

1) CONSTITUTION BASIC PROVISION AND STRUCTURE RELATED (PREAMBLE , FR, FDS, DPSPS ETC)

UNIFORM CIVIL CODE

WHY IN NEWS?

Uttarakhand CM announced an expert panel that would examine the possibility of applying the UCC in the State.



WHAT IS UCC ?

1. comes under Article 44 of the Constitution of India, proposes to introduce personal laws that would apply to all citizens equally, irrespective of their religion, gender, caste, etc.
2. At present, the personal laws of various communities are largely governed by their religion.

WHY INDIA NEEDS UCC?

1. Paves way for national integration
2. Strengths secularism :
Constitutional law > religious law in a secular republic
3. Gender justice
4. Sign of modern progressive India
5. Will check religion based vote bank politics
6. SC judgements in favour : Shah Bank case , Sarla Mudgal case , Geeta Hariharan vs RBI

ARGUMENTS AGAINST UCC

1. Attempt to codify - seen as encroachment by religious minorities
2. Fear of majoritarianism
3. Multi religious society - daunting task of codification
4. Accommodation of distinct tribal laws and customs especially matrilineal societies
5. Top to down religious reforms have not been successful

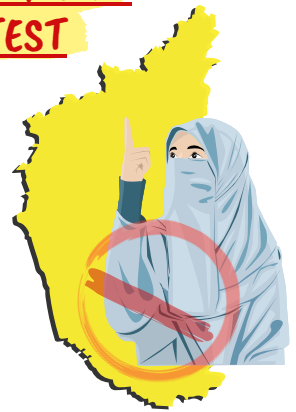
WAY FORWARD

1. Piecemeal reform
2. Wide range debates with religious leaders , public and civil society
3. Education , awareness and sensitization programmes
4. Allay fears of minorities and tribal groups

ESSENTIAL RELIGIOUS PRACTICE TEST

WHY IN NEWS?

Invoked by Karnataka HC in hijab ban issue



WHAT IS ESSENTIAL RELIGIOUS PRACTICE TEST?

1. invented by a seven-judge Bench of the SC in the 'Shirur Mutt' case in 1954.
2. The court held - the term "religion" will cover all rituals and practices "integral" to a religion, and took upon itself the responsibility of determining the essential and non-essential practices of a religion.
3. denied validity to "practices (which) not superstitious beliefs and may in that sense be extraneous and unessential accretions to religion itself".

WHAT ARE THE CRITICISMS AGAINST ESSENTIAL RELIGIOUS PRACTICE TEST?

1. Judicial overreach - idea of providing constitutional protection only to those elements of religion which the court considers "essential"
2. Assumption that one element or practice of religion is independent of other elements or practices - is problematic
3. essentiality test privileges certain practices over others - all practices taken together that constitute a religion.

HOW DOES ESSENTIALITY SQUARE UP AGAINST RELIGIOUS FREEDOM?

'RATILAL PANACHAND GANDHI VS THE STATE OF BOMBAY AND ORS'

"every person has a fundamental right to entertain such religious beliefs as may be approved by his judgment or conscience"
- essential practice test impinges on this individual autonomy

LOCAL RESERVATION IN PRIVATE SECTOR

WHY IN NEWS?

Haryana government has challenged in Supreme Court, the order by the Punjab & Haryana HC, to halt 75% quota in private jobs for locals

LOCAL PREFERENCE

Maharashtra Private sector to employ 80% domiciled workers (Maha residents for more than 15 years); Status: Planned, not implemented	for state govt jobs; Status: 70% quota applied, 'children of MP' at planning stage
Haryana Ordinance mandating 75% quota for locals in private sector jobs; Status: Planned, not implemented	Karnataka Pvt industries to give priority to Kannadigas in clerical and shop-floor jobs; Status: Rules amended, follow-up law not passed yet
Madhya Pradesh 70% quota in pvt sector jobs for locals; only 'children of MP' to be eligible	Andhra Pradesh Up to 75% quota for locals in govt and pvt sector; Status: Law passed, yet to be implemented

The Haryana State Employment of Local Candidates Act, 2020, came into force recently

WHAT ARE CAUSES FOR SUCH LAWS?

1. Vote Bank Politics
2. Widespread Joblessness
3. Accommodating Talent
4. Economic Recession

WHAT IS THE SIGNIFICANCE OF SUCH LAW?

1. Stops migration
2. Addresses Agrarian Crisis
3. Addressing local unemployment

WHAT ARE ISSUES RELATED WITH ACTUAL IMPLEMENTATION OF SUCH LAW?

1. Violates constitutional provisions- Article 16
2. Against the spirit of competition
3. Operational problem - identification of beneficiaries
4. Stokes regional conflicts - locals vs non locals
5. Affects private investment

WAY FORWARD

1. Focus on education and skilling
2. Focus on core issues of unemployment rather than band aid solutions
3. Promote labour intensive industries
4. More industry friendly policies

DEFINING MINORITIES

WHY IN NEWS?

Hindus can be declared 'minority' in states where they're numerically lower strength: Centre tells Supreme Court



PIL demanding minority status for Hindus in Punjab, Jammu and Kashmir, Ladakh, Mizoram, Nagaland, Manipur, Meghalaya, Arunachal Pradesh and Lakshadweep on the ground that Hindus were numerically lower strength in these states/UTs

WHO IS A MINORITY AND WHO DECIDES THAT?

1. The central government decides under the National Commission for Minorities Act, 1992.
2. communities notified under Section 2(c) of the 1992 law are regarded as minority citizens.
3. Centre notified six communities - Muslims, Christians, Sikhs, Buddhists, Parsis and Jains

WHAT DOES THE CONSTITUTION SAY ABOUT MINORITIES?

1. Constitution do provide protection to and specify safeguards for the minority communities but without defining the word 'minority'
2. Constitutional provisions indicate that a minority community in India is principally linguistic or cultural.
3. Articles 29 and 30 - "protection of interests of minorities" and right "to establish and administer educational institutions".
4. Article 350-A : "a Special Officer for linguistic minorities".
5. United Nations definition "Any group or community which is socially, political and economically non-dominant and inferior in population are minorities".

WHAT ARE THE VARIOUS SC JUDGEMENTS ABOUT DEFINING MINORITIES?

I. T. M. A. Pai Foundation vs State Of Karnataka case (2002) : "for the purpose of determining minority, the unit will be State and not whole India."

1. ...

2. D.A.V. College Bhatinda vs. State of Punjab : since the Hindus are in majority in country they cannot be held as minority in the state.
3. The Ahmedabad St. Xavier's College Society and another Ex. v. State of Gujarat : idea of giving some special rights to the minorities is not to have a kind of a privileged or pampered section of the population but to give to the minorities a sense of security and a feeling of confidence

WHAT ARE THE ISSUES SURROUNDING DEFINING OF MINORITIES?

1. an anomalous situation in which the communities declared as minorities by the Centre enjoy the status even in States/UTs where they are in majority.
2. Example : Muslims in Jammu and Kashmir and Christians in Nagaland for instance.
3. linguistic minority are determined by taking the state as a unit so religious minority being on the same footing should be determined on the basis of state rather the whole country.

ANTI-CONVERSION LAW

WHY IN NEWS?



The Karnataka legislative Assembly passed The Karnataka Right to Freedom of Religion Bill, 2021, commonly referred to as the anti-conversion Bill

WHAT IS THE RATIONALE BEHIND THE LAW?

1. To reduce the threats of forceful conversion.
2. Problem of Inducement or allurement.
3. Fraudulent marriages
4. Religious conversion is not a Fundamental Right.
5. Article 25 : not absolute subject to restrictions as public order, health, morality, and other fundamental rights.

IS RELIGIOUS CONVERSION MORE OF A POLITICOSOCIOECONOMIC ISSUES RATHER THAN RELIGIOUS ISSUE?

1. conversion of Dalits to Buddhism or to Christianity have happened because of caste hierarchy in the society.
2. conversion has led to better livelihood opportunity
3. The polarizing tendency of religious orthodox groups. (Love jihad
4. Vote bank politics

WHAT ARE THE VARIOUS HC/SC JUDGEMENTS ABOUT CONVERSION LAWS?

1. REV. STANISLAUS VS STATE OF MADHYA PRADESH & ORS (1977) : upheld the constitutionality of anti conversion law in MP and Orissa on the ground that these efforts to restrain the conversion are for securing freedom of conscience and public order.
2. SARLA MUDGAL (1995) : conversion to Islam was not valid if done only in order to be able to practise polygamy.
3. LATA SINGH VS STATE OF UP: stringent punishment over acts of violence or threats in cases of inter- caste and inter-faith marriage.
4. M CHANDRA VS M THANGAMUTHU & ANOTHER (2010): laid down the test to prove conversion

WHAT ARE THE ISSUES WITH ANTI CONVERSION LAW?

1. Vague nature and wide scope
2. Difficult to differentiate genuine & fraudulent conversion
3. Against freedom of religion
4. Creates atmosphere of fear
5. Issue of burden of proof

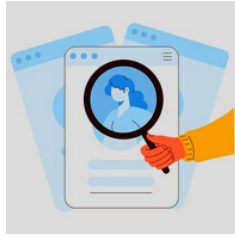
WAY FORWARD

1. anti-conversion laws should not put any vague or ambiguous provisions
2. Education and awareness against forceful conversions, Inducement or allurement

RIGHT TO BE FORGOTTEN

WHY IN NEWS?

Recently, Centre told the Delhi High Court that the "right to be forgotten" is part of the fundamental right to privacy.



WHAT IS THE RIGHT TO BE FORGOTTEN?

1. allows a person to seek deletion of private information from the Internet.
2. The concept has found recognition in some jurisdictions abroad, particularly the European Union.

WHAT IS THE STATUS OF LAW IN INDIA?

1. Right is not recognised by law in India - courts have held it to be an intrinsic part of the right to privacy.
2. Centre to HC recently : Right to privacy has been recognised as a fundamental right in the K S Puttaswamy judgment (2017) and that the 'right to be forgotten' is evolving in India.
3. Personal Data Protection Bill - provisions to the doctrine of the 'right to be forgotten'.
4. Delhi HC (May 2019 judgement by Justice Asha Menon) : right to be forgotten" and "right to be left alone" - inherent aspects of the right to privacy,