



Uniform Civil Code: A Religious Myth or Legal Controversy

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ABSTRACT

India is a religiously diverse country with all the foremost religions of the world-finding place in this land. It is a singular country not only in terms of its geography however conjointly in terms of its social state of affairs. Individuals from all sects live here and so, our Constitutional ancestors felt the need to build a social cohesion in the country. There was the requirement of reformation of our personal laws as a result of which Muslim women are denied their rights that has already been given to them 1400 years ago in Quran. The practices like halala, sati, polygamy continue to persist today that finds no mention in the religious texts. The Shaik Bano case in this context, for the first time took the need of the hour to its apex, highlighting the flaws in the system. The paper looks the back cover of issue, whether, what all persists today, is religiously wrong, the principle on which India runs and people govern, or its legal flaws, through which government runs because it's high time that the roots of the issue needs to be discovered.

Keywords: Religion, Social evils, legislation, Democracy

INTRODUCTION

The expression 'Uniform Civil Code' consists of three terms-'Uniform', 'Civil' and 'Code'. The word 'Uniform' refers to a

form of thing. The Constitution of India in it's A.44 uses the expression 'Common' instead of 'Uniform', but generally the two words has been used simultaneously.

The term 'Civil' is derived from Latin word '*Civilis*' meaning a citizen¹. When it is used as an adjective in terms of law, it refers to law concerned with ordinary citizen rather than criminal, military or religious affairs.

The word 'Code' is derived from the Latin word '*codex*' which means, a book.²

When the term 'Civil Code' is tread in conjunction with the adjective 'Uniform' it connotes a code which shall be uniformly applicable to all citizens irrespective of their religion, race, caste, sex and creed.

Thus, Uniform Civil Code refers to same set of secular civil laws to govern different people belonging to different religions and region that covers areas related to marriage, divorce, maintenance, adoption, acquisition and administration of property.

In India, the debate on Uniform Civil Code is much heated that dates back to the colonial period. The idea of Uniform Civil Code was introduced into the national political debate in 1940 when a demand of such code was made by the National Planning committee appointed by the Congress.

The directive to enact a UCC in the Constitution was included as the result of

¹Encyclopaedia Americana, Vol. 6,(1960), 734

² Encyclopaedia Americana, Vol. 7,(1960), p.194



the efforts of Minoo Masani³, as a member of the sub-committee on Fundamental Rights, who moved on 28 March, 1947 a proposal that State should be made responsible to enact a Uniform Civil Code in order to break down the barriers between different communities. Minoo Masani, Hansa Mehta, Rajkumari Amrit Kaur and Dr. Ambedkar voted in favour of the inclusion of the clause on the Uniform Civil Code, but the majority of its sub committee voted against its inclusion on the ground that it was beyond the scope of Fundamental Rights. However, when the rights were decided to be divided as justiciable Fundamental Rights and non-justiciable Directive Principles, sub-committee agreed to make enactment of the UCC a Directive Principle. In the end of the debate Article 35 was carried without any amendments, it was later remunerated as Article 44 and read, “The State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India.”

CASE- Mohd. AHMED KHAN v/s SHAH BANO BEGUM

The husband who was appellant was married to the wife in 1932. In 1975, he drove the wife out of the matrimonial home. The wife filed a petition against the husband under Section 125 of the Criminal Procedure Code, 1973 asking for maintenance. The husband divorced her by an irrevocable talaq which was his prerogative under Islamic law. His defence was that she had ceased to be his wife by reason of the divorce granted by him and thus claimed to be under no obligation to maintain her since he had already paid maintenance to her during the period of iddat. The **All India Muslim**

Personal Law Board also supported Mohd. Ahmed Khan’s argument further intervening on his behalf.

In August 1979, the learned Magistrate directed appellant to pay a sum of Rs. 25 per month to the respondent by way of maintenance that was further enhanced to Rs. 179.20 per month.

The husband appealed by **special leave before the Supreme Court**⁴. The Constitutional bench delivered an unanimous verdict April 25, 1985 and upheld the decision of High Court to grant maintenance in favour of Shah Bano under CrPC. The decision took note for the need of implementation of Uniform Civil Code as provided for under Article 44 of the Constitution.

The decision drew several criticisms from the conservative groups within the Muslim community. Giving in to the mounting pressure from conservative forces, the Rajiv Gandhi government which was in power in 1984, felt a need to pacify the masses and accordingly passed the **Muslim Women (Protection on Divorce Act), 1986**.

The Act reversed the decision in Shah Bano’s Case laying down that the husband was bound by law to pay maintenance to a divorced wife only for the period of iddat under S.3(1)(a)⁵, following which, in case a woman was unable to provide for herself, or did not have relatives to support her under

⁴ Article 136, Constitution of India

⁵ A reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband.

³ Vol. VII, C.A.D., p 540-551



S.4, the magistrate could direct the Waqf Board⁶ to provide her with sufficient means of sustenance for herself and her dependant children, if any.

The Constitutional validity of the Act was challenged by Shah Bano's lawyer Daniel Latifi⁷ and upholding the validity of the Act, the SC observed that the liability of the husband to pay maintenance was not limited to iddat period.

Case Analysis:

Following contentions were being laid down:

- 1) **The payment of mehar by the husband on divorce does not absolve him of any duty to pay maintenance to the wife.**

The Court command that divorced Muslim women is entitled to maintenance under S.125 CrPC. The Court created on the top of the conclusion in support of the ruling in **Bai Tahira**⁸ where Justice Krishna Iyer held that "...The payment of illusive amounts, mehr, are going to be thought-about within the reduction of maintenance rate however cannot kill that rate unless it's an inexpensive substitute."

- 2) **The liability of the husband to pay maintenance to the mate extends even on the far**

⁶ Under S.9 of Waqf Act, 1954, or any other law for the time being in force in India

⁷ Danial Latifi v UOI, ((2001) 7 SCC 740: 2001 CriLJ 4660),

⁸ 1979 AIR 362, 1979 SCR(2) 75

side the iddat period, if the she doesn't have spare means that to take care of herself.

Referring to the views put forth by the learned scholars (Mulla, Tyabji and Paras Diwan), the Court concluded that the sum settled by way of Mahr is generally expected to take care of the ordinary requirements of the wife, during the marriage and after thus did not cover cases in which the wife is able to maintain herself after the divorce.

The Court refused to accept that an order for maintenance under S.125 CrPC could be struck down under S.127(3)(b) only for the mere fact that the husband had made a payment to the wife at the time of the divorce under the concerned personal laws. The court also used Quran (Aiyats 240-242)⁹ during its interpretation that husbands were bound by the duty to maintain their wives.

⁹**Aiyats 240-241:** Those of you, who shall die and leave wives behind them, should make a will to the effect that they should be provided with a year's maintenance and should not be turned out of their homes. But if they leave their homes of their own accord, you shall not be answerable for whatever they choose for themselves in a fair way ; Allah is All-Powerful, All-wise. Likewise, the divorced women should also be given something in accordance with the known fair standard. This is an obligation upon the God-fearing people.

Aiyat 242: Thus Allah makes clear His commandments for you .It is expected that you will use your common sense.

The Hon'ble Court after studying the Scriptures was of the opinion: "These Aiyats leave no doubt that the Quran imposes an obligation on the Muslim husband to make provision for or to provide maintenance to the divorced wife."



3) Section 125 of the Code applies to Muslims:

The Court command that the Section applies to all or any individuals of the country regardless of their faith and took occasion to outline Clause(b) of the reason to Section 125(1), which defines 'wife' as "including a divorced wife, contains no words of limitation to justify the exclusion of Muslim women from its scope."

4) Section 125 would prevail over the personal law of the parties, in cases where they are in conflict:

The Court in answering this question held that it is uniform law that is applicable to all citizens of the country.

5) There is no conflict between the provisions of Section 125 and those of the Muslim Personal Law on the question of the Muslim husband's obligation to provide maintenance for a divorced wife who is unable to maintain herself.

Further, the principle has been applied in number of cases as:

Sarla Mudgal v. Union of India¹⁰:

This is the second instance in which SC directed government that A.44 was in this case. The Court held that if there exists

¹⁰ AIR 1995 SC 1531

first marriage, than it has to be dissolved under the Hindu Marriage Act,1955 before contacting second one. Thus, husband's first marriage is valid and second is illegal. Justice Kuldip Singh while delivering the judgement remarked the need of UCC and appeal to government made to have a re-look at Article 44 of the Indian Constitution, which suggests UCC for all citizens.

Lily Thomas v. Union of India¹¹:

In this case, various persons have filed review petition under Art. 136 of the Constitution to review law laid down by Sarla Mudgal case and which upheld in this case before in the criminal proceedings. Lily Thomas is the lawyer of distressed wife urged the court to declare polygamy in the Muslim law to be unconstitutional.

The order dismissed the review petition and held that the conversion is not exercise of freedom of conscience but rather fraudulent without the change of faith. Thus, marriage from such conversion is void also due to violation of Article 21 which states that, "no person shall be deprived of his right of life and personal liberty except as per procedure established by law"¹². Here persons are apprehended for offences under S. 494 &

¹¹ 2000(2) ALD Cri 686, (2000) 6 SCC 224

¹² The 227th report of the 18th Law Commission in August 2009 have made this issue of preventing bigamous marriage through conversion to Islam its subject and the commission headed by Dr. Justice D. R. Lakshmanan have provided sound measures to keep this rampant practise under strict constraints so as to prevent such atrocities from ever occurring.



495 IPC therefore, no right has been desecrated as a result of such apprehension has been laid down by law.

Danial Latifi v. Union of India¹³:

After the passing of Muslim Women (Protection on Rights on Divorce) Act, 1986, one of the counsel of Shah Bano's Danial Latifi challenged the above act on the basis of its Constitutional validity of Art 14 & 15.

Danial Latifi judgement revived the principles settled down in Shah Bano case that, the husband's liability to maintain his wife doesn't end with the iddat period. Hence, the position of law is that, the provisions of the Act basically emanate from principles set forth in the Shah Bano case. The principle has been seconded by SC once again in Iqbal Bano v. State of UP¹⁴.

Jordan Diengdeh v. SS Chopra¹⁵:

It was yet another example that focused attention on the immediate and compulsive need for a UCC. The facts of the case exposed the unsatisfactory state of affairs that arose due to the absence of UCC. Time has come for the intervention of the legislature to provide for UCC for marriage and divorce as envisaged by Art 44. The Order of Court was delivered by Chinappa Reddy, the case focuses

attention on the immediate and compulsive need for UCC.

But such piecemeal attempts by the Courts to bridge the gaps between personal laws cannot take the place of a common civil code. These problems can be eliminated only if a law is made in conformity with the present day social and economic realities. The orthodox Muslim opinion has characterised this ruling as anti- shariat while the liberal opinion accept the ruling as progressive.¹⁶

Further, the same has been contended in number of cases.¹⁷

NEED FOR UNIFORM CIVIL CODE

It was argued that a common civil code 'will help break down the customary practices harmful to women and give women individual identity as independent citizens of India'. Hence, the uniform civil code essentially means unifying all these "personal laws" to have one set of secular laws dealing with these aspects that will apply to all citizens of India irrespective of the community they belong to.

The general understanding about the uniform civil code is that if it fully implemented **it would strengthen the national integration**. The Common Civil Code if enacted can handle the private laws of all religious and spiritual communities concerning the matters that are

¹³ ((2001) 7 SCC 740: 2001 CriLJ 4660)

¹⁴ AIR 2007 SC 2215

¹⁵ 1985 AIR 935, 1985 SCR Supl.(1)704, Decided on May 10, 1985

¹⁶ M.P. Jain, Indian Constitutional Law, 6th edition, 2013, pp. 1512

¹⁷ John Vallamattan v Union of India, AIR 2003 SC 2902



secular in character to reinforce fraternity & unity among them by providing them with a collection of non-public laws which includes the fundamental values of humanism.

The uniform civil code conjointly aims to beat the direction and infrequently reactionary aspects of secular laws of varied communities. The target so is additionally to bring a social reform rise the standing of women, that is very terrible among Muslims. It's conjointly argued that uniformity within the personal law is eminently fascinating within the interest of modernization of society and for a typical system of Justice for all.

VIEWS AGAINST UCC:

Marked feature of all religious personal laws is that women have been treated far subjugation and suffer full of gender inequalities. The history of legislative reforms of personal laws in the independent India shows that the objective of gender equality is frequently subordinated.

However, one wonders however the unity and integrity of the country are going to be affected if Hindus, Muslims, Christians and Parsis or for that matter the other individuals marry, divorce or inherit in accordance with their several personal laws. The very fact is, will Republic of India neither require nor is it possible or practicable to have a uniform civil code governing all the communities.

The spine of controversy revolving around uniform civil code has been the

secular character of the nation and the freedom of religion enumerated in the Constitution of India. The idea of common civil code is also against the very spirit of secularism which is one of the essential features of Indian Constitution. The preamble of the Constitution states that India is a "**secular democratic republic**". This means that there is no State religion but State equally respects all religions which is also an important component of secularism. A secular State shall not discriminate against anyone on the ground of religion and also not interfere in the religious affairs of the communities. A State is only concerned with the relation between man and man.

Even in the triple talaq case, SC has held that freedom of religion, subject to restrictions under Article 25 & 26 are absolute. The right to follow personal law has been elevated with highest status of fundamental rights.

Basically gender-based discrimination has been inherent in the mindset of present male dominated society not in the religious texts. Further no religion permit any kind of discrimination, violence and subjugation against women. Gender impacts the lives of the women most intensely, it relegates them to a subordinate the status and makes them vulnerable to a large number of social ills like infanticide, foeticide, child marriage and gender biases in the rights of coparcenary property etc. It is most unfortunate that even in this enlightened 21st century when the whole world is awakening to the call of enlightened feminism but our country has not been able to free itself from the stranglehold of obsolete social customs



and traditions. In the above stated reasoning, it is doubtful that whether uniform civil code ensure utmost guarantee from all gender based discrimination and violence.

That UCC is against the religious freedom as it aims to replace religious personal laws. It is also said that its implementation would damage the cultural ethos and that the forced uniformity would alienate the people from the State, because law and legal system are closely interlinked with culture of society, therefore, protection of culture requires protection of personal laws.

Further, SC held in **Minerva Mills Case, 1980**¹⁸, that to destroy the guarantees given by Part III, i.e., Fundamental Rights in order to achieve the goals of Part IV, i.e., Directive Principles, is plainly to subvert the Constitution by destroying its basic structure...

It was held in **SR Bommai v UOI**¹⁹, that Constitution has chosen secularism as its vehicle to establish an egalitarian social order. Secularism is a part of fundamental law and basic structure of Indian political system.

MOVING TOWARDS SOLUTION

B.R. Ambedkar at the time of initiating the dialogue and finalising the draft of the Constitution, saw no merit in the role of religion in its application to personal laws. The truth is that personal laws are what we confront in our personal lives from birth to death, viz. laws of marriage, maintenance,

adoption, custody, guardianship of children and succession. Religion is the first resemblance at birth and it is carried through at one's will through the laws that we recognise as personal to the person. If we withdraw the personal laws by force, we ditch upon the most intimate emotion of an individual. There is no personal law which is complete and just in itself. What cannot be achieved through forced legislation, we are slowly achieving by seamless transition through secular laws.

Where there have been seeming inappropriateness in the application of laws for provision for maintenance being restricted for divorced Muslim women only for the period of iddat, and the ease of dissolution of marriage through pronouncement of talaq, they have changed largely due to judicial pronouncements. Now under the law of the land, she is entitled to provision for maintenance for a lifetime or until she is remarried, which shall be made within the period of iddat (*Danial Latifi v. Union of India, 2001*²⁰) — a long distance travelled from an attempt to nullify the effect of the Supreme Court judgment in *Shah Bano's case* by the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986.

Talaq shall not be valid unless preceded by an effort for reconciliation and strict rules of evidence about the pronouncement itself (***Shamim Ara v. State of U.P., 2002***²¹). These judgments have blunted the injustice against waggish acts of husbands.

¹⁸ AIR 1980 SC 1789

¹⁹ 1994 AIR 1918, 1994 SCC(3)

²⁰ Ibid, p.8

²¹ MANU/SC/0850/2002



The dynamics of social transformation through the process of law from diverse civil code to uniformity shall be gradual and cannot happen in a day. The process should take place by borrowing freely from laws of each other, making gradual changes in every pieces of legislation, specifically acknowledging the benefit that one community secures from the other.

There is a serious need of proper interpretation of the religious old texts (Vedas, Quran, Hadith, etc) because a number of misconceptions are being borne by the people or priests rather than the reality. The evil practices like gender inequality, polygamy, Sati, halala, triple talaq no where exists in these texts, on basis of which there is springing debate going on in the country. The conceptions have been misinterpreted.

1. **Talaq** is a right given to men by Islam to divorce his wife in case if the marriage can't be continued for some reason. But in case of the talaq, once given, the husband has to wait for **three months**.

This is where it is to be known about the **triple talaq**²². It doesn't mean saying or messaging 'talaq' three times and ending

²²**The Quran 2:228**, "Divorced women remain in waiting for three periods, and it is not lawful for them to conceal what Allah has created in their wombs if they believe in Allah and the Last Day. And their husbands have more right to take them back in this [period] if they want reconciliation. And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority]. And Allah is Exalted in Might and Wise"

marriage. Rather it means the person has to wait for a period of three months. Within the stipulated time if there is change in the mind or the concerned problem is resolved mutually, surely they can continue the marriage.

For the next time, that is generally bound not to happen immediately, if again they face a problem, talaq needs to be pronounced again with the same procedure.²³

In the mean time it the responsibility of the family members to try to reconcile them. The Muslim clerics can also be approached. The third time will be the final chance given to a Muslim. Things become totally tough for the husband. If Allah's laws are obeyed, several months or years pass between each talaqs.²⁴

After the third talaq the marriage really comes to an end. The three chances are exhausted by now. Even if the husband wishes to reunite it is not possible unless the wife who have entered another marriage divorces her husband and that is really impossible.

This is TALAQ, the actual way Islam deals.

²³**The Quran 2:229**, "Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment..."

²⁴**The Quran 2:230**, "And if he has divorced her [for the third time], then she is not lawful to him afterward until [after] she marries a husband other than him. And if the latter husband divorces her [or dies], there is no blame upon the woman and her former husband for returning to each other if they think that they can keep [within] the limits of Allah . These are the limits of Allah , which He makes clear to a people who know"



There is a serious confusion nowadays (especially in India) among the both Muslim and non-Muslim people regarding talaq. It can never be said thrice at once.

Therefore it is clear that it is nowhere said by the prophet or mentioned in the Quran that all three talaqs can be said at once let alone messaging or whatsapp-ing it.

2. The next serious issue is **Nikah halala** that is unIslamic and barbaric. Halala, opposite of the word haram, that means forbidden, is halal or that which is permissible.

The word has been coined by Muslims (not Islam) that denotes a temporary, pre-planned marriage, which involves sexual intercourse that makes the remarrying of the divorced wife by the husband legal.

Quran does not permit it, what it says is completely different²⁵. It interprets: In order that a man does not divorce his wife in a fit of temper or without proper consideration an almost impossible condition was set. Thus a divorced woman is free to marry another man after her waiting period (iddat) after the divorce.

But, she can marry the earlier husband who had divorced her, if the man she has married

dies or divorces her - she is now halal or permissible for him. This should be of her own free will and not a marriage entered into just for the purpose of an immediate divorce so that she can remarry the first husband again. Such a heinous marriage is just a mis-practice or an innovation against the spirit of Islam.

Nowhere, exists any suggestion for a husband who has arbitrarily given divorce to his wife or a condition of sex between the second husband and wife before marriage to the first.

In fact, the Prophet denounced it²⁶. The Caliph Umar also pronounced pre-planned Nikah Halala as adultery.

There is an enormous distinction between what Muslims do and what Islam prescribes and that we should bear in mind to form that distinction. It violates the right of a woman and her dignity to live an equitable life. The matter is lack of awareness among Muslims concerning the jurisprudence and writings within the religious text. Most Muslims browse the religious text in Arabic, usually learning it by anyhow however while not understanding it. Ironically, for a faith that was nearly the primary to grant rights to women, its women have designately been bereft of learning and

²⁵Quran 2:230, *These are the limits of Allah, which He makes clear to a people who know and if he has divorced her (for the third time), then she is not lawful to him afterward until (after) she marries a husband other than him. And if the latter husband divorces her (or dies), there is no blame upon the woman and her former husband for returning to each other if they think that they can keep (within) the limits of Allah.*

²⁶ Abu Dawud, Book 005, Hadith Number 2071 narrated by Ali ibn Abu Talib: “Curse be upon the one who marries a divorced woman with the intention of making her lawful for her former husband and upon the one for whom she is made lawful”.



understanding their rights. They follow like sheep their husbands who dictate them.

Halala is simply a sort a form of crime against vulnerable women who are ready to go to any extent to save their marriage, maybe for economic reasons as being entirely obsessed on the husband and would be of obscurity while not his support.

3. **Sati Pratha**, said to be originated from Vedas. This is a big misconception. In reality, Sati Pratha is nowhere being mentioned in Hindu scriptures. There is no such advice of forceful burning widows in Vedas. This confusion was created in middle ages by careless commentators of Vedas.

Atharvaveda 18.3.1²⁷ is generally quoted as Vedic Mantra which supports Sati Pratha.

In this Mantra the phrase 'Choosing her husband's world' is interpreted that "wife is advised to join the dead husband in afterlife in next world, thus, she must burn herself in funeral pyre of her husband."

But, the Correct interpretation of this Mantra is that the women has chosen the husband's world earlier and currently she's sitting beside his dead body, therefore, he ought to provide his wealth and offspring to her so to continue her in lifetime. Thus, the mantra speaks concerning continuation of worldly affairs by women in this world after her husband's death.

²⁷"Choosing her husband's world, O man, this woman lays herself down beside thy lifeless body. Preserving faithfully the ancient custom. Bestow upon here both wealth and offspring."

In the very next Mantra of **Atharvaveda 18.3.2**²⁸ the same advise is attested by the authority of the Vedas that clearly speaks to Women to rise besides the dead body of her husband and start worldly affairs in this living world.

Evidence from **Rigveda 10:18:8**²⁹

The Rigveda has a passage mentioning *Sati* and preventing it. The fraud related to interpretation of **Rigveda 10.18.7** was exposed by Maxmuller. In this mantra, widow women was advised to travel ahead (*Agre*) in her life instead of moving into funeral pyre (*Agne* means fire) after her husband's death. The word *Agre* was misinterpreted as *Agni*. Maxmuller condemned this fraud widely.

Next, in Mahabharata *Madri* burned herself to death not due to custom of Sati Pratha but due to regret. She felt that it was she who was responsible for death of her husband *Pandu*. There is no evidence of Women practising this in Mahabharata post war whose husbands were killed in the Great War.

Thus it is proved that Vedas never supports Sati Pratha. Vedas asks a widow to return from her husband's corpse and live a happy life after remarriage.

²⁸"Rise, come unto the world of life, O woman: come, he is lifeless by whose side thou liest. Wife hood with this thy husband was thy portion who took thy hand and wooed thee as a lover."

²⁹"Rise up, abandon this dead man and re-join the living."



Besides this, there a number of other misconceptions that needs to be resorted to. It needs to be noticed that line on which UCC stands, that is, gender inequality, gender biasness, social evils like sati, halala is completely baseless as this practices finds no where place in the religious texts. Its all the creation that has come out of the man's mind. Thus, instead of directing a completely new code Bill, focus and aim should be on the removal of anomalies persisting in existing personal laws and beyond that the correct interpretations of the religious texts.

As has been done in Parsi community: It prohibited Parsi polygamy in 1865 through enactment Parsi personal law including Parsi Marriage & Divorce Act of 1865, counterpiece of Statue was invalidation of polygamous Parsi marriages which was earlier in practice.

But, in 1865 Act, right to have sex with prostitutes, that is, adultery by husband was protected, which was further eliminated in 1930s when Parsi Marriage & Divorce Act of 1936 became a law.

Next, example is last law passed in Hindus, that is Hindu Succession (Amendment) Act,2005 that gave Hindu women equal coparcenary rights in joint family property and deleted discriminatory clause on agricultural land.

Then, is the glaring example in Muslims with the recent judgment of invalidation the triple talaq.

Thus, the reformations in the personal itself, while retaining its religious and historical perspective would prove more easier, fruitful and acceptable to every community instead of tying them in the knot of single Code, completely new and different.

There are certain steps that needs to be taken by AIMPLB, to ensure gender justice as:.

1. It should declare triple talaq, halala to be Haraam, which it clearly is. They know they are wrong. Therefore, they should declare that Halala is Haraam.

Women should be given a meaningful role in the functioning of the AIMPLB with the power to play a decisive role, especially in matters that concern women with positions of authority and real power.

3. Prominent Muslim members of civil society (male and female); politicians, academicians, lawyers, journalists, educators, youth leaders, activists and administrators be invited to become members of the Board.

4. Movement to English as its language of communication because its current language, Urdu, is not the language even of all Indian Muslims, that has led to serious impediments in interpretation of proper texts.

Next, like Hindu law reforms Committee which was formed in 1941, the government should constitute, as a I step, a Muslim law Reforms Committee, Tribal & Indigenous law Reforms Committee, Christian & Parsi Law Reforms Committee and based on recommendations take reforms in personal law forward.



CONCLUSION

Shah Bano case definitely emerged as a limelight to the plight of Muslim women of the country and paved the way towards progressive character of society.

There are inequalities in communities but strict implementation of UCC is definitely not a solution. In the 64 years of independence, lots of things and controversies arose. The judicial stand even in the matter too has not been uniform. In the case of **Maharshi Awadesh**³⁰, a plea for a writ directing the government to enact a uniform civil code had been dismissed by the Supreme Court. In famous **Sarla Mudgal case**³¹ the second judge on the Supreme Court Bench, has asked the government to look after the implementation of UCC. In the next **Pannalal case**³² of 1996 judge, K Ramaswami, had said that “a uniform law is highly desirable but enactment thereof in one go may be counter-productive to the unity and integrity of the nation.”

In this connection Prof. Tahir Mahmood suggested that as per the extremely clear words of Article 44, uniformity in civil laws is not to be achieved by one stroke of Parliamentary legislation. Its gradual evolution is to be secured by the State through proper and prolonged endeavours.³³

All communities, minorities and majority, are entitled to their personal laws, a right protected by Article 25 & 26 of the Constitution. The mention of UCC is found in the Directive Principles, which do not enjoy the same status as the various Articles enshrined as Fundamental Rights.

In the meantime, in the country where 37% of the people are illiterate, instead of UCC, the focus should be on to bring changes in personal laws slowly. Let us have a codified law that would give the much-needed legal protection, on par with other co-citizens.

³⁰ Maharishi Avadhesh v. Union of India, (1994) 1 Supp SCC 713

³¹ Sarla Mudgal v. Union of India, 1995 AIR 1531 SCC 635

³² Pannalal Bansilal Patil v. State of Andhra Pradesh, AIR 1996 SC 1023, (1996) 2 SCC 498

³³ Tahir Mahmood, Uniform Civil Code: Fictions and facts, 1995, p.133