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**UNIFORM CIVIL CODE: ASSOCIATE NEGLECTED  
CONSTITUTIONAL IMPERATIVE**- Deeksha Shrivastava<sup>1</sup>**Abstract**

A Uniform Civil Code may be a law that deals with the Directive Principles of State Policy underneath Article forty-four of the Indian Constitution. The law urges for one common law that the complete country should follow. The non-secular and private matters, like wedding, Divorce and Inheritance rights, of every and each community should be sought by a typical law. Article forty-four enshrined underneath the Indian Constitution states that, “the State shall endeavor to secure for the voters an identical Civil Code (UCC) throughout the territory of Asian nation.”<sup>2</sup> Time and once more, it's been mentioned as a vital Constitutional mandate. Supreme Court has issued to implement the uniform civil code in numerous cases regarding concern of various non secular communities. Asian nation had with success enforced the Uniform Criminal Code however has lacked behind in implementation of the Uniform Civil Code. this text throws some happen upon the requirement for an identical Civil Code and an in-depth appraisal of the problems associated with it. This analysis Paper is split into eight components. the primary half commences with the Introduction. The second half contains analysis Methodology. The third half talks regarding the Review of Literature. The one-fourth contains the notable cases coping with the subject. The one-fifth takes under consideration the Importance. The sixth half deals with the shortcomings of the Uniform Civil Code. The seventh half contains the suggestions and therefore the last half i.e., eighth half summarizes the analysis into conclusion.

**KEYWORDS –**

Uniform Civil Code, Constitutional Mandate, imperative, Hindu code, Communalism.

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<sup>2</sup> INDIA CONST. art 44

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**INTRODUCTION –**

Uniform Civil Code may be a reasonably legislation provided underneath Article forty-four of the Indian Constitution. The law is roofed underneath Directive Principles of State Policy. So, they're not mandatorily enforceable by the court of law. However, our Indian Constitution emphasizes the state to secure an identical Civil Code for the voters. It aims to supply one law code for all the voters regardless of non-secular background. It aims defend the fundamental rights of its voters that's the requirement of the hour. One nation and one law area unit the saying of the Uniform Civil Code. This cannot solely govern the social holiness and unity however conjointly regulation the philosophical system. Asian nation is that the land of religions and so it's important to keep up the profane values of the state.

Supreme court have issued persistently to implement the Civil Code however the Muslim Community, minority, have forever opposed it. Heated arguments have taken place since a few years however the minority have denied that they're going to not let majority, impose their personal laws on them. India has Uniform Criminal Code however is lacking behind in Civil Code that is incredibly necessary to urge enforced since India may be a nation of various religions. Uniformity of the non-public laws can create our nation united. A nation, wherever one law would be enforced no matter the various religions, will for certain construct a national identity.

This analysis paper is indicated in transportation some awareness among the individuals regarding the requirement to implement the Uniform Civil Code and its implications on our society and folks if the code gets enforced. In India, Goa had with success enforced the Uniform Civil Code. Therefore, the paper can throw some happen upon the professionals and cons of the law if enforced across whole territory. Further, it focuses upon the link between the Uniform Civil Code and philosophical system. At last, however not the smallest amount, it'll remark the judgements and opinions fashioned by law and therefore the law's perspective.

**RESEARCH METHODOLOGY –**

The descriptive and secondary quantitative experimental analysis is that the approach has been adopted to know the legal provisions of law and implications of law, if enforced. an in-depth

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study has been conducted, explaining the standing of code with the assistance of assorted journals, books, case laws etc. the info has been collected from sources of assorted articles, reports and therefore the websites regarding an equivalent.

### REVIEW OF LITERATUE –

The Uniform Civil Code is that the basic law that aims at achieving social uniformity. In an exceedingly easy language, it means, uniform law for private matters of each individual within the society. By uniformity, we have a tendency to mean equality. As we all know “Everyone is equal within the eyes of the law”, that's what the civil code is supposed for. The law should see each individual equal regardless of the faith, cast, creed, sex, age etc.

India, has forever remained the state with a combination of numerous completely different cultures and religions. and each faith has its own personal laws and cultures that is dividing the individuals on categorical basis and therefore, Asian nation is unable to grow as a nationhood with a way of unity. It aims to detach the non-public laws supported religions however not personal laws of the voters.

In past, the law was radio-controlled on the premise of Dharma. it absolutely was same that the law is Dharma and everybody is obligated to follow the Dharma that's their duty. faith was simply meant for the worship purpose because it denoted the relation between the person and therefore the almighty god. However, in recent times, faith and law area unit distorted with their real essence and which means. faith is currently termed because the duty that had nothing to try and do with God. It guides one's behaviour and private laws no matter methodology they opt for.

Chief Justice of Asian nation, S.A. Bobde, explicit that: “Goa has what Constitutional framers envisaged for Asian nation — an identical Civil Code,” the CJI same. “And I even have had the good privilege of administering justice thereunder Code. It applies in wedding and succession, governing all Goans regardless of non-secular affiliation. I even have detected plenty of educational remark the Uniform Civil Code. i might request all those intellectuals to easily return here and learn the administration of justice to understand what it seems to be.”<sup>3</sup>

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<sup>3</sup>[www.blogpleaders.com](http://www.blogpleaders.com) (last visited 8<sup>th</sup> July 2021) article

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During the debate before the constituent assembly, Dr. B.R. Ambedkar inferred: “I personally do not understand why religion should be given this vast, expansive jurisdiction so as to cover the whole of life and to prevent the legislature from encroaching upon that field. After all, what are we having this liberty for?”<sup>4</sup>

In the case of *Gitlow Vs. New York*, the Supreme court stated that:

“It is a fundamental principle, long established, that the freedom of speech and of the press, which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom.”<sup>5</sup>

Directive principles of state policy aren't useless simply because they are doing not have any legal proceeding binding them upon the state. However, it's the duty of the state to secure a standardized legislation seeking personal laws of the communities.

In Sept 2019, the Supreme Court lauded the Goa's Uniform Civil Code and has represented it as a “shining example” with Uniform Civil Code. It conjointly ascertained that; the constitution manufacturers have hoped that Uniform Civil Code can exist in Indian society however we've failing therein plan to secure it. A bench of justices Deepak Gupta and AniruddhaSatyendra N. Bose said: “It is fascinating to notice that whereas the founders of the Constitution in Article forty-four partially IV managing the Directive Principles of State Policy had hoped and expected that the State shall endeavor to secure for the voters a standardized Civil Code throughout the territories of Asian nation, until date no action has been taken during this regard.”<sup>6</sup>

The city court have conjointly backed from the requirement for a standardized Civil Code and have asked the Central Government to additional take steps on this issue. The city court aforementioned that: “there is that the want for a Code - ‘common to all’ within the country noting that the trendy Indian society is step by step turning into “homogeneous”, dissipating

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<sup>4</sup> Constituent assembly debate, 1951

<sup>5</sup> [www.indianexpress.com](http://www.indianexpress.com) (last visited 8<sup>th</sup> July 2021)

<sup>6</sup> [www.indianexpress.com](http://www.indianexpress.com)

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'traditional barriers' of faith, community, and caste.”<sup>7</sup>

Civil laws in Asian nation area unit guided by belief and religion. Criminal laws were written an extended past and currently most are equal in terms of its implementation no matter faith one follows. once a few years of discussions and deliberations, no conclusion has been derived out. Hindu code is applicable on Hindus, Muslim law code on Muslims and Christian Code on Christians.

In 1951, the draft of the Rau Committee Report was submitted to a committee headed by Dr. B.R. Ambedkar. The Hindu Code Bill was finally adopted in 1956 and came to be called Hindu Succession Act. It written the law with reference to the Hindus, Buddhists, Jains, Sikhs etc. it conjointly provided possession and property rights to the ladies. ladies might claim in their father's property. The Act was amended in 2005 and also the inheritance rights were amended.

#### **FAMOUS CASES REGARDING UNIFORM CIVIL CODE –**

1. The State of Mumbai Vs. Narasu Appa African nation, 1951 –

“Article forty-four contains a directive to the State to secure for the voters a standardized Civil Code throughout the territory of Asian nation, and still the State of Mumbai by this legislation has discriminated between Hindus and Muslims solely on the bottom of faith and has started a separate Code of social reform for Hindus totally different from that applicable to the Muslims.” aforementioned by the Mumbai court.<sup>8</sup>

2. Smt Sarla Mudgal, President... vs. Union of Asian nation, 1995 –

It was ascertained that: “The State shall endeavor to secure for the voters a standardized civil code through-out the territory of Asian nation” is AN unequivocal mandate below Article forty-four of the Constitution of India that seeks to introduce a standardized personal law.”

When Hindu code bill was introduced within the parliament in 1954, Pandit Jawaharlal Nehru said: “I don't suppose that at the current moment the time is ripe in Asian nation on behalf of me to do to push it through”.<sup>9</sup>

3. Mohd. Ahmed Khan Vs. Shah of Iran Bano lady, 1985 –

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<sup>7</sup>[www.thehindu.com](http://www.thehindu.com)

<sup>8</sup> The State of Mumbai Vs. NarasuAppa African nation, AIR 1952 Bom 84

<sup>9</sup>SmtSarlamudgal, President... vs. Union of Asian nation, 1995 AIR 1531

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The constitutional bench has ascertained that: "It is additionally a matter of regret that Article forty-four of our Constitution has remained a dead letter. It provides that "The State shall endeavor to secure for the voters a standardized civil code throughout the territory of India". there's no proof of any official activity for framing a typical civil code for the country. A belief looks to own gained ground that it's for the Muslim community to require a lead within the matter of reforms of their personal law. a typical Civil Code can facilitate the reason for national integration by removing disparate loyalties to laws that have conflicting ideologies. No community is probably going to bell the cat by creating gratuitous concessions on this issue. it's the State that is charged with the duty of securing a standardized civil code for the voters of the country and, unquestionably; it's the legislative ability to try and do thus. A counsel within the case unvoiced, somewhat audibly, that legislative ability is one issue, the political courageousness to use that ability is sort of another. we have a tendency to perceive the difficulties concerned in transportation persons of various faiths and persuasions on a typical platform. However, a starting has got to be created is that the Constitution is to own any that means. Inevitably, the role of the reformer has got to be assumed by the courts as a result of, it's on the far side the endurance of sensitive minds to permit injustice to be suffered once it's thus palpable. however piecemeal tries of courts to bridge that gap between personal laws cannot take the place of a typical Civil Code. Justice to any or all could be a way more satisfactory means of dispensing justice than justice from case to case."<sup>10</sup>

4. Ahmedabad ladies Action cluster Vs. Union of Asian nation, 1985 –

It was ascertained by the court of law: ""There is little question that the Muslims are excluded from the operation of the Act in question. Even Section 494, Penal Code, that makes bigamy AN offence applies to Parsis, Christians et al, however to not Muslims as a result of marriage is recognized as a sound establishment once a Muslim male marries quite one mate. The question that we've to contemplate is whether or not there's any cheap basis for making the Muslims as a separate category to that the laws prohibiting marriage mustn't apply. Now. it's AN historic incontrovertible fact that each the Muslims and also the Hindus during this country have their several spiritual texts and that embody their own distinctive evolution and that area unit coloured by their own distinctive backgrounds. Article forty-four itself acknowledges separate a directive to be achieved that among a measurable time Asian nation ought to get pleasure from

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<sup>10</sup>Mohd. Ahmed Khan Vs. Shah of Iran Bano lady, 1985 AIR 945

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the privilege.”<sup>11</sup>

### IMPORTANCE –

1. The most aim of the Uniform Civil Code is to evaluate on the idea of citizen's personal laws and therefore the issue, not on the idea of faith. So, faith should be seen as separated from the private laws.
2. It seeks to unite the state and supply a nationwide identity by unifying the entire nation notwithstanding any spiritual community.
3. Right to propagate one's faith is ruled beneath Article twenty-five of the Indian Constitution. It covers right of each individual to follow their faith however to sure extent provided within the Constitution.
4. There square measure numerous legislations that govern personal laws in Bharat – Hindu wedding Act, 1955, Indian Succession Act, 1925, Indian Divorce Act, 1869, Parsi wedding and Divorce Act, 1936, Christian wedding Act, 1872 etc.

### SHORTCOMINGS OF THE UNIFORM CIVIL CODE –

1. The supply of the Uniform Civil Code is mentioned beneath Article forty-four within the part IV of the Indian Constitution that deals with the Directive Principles of State Policy. Hence, there's no legal force binding the state to enact a law throughout the territory. they're neither obligatory nor enforceable within the court of law.

The Supreme Court, in *Roman deity Mill's* case in 1980, held that:

“Indian Constitution is supported on the bed-rock of the balance between components III (Fundamental Rights) and IV (Directive Principles). to administer absolute grandness to 1 over the opposite is to disturb the harmony of the Constitution”.<sup>12</sup>

2. A Muslim man will have over one woman however not alternative men from Hindu, Sikh or Christian religion. On the opposite hand, a ladies cannot perform marriage to whichever faith she comes from. this is often one amongst the outlining options wherever our country lags.

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<sup>11</sup> Ahmedabad ladies Action cluster Vs. Union of Asian nation, 1997

<sup>12</sup> [www.indiankanoon.com](http://www.indiankanoon.com) (last visited 8<sup>th</sup> July 2021)

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3. The upkeep rights of the Muslims aren't ruled in keeping with the Hindu code. The far-famed case of ShayaraBano Vs. Union of Bharat, the Supreme Court explicit that the Muslim woman is entitled to assert for the upkeep beneath section one hundred twenty-five of Code of Civil Procedure.
4. Secularism has to be get separated from the prospects of the Uniform Civil Code. the Individual religion and private laws square measure 2 completely different dimensions and may not be mixed with one another.

In S.R. Bommai Vs. Union of Bharat, it had been explicit for a lay country that: "By lay State, as I perceive, it's meant that the State isn't about to build any discrimination some on the bottom {of religion} or community against somebody profession any specific variety of spiritual faith. this implies in essence that no specific faith within the State can receive any State patronage some. The State isn't about to establish, patronize or endow any specific faith to the exclusion of or in preference to others which no subject within the State can have any discriminatory treatment or are discriminated against merely on tile ground that he professed a selected variety of faith. In alternative words, within the affairs of the State the preferring of any specific faith won't be taken into thought in any respect. This I fancy to be the essence of a lay State. At an equivalent time, we have a tendency to should be terribly careful to ascertain that during this land of ours we have a tendency to don't deny to anybody the proper not solely to profess or apply however additionally propagate any specific faith."<sup>13</sup>

### SUGGESTIONS –

In my opinion, Uniform Civil Code could be a required legislation for our country. It'll alter North American nation to own a regular law on personal business no matter any faith like Indian Contract act, 1872, etc. we might be able to apply real ism instead of selective ism wherever the matters and problems square measure selected the idea of religions. So, ism has to be separated from the private laws. a regular Code will encourage the members of the society to measure with unity and take our nation into additional advancements wherever our country lags behind. it'll enhance a way of equality and unity among the people and thence nationhood is

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<sup>13</sup>[www.indiankanoon.com](http://www.indiankanoon.com) (last visited 8<sup>th</sup> July 2021)

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promoted so as to achieve nationwide identity.

It will additionally enhance Gender Equality and welfare of the voters specially ladies. state have already taken the step and currently it's on the opposite states to return forward and implement the code everywhere the territory. In Goa, {everyone seems to be} certain by the Uniform Civil Code notwithstanding any faith and that they are duty-bound to follow it. it's the sole state in Bharat that features a common Family Law.

### CONCLUSION –

The Uniform Civil Code is for the aim of the event of the entire society besides any faith, caste or creed. Uniform Civil Code is commonly joined with the communalism. If a celebration is addressing the problem to implement the civil code, then it's been treated as a political party or a celebration supporting or propagating communalism. Hindus square measure in majority in order that they square measure placed on the knife by minorities of imposing their personal laws on them. individuals should be created responsive to the outcomes of the code and the way useful it's for them. it'll bring reforms that is for the betterment of the society. Uniform Civil Code won't infringe upon the fundamental rights of the people or their spiritual rights to follow their faith. it'll be a fruitful reform in an exceedingly long-term.

Uniform Civil Code is the need of the hour. All the political parties should unite along in transportation such a reform no matter party biases. Bharat has continually lagged behind in Gender Equality Index, Uniform Civil Code can facilitate our country to realize national integration and national unity. this is often however we are able to deliver the goods the goal of creating Bharat the progressive nation worldwide.

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