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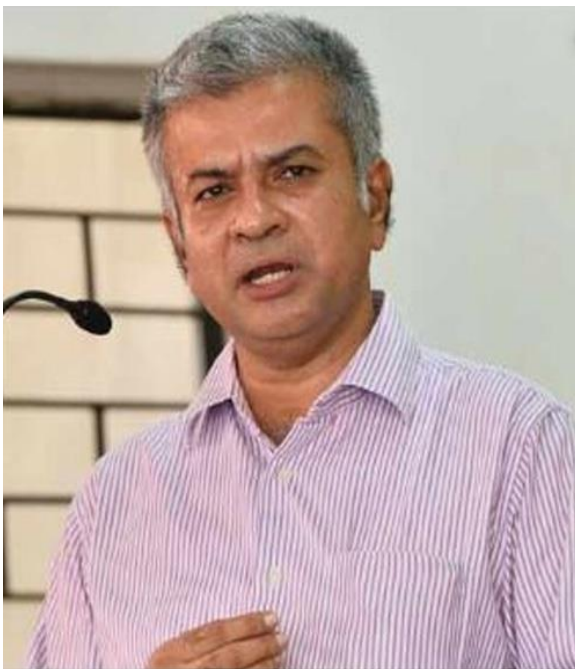
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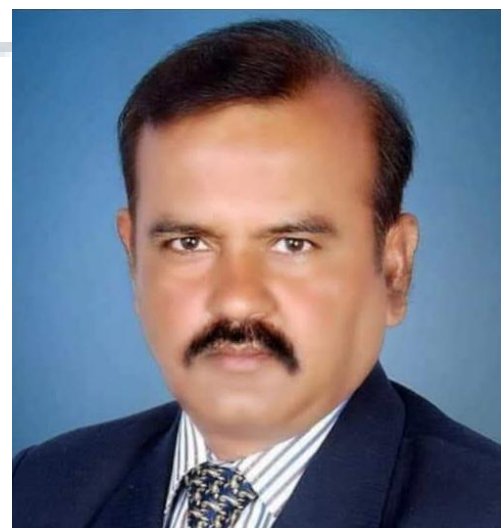
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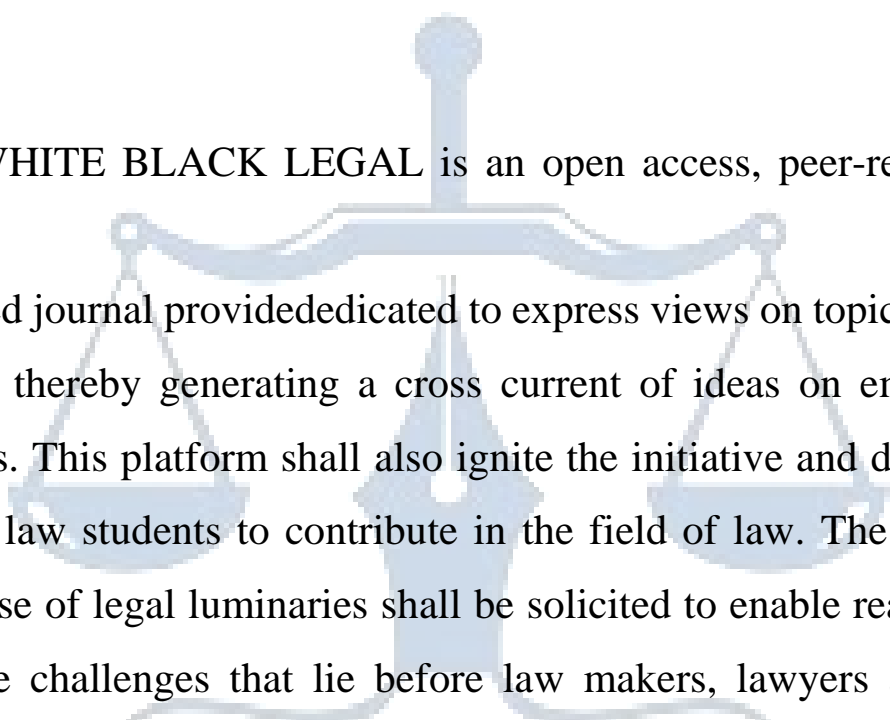


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## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# UNIFORM CIVIL CODE

AUTHORED BY - UTTARA ROY

## Introduction

Uniform Civil Code is a principle which simple means that one country should follow one rule irrespective of any religious communities. It is a suggestion which was discussed during the report of Hindu Law Committee during the 1948-1951 and 1951-1954 sessions by our 1<sup>st</sup> Prime Minister Jawaharlal Nehru and his fellow supporter. This proposal is incorporated in Article 44 of the Indian Constitution which states that “The State shall endeavour to secure the citizen a Uniform Civil Code throughout the territory of India”<sup>1</sup>. However, Article 37 of the Constitution itself makes it clear the DPSP “shall not be enforceable by any court”.

## Positive Impact

To bring uniformity in the country, it is necessary to have a code which govern all the citizen in terms of social welfare. There are certain times when it become challenging for the statutory as well as constitutional body to encroach upon the personal laws due to public sentimental issues. With the help of a Uniform Civil code, it can help to reduce such burdens and make law without hampering anyone’s personal rights. Some of the important highlights of this Code are as follows-

- One of its significant attributes is to ensure **gender equality** as we can witness those certain personal laws discriminate against women in matter like divorce, maintenance and inheritance.
- It can also **promote social unity and brotherhood** as India is a country where personal law of different communities hinders the progress of social harmony due to lack of awareness against other communities, however, with the implementation of UCC, it can help to bring the unity among the citizens of our country.
- It also encourages **equality and secularism** as it treats all citizen equally without any religious discrimination.
- It also helps to **ensure justice** as it will eliminate the overlapping of different provision of law which will result into speedy justice.

As it can be observed that the Code itself can act as a boon for the progression of the country.

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<sup>1</sup> The Constitution of India, Art. 44

The implementation of this Code can help to reduce various burdens and conflicts which hurt the society at large. We live in a society where we are not fully aware of our own legal rights and as an ordinary citizen to have a deep understand of other community's rights and its law is something which seems to be intractable or scare in our present-day environment.

## UCC and its impact on Secularism

Secularism was added in the 42<sup>nd</sup> Amendment of the Indian Constitution in the year 1976. In simple, '*secularism*' means separation of state from religion. In India we have more than five religions and to provide equal rights to every citizen without any religious discrimination, it is the secularism which comes into play in order to deal with such obstacles. In **S. R. Bommai v. Union of India**, the Supreme Court held secularism as a basic structure of the Constitution.<sup>2</sup> The UCC and secularism are related ideas that frequently come up in conversations about personal laws and governance. In order to ensure that the government treats all religions equally and does not favour any one religion over another, secularism argues for the separation of religion and state. In contrast, the UCC suggests a single body of laws that apply to all citizens, irrespective of their religious convictions, especially when it comes to personal law. Based on many religious customs, the UCC seeks to replace the disparity of personal laws that presently exist in India. Matrimony, divorce, adoption, and inheritance are all covered by these laws. Since the UCC would treat all citizens equally under the law, its proponents contend that it would advance social justice, gender equality, and a uniform legal framework—all of which are in line with secularism.<sup>3</sup>

### Criticism

In India, the biggest challenge for the law maker was the diversity in personal laws and customs. The population of India also created a hindrance in forming a uniformity in all the area of the State. Due to difference in culture, customs, and different ideology of people, the need for uniform law was acting as an obstacle in the development of our country. During the Post-Independence Era, the percentage of people who were literate was limited in numbers and to implement the proposal all over the country made it more difficult. While drafting the UCC, the drawbacks which were argued-

- Firstly, it was violating the freedom of religion

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<sup>2</sup> S. R. Bommai v. U.O.I [1994] 2 SCR 644: AIR 1994 SC 1918 : (1994)3 SCC 1

<sup>3</sup> **SWATHIKA KADIESWARAN**, Should Secular State levy Uniform Civil Code?

(<https://www.legalserviceindia.com/legal/article-14439-should-secular-state-levy-uniform-civil-code-.html>)

- Secondly, it would hamper the harmony with the Muslim Community
- Thirdly, it would hurt the sentiment of the religious community if it interferes with the personal law.

However, it was argued back by the drafting community that it is necessary for the country to implement the UCC as it would help to strengthen the unity. It was also stated that the UCC is not a new concept as we already had Common Civil code. The proposal is included in the **Part IV** of the Constitution as **Directive Principle State Policy** which would not force the State to implement with immediate effect, however, it would do so after taking prior consent from all the religious community.

### **Present Scenario**

Uniform Civil Code is one of the most debatable topics in our today's era. Recently, we have witnessed that Uttarakhand Assembly adopted UCC and became the first state to have uniform code for civil matters since Pre-Independence Goa. With the implementation of this Code, there are many doubts which stays for a certain period of time but it is the vision of the lawmakers to make the country a place where everyone is treated equally without any biasness. It is also mentioned that tribal and minority communities won't be affected by this Code. Also due to political party criticism over the Army's role in the Model Code of Conduct, the Army in Jammu and Kashmir had to cancel its seminar on UCC. Despite of its obstacles, it can be seen that UCC act as a game changer in our country by uniting all the personal laws into one common set of law. In order to ensure that it does not hamper the minority communities, it is necessary to take prior consent from all the religion community.

### **Conclusion**

It can be said that the implementation of UCC can solve various obstacles which is faced by our judiciary while dealing with the personal laws. If the pros and cons of the UCC are measured, we can observe that it has more positive effects. However, a country needs to take into consideration the sentiments of its citizen while dealing with the UCC. Moreover, it is also important to enhance the knowledge and awareness regarding the Uniform Civil Code among the public in order to ensure harmony and peace. In a developing country like India, opinions of the public must be given greater importance and it is the duty of the government to conduct survey before making any law related to UCC. These measures will ensure smooth co-operation between the public and the Government to maintain public peace and harmony.