

Uniformity in Personal Laws

(with Special reference to Marriage and Divorce)

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Abstract

Uniform civil law refers to such laws that apply to all citizens of the country, irrespective of their religion or region. Nature is different from these laws. Marriage, Divorce, Alimony, Maintenance and Adoption Act are included. The Civil Code is accepted as an equal and egalitarian law for both women and men.

Historical Background of Uniform Civil Code:

A debate about the Uniform Civil Code began during the colonial period until the 1840. Lex Loci Law report proposed the need for unity and unity of the Indian laws, but this was due to opposition not only to Muslims but also to Hindus. This reason could not apply was related to the evidence and experiences of the crimes, but it was suggested that the scope of civil code would include Hindus and Muslim Personal laws. The British made plans regarding all the demands by which various religious texts and customs could be governed during that period. Private laws were empowered to take decisions related to inherited succession marriages and religious rituals. Hindu law against women. Hindu women were not allowed divorce, remarriage and inheritance. Ishwar Chand Vidyasagar and some British social reforms advocated reforms through legislative procedures and played an important role in making such customs and practices illegal. It was only because of his efforts that the Hindu widow remarriage was passed in 1856.

Thereafter, the Property Act for Married Women and the Hindu Succession Act, 1928 were passed by the distinguished government in 1923 which allowed the right of property to Hindu women. The Hindu Women Property Act was made a legal right in 1923. This Act was proposed by the B.N. Rao Committee which focused on the similar enactment under Hindu law. The committee emphasized the need and recommending that the Uniform Civil

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Code is the need of the hour and that this law would give women equal rights but its main purpose was to reform Hindu laws which were based on Hindu texts and Literature.

Uniform Civil Code as a Hindu Personal Law

The Hindu Bill was introduced in the Indian Parliament after independence, it was discussed in various sessions of the Parliament between 1947 and 1954, people with different opinions in the Parliament about the this Code were “*Jawahar Lal Nehru*” and “*Dr. Bhim Rao Ambedkar*”³. But the orthodox section of society objected to this and maintained their objections mainly and said that this Hindu Civil Code religious teachings As a law minister, Ambedkar had the responsibility of preparing this heart-breaking statement. Many senior members of Parliament, including Rajendra Prasad and Sardar Vallabhbhai Patel, opposed the bill. Fundamentalists and conservatives who were against the Hindu code bill were equally Demanded the civil code but his proposal came too late and this bill was ready to take legal form in the Parliament Eventually, this bill was passed in its following Enactments. The Hindu Marriage Act Succession Act, Minority and Protection Act & Adoption and Maintenance Act. A decision was taken in Parliament to consider the Uniform Civil Code to be included in the Constitution, hence the Article 44 was added to the constitution which states that It will be the responsibility of the government to implement the Uniform Civil Code in any state of India. On the other hand, another law was enacted for the Muslim community.

Muslim Personal Law

The Muslim Personal Law⁴ Act was established in 1937. It provides rights under the Islamic Court Act of Shariat to all Muslims living in India in personal matters. In accordance with the provisions of this Act, the All India Muslim Personal Law Board was established in 1973. The All India Muslim Personal Law Board was originally supportive of Shariat law and any law was its fundamental principle.

What is Shariat law

Sharia is a religious law that is governed by members of the Islamic faith. It is derived from the Quran and Hadith, especially in the religious preaching of Islam. The word Shariat word has its origin from the Arabic language shariya which means the moral of a religious law. It derives from religious prophecy and opposes man-made laws.

³ Dr. Jai Narayan Pandey, Constitutional Law of India, Edn 2017.

⁴ Mulla, Principles of Mohamedan Law, Edn 2019.

Importance of Shahbano case⁵

The Shahbano incident was a milestone for Muslim women in terms of equality and this gave rise to a new political debate on personal law in India demanding that her husband be given maintenance allowance under Section 125 of the Code of Criminal Procedure in Shahbano. The court ruled in favour of Shahbano, no such decision or case had come before, where the Muslim woman had received alimony from her husband. The conservatives of Muslim society considered it an attack on Islam. Shahbano's husband appeal against this decision and in the end the matter reached the Supreme Court, there was a huge opposition to the decision of the court in favour of Shahbano. Finally, the Rajiv Gandhi government passed the Muslim Women Act 1986 under pressure from Muslim religious leaders. The decision of the court that came in favour of the Shahbano was also overturned through the Act. The most controversial provision of this Act was that a Muslim woman. The State has the right to demand maintenance expenses till the period of Iddat after the divorce. The responsibility of India will be on the relatives of the woman or on the Waqf board. According to section 3(1a)⁶ clause of this law, a divorced woman will be entitled to demand a fair and fair maintenance from her husband during its period.

Need for Uniform Civil Code

The basic meaning of the need for Uniform Civil Code⁷ is to convert all these private laws into a secular laws regardless of the community which applies to every citizen of India. The basis of Uniform Civil Code is still not being properly interpreted. It will also include the most modern and progressive version of private laws and it will replace those laws which have no meaning.

Constitutional validity of uniform civil code

1. Article 14⁸ provides equality for the equal protection of the Laws of every person residing in any territory of India. It does not discriminate on the basis of any religion, original descent, caste, gender or place of birth.
2. Article 15⁹ Religion basic descent Caste gender prohibits discrimination on the basis of any of these.

⁵ Mohd. Ahmed Khan v. Shah Bano Begum, 1985(2) SCC 566.

⁶ Muslim women (protection on rights) of Marriage Act 1986.

⁷ Article 44, Constitutional Law of India.

⁸ Constitutional Law of India 1950.

⁹ Constitutional Law of India 1950.

3. Article 16¹⁰ Provides equality of opportunity on the subject of public employment.
4. Article 17¹¹ abolishes Discrimination and Untouchability.

The debate on the this Code is about the secularism and the freedom for religion enshrined in the Indian Constitution, The Preamble of the Constitution¹² states that “*India is a Secular, Democratic, Republic*”. This means that this country has no religion, so against the Uniform Civil Code any Even objection coming from religion can be declared illegal, against anyone on the basis of religion in a secular country. There can be no discrimination. The Indian Constitution strongly favours gender equality. For example, Article 44¹³ envisages a uniform civil code for all citizens and states that in any territory of India It will be the responsibility of the Central Government to implement the Uniform Civil Code, even after the constitution of the Constitution, even after 70 years, Could not be done.

Conclusion

Overall, it is expedient to say that the Uniform Civil Code is the supremacy of justice. Equality secularism before justice helps in the empowerment of women and the growth of the unity of the nation, in fact it is a means of honouring human dignity.

¹⁰ Constitutional Law of India 1950.

¹¹ Constitutional Law of India 1950.

¹² Constitutional Law of India 1950.

¹³ Constitutional Law of India 1950.