against Centre's move to implement Uniform Civil Code.

What is Uniform Civil Code?

It is defined in Article 44 as part of the Directive Principles of State Policy, in Part IV of the Constitution. It is often called as "One Law for One Nation"

- **Article 44** - It states that 'the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India'.
- Though DPSP is fundamental to the country's governance, it is not enforceable or justiciable in a court of law.
- **Aim-** To enforce a uniform legal framework to all citizens, irrespective of their religion.
- To safeguard the fundamental rights of all citizens and reduce social inequalities and gender discrimination.

In Shah Bano Begum Judgement of 1985, where a divorced Muslim woman demanded maintenance from her former husband, the apex court called for the implementation of the UCC.

What is Kerala's resolution on UCC about?

- **Affects secularism-** The Uniform Civil Code affects the secular fabric of the country.
- **Imposition of Manusmriti-** It is an ancient Hindu code that endorsed the oppressive caste system and was deeply prejudicial to women.
- **Non-enforceable-** The Uniform Civil Code is placed under Directive Principles of State Policy, which is not mandatory to implement.
- **Power of court-** The Court may order to enforce Fundamental rights. But, Article 44 of the Constitution cannot be enforced even by the courts.
- **Against federalism-** Centre could make a unilateral move on the contentious issue without consulting states, which is the basic structure of the Constitution.
- **Constitution-** It is essential to understand how much thought the founders of the Constitution put into their decision.
- **Negates tribal rights-** It would render the statutory autonomous councils for tribal development in North Eastern States redundant.

- **Violates article 25-** It seeks to erase the fundamental right of citizens to practice, profess and propagate the religion of their choice.

What is the power of centre with respect to Uniform Civil Code?

- **Personal laws-** It is found in *Concurrent List (List III)* of the Seventh Schedule to the Constitution.
- **Article 162-** The constitution gives State governments the power to legislate on subjects where a central law does not occupy the field.
- **Limitations-** The executive power of the State is limited by the executive power conferred by the Constitution or by any law made by Parliament.
- If there is a central law, it automatically gains precedence over the state law on the subject.
- **Entry 5 of the Concurrent list-** Marriage, divorce, Adoption of infants and minors, wills, intestacy and succession, joint family and partition.
- State laws will not have precedence over the central laws for the issues mentioned in Entry 5 of the concurrent list.
- **Legislations-** Hindu Marriage Act, 1955 and Shariat Act of 1937, are central legislations on Hindu and Muslim personal laws.
- When the Hindu personal laws were codified in 1955, it replaced several provincial legislations that existed on the issue.
- **Judiciary stand-** Supreme Court refused to hear petitions challenging the move by certain states to set up committees to explore the feasibility of implementing a uniform civil code in their respective administrative jurisdictions.
- As per article 162, the executive power of a State extends to matters with respect to which the Legislature of the State has power to make laws hence the constitution of a Committee cannot be challenged.

To know more about Uniform Civil Code click [here](#)

States stand on Uniform Civil Code

States in favour of UCC

- **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.
- **Uttarakhand**- Ranjana Desai committee was set up to prepare draft for the implementation of UCC.
- **Gujarat**- It announced to constitute a committee for the implementation of UCC in the state.
- **Madhya Pradesh**- It announced that it will form a committee to implement UCC in the state.
- **Assam**- It is in favour of UCC and also plans to ban polygamy by legislation.
- **Uttar Pradesh** - It decided to implement the UCC in the state.

States against UCC

- **Mizoram**- It unanimously passed resolution against Article 44, as it could clash with the customs and social practices of Mizos in the state.
- **Nagaland**- The Nagaland Tribal Council has written to the Law Commission that the UCC will dilute the provisions of Article 371A of the Constitution (Special provisions for the state).
- **Tamilnadu**- It wrote to 22nd Law commission that the UCC could violate individual's religious freedom.
- **Kerala**- It passed resolution against the UCC as it would affect secularism and federalism in the country.

What lies ahead?

- **Reiterate Ambedkar's position** - If implemented, UCC should also “make a provision that the Code shall apply only to those who make a declaration that they are prepared to be bound by it”.
- **Law commission report**- 21st Law Commission report recommended that the UCC is “neither necessary nor desirable at this stage.”

References

1. [Indian Express- Kerala adopts resolution against UCC](#)
2. [The Hindu- Kerala seeks to scrap plan for UCC](#)