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Q1

Discuss the possible factors that inhibit India from enacting for its citizen a uniform civil code as provided for in the Directive Principles of State Policy.

UPSC Civil Services Mains 2015 · GS II · 12 marks · Transparency and e-Governance

Important aspects of governance, transparency and accountability, e-governance - applications, models, successes, limitations, and potential; citizens charters, transparency and accountability and institutional and other measures.

Core demand of the question

- Discuss the possible factors that inhibit India from enacting a uniform civil code as provided in the Directive Principles of State Policy
- Cover **Article 44**, personal-law diversity, fundamental rights, politics, and the courts

Revision summary

Article 44 directs a uniform civil code but **Article 37** keeps it unenforceable in court.

Hindu Code statutes already unify a large share of family law; Muslim, Christian and Parsi laws remain separate, with a secular option in the **Special Marriage Act, 1954**.

Articles 25 and 26, custom, and tribal practice make a single book of rules politically hard.

Shah Bano and the 1986 Act turned personal law into a vote question.

Courts can urge a code; only Parliament can enact one after an open, gender-just draft.

Introduction

Article 44 asks the State to secure for the citizens a uniform civil code throughout the territory of India. Marriage, divorce, inheritance and adoption still sit in community personal laws. A discussion of why a code has not been enacted must treat legal diversity, fundamental rights, federal politics, and the memory of Shah Bano as real constraints, not as a single conspiracy.

Body

What **Article 44 asks and what the law now is**

- **Article 44** is a Directive Principle; **Article 37** says it is not enforceable in a court, so Parliament may delay a code without a writ that forces one.
- Hindus, Buddhists, Jains and Sikhs were largely brought under the **Hindu Marriage Act, 1955**, the **Hindu Succession Act, 1956**, and related **Hindu Code statutes**; Muslims, Christians and Parsis still use their own marriage and succession statutes or uncodified personal law.
- **Special Marriage Act, 1954**, already offers a secular civil option, so a uniform code is not the only path to a civil marriage; many citizens simply do not use that option.
- Goa retains a Portuguese-origin civil code for residents of the State, which shows that uniformity is possible in a limited territory but has not been copied by the Union for the whole

country.

Social and religious factors

- Personal law is experienced as part of religious identity under **Articles 25 and 26**, not only as a private contract, so a sudden Union code is read by some groups as an attack on faith rather than as gender justice.
- India is a country of many schools of family law, customary tribal practices, and regional usage; a single book of rules would still need space for custom, or it would collide with **Sixth Schedule** and tribal areas.
- Literacy, access to lawyers, and the hold of community panchayats mean that even a well-drafted code would not, by itself, change how marriages are made and broken in villages.
- **Women's groups are not of one mind:** some want a gender-just uniform code; others fear that a majoritarian draft would freeze conservative Hindu norms as the national model.

Political and federal factors

- The Shah Bano judgment (1985) and the Muslim Women (Protection of Rights on Divorce) Act, 1986, taught parties that personal-law change can become a communal vote question, so cabinets prefer silence to a Bill.
- Family law is in the Concurrent List; States and communities would fight over every clause, and a Union government that needs State allies will not spend political capital on it.
- No all-party white paper has built a draft that minority bodies, women's organisations and State governments have all seen and argued line by line.
- **Law Commission** work and academic drafts exist, but they are not a Cabinet Bill with a statement of objects that the House can vote.

Courts and the limits of a judicial push

- **Sarla Mudgal v. Union of India (1995)** and **John Vallamattom v. Union of India (2003)** asked Parliament to consider a uniform civil code; the Court cannot enact one in place of the legislature.
- Judicial remarks keep the debate alive, yet they also raise the fear that a code will come as a court-driven Hindu-majority project rather than as a negotiated statute.
- **A fair discussion therefore lists many inhibitors together:** unenforceable Directive Principles, plural personal laws, **Articles 25 and 26**, federal politics, the 1986 Act, and the absence of a publicly negotiated draft.
- The way forward is stepwise gender-just reform of each personal law, wider use of the **Special Marriage Act**, and a published model code for debate, not a slogan without a Bill.

Flow diagram

Article 44 DPSP -> Plural personal laws
 Article 44 DPSP -> Arts 25 and 26 identity
 Plural personal laws -> No Union UCC Bill
 Arts 25 and 26 identity -> No Union UCC Bill
 Shah Bano and 1986 Act -> No Union UCC Bill
 No Union UCC Bill -> Stepwise gender-just reform

Conclusion

India has not enacted a uniform civil code because **Article 44** is non-justiciable, personal laws are tied to religious identity, and the politics after Shah Bano still punish any party that tries a sudden Union statute. A code worthy of **Article 44** will come only when gender justice is drafted in the open and voted in Parliament, not when it is only demanded in a judgment.

Facts & figures

Article 44

Directive Principle requiring the State to secure a uniform civil code for citizens throughout India.

Article 37

Makes Directive Principles fundamental in governance but not enforceable by any court.

Hindu Code statutes (1955-56)

Codified marriage, succession and related matters for Hindus, Buddhists, Jains and Sikhs; other communities kept separate personal laws.

Mohd. Ahmed Khan v. Shah Bano Begum (1985)

Supreme Court granted maintenance to a divorced Muslim woman under the CrPC; Parliament answered with the Muslim Women (Protection of Rights on Divorce) Act, 1986.

Sarla Mudgal v. Union of India (1995)

Court dealt with conversion and bigamy and asked the Union to take a fresh look at a uniform civil code.

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