

ISSN: 2582-6433



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

## **EDITORIAL TEAM**

### **EDITORS**

#### **Megha Middha**



*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to*

*the fact how they can bring a change to the society*

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



March 14th, 2019

**Head & Associate Professor**

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on*

## Mrs.S.Kalpana

**Assistant professor of Law**

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **PROBLEMS IN LEGISLATING OF UNIFORM CIVIL CODE IN INDIA**

*Name : Vaibhav Bhardwaj*

*Enrollment Number : 1020212256*

*Submitted To : Dr. Mritunjay Kumar*

*Problems In Legislating Of Uniform Civil Code In India*

*Subject :- Legislative Drafting*

*Course :- BA LLB Hons.*

*Semester :- 2<sup>nd</sup>*

*Himachal Pradesh National Law University Shimla*

## **INDEX**

<b>S.NO.</b>	<b>TOPICS</b>
<b>1</b>	ACKNOWLEDGEMENT
<b>2</b>	AIM BEHIND WRITTING ON THIS ISSUE
<b>2</b>	EXECUTIVESUMMARY
<b>3</b>	INTRODUCTION
<b>4</b>	HISTORY OF UNIFORM CIVIL CODE
<b>5</b>	WHY UCC IS NOT IMPLEMENTED AT THE TIME OF INDEPENDENCE
<b>6</b>	OBJECTIVES OF UNIFORM CIVIL CODE

<b>7</b>	DOES INDIA NEED A UNIFORM CIVIL CODE
<b>8</b>	SUPREME COURT VIEWS ON UNIFORM CIVIL CODE
<b>9</b>	UNIFORM CIVIL CODE AS A BOOM IN THE SOCIETY
<b>10</b>	PROBLEMS/ DISADVANTAGES OF UNIFORM CIVIL CODE
<b>11</b>	COUNTRIES WHO ADOPTED UNIFORM CIVIL CODE
<b>12</b>	RESEARCH METHODOLOGY
<b>13</b>	WILL UNIFORM CIVIL CODE REALLY EFFECT THE RELIGIOUS LIBERTY OF PEOPLE
<b>14</b>	WHOSE RELIGIOUS LAW WILL PREVAIL IF UNIFORM CIVIL CODE IS IMPLEMENTED ????
<b>15</b>	WHAT WILL HAPPEN IF UNIFORM CIVIL CODE IS IMPLEMENTED
<b>16</b>	UNIFORM CIVIL CODE IN GOA
<b>17</b>	WHO WILL BE BENEFITED FROM THE UCC
<b>18</b>	CONCLUSION

## ACOWLEDGEMENT

The success and final outcome of the project required a lot of guidance and assistance from many people and I am extremely fortunate to have got this all along the completion of our assignment work . Whatever I have done is only due to such guidance and support and I would not forget to thank them . I respect and thank Dr Mritunjay Kumar for giving me an opportunity to do this assignment work and providing me all the support and guidance which made me complete the assignment on time . I am extremely grateful to him for providing such a nice support and guidance .

I am really grateful because I managed to complete this assignment within the time given by Dr Mritunjay Kumar . This assignment cannot be completed without the efforts and cooperation of various people . Last but not the least I would like to express my gratitude to Himachal Pradesh National Law University , Shimla for the support and encouragement shown in me .

## ABSTRACT

The primary goal of this essay is to attempt to define what the Uniform Civil Code is , which is one of the nation's most significant and contentious issues . What issues does this law cause people to have ? What should be done by the government to adopt the Uniform Civil Code ? What will occur if the Uniform Civil Code is put into effect ? One of the most crucial question is then asked . Is India's society under peril or booming as a result of Uniform Civil Code ? We will also take into account the opinions of some scholars on this matter and what was debated in the Constituent Assembly regarding it ? Why Uniform Civil Code could not be adopted at the time of framing of the Constitution ? in order to determine the answers to all these crucial questions . In this essay we will also try to analyse the situation of those countries who adopted Uniform Civil Code . What India can learn from those nations while adopting Uniform Civil Code . We will also analyse one of the most crucial question of Whose religious law will prevail if Uniform Civil code is implemented ? How Uniform Civil Code became successful in Goa ? Will Uniform Civil Code really give an entire authority to government to govern and regulate religious belief of Indian citizens according to it's will or choice . What are the views point of judiciary on this contentious issue of nation ? Will Uniform Civil Code or UCC really exploit the religious faiths and beliefs of the minority or weaker groups of the society . Last but not the least , my opinion regarding this most

contentious , divisive as well as debatable issue of the society , state or nation as a whole .

**Key Words:-** Uniform Civil Code , peril or booming , Constitution , Other nations experience after adopting Uniform Civil Code , Goa , Judiciary , religious beliefs , govern .

## **EXECUTIVE SUMMARY**

Before understanding the Problems In Legislating of Uniform Civil Code it is important to understand the meaning of legislation . Legislation is the process of framing , enacting and implementing of rules as well as regulations and their implementations are commonly known as law . The process of writing any rules or regulations and converting them into law is known as drafting . These legislations are necessary to maintain a state of piece , prosperity as well as security in the society this statement can be elaborated in this way . That if laws are framed by proper legislations and are written in form of acts and provisions than the society will be able to obey these laws or rules in a better way without any point of clash or confusion .

## **INTRODUCTION ON UNIFORM CIVIL CODE**

We are all aware of the fact that Uniform Civil Code or UCC , is one of the most divisive issues in both politics and religion . However , before discussing UCC in more detail . It is critical to comprehend what it is . How does it get started ? A proposed law or the combination of laws called the Uniform Civil Code is being brought before the Indian parliament . It is a code that seeks to impose a common set of laws and regulations across the entire country , regardless of religion , race , caste , sex, or gender . It aims to combine all religious laws and regulations into a single body of law . Even the Indian Constitution provides information regarding how the Uniform Civil Code will be applied . Article 44 of the Indian Constitution contains the provision for establishing the Uniform Civil Code . This article grants the state the complete authority to apply the Uniform Civil Code to all Indian nationals whenever it feels it is necessary .

## HISTORY OF UNIFORM CIVIL CODE

The conflict over Uniform Civil Code began under British administration . When British colonisers attempted to alter Indian religion and culture by putting Western ideologies on the country . According to a research titled Lex Loci , personal laws for Hindu and Muslims shouldn't be formalised . India became religiously divided as a result of this report . two main religions , Hinduism and Islam , were established in India after the publication of this report. Additionally , a local court was established to handle civil issues brought by religious committees . Hindu law was given a lot of importance because it was simple to follow . On the other hand Muslim law was inconsistent since it was applied differently throughout India . During British occupation , laws were passed that forbade the practise of Sati .

Post – colonial times are included in the Uniform Civil Code's historical context . Following the end of British control , several political figures , including Jawaharlal Nehru ( the country's first Prime Minister ) and several women politicians , called for the implementation of Uniform Civil Code across the board . Dr . BR Ambedkar was tasked with introducing this bill when he was designated law minister at the time of independence . However the bill was unable to be introduced .

## WHY UCC WAS NOT IMPLEMENTED AT THE TIME OF INDEPENDENCE ?

People like Jawaharlal Nehru and Dr . BR Ambedkar ( Bheam Rao Ramji Ambedkar ) supported the establishment of the Uniform Civil Code in Indian society when it became independent . Even a debate over the adoption of the Uniform Civil Code in Indian society has begun in the parliament . Dr BR Ambedkar , a former law minister , criticised Indian society and claimed that the caste system was only a product of that society . Only the Uniform Civil Code , in his opinion , can help the Hindu committee and all of India's society . Additionally , he held that the Uniform Civil Code is the only means by which Muslim women may raise their standard in the society . However , the Indian government encountered fierce opposition once the debate over the implementation of Uniform Civil Code began in the parliament . Due to this , the Indian government adopted Hindu Code Bill , which largely focused on marriage , property etc., instead of the Uniform Civil Code . Initially , women and the general public supported this bill . However , shortly after society quickly changed it's mind , and the Hindu Code Bill was also opposed by many .

Additionally, the Hindu Code Bill was unable to end discrimination on a societal level. As a result of these conditions, the Indian government decided to halt the implementation of Uniform Civil Code. It amend Article 44 of the Indian Constitution to include the Uniform Civil Code provision. This document which is also a Directive Principle of State Policy ( DPSP ) or Part 4 of the Indian Constitution, said that the following governments can put this code into effect as they deemed fit for the nation.

## **OBJECTIVES OF UNIFORM CIVIL CODE**

Any laws or norms in the society are created, implemented, and carried out with certain goals or purposes in mind. The same is true of the Uniform Civil Code. The following are the main goals and aims for establishing the Uniform Civil Code in society:

- The main goal of the Uniform Civil Code is to eliminate discriminatory practises against weaker members of the society, such as women, the poor, and racial and caste minorities. It also focuses on preventing divisions in India on the basis of race, religion and caste.
- Dr. BR Ambedkar asserts that the Uniform Civil code will aim to provide women equal status and rights in society.

These are a few primary goals of the Uniform Civil Code, which is included in Article 44 of the Indian Constitution.

## **DOES INDIA NEEDS UNIFORM CIVIL CODE ?**

As we are aware, the question of whether or not India should adopt Uniform Civil Code is one that is frequently discussed. Politics around this subject has been going on since the British era. Many eminent academics and political activists think that India is a nation with many different religions and cultures. Caste and Religion are mixed together in Indian society. Due to these various social classes and groupings there are instances where caste or religious conflicts arises in the society. As the majority of the religions, such as Hinduism and Islam, have their own laws and regulations. However, there are instances when these norms conflict with one another creating a condition of tension. Hence to prevent conflicts based on caste or religion, the society needs a Uniform Civil Code. However, some academics contended that the implementation of the Uniform Civil Code will put an end to Indians freedom to freely practise any faith. These experts claims that this law will obviously violate the rights to freedom of religion provided for in Article 25, Article 26,

Article 27 and Article 28 of the Indian Constitution . It will also have an impact on the country's secular identity. Nevertheless , the judiciary bases it's decision on their viewpoint on this most contentious matter on the cases and rulings they render . As in the instance of Shah Bano versus Union of India ( 1985 ) in which the Supreme Court ruled that in accordance with Section 125 of the Code of Criminal Procedure , the male family member is required to provide support for his wife , family , children and parents . Only in this particular instance the court go on to elucidate on the necessity for common law , which must be implemented equally to all Indian residents regardless of religion , colour , race , caste , sex etc. The creation of the Indian Uniform Civil Code is credited to this court ruling . I believe that the implementation of the Uniform Civil Code should take time . It needs to be deployed gradually so that people won't perceive it as a danger to their religious practise . I believe that this delicate topic should be the subject of an open discussion . This should not be seen as a political matter and after being introduced in the parliament the law must be forwarded to the Select Committee of the parliament before being brought up for discussion in either chamber . This law has to be constantly amended and updated .

## **SUPREME COURT'S VIEW ON UNIFORM CIVIL CODE**

The Honourable Supreme Court has indicated it's support for the nation wide implementation of Uniform Civil Code in a number of important decision . On this side we will examine some significant decisions where the Supreme Court discussed implementation of Uniform Civil Code across the board . These rulings unequivocally demonstrate the need for the nation to adopt the Uniform Civil Code . These are listed below :-

- Union of India and others vs Smt. Sarla Mudgal and others :-

A decision in this matter was made on May 10 , 1995 . In this instance , the court made the observation that the state should work to achieve a Uniform Civil Code for Indian nationals . The court additionally determined in this instance that the custom of switching from one religion to another for a second marriage without getting the dissolution of first marriage is considered to be illegal .

- Sat Prakash Meena vs Alka Meena :-

The major question before the court in this case was whether the Meena group was covered under the Hindu Marriage Act of 1955 . According to Section 2( 2 ) of the Hindu Marriage Act of 1955, the Meena community is not covered by the Hindu Marriage Act, hence Meena community members are not subject to it's provisions .

The Supreme Court of India received the matter from Tis Hazari court . The respondent argued before the court that the case should be dismissed because the Meena community is under Rajasthan's Schedule Caste status , which make the Hindu Marriage Act inapplicable to them . In this case , the court recognised the need to implement Uniform Civil Code and held the divorce to be valid .

- Ms. Jordon Diengdeh vs SS Chopra :-

In this decision , the court reiterated the critical need for a Uniform Civil Code across the entire country . The court determined that the grounds for marriage and divorce are different and at odds in this case . The court also referred to the important ruling in Mohomad Ahemad khan versus Shah Banno Begum and urged the government to implement a Uniform Civil Code for improved legal administration .

- Ahmedabad Women Action Group vs Union of India :-

The matter is being heard by a three judge , panel that includes CJI AM. Ahmadi , Justice Sujata V. Manohar and Justice K. Venkataswami . The court's primary concern in this case is whether the judiciary has the authority to get involved in the debate over whether or not personal laws should be unified ? The Supreme Court ruled in this case that the legislature or parliament has the authority to execute the Uniform Civil Code and that the judiciary has no jurisdiction over this matter because it involves state strategy .

We can infer from the aforementioned rulings that the Supreme Court has made every effort to persuade parliament that the Uniform Civil Code is necessary to resolve conflicts between various religious laws in society . <sup>1</sup>

## **UNIFORM CIVIL CODE AS A BOOM IN THE SOCIETY**

Certain benefits of the Uniform Civil Code can be noted . They are as follows :-

- It will work to bring the whole country together . This implies that people will come together regardless of their ethnicity , caste , or religion .
- This code will eradicate religious discrimination from society and promote equality for all persons before the law . It can be further explained that women of whatever

---

<sup>1</sup> <https://www.indiankanoon.com>  
<https://www.casebriefs.com>  
[www.thehindu.com](http://www.thehindu.com)  
<https://www.livelaw.com>

religion , race, or caste will be treated equally in society as well as members of vulnerable group , poor people, and schedule caste and tribe .

- It will put an end to conflicts between the laws of several religions .
- The judiciary workload will be lessened . This issue can be explained in the following ways :- When cases involving disputes between several religious groups or committee come before the court , the court must analyse the statutes of each group independently , which will takes lot of time and add additional stress or strain to the court . If the Uniform Civil Code ( UCC ) is put into effect , it will be simpler for the courts to administer justice and deliver judgements .
- The aforementioned statement also implies that the quick administration of justice in society will result from the adoption of the Uniform Civil Code .
- Gender Parity can be encouraged in order to end discrimination against women , as stated above .

## **PROBLEMS / DISADVANTAGES OF UNIFORM CIVIL CODE**

Everything , it is true , has advantages and disadvantages of it's own . Similar to legislation , there are many advantages and disadvantages . The Uniform Civil Code has advantages and disadvantages . In this section we will talk about problems with the writing of the Indian Uniform Civil Code . The following are these problems

- **Fundamental Rights Violation :-**

Includes on in this . There has been ongoing discussion over this matter , and the first issue that comes up is that if the Uniform Civil Code is applied in India , then people's freedom of religion will be taken away . People will find it challenging to practise and spread their religion without restrictions . According to some academics , it would also pose a threat to the Indian Constitution because there will be a blatant violation of Article 25 which states that All the citizens of India are free to profess , conscience , practice and propagate their own religion .

- **Threat to the Preamble of the Constitution :-**

The preamble of the Indian Constitution was deemed to be most significant section by the Supreme Court in the case of Kesavananda Bharti vs. State of Kerala, AIR 1973 SC 1461 . The Indian Constitution opening page is another name for it . In the preamble, it is discussed what kind of country India will be . The five main tents of the preamble are sovereign , socialist , secular , democratic and republic . Some

activists think that if the Uniform Civil Code is adopted . India's secular identity will be lost .

- People don't want state to interfere in their religion :-

Many experts and citizens worry that if the Uniform Civil Code is put into effect , the state will gain unrestricted authority to meddle with people's varied religious practises, which will cause different groups of people to lose their religion and culture .

- Diversity of the nation :-

India is an extremely varied nation . There are people there from a variety of groups with a wide range of faiths , races, and religions . A difficult task will be enacting a unified law simultaneously for all of these groups . Which might also harm their behaviours and beliefs .

- Dominance of one religion :-

Some experts and academics believe that if the Uniform Civil Code is adopted , the other minority religious groupings will no longer be relevant and culturally significant. For instance, everyone is aware that India is a predominantly Hindu country . Hindus make up almost 80 percent ( % ) of the population in India . The other religious communities, such as Muslims and Christians, believe that if this rule is put into effect, they will be compelled to abandon their own religious traditions and to abide by the regulations of the one dominating religion in the country .

- Instability in the society :-

Some people believe that if the Uniform Civil Code is put into place, minorities will not be allowed to follow the laws of their religion . Consequently , this could lead to violence and unrest in the community . This poses a serious threat to both the integrity of this country and its potential division along religious lines .

## **COUNTRIES WHO ADOPTED UNIFORM CIVIL CODE**

Several of the world's most industrial nations , like The United States of America ( The USA ) , Rome and France , have adopted the Uniform Civil Code . In the next point, we will talk about how this code has affected these countries .

- Uniform Civil Code in the United States of America :-

Compared to India , the United States of America has a wider variety of groupings . The

majority of the explanation for this is because each of the 50 states that makes up the USA is a separate legal entity . States have the freedom to use their own practises . Despite the fact that the United States as a whole shares common civil characteristics. These shared characteristics are controlled by a shared principle . The Supreme Court has the authority to decide on matters related to federalism , taxation and national security . Since the Uniform Civil Code also aimed to foster a sense of oneness , its adoption in the United States of America has been largely effective .

- **Uniform Civil Code in France :-**

The Napoleon Civil Code is one of the most well – known civil codes in the world , is found in France . In 1804 this code was first developed . However , the groundwork for integrating civil laws was laid very early on . More than 300 municipal civil codes have been repealed as a result of this law . Many traditional customs were put on hold . This French Civil Code focused mostly on easements , property , commodities , contracts , quasi-contracts , wills, and gifts , among other things . The French Civil Code’s fundamental goal is to strike a balance between privilege , tradition, and equality among various groups, and it has done a good job of achieving that goal .

- **Uniform Civil Code In Rome :-**

The Romans created a code that is specific to the Roman populace using a doctrine . This code outlined the process for deciding legal disputes Jus Civile , a historical word that describes all legal precepts and regulations stemming from Roman conventions , was used to describe this philosophy . The Emperor Justinian was credited with creating this code in 527 CE . Later , numerous judges and courts from throughout the world embraced the concept of these statutes . The Romans established a system of communication known as Jus Naturale for outsiders and other countries . This implies that everyone will have access to natural rights . As a matter of fact , we can say that Rome was the most successful country in implementing of the Uniform Civil Code ( UCC ) .In nutshell , we can claim that these countries were able to create the Uniform Civil Code in the most effective way possible and that it had favourable impact on their society . These countries have grown stronger thanks to this code , and they now rank among the most developed today . In light of this , in my opinion , too , India should adopt a uniform civil system in the shape of a doctrine , much as Rome did . It ought to grant

states like the United States of America a certain amount of freedom . In my opinion , a nationwide referendum on the Uniform Civil Code's implementation must be held and this measure must first be forwarded to the parliament's select committee prior to both houses of the parliament's discussion and debate . The most crucial aspect is that before imposing any rule on the people , consideration for their interests and will must be given , Before enforcing such a delicate rule , their questions and worries should be addressed . <sup>2</sup>

## RESEARCH MEHODOLOGY

The primary source of information for this project are various articles on newspapers like The Hindu , Indian Express etc. . These papers have thoroughly been analysed and understood to facilitate an objective understanding of the research topic . the research has also been done by analysing some secondary sources like Constituent Assembly debates on Uniform Civil Code . Thus in general , an empirical research methodology was used to collect and analyse the necessary data .

## WILL UNIFORM CIVIL CODE REALLY EFFECT THE RELIGIOUS LIBERTY OF THE PEOPLE ?

The issue of India's attitude on personal laws first came up when it became independent . There was considerable discussion and controversy in the constituent assembly when the Constitution was being drafted about whether to implement the Uniform Civil Code or not . Political leaders like Dr BR Ambedkar and Jawaharlal Nehru supported the establishment of Uniform Civil Code in the country . The current BJP-led administration is in favour of establishing a Uniform Civil Code . They even adhere to the One Nation , One Law philosophy . Many influential figures , including Dr BR Ambedkar , have voiced their opinions on the Uniform Civil Code . In accordance with Article 35 of the Indian Constitution , the Constituent Assembly reviewed the provisions of the Uniform Civil Code . The opinions of many leaders in this regard are stated below :-

- Mohammad Ismail :-

“ He changed the constitutional clause found in Article 33 . This clause states that no group or segment of the population may be pressured to renounce their personal religious benefits .” He claimed that everyone has the right to exercise their own

---

<sup>2</sup> <https://www.legalserviceindia.com>

personal law . He made the connection between the application of personal laws and the right to life , which means that any interference with an individual's personal laws by the state or anyone else constitutes a clear violation of that person's right to life .

- **KM Munshi :-**

According to him personal laws and religion should not be combined . The Uniform Civil Code must be applied throughout the entire country . He claims that personal laws discriminate against different people , which is blatantly against Constitution . He added that certain European nations that have adopted the Uniform Civil Code have done so without having negative effects on minority populations . He believed that divorces should not be subject to personal laws .

- **DR BR Ambedkar :-**

He served as India's first independent law minister . In the parliament and constituent assembly , he was the one who first suggested the Uniform Civil Code , which sparked a discussion and debate . According to him , the Uniform Civil Code will only apply to those groups or individuals who consent to it . He opposed the government meddling in anyone's religious practise . He made an attempt to persuade Muslim community by claiming that the code won't affect their ability to practise their religion or place any obligations on them .

- **KM Munshi was backed by several leaders , like AK Iyer , who advocated the adoption of the Uniform Civil Code .**

It is not true that the implementation of Uniform Civil Code will affect people's freedom of religion . The cultural and religious practises will be greatly impacted . But this code will promote equality among all social groupings . The other groups , such as minority groups , won't be impacted if the code is implemented with Rome and the United States of America as models . As was already mentioned , this code will aid in preserving women's place in society . However , as was previously noted , the process of establishing and implementing laws should be deliberate and effective there should be appropriate debates and discussion . In summary , we can say that the implementation of Uniform Civil Code will have a significant impact on society . However , the harmonisation of the legislation would ensure the proper operation of the country's legal system and lessen the strain of the judiciary . <sup>3</sup>

---

<sup>3</sup> [www.byjus.com](http://www.byjus.com)

## **WHOSE RELIGIOUS LAW WILL PREVAIL IF UNIFORM CIVIL CODE IS IMPLEMENTED ?**

Whenever there is a discussion and debate on whether the country should adopt a Uniform Civil Code. Whose religious law will prevail if the country adopts the Uniform Civil Code? is the first question that comes to people's mind. We will try to answer one of the most significant questions in this area. We are aware that the Uniform Civil Code will provide the legislature the authority to create a single common law for this country's whole religious community, including Hindus, Christians, Muslims, and Sikhs. According to what I understand, majority religious group legislation will apply. In India, for instance, where Hindus predominate, Hindu law must be implemented. According to a number of academics, including Dr. Faizan Mustafa (Vice Chancellor of NALSAR University of Law, Hyderabad), the Uniform Civil Code will undoubtedly be a successful law if its goal is to grant equal status and legal rights to women in society. If the implementation of the Uniform Civil Code (UCC) is necessary, in my opinion, it is crucial that this law be established gradually rather than all at once. Important religious legislation should be taken into account to prevent other religious communities from feeling excluded or marginalised in society.

## **WHAT WILL HAPPEN IF UNIFORM CIVIL CODE IS IMPLEMENTED ?**

The nation as a whole will experience mixed effect from the implementation of the Uniform Civil Code. Every citizen of the country, regardless of religion, colour, caste, or other factors, will have equal standing in the eyes of the law if the Uniform Civil Code is put into effect. Discrimination against the less powerful groups in the society will end. However, there are certain drawbacks to this law as well. It will place constraints on people's freedom to practise and spread any faith. The Indian Constitution's Article 25 may be broken by this law. People could even lose their sense of religious identity. Despite the fact that this code will affect each citizen's particular laws. However, it is better to establish such a code if personal law conflicts with the Constitution and breaches any of its provisions. India should draw inspiration from places like Rome and France that established the Uniform Civil Code very early on and should draught legislation by identifying beneficial parts and taking use of these countries achievements. Goa, for instance, is the only Indian state with a Uniform Civil Code. The government should carefully examine the impact of the Uniform Civil Code in Goa before making a decision regarding this delicate matter. In the future sides the impact

of Uniform Civil Code in Goa will be covered separately .<sup>4</sup>

## UNIFORM CIVIL CODE IN GOA

In India Goa was the first state to implement Uniform Civil Code , regardless of gender , colour , caste, or religion . The state has a universally applicable uniform family code . All the state's religions, whether Hindu , Christian , or, Muslim are governed by the same laws on marriage , divorce , succession, and other issues . When Goa joined India , the Uniform Civil Code was put into effect . Portuguese Civil Code was authorised by the Indian government . At the period of the Portuguese , the code was put into practise in Goa . In 1962 , the legislature changed and abolished legislation . Marriage in Goa is an agreement between two people . In Goa the Uniform Civil Code acted as a successful and forward – thinking law . In Goa everybody is treated equally . the entire country should attempt to apply this law in a manner similar to how Goa has done so in order to take inspiration from Goa . Regardless of gender ( husband and wife ) , religion , colour , or caste , income , fortune , and property are divided equally in Goa . Every person in the state is required to notify the authorities of any birth or death . Although there were no communal violence throughout the entire state after the Uniform Civil Code was implemented , several gaps were found . ‘ The Uniform Civil Code of Goa has one significant shortcoming , say some activists like Ferreira . Retention of Legitimate he described the problem by saying that 50% ( percent ) of the portion needed to be maintained for dependents , and the remaining 50% ( percent ) is needed to be reserved . An illustration will help to better explain this . For instance , if a parent wants to give their son a house , but they have tow kids , they can't concentrate on just one of them because the other will show up and fight for it . This was one of the main points that was brought up in conversation . Some individuals believe that the legislation which was created in Goa during the Portuguese era prohibits adhering to outdated regulations for an extended period of time as regulations ought to be altered in accordance with what the public wants and needs . In a summary , we can say that the Uniform Civil Code in Goa was quite successful , but it has some gaps that needs to be filled in accordance with the need and preferences of society .

---

<sup>4</sup> <https://blog.iplayers.in>

## **WHO WILL BE BENEFITED FROM THE UNIFORM CIVIL CODE ?**

Who will benefit from the Uniform Civil Code ? is the first query that pops into people's head whenever the topic of its implementation is brought up . Another query is ' will this bill specifically target one committee ? 'Every person in the community can profit , in my opinion , if this rule is executed in a correct systematic method , such as with adequate debates and discussion . This law will , in my opinion , stand out as one of the best laws in the country if the requirement to uplift the weaker segment of society is kept in mind and their religious beliefs and interests are protected by it . If the law is framed objectively by the legislatures , In my opinion , it won't affect people's religious sentiments . One of the best goals of this bill is to achieve equality before the law , which is also advantageous for the country . But there is a requirement that this legislation be applied , codified, and read correctly and consistently . The decision makers in this situation ought to be impartial and free from political and religious influence.

### **CONCLUSION**

We can infer from the debate above that the Uniform Civil Code is currently becoming into a crucial issue in society . If the government decides to apply this very contentious law and determines that it is important , beneficial, and necessary for a country like India , then it must educate its people and promote knowledge of the law's benefits to a greater extent . Since we are aware that in India , religion and caste are two very important and delicate issues . On these subjects , politics should not be practised .