**Letter from the Executive Board**

Greetings Parliamentarians!

It gives us immense pleasure to welcome you to the simulation of AIPPM at GD MUN The agenda for the session being 'Uniform Civil Code. '

This study guide is by no means the end of research, we would very much appreciate if the delegates are able to find new realms in the agenda and bring them forth in the committee. During the session, the executive board will encourage you to speak as much as possible, owing to the fact that fluency, diction or oratory skills have very little importance in contrast to the content you deliver. Just make sure you understand what you’re speaking and present it with confidence. Also, we must remind you that as a Member of the Parliament, etiquette and decorum in the House is a sheer necessity.Quality research combined with good argumentation and a solid representation of facts is what constitutes an excellent performance.

This sitting in the House is not going to be an easy one, of this we assure you. The pressure of accusations and defence has never been easy to deal with. But, it is also not the sole purpose of the debate.

Thankfully for all of us, with the above comes another assurance, that of a productive session.

We are certain that the conference will prove to be a learning experience for both sides of the dais. In case of any queries feel free to contact us. We will try our best to answer your questions to the best of our abilities.

All the Best!

**Kubair Rangan Padamja Sharma**

**Chairperson Co- Chairperson**

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**Background Guide; the Research & Other Directives**

India is a country with diversity but a constitution represents how the laws of this country have always preserved its diversity with nature of similar treatment to each and every one of its citizen. A vision where we believe in moving forward by developing and not discriminating. Here a big question comes whether a policy of uniform civil code is right for this country , is it the right time to implement such a law where there a differences in ideologies but the system where everyone stands equal on one platform.

**Introduction**

Article 44 requires the state to secure for the citizens a Uniform Civil Code throughout the territory of India.

Currently, there is a Hindu Marriage Act, a Muslim Personal Law (Shariat) Application Act, 1937, a Christian Marriage Act and a Parsee Marriage and Divorce Act. Hindu Marriage Act applies to any person who is a Hindu, Buddhist, Jain or Sikh by religion. There is also a Special Marriages Act, 1954 under which people can perform marriage irrespective of the religion followed by either person. These laws deal with the matters involving marriage, divorce, inheritance, adoption, and maintenance of the respective religions.

Having a Uniform Civil Code means that the same set of personal laws apply to all civilians irrespective of their religion. As things stand now, the personal laws are different for Hindus and Muslims. Personal laws deal with areas such as property, succession and inheritance, and divorce and marriage.

**History**

The debate for a uniform civil code dates back to the colonial period in India. The Lex Loci Report of October 1840 emphasised the importance and necessity of uniformity in codification of Indian law, relating to crimes, evidences and contract but it recommended that personal laws of Hindus and Muslims should be kept outside such codification. According to their understanding of religious divisions in India, the British separated this sphere which would be governed by religious scriptures and customs of the various communities (Hindus, Muslims, Christians and later Parsis).These laws were applied by the local courts or panchayats when dealing with regular cases involving civil disputes between people of the same religion; the State would only intervene in exceptional cases. Thus, the British let the Indian public have the benefit of self-government in their own domestic matters with the Queen's 1859 Proclamation promising absolute non-interference in religious matters. The personal laws involved inheritance, succession, marriage and religious ceremonies.

The issue of introduction of the Uniform Civil Code in India has been debated upon since the time India attained independence with the Indian Parliament debating on it in as early as 1948. It witnessed some strong opposition from the Muslim fundamentalists like Poker Saheb and members from other religions. Though it did get support from the Chairman of the Draft Committee and father of our Constitution Dr. B.R. Ambedkar along with some prominent journalists like G.S. Iyengar, K.M. Munshiji and Alladi Krishnaswamy Iyer amongst others to name a few. Though the Congress had promised it would allow Muslims to practice Islamic laws, there was a fear, among Muslims, of a possible interference with the Muslim personal laws and they contended that India would not be the same again if UCC was to be introduced. As a compromise, the architects of the Constitution included the Uniform Civil Code under the head of Directive Principles of State Policy in Article 44. Some distinguished members did show their dissent stating that the path towards nationhood was being hampered by the very existence of religion-based personal laws. Earlier it was favoured to guarantee the Uniform Civil Code to the Indians within five to ten years. Sixty-three years have passed and we’re still pondering over such a possibility.

The Hindu Code Bill and Reforms in Hindu Civil Laws and the later years

Ambedkar's work on the Constitution is well known. Less well known are his labours on the reform of Hindu personal laws. Basing himself on a draft prepared by Sir B. N. Rau, Ambedkar sought to bring the varying interpretations and traditions of Hindu law into a single unified code. But this act of codification was also an act of radical reform, by which the distinctions of caste were made irrelevant, and the rights of women greatly enhanced.

Those who want to explore the details of these changes are directed to Mulla's massive Principles of Hindu Law (now in its 18th edition), or to the works of the leading authority on the subject, Professor J.D.M. Derrett. For our purposes, it is enough to summarise the major changes as follows; (1) For the first time, the widow and daughter were awarded the same share of property as the son; (2) for the first time, women were allowed to divorce a cruel or negligent husband; (3) for the first time, the husband was prohibited from taking a second wife; (4) for the first time, a man and woman of different castes could be married under Hindu law; (5) for the first time, a Hindu couple could adopt a child of a different caste.

These were truly revolutionary changes, which raised a storm of protest among the orthodox. As Professor Derrett remarked, "every argument that could be mustered against the protest was garnered, including many that cancelled each other out". Thus "the offer of divorce to all oppressed spouses became the chief target of attack, and the cry that religion was in danger was raised by many whose real objection to the Bill was that daughters were to have equal shares with sons, a proposition that aroused (curiously) fiercer jealousy among certain commercial than among agricultural classes".

In the vanguard of the opposition was the Rashtriya Swayamsevak Sangh (RSS). In a single year, 1949, the RSS organised as many as 79 meetings in Delhi where effigies of Nehru and Ambedkar were burnt, and where the new Bill was denounced as an attack on Hindu culture and tradition.

A major leader of the movement against the new Bill was a certain Swami Karpatri. In speeches in Delhi and elsewhere, he challenged Ambedkar to a public debate on the new Code. To the Law Minister's claim that the Shastras did not really favour polygamy, Swami Karpatri quoted Yagnavalkya: "If the wife is a habitual drunkard, a confirmed invalid, a cunning, a barren or a spendthrift woman, if she is bitter-tongued, if she has got only daughters and no son, if she hates her husband, (then) the husband can marry a second wife even while the first is living." The Swami supplied the precise citation for this injunction: the third verse of the third chapter of the third section of Yagnavalkya's Smriti on marriage. He did not however tell us whether the injunction also allowed the wife to take another husband if the existing one was a drunkard, bitter-tongued, a spendthrift, etc.

But there were also some respectable opponents of the new Code, who included Rajendra Prasad, who in January 1950 became the President of India. In 1950 and 1951 several attempts were made to get the Bill passed. However, the opposition was so intense that it had to be dropped. Ambedkar resigned from the Cabinet in disgust, saying that Nehru had not the "earnestness and determination" required to back the Bill through to the end.

The later years saw amendments in different civil laws and even the introduction of new civil laws but the matter of a uniform code is still in question.

Some say that Nehru was waiting for the first General Elections. When these gave him and the Congress a popular mandate, he re-introduced the new Code, not as a single Bill but as several separate ones dealing with Marriage and Divorce, Succession, Adoption, etc. Nehru actively canvassed for these reforms, making several major speeches in Parliament and bringing his fellow Congressmen to his side.

**Note:-The parliamentarians are requested to go through the above paper to have a detailed knowledge of the sub topic.**

http://www.onlinejournal.in/IJIRV2I3/002.pdf

**The legal perspective**

In recent times, the Shah Bano case of 1985 stirred up a heated debate surrounding Muslim personal laws and the need for a UCC. Shah Bano, an elderly Muslim, and mother of five, was divorced by her husband. Subsequently, her husband refused to pay her maintenance beyond the period of iddat (three-month period after divorce in which she cannot remarry). He argued that according to Muslim personal law he was obliged to pay her maintenance for this period only.

The case went up to the Supreme Court which granted her maintenance for life under Section 125 of the Cr.P.C (according to which he had to maintain her until she remarries or dies if she has no means of her own for survival). The Supreme Court held that the Cr.P.C. was common for all and that she could claim maintenance under it. Thus the Muslim personal law cannot be applied here.

Some Muslims perceived this as an attack on their religion and their personal laws and protested loudly against the judgement. This caused the Congress government to pass the Muslim Women (Protection of Rights on Divorce) Act, 1986 which nullified the judgment of the Supreme Court. This act allowed maintenance to a divorced woman only during the period of iddat, according to the provisions of Islamic law.

However, in the later judgements, the Supreme Court of India upheld the Shah Bano judgement and the act was nullified. Many Muslims including the All India Shia Personal Law Board supported this order.

The court also regretted that the Uniform Civil Code in India had not been given effect to and held that a common civil code will help the cause of national integration by removing loyalties to laws which have contradicting ideologies. In a different case, the court noted ‘India is a secular nation and it is a cardinal necessity that religion is distanced from law. Therefore, the task before us is to interpret the law of the land, not in light of the tenets of the parties’ religion but in keeping with the legislative intent and prevailing case law’.

The Directive Principles Of State Policy are only guiding principles, not enforceable by any court. Yet, as in the above case, the apex court has sometimes, directly or indirectly, expressed itself in favour of a uniform civil code or expressed displeasure at the government’s inability to enact it. None of these comments are binding.

The Sarla Mudgal case also directed the government to take a fresh look at article 44 of the constitution with enjoins the state to secure a uniform civil code which accordingly to the court is imperative for both the protection of the oppressed and the promotion of national unity and integrity. There are different other cases such as Pragati Vargese vs Cyril George Vargese ( AIR 1997 Bom.349 ), Noor Sabha Khatoon vs. Mohammad Kazim ( AIR 1997 SC 3280 ), Daniel Latif vs. Union of India ( AIR 2001 SC 3262 ) and John Vallamatton vs. Union of India ( AIR 2003 SC 2902 ) are some of the cases which are concerned with the agenda. In Seema vs. Ashwani Kumar ( AIR 2006 SC 1158 ) he supreme court held that all marriages irrespective of their religion must be compulsorily registered. It was considered as the first step towards uniform civil code. The benefits of the ruling as stated are as follows :-

1. It will prevent child marriage.

2. Check bigamy and polygamy

3. Help women to exercise their rights under marriage, Maintenance and custody of children.

4. Enable widows to claim inheritance.

5. And dater husbands from deserting their wifes.

Note:-The parliamentarians are requested to come with a reasonable legal study with regard to the Uniform Civil Code and the concerned cases.

The law commission and the Different Perspective of individual’s

The law commission under the leadership of justice B.S. Chauhan initiated its work as stated by Chauhan J. the law commission was taking opinions on the very issue. There are different petitions concerning the same in the views of different stakeholders are contradictory in nature where political parties have their own stand, the Muslim personal law board strictly opposes UCC and favours the continuation of current laws by stating their own arguments in light of the major concern of triple talaq stating it as a benefit for Muslim women. On the other hand, the organised and unorganised group of Muslim women also differs from their stance on the very agenda. The parliamentarians must have a detailed research on different ideologies, opinions, stands and party policies regarding the same.

**Directives for Parliamentarians**

The background guide is a brief outlook of what this model of Indian parliament is about to discuss upon. But the deliberation shall not be limited to the circumference of given research areas. Any major concern regarding the very agenda may also be take into consideration depending on the time constraint and other possibilities as per the case as may be. One is requested to come up with a detailed research; the qualities of speech, research, lobbying, drafting etc. all shall be forming the part of the evaluation in the very academic simulation. The house shall function as per the Indian Parliamentary procedure. One is requested to be aware about the same up to reasonable level. However, the guidance with regard to same shall be provided before the commencement of the session. In any case the decision of the speaker shall be supreme and He / She shall have the right to take decision for any matter at any time of the committee.

Wishing you all the very best.

**MUST READ LINKS:**

Muslim Codes:

<http://www.csss-isla.com/Draft%20Code.pdf>

<http://www.vakilno1.com/bareacts/muslimperact/muslimpersonalact.html>

Hindu Codes:

<https://www.repository.cam.ac.uk/handle.1810/225258>

<http://shodhganga.inflibnet.ac.in/bitstream/10603/7870/11/11_chapter%204.pdf>

<http://bokakhat.gov.in/pdf/The_hindu_marriage_act.pdf>’

<http://www.gujhealth.gov.in/images/pdf/legis/hindu-succession-act-1956.pdf>

<http://www.childlineindia.org.in/CP-CR-Downloads/HAMA%201956.pdf>

Turkish Codes:

<http://www.justice.gov.tr/basiclaws/turkish_civil.pdf>

<http://www.international-divorce.com/turkey_civil_code_section_6_custody>

http://iglhrc.org/sites/default/files/Turkish%20Civil %20Code\_2.pdf

 http:www.amazone.be/IMG/pdf/Efsa\_Kurnaner.pdf

General:
<http://articles.economictimes.indiatimes.com/keyword/uniform-civil-code>

[http://www.thehindu.com/news/national.ram-temple-uniform-civil-code- nonnegotiablebjp/ article5248859.ece](http://www.thehindu.com/news/national.ram-temple-uniform-civil-code-%20nonnegotiablebjp/%20article5248859.ece)

<http://www.indiakanoon.org/doc/833730>