



## UNIFORM CIVIL CODE – A RECALL FROM SUPREME COURT IN TRIPLE TALAQ CASE

**Dr. Pranay R. Malviya**  
 Asso. Prof. & I/C Principal,  
 Dr. Panjabrao Deshmukh College of Law,  
 Amravati .

### ABSTRACT

**R**ecently Supreme Court of India, (*Shayara Bano V/s Union of India & Others*<sup>1</sup> Writ Petition (C) No. 118 of 2016 decided on 22/08/2017) has declared the practice of Triple Talaq as unconstitutional by 3:2 majority. The majority of the judges of Supreme Court of India has given above judgment which once again makes us think about Uniform Civil Code.

**KEYWORDS-** Uniform Civil Code ,Supreme Court ,certain political rezones .

### INTRODUCTION

This once again has woke up the issue of uniform civil code. Since several decades the Supreme Court has been kept us felling about the necessity of the same. But due to certain political rezones it is difficult to implement the policy of uniform civil code and therefore it appeals to analyze about the various Supreme Court decision so as to know about the intention of the Supreme Court and response to the same.

Article 44 of the Constitutional law of India states for directive principles of State policy, that the state shall endeavor to secure for its citizens, a uniform civil code throughout the territory of India. Today the countrymen are having various personal laws having the source of different religion, cast and community. A common civil code would provide for a single law in case of marriage, divorce, maintenance, adoption, inheritance for all the religion and if uniform civil code is enacted all the countryman shall be govern by the same law.

### OBJECTIVES:

The main purpose of uniform civil code is to enhance integration of Nation by bearing all the different ideologist based on different religious belief. If uniform civil code if enacted then all will stand on a common platform of civil matter like marriage and divorce. However The provision of uniform civil code is kept as a dead letter because no efforts are shown by the parliament in implementing the same. However the Supreme Court of India from time to time and on several Occasion has felt the necessity of uniform civil code.

1. In Shah Bano's case<sup>2</sup>, `A vey poor woman filed a case of maintenance against her Husband under th provisions of Criminal Procedure Code as she was pronounce a Triple Talaq by her Husband The Supreme Court of India observed That it the duty of her husband to provide her maintenance even The Quran provides for such duty towards his Divorced Wife. The Supreme Court Of India discussed that Article 44 is a dead latter and observed

"A common civil code will help the cause of national integration by removing disparate loyalties to law which have conflicting ideologies."

As a reaction to this several Muslim leader reacted and disturbed all over the country and stated that they are ready to give any sacrifice to protect their personal law but the Ruling Government negative the effect of the decision of the Supreme Court and enacted The Muslim Women's (Protection of Rights in Divorce) Act, 1986.

2. In Sarala Mudgal<sup>3</sup> Case the issue confronted by the Supreme Court was very Complicated and involved

Mischief played for performing a second marriage where the husband after contracting a Hindu marriage thereafter he converted in Islam and later performed second marriage and played this type of mischief when the apex court reviewed four cases where the facts were similar. The Supreme Court of India held that this is the act of circumventing and providing for punishment to husband in case of bigamy under the Indian Penal Code. In the very lengthy judgment the Judge found that it is the right time to bring Uniform Civil Code and observed that “Successive governments have, till date, been wholly remiss in their duty of implementing the constitutional mandate under Article 44.”

In the above case, the court directed the then Prime Minister, P.V. Narasimha Rao, to take a fresh look at Article 44, observing that since the enactment of the Constitution, a number of governments have come and gone but have failed to make any effort towards this constitutional mandate.

3. In 2003, when a Christian priest from Kerala, Father John Vallamattom<sup>4</sup>, filed a petition before Supreme Court of India and challenged the Indian Succession Act on the Petition the Supreme Court of India declared by its Judgment that Section 18 of the said Act is against the Constitution as it goes against constitution, as it imposed an restriction which are not proper and against constitution only on Christian in the matter of religions or charitable bequests. The Supreme Court of India observed the following :-

“ It is a matter of great regret that Article 44 of the Constitution has not been given effect to Parliament is still to step I for framing a uniform civil code in the country”.

4. In Pannalal Bansilal<sup>5</sup> V. State of A.P. (AIR 1996 SC 1023), it was held that although a uniform civil code is highly desirable, it ought not to be enacted in one go, as that would be counter-productive to the unity and integrity of the nation.

5. In a notable pronouncement by Supreme Court viewed the issue of case in a different way and stated that the government since Independence have shown concern only for progress of only The Hindu Law where the Hindus have showed a great tolerance because since independence no efforts are found in case of other personal laws. has not happened for other religions.

Some writers are of the view that the person why Parliament has been unable to pass a suitable legislation in this respect, even after six long decades of independence, is that there is no sufficient support for the move within the Parliament itself. If there is a demand of reformation in Personal Laws which are existing in India and if it is supported by a good and great movement from different communities rather than sweeping the legislation.

The various judgment of the Supreme Court provides for implementation of uniform civil code but the parliament has been unable to pass a suitable legislation but due to the political and other religious reason it is not possible for the Parliament to enact a uniform civil code. It may be because of the complexity that will arise in drafting a uniform civil code as to including of the personal law which will be applied to all the religions at same footing and it will invite controversies rather than creating an atmosphere of National Integrity. It will give a reasons for the several religious parties to protest the same in case of finalization by opposing on the ground that why there personal laws are not finalized to be included in uniform civil code. Therefore due this reason the Government may become sandwich between the people and therefore this issue needs to be examined carefully and should be examined in conformity with the Constitution Law of India and the various dimension of human rights which should made available to all its citizen as specially to the women of all religious community irrespective of their religion as has been again brought on platform by the Supreme Court of India in the Case of Triple Talaq recently.

## REFERENCES :

- 1) Dhagamwar Vasudha, 'Towards The Uniform Civil Code', 1989, Indian Law Institute, N.M. Tripathi Private Ltd; Bombay.
- 2) Rao P.P. 'Uniform Civil Code Is A Necessity', An Optional Common Law Can Be Enacted. Article In The Tribune' 6 Aug, 2003 at 10.
- 3) Constitutional Debates, Vol. -VII

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1. Writ Petition (C) No. 118 of 2016 decided on 22/08/2017) decided by Supreme Court of India.
  2. Sarala Mudgal V/s Union of India, AIR 1995 SC 153
  3. John Vallamattom V/s Union of India, AIR 2003 SC 2902
  4. In Pannalal Bansilal V. State of A.P., AIR 1996 SC 1023