Under International law, a state that ratifies an international instrument becomes legally bound to implement its provisions. Accordingly India having ratified the International Covenant on Civil and Political Rights, 1966, and International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979, is bound to enforce the relevant provisions and ensure gender equality under its national laws. However, women in India under Hindu, Muslim and Christian laws continue to suffer discrimination and inequalities in the matter of marriage, succession, divorce and inheritance. So as a step towards a gender just code, the personal laws of various communities in India need a closer look and reform, not only in compliance with the Indian Constitution but also as per the provisions of the International law.

Prevalence of discrimination against women under various personal laws of different communities in India was openly accepted by India in its periodic report before the United Nations Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) when it admitted, “The personal laws of the major religious communities had traditionally governed marital and family relations, with the Government maintaining a policy of non-interference in such laws in the absence of a demand for change from individual religious communities.”

India has been submitting periodic compliance reports vis-à-vis the implementation of the CEDAW, to this committee. This committee expects India’s compliance to the provisions of the said international instrument and ‘noted’ that “steps have not been taken to reform the personal laws of the different religious and ethnic groups, in consultation with them, so as to conform to the Convention,” and warned that “the Government’s policy of non-intervention perpetuates sexual stereotypes, son preference and discrimination against women.” The committee also “urged the Government to withdraw its declaration to Article 16, paragraph 1 of the convention and to work with and support women’s groups and members of the community in

2 Supra note 1, at 10.
reviewing and reforming these personal laws”\(^3\) and expected the Government “to follow the Directive Principles in the Constitution and the Supreme Court decisions and enact a Uniform Civil Code that different ethnic and religious may adopt.”\(^4\)

**Meaning and need of Uniform Civil Code**

The term civil code is used to cover the entire body of laws governing rights relating to property and otherwise in personal matters like marriage, divorce, maintenance, adoption and inheritance. The demand for a 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. Though the exact contours of such a uniform code have not been spelt out, it should presumably incorporate the most modern and progressive aspects of all existing personal laws while discarding those which are retrograde.\(^5\)

The spine of controversy revolving around Uniform Civil Code has been secularism and the freedom of religion enumerated in the Constitution of India. The preamble of the Constitution states that India is a "Secular Democratic Republic" This means that there is no State religion. A secular State shall not discriminate against anyone on the ground of religion. A State is only concerned with the relation between man and man. It is not concerned with the relation of man with God. It does not mean allowing all religions to be practiced. It means that religion should not interfere with the mundane life of an individual. Rebecca J. Cook rightly points out that although the Indian Constitution contains articles mandating equality and non discrimination on the grounds of sex, strangely however, several laws exist that apparently violate these principles and continue to be there especially in personal laws of certain communities with provisions that are highly discriminatory against women. The situation is further criticized when it pointed out that, “The Indian State has, however, made no effort to change these laws or introduce new legislation in conformity with Constitutional principles. In fact Indian Government seems to have chosen to ignore these principles

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\(^3\) India’s Declarations to CEDAW. With regard to Art. 5(a) and 16(1) of the Convention on the Elimination of All Forms of Discrimination Against Women, “the Government of the Republic of India declares that it shall be abide by and ensure these provisions in conformity with its policy of non interference in the personal affairs of any Community without the initiative and consent.”

\(^4\) *Supra* note 1, at 10.

completely and acts as if they did not exist.”

The Indian Constitution expressly stands for gender equality. For example, Article 44 of the Constitution envisages a Uniform Civil Code for all citizens and lays down that, “The State shall endeavor to secure for the citizen a Uniform Civil Code throughout the territory of India.” However, even after half a century from the framing of the Constitution, the ideal of Uniform Civil Code is yet to be achieved. Women, who make up nearly a half of India, continue to clamour for a gender just code to enjoy equality and justice irrespective of the community to which they belong. The Uniform Civil Code is required not only to ensure (a) uniformity of laws between communities, but also (b) uniformity of laws within communities ensuring equalities between the rights of men and women.

One of the major problems that has provoked exciting polemics and aggravated majority pressures is the enactment of a uniform civil code for the citizens throughout the territory of India, as desiderated in Article 44. The provision is cautiously worded and calls upon the State to `endeavour' to secure such a code. It is neither time-bound nor carries a compulsive urgency. But the Hindu fundamentalists make it a militant demand as if Hindu law should be made the national family law. There is apprehension in the mind of the Muslim minority that the Quran is in danger, that its sacred family law will be jettisoned. In the Shah Bano case in 1986, the Supreme Court expressed displeasure at the delay in framing a uniform civil code, which was regarded as a secular imperative. Raging controversy demanding the uniform code followed and was resisted in full fury by the Muslim minority, with distinguished exceptions.

Attempts have been made from time to time for enacting a Uniform Civil Code after independence and the Supreme Court in various cases has been giving directions to the government for implementing Article 44 of the Constitution and to reform the personal laws specially those relating to the minorities and to remove gender bias therein. While a uniform civil code is not particularly high on the national agenda, value-based progressive changes, preserving the separate identity of each religious group, is a feasible project avoiding insult and injury to any minority. This

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7 V.N. Shukla, The Constitution of India, 308 (2001)
may be a preliminary step to pave the way for a common code. Mobilization of Muslim, Christian and Parsi opinion in this direction is sure to yield salutary results and reduce fundamentalist resistance. Maybe, to facilitate a national debate, a facultative common code may be drawn up at a non-governmental level. It will be purely optional for minorities to accept or reject those provisions.10

Our founding fathers have been cautious in their phraseology while drafting Article 44 and therefore in a situation where the nation is in the grip of communal tension hurry must make way to moderation. Initially the idea of Uniform Civil Code was raised in the Constituent Assembly in 1947 and it was incorporated as one of the directive principles of the State policy by the sub-committee on Fundamental Rights and clause 39 of the draft directive principles of the state policy provided that the State shall endeavor to secure for the citizen a Uniform Civil Code. The arguments put forward was that different personal laws of communities based on religion, “kept India back from advancing to nationhood” and it was suggested that a Uniform Civil Code “should be guaranteed to Indian people within a period of five to ten years”11

The Chairman of the drafting committee of the Constitution, Dr. B.R. Ambedkar, said that, “We have in this country uniform code of laws covering almost every aspect of human relationship. We have a uniform and complete criminal code operating throughout the country which is contained in the Indian Penal Code and the Criminal Procedure Code. The only province the civil law has not been able to invade so far as the marriage and succession …… and it is the intention of those who desire to have Article 35 as a part of Constitution so as to bring about the change.”12 Though Ambedkar was supported by Gopalaswamy Ayyangar and others but Jawaharlal Nehru intervened in the debate. Nehru said in 1954 in the Parliament, “I do not think at the present time the time is ripe for me to try to push it (Uniform Civil Code) through.”13 Since the Uniform Civil Code was a politically sensitive issue, the founding fathers of the Constitution arrived at an honorable compromise by placing it under Article 44 as a directive principle of state policy.

Even after more than five decades from the framing of the Constitution, the ideal of uniform civil code under Article 44 is yet to be achieved. However, efforts in

10 Supra note 8
12 Lok Sabha Secretariat, Constituent Assembly Debates Vol. III, 551, 23 Nov. 1948.
this direction continued as reflected in various pronouncements of the Supreme Court from time to time.

**Uniform Civil Code - Gender Justice**

In *Mohammad Ahmed Khan v. Shah Bano Begum*,\(^{14}\) popularly known as Shah Bano’s case, the Supreme Court held that “It is also a matter of regret that Article 44 of our Constitution has remained a dead letter.” Though this decision was highly criticized by Muslim Fundamentalists, yet it was considered as a liberal interpretation of law as required by gender justice. Later on, under pressure from Muslim Fundamentalists, the central Government passed the Muslim Women’s (Protection of rights on Divorce) Act 1986, which denied right of maintenance to Muslim women under section 125 Cr.P.C. The activist rightly denounced that it “was doubtless a retrograde step. That also showed how women’s rights have a low priority even for the secular state of India. Autonomy of a religious establishment was thus made to prevail over women’s rights.”\(^{15}\)

In *Sarla Mudgal (Smt.), President, Kalyani and others v. Union of India and others*,\(^{16}\) Kuldip Singh J., while delivering the judgment directed the Government to implement the directive of Article 44 and to file affidavit indicating the steps taken in the matter and held that, “Successive governments have been wholly remiss in their duty of implementing the Constitutional mandate under Article 44, Therefore the Supreme Court requested the Government of India, through the Prime Minister of the country to have a fresh look at Article 44 of the Constitution of India and endeavor to secure for its citizens a uniform civil code through out the territory of India.”

However, in *Ahmadabad Women’s Action Group (AWAG) v. Union of India*,\(^{17}\) a PIL was filed challenging gender discriminatory provisions in Hindu, Muslim and Christian statutory and non-statutory law. This time Supreme Court became a bit reserved and held that the matter of removal of gender discrimination in personal laws “involves issues of State polices with which the court will not ordinarily have any concern.”\(^{18}\) The decision was criticized that the apex court had virtually abdicated its role as a sentinel in protecting the principles of equality

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\(^{14}\) (1985) 2 SCC 556.
\(^{16}\) AIR 1995 SC 1531
\(^{17}\) AIR 1997 SC 3614.
\(^{18}\) Ibid, at 3617
regarding gender related issues of personal laws of various communities in India.  

The Apex Court pursued the same line in *Lily Thomas etc. v. Union of India* and others and held:

“The desirability of Uniform Civil Code can hardly be doubted. But it can concretize only when social climate is properly built up by elite of the society, statesmen amongst leaders who instead of gaining personal mileage rise above and awaken the masses to accept the change.”

The situation regarding the personal laws for Christians in India was different. In their case, the courts seemed to be bolder and took a progressive stand in terms of gender equality. For example, in 1989, in *Swapana Ghosh v. Sadananda Ghosh*, the Calcutta High Court expressed the view that sections 10 and 17 of the Indian Divorce Act, 1869, should be declared unconstitutional but nothing happened till 1995. In 1995, the Kerela High Court in *Ammini E.J. v. Union of India*, and Bombay High Court in *Pragati Verghese v. Cyrill George Verghese*, struck down section 10 of Indian Divorce Act, 1869 as being violative of gender equality.

In September 2001, a poor Muslim woman, Julekhabhai, sought changes in the divorce provisions in Muslim law as well as that polygamy be declared illegal. The Supreme Court asked her to approach Parliament, refusing to entertain the petition. Julekhabhai had sought equality with Muslim men, requesting court to declare that "dissolution of marriage under Muslim Marriage Act, 1939, can be invoked equally by either spouse". It also requested the court to strike down provisions relating to "talaq, ila, zihar, lian, khula etc", which allowed extra-judicial divorce in Muslim personal law.

Mohammed Abdul Rahim Quraishi, Secretary, All India Muslim Personal Law Board, says: "It is also to be seen that the subjects of marriage and divorce, infants and minors, wills, intestacy and succession, partition etc, are enumerated in the concurrent list of 7th Schedule of the Constitution. These are subjects on which both the central and state governments have the power to make laws. As a result, we find

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20 AIR 2000 SC 1650, at 668.
21 AIR 1989 Cal. 1.
22 AIR 1995 Ker 252.
23 AIR 1997 Bom 349.
24 Nilanjana Bhaduri Jha, “Does India really need a Uniform Civil Code?” from website of Times of India, visited on 3-4-2010.
many regional variations affected by the state legislatures in the Hindu Laws.”

Bigamy is punishable by law in all communities save the Muslims, who are governed by the Sharia law. The Muslim Personal Law (Shariat) Application Act 1937 was passed by the British government to ensure that the Muslims were insulated from common law and that only their personal law would be applicable to them. Bigamous marriages are illegal among Christians (Act XV of 1872), Parsis (Act II of 1936) and Hindus, Buddhists, Sikhs and Jains (Act XXV of 1955). Enactment of a Uniform Civil Code would impinge upon Muslim rights to polygamy. In almost all recent cases where the need for a Uniform Civil Code has been emphasised women were at the receiving end of torture in the garb of religious immunity. Apart from the famous Shah Bano (1986) and Sarla Mudgal (1995) cases, there have been several other pleas by Hindu wives whose husbands converted to Islam only in order to get married again without divorcing the first wife. ”To conserve the cohesion of Hindu society, the Hindu laws made allowances for customs and usages. The imposition of uniformity would have undermined Hindu social cohesion. If matters relating to family laws and customs fall under the jurisdiction of Parliament and state legislatures, the country will have a variety of regulations. The State amendments have made many in-roads in the Hindu laws damaging the uniformity of these laws, affecting many substantive rules.”

In a Uniform Civil Code which is the cherished constitutional goal, if we have a single ground of divorce viz. that the marriage has broken down irretrievably, the scope of any controversy is ruled out. Where factually marriage has broken down irretrievably, no useful purpose will be served in finding out the guilt or innocence of the parties and in such cases law proceeds to cut off the tie. Analytical discussion on these issues shows that there should be one single ground of divorce, viz., irretrievable breakdown of marriage.

Irretrievable breakdown of marriage and divorce by mutual consent should be made uniformly a ground to dissolve the marriage of spouses irrespective of their religious faiths. The critical analysis of different existing grounds of divorce contained under various divorce laws shows more uniformity and less contrast in

25 Supra Note 24.
26 Supra Note 24
29 Ibid, at 377.
them. Therefore, the conceptual analysis of the different existing ground of divorce paves the way to push up the matter of uniformity in them legislatively.\textsuperscript{30}

In \textit{Naveen Kohli v. Neelu Kohli},\textsuperscript{31} the Supreme Court, clearly and strongly while permitting dissolution of thirty year old mismatch, urged the Government of India to amend Hindu Marriage Act in order to make Irretrievable break down of marriage a valid ground for divorce. The court held that “irrevocable break down of marriage” as a ground for divorce was prevalent in many other countries and recommended the Union of India to seriously consider bringing an amendment in Hindu Marriage Act, 1955 to incorporate irretrievable break down of marriage as a ground for the grant of divorce. The court ordered to send a copy of judgment to the Secretary, Ministry of law and justice, Department of legal affairs, Government of India for taking appropriate steps\textsuperscript{32}.

The express introduction of the “irretrievable break down” principle, as has been done in England will be much more conducive and functional than merely relying on the “implied” principle. Besides, the administration of justice on the basis of clearly codified law is superior to the adjudication from case to case. For this, Parliament could reintroduce the Marriage Laws (Amendment) Bill, 1981 (No.23 of 1981), which earlier did not fructify into law for expressly introducing irretrievable break down of marriage as the singular ground for divorce, as the bill was allowed to lapse.\textsuperscript{33}

Recently in \textit{Ramesh Jangid v. Sunita},\textsuperscript{34} the wife wanted her husband to leave his parents and live separately. The Court held that the demand of wife was unreasonable and as wife was living separately for 13 years and denying physical relationship, so divorce was granted. The court observed that,” The differences that have grown up between the parties, the distance which has widened for over a decade cannot be brushed aside lightly. Thus irreparable break down of marriage is obvious.”

In \textit{Prabhakar v. Shanti Bai},\textsuperscript{35} parties were married in 1955, they have not stayed together since 1958, and no cohabitation was there since last 49 years. The court granted the decree of Divorce as the marriage between the parties was irretrievably broken.

\textsuperscript{30} Ibid.
\textsuperscript{31} 2006 (4) SCC 558
\textsuperscript{32} Ibid, para 96
\textsuperscript{33} Virender Kumar, “See the Rift, not the Fault” 12, The Tribune, 21 May, 2006.
\textsuperscript{34} 2008 (1) HLR 8 (Raj.)
\textsuperscript{35} 2008 HLR 250 (Nagpur)
The Law Commission of India and the Supreme Court have recommended that the irretrievable break down of marriage should be made a separate ground of divorce by the legislature. No useful purpose would be served by keeping alive de jure what is dead de facto. It is possible that if Parliament does not act on this recommendation the legislature of some states of India may take the lead, exercising power under entry 5 of the concurrent list of the 7th schedule.\textsuperscript{36} The Law Commission of India recommended in 2008:

“It is, therefore, suggested that immediate action be taken to introduce an amendment in the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954 for inclusion of ‘irretrievable breakdown of marriage’ as another ground for grant of divorce.”\textsuperscript{37}

The State should come out with specified steps to endeavor to secure the citizens a Uniform civil Code through out the country. The Supreme Court ruled in \textit{Seema v. Ashwani Kumar},\textsuperscript{38} that all marriages irrespective of their religion be compulsorily registered. The Court felt that, “this ruling was necessary by the need of the time as certain unscrupulous husbands deny marriage, leaving their spouses in the lurch, be it for seeking maintenance, custody of children or inheritance of property.”\textsuperscript{39} The Supreme Court order is a first step towards the Uniform Civil Code.\textsuperscript{40} The Supreme Court ruled that all the marriages irrespective of their religion, be compulsory registered. Justice Pasayat, writing the judgment for the bench in a matter that was on offshoot of a matrimonial case, directed the Government to provide for “consequences of non-registration of marriages” in the rules, which should be formalized after inviting public response and considering them. The Law Commission of India recommended in 2008:

“It is high time we took a second look at the entire gamut of Central and State laws on registration of marriages and divorces to assess if a uniform regime of marriage and divorce registration laws is feasible in the country at this stage of social development and, if not, what necessary legal reforms may be introduced for streamlining and improving upon the present system.”\textsuperscript{41}

For long Christian women too had the law loaded against them. A Christian

\textsuperscript{37} 217th Indian Law Commission Report was forwarded on 30 March 2009.
\textsuperscript{38} (2005) 2 SCC 578.
\textsuperscript{39} Supra Note 24.
\textsuperscript{40} Dhanajay Mahapatra, \textit{“All marriages must be registered”} The Times of India, 15 Feb. 2006.
\textsuperscript{41} 211th Report of the Law Commission of India which was forwarded on 17 October, 2008.
man could obtain a divorce on the basis of adultery; a woman had to establish an additional charge like desertion or cruelty under the Indian Divorce Act 1869. But in 1997, cruelty, physical and mental torture were made ground enough for a Christian woman to obtain a divorce, with the Bombay High Court recognizing cruelty and desertion as independent grounds for the dissolution of a Christian marriage. Divorce under the Hindu Marriage Act 1955 can be obtained on the grounds of adultery, cruelty, desertion for two years, conversion in religion, an unsound mind, suffering from venereal disease or leprosy or if the spouse has renounced the world and has not been heard from for seven years. Also no resumption of co-habitation for one year after the decree of judicial separation, no restitution of conjugal rights for one year after decree for restitution of conjugal rights, or if the husband is guilty of rape, sodomy or bestiality.

All major religions thus have their own laws that govern divorces within their own community, and there are separate regulations under the Special Marriage Act, 1956 regarding divorce in interfaith marriages. Under a common civil code, one law would govern all divorces.

Significantly, in the matter of a Uniform Civil Code, India’s binding obligation under international law have also started attracting attention of legal and other experts. Satyabrata Rai Chawdhuri, rightly observed in 200342:-

[Since] different treatment for any religious group is violative of the UN Covenant on Civil and Political Rights and the Declaration on the Rights to Development adopted by the world conference on Human Rights, it is hoped that Parliament will frame a common civil code without further delay, divesting religion from social relations and personal law.

One should not forget that nationhood is symbolized by one Constitution, a single citizenship, one flag and a common law applicable to all citizens and India’s obligations under international law and requirements of various international instruments relating to the human rights of women such as Universal declaration of Human Rights, 1948 and the Declaration on the Elimination of Discrimination Against Women, 1967, also demand that even if one rules out Article 44 the Union of India cannot evade its international obligation to make laws to remove all

discrimination against women.\textsuperscript{43} For that, just as 27 years ago, the Equal Remuneration Act, 1976 was enacted for the benefit of all working women, “The next logical step is to make a law to secure equal rights to women. An Equal Right Act would largely achieve the objective of common civil code. In the alternative, parallel reform of each personal law to give effect to the Human Rights declared by the United Nation would help in the emergence of common pattern of personal laws, paving the way for uniform code, and a beginning could be made in the direction but it seems that the Political will is lacking.”\textsuperscript{44}

The Article 44 of the Constitution of India requires the state to secure for the citizens of India a Uniform Civil Code throughout the territory of India. As has been noticed above, India is a unique blend and merger of codified personal laws of Hindus, Christians, Parsis and to some extent of laws of Muslims. However, there exists no uniform family related law in a single statutory book for all Indians which is universally acceptable to all religious communities who co-exist in India.

As discussed above, the Supreme Court of India for the first time directed the Indian Parliament to frame a Uniform Civil Code in 1985 in the case of Mohammad Ahmed Khan v. Shah Bano Begum.\textsuperscript{45} In this case a penurious Muslim woman claimed maintenance from her husband under Section 125 of the Code of Criminal Procedure after her husband pronounced triple Talaq (divorce by announcing the word “Talaq” thrice). The Apex Court held that the Muslim woman had a right to get maintenance under Section 125 of the Code and also held that Article 44 of the Constitution had remained a dead letter. To undo the above decision, the Muslim Women (Right to Protection on Divorce) Act, 1986 which curtailed the right of a Muslim Woman for maintenance under Section 125 of the Court was enacted by the Indian Parliament. Thereafter, in the case of Sarla Mudgal Vs. Union of India\textsuperscript{46}, the question which was raised was whether a Hindu husband married under Hindu law can, by embracing Islamic religion, solemnize a second marriage. The Supreme Court held that a Hindu marriage solemnized under Hindu Law can only be dissolved under the Hindu Marriage Act and conversion to Islam and marrying again would not by itself dissolve the Hindu marriage. Further, it was held that a second marriage solemnized after

\textsuperscript{44} P.P. Rao “Uniform Civil Code is a Necessity: An Optional Common Law can be Enacted” 10, The Tribune 6 Aug. 2003.
\textsuperscript{45} AIR 1985 SC 945
\textsuperscript{46} AIR 1995 SC 1531
converting to Islam would be an offence of bigamy under Section 494 of the Indian Penal Code. In this context, the views of Mr. Justice Kuldip Singh are pertinent:

“Where more than 80 percent of the citizens have already been brought under the codified personal law there is no justification whatsoever to keep in abeyance, any more, the introduction of the ‘Uniform Civil Code’ for all the citizens in the territory of India.”

Thus, the Supreme Court reiterated the need for Parliament to frame a common civil code which will help the cause of national integration by removing contradictions based on ideologies. The Directive Principle of enacting a uniform civil code has been urged by the Apex Court repeatedly in a number of decisions as a matter of urgency. Unfortunately, in a subsequent decision reported as Lily Thomas v. Union of India, the Apex Court, dealing with the validity of a second marriage contracted by a Hindu husband after his conversion to Islam, clarified that the court had not issued any directions for the codification of a common civil code and that the judges constituting the different benches had only expressed their views in the facts and the circumstances of those cases. Even the lack of will to do so by the Indian government can be deciphered from the recent stand stated in the Indian press. It has been reported in the Asian Age, "that the Indian government does not intend to bring legislation to ensure a uniform civil code because it does not want to initiate changes in the personal laws of minority communities." However, this ought not to deter the efforts of the Supreme Court of India in issuing mandatory directions to the central government to bring a common civil code applicable to all communities irrespective of their religion and practices in a secular India. Hopefully, the Apex Court may review its findings in some other case and issue mandatory directions to the central government to bring a common civil code applicable to all communities irrespective of their religion.

The Preamble of the Indian Constitution resolves to constitute a “Secular” Democratic Republic. This means that there is no State religion and that the state shall not discriminate on the ground of religion. Articles 25 and 26 of the Constitution of India as enforceable fundamental rights guarantee freedom of religion and freedom to manage religious affairs. At the same time Article 44 which is not enforceable in a Court of Law states that the state shall endeavor to secure a uniform civil code in

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47 2000 (6) SCC 224  
48 August 5, 2006, by the Press Trust of India (the Official Government News Agency)
India. How are they to be reconciled. What will be the ingredients of a Uniform Civil Code. Since the personal laws of each religion contain separate ingredients, the uniform civil code will need to strike a balance between protection of fundamental rights and religious principles of different communities. Marriage, divorce, succession, inheritance and maintenance can be matters of a secular nature and law can regulate them. India needs a codified law which will cover all religions in relation to the personal laws of different communities.

Critics of the uniform civil code think that the true principles of Muslim law remain eclipsed by its extensive alleged misreading over the years. It is suggested by Tahir Mahmood, an eminent scholar in his article that “an Indian Code of Muslim Law based on an eclectic selection of principles from the various schools of Shariat is the ideal solution to all the contemporary problems of Muslim Law”. In another report, it has been reported that the Supreme Court of India dismissed a public interest litigation petition challenging the legality of the customs of polygamy, talaq and divorce practiced by Muslims under personal laws. The plea for a direction to the Central Government to make Uniform Marriage Laws for all communities was rejected on the ground that it is for Parliament to change or amend the law. Thus, the debate is endless and the issue remains unresolved.

It is in this context that we need to understand the issue of the uniform civil code. The time has come to place personal laws of all religions under a scanner and reject those laws that violate the Constitution. Personal laws of all religions discriminate against women on matters of marriage, divorce, inheritance and so on. There is an urgent need to cull out the just and equitable laws of all religions and form a blueprint for a uniform civil code based on gender justice. The Hindu code cannot be applied uniformly to all religions. On the other hand, triple talaq would have to go, as would polygamy and all the advantages that accrue to Hindu undivided families in matters of property and inheritance.

In this backdrop, one can say that in our country, personal laws continuously affect the lives and rights of a large number of women of all most all the communities. Although various efforts are being done by the means of international instruments, reforms of national laws, changing judicial trends, recommendations of

51 Shabana Azmi, Women, Stand Up For Your Rights, The Times of India, 7 July 2005
Law Commissions and other social elite groups to ensure gender equality but still women in our country are not treated equally and discriminated in the field of family law especially in cases of marriage, divorce, maintenance, inheritance etc. In these situations, a gender-just code is the need of the time. So a Uniform Civil Code is very important for the protection of oppressed women, to protect their human rights, to remove discrimination against them irrespective of their religion or community they belong and, lastly to make our national laws in accordance with the international instruments which are legally binding on India through various international conventions and international Human Rights instruments which are ratified by India. I think at the present time, the time is ripe for us to try to push it (Uniform Civil Code) through. To sum up in last, it can be said for citizens belonging to different religions and denominations, it is imperative that for promotion of national unity and solidarity a unified code is an absolute necessity on which there can be no compromise. Different streams of religion have to merge to a common destination and some unified principles must emerge in the true spirit of Secularism. India needs a unified code of family laws under an umbrella of all its constituent religions. Whether it is the endeavor of the State, the mandate of the court or the Will of the people is an issue which only time will decide.