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# **NEED OF UNIFORM CIVIL CODE AND IT'S IMPLEMENTATION.**

AUTHORED BY - ABHISHEK BHAMU

## **1 INTRODUCTION**

It is important to recognise right away that India is a distinct nation with a diverse geographic, religious, social, and cultural makeup. The Indian Constitution often emphasises unity in diversity and calls attention to the multiplicity of societal situations. The "pluralism of religions and convictions" is acknowledged.<sup>1</sup>

Unfortunately, nationalists, chauvinists, and religious zealots from all religions have repeatedly attacked this ideal. Indian society has been heavily influenced by religion. Religion has helped the general populace grow spiritually, but it has also contributed to the perpetuation of many social ills when its teachings are misunderstood. A significant contributor to this discrimination has been the personal laws based on custom and religion of many communities. Secularism was one of the constitutional purposes that our Constitution's drafters established in order to address these social ills; later, it was designated as a separate Preambular goal. In addition to being a fundamental aspect of the Constitution, secularism serves as a pillar for achieving the lofty goal of fostering fraternity among all Indian citizens.<sup>2</sup> It is true that, except from the Preamble, no provisions of the Indian Constitution contain the word "secularism," yet "its material provisions are inspired by the concept of secularism."<sup>3</sup> It put the idea of a welfare state in front of the entire nation when it guaranteed all Indian citizens that the Constitution's goal is to promote socioeconomic justice. Furthermore, the idea of welfare is wholly secular and not founded on any religious principles.

"The fundamental tenet of the Indian Constitution is the equality of all citizens, and this basic equality (guaranteed by art. 14) clearly declares that a citizen's religion has no bearing whatsoever

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1 "Ministry of Home Affairs, 'LIBERHAN AYODHYA COMMISSION | Ministry of Home Affairs | GoI' (www.mha.gov.in) <<https://www.mha.gov.in/about-us/commissions-committees/liberhan-ayodhya-commission>> accessed 25 July 2022."

2 "Rajeev Bhargava, Amiya Kumar Bagchi and R Sudarshan, Multiculturalism, Liberalism and Democracy (Oxford University Press 2007) <<https://global.oup.com/academic/product/multiculturalism-liberalism-and-democracy-9780195692983?lang=en&cc=au>> accessed 25 July 2022."

3 "Constitution of India, 1950, art. 25"

on his fundamental rights."<sup>4</sup>

In light of this context, we should now attempt to comprehend what secularism is and how it functions. Secularism is a flexible concept with distinct meanings in various polities. Secularism is often understood to be the state's neutrality in matters of religion or creed. One thing unites all secular states: neither a theocracy nor the establishment of a religion are practised there.<sup>5</sup> The phrase "non-patronizing attitude of the state to any one religion" may also be used to describe it.<sup>6</sup> There is no official religion in a secular state, and each individual has the freedom to preach, practise, and spread any religion they choose. Thus, secularism describes how a nation's citizens conduct their personal affairs and interact with others. It means: "Non-spiritual, having no interest in religious or spiritual matters... anything that is different from, opposed to, or unrelated to religion," according to Encyclopedia Britannica. So, a secular state is one that is unrelated to and undevoted to religion in the western sense of the word. It refers to the separation of church and state, or the prohibition of state participation in any religious activity.

Secularism is first and foremost a normative philosophy that rejects all institutionalised religion dominance as well as these kinds of interreligious dominance.

Secularism's hostility to intra-religious dominance is another crucial aspect. Positively, it encourages religious freedom and equality both inside and between religions. A state must not only reject theocracy but also refrain from having any official, legal ties to any religion in order to be considered truly secular. The government shouldn't associate itself with any one faith. According to Rajeev Bhargava, neutrality or "principled distance" is necessary in a pluralistic society.<sup>7</sup>

## **2 DISCUSSION OF THE UNIFIED CIVIL CODE-**

### **2.1 JUSTIFICATIONS FOR A UNIFORM CIVIL CODE-**

The debate over "personal religious laws" and the need for a UCC must be brought up in any discussion of secularism and freedom guaranteed in the name of religion in India. Despite the

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4 "SR Bommai v. Union of India, [1994] 2 SCR 644; AIR 1994 SC 1918."

5 "Niraja Gopal Jayal and Pratap Bhanu Mehta, The Oxford Companion to Politics in India (Oxford University Press 2011)."

6 "Arthur Mayhew, Christianity and the Government of India. (Faber 1929)."

7 "S Narula, 'Gary Jeffrey Jacobsohn, the Wheel of Law: India's Secularism in Comparative Constitutional Context. Princeton University Press 2003. Pp. xviii + 324.' (2006) 4 International Journal of Constitutional Law 741."

fact that only a small portion of society is now regulated by secular laws that are founded on the ideals of "justice, equity, and good conscience," personal religious laws" remain in place and are still in effect today. The colonial rulers saw no reason to meddle in the "religious affairs of the natives" because they feared hostility and local resentment. However, they did implement several laws under the guise of "reform" to eradicate some abhorrent customs, such as sati. In response to the demands of modern times, some personal laws, particularly those of the Hindus, have been codified along with some modifications, "while others continue to be applicable to the individual religious groups in their well-established, traditional forms. Despite a constitutional directive to the legislature to enact a uniform civil code applicable to all religious groups which should govern all family relationships such as marriage and divorce, maintenance, custody of children, guardianship of children, inheritance and succession, adoption, and the like, India has a complex system of personal laws governing inter-personal relationships as a result of the cautious approach adopted by the successive governments as well. Since independence more than 60 years ago, this constitutional command has gone unheeded."

A nation's citizens, regardless of caste, creed, or tribe, are subject to a set of secular laws known as the "Uniform Civil Code" The UCC has jurisdiction over laws governing the purchase and management of property as well as laws governing the areas such as divorce marriage, adoption of children and also inheritance. The State must implement UCC in accordance with art. 44 of the Indian Constitution, which can be considered as a step forward in secularising laws relating to different religions without destroying religious identities.

A Uniform Civil Code provision was initially vehemently pushed into the Fundamental Rights Art. 44. "However, a provision for UCC was added to chapter IV pertaining to directive principles of state policy, which are not justiciable but still essential to India's governance, in order to address the conflicting opinions of the various members of the Constituent Assembly and to ease the insecurity of the religious minorities.<sup>8</sup>" There are many justifications put up for the adoption of a UCC. Here are a few justifications for UCC that have been made.

#### ADVANCING GENDER EQUALITY-

Another stated goal of many who support UCC is the advancement of gender equity. The supporters of UCC assert that gender inequity is inherent in all personal laws in all communities. The "result of the socio-economic conditions under which they evolved" is meant to be this. The

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8 "Constitution of India, 1950, art.37"

UCC's backers firmly believe that through ensuring gender equality, a UCC will bring about religious revolution. Personal laws have consistently been discriminatory toward women. Women have faced numerous challenges as a result when it comes to inheritance, divorce, and marriage-related issues. "A common thread running through all of India's religious personal law systems is the patriarchal dominance of men and the unequal treatment of women. While one's religion determines which law will apply to them regarding marriage, divorce, maintenance, guardianship, adoption, inheritance, and succession."<sup>9</sup>

A few examples that demonstrate how severely distorted and harmful the effects of religious legislation on women are shown below.

- i. All men and women of a particular age have the legal right to marry, with full freedom to choose their spouse and the ability to do so with their voluntary agreement. However, personal laws in India are lacking in this regard. Muslim law appears to recognise the guardian's authority to marry his minor ward. There is a solution in the form of the "option of puberty" (right to reject marriage upon reaching puberty), however it is only available to women. "Hindu law (Hindu Marriage Act, 1955)" further states that acquiring agreement through coercion or deception or vitiating consent through demonstrable insanity renders marriages null and void.
- ii. In the modern world, where monogamy, faithfulness, and family welfare are the norm, polygamy is another hotly debated topic. The Indian Penal Code makes bigamy an offence, and contemporary legislation like "The Hindu Marriage Act, 1955" forbids it (encompassing both polygamy and polyandry).<sup>10</sup> However, polygamy is an institution that is recognised and sanctioned by Muslim personal law. It is respectfully suggested that since polygamy is largely a holdover from the patriarchal era, it is past due for all major religions to forbid the practise. Allowing polygamy to be practised by a small number of people who belong to a particular religious group or tribe can cause rifts and tensions between different religions.
- iii. The acknowledgment of the idea of unilateral divorce is the most absurd and discriminatory aspect of Islamic divorce law. Accordingly, the "husband can unilaterally divorce his wife without giving any reason, even in jest or while intoxicated, without going through the court system, and even in the wife's absence,

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<sup>9</sup>"Laura Dudley Jenkins, 'Five: Personal Law and Reservations ; Volition and Religion in Contemporary India' [2001] Religion and personal law in secular India 104 <<https://ixtheo.de/Record/739843567>> accessed 25 July 2022."

<sup>10</sup> Indian Penal Code, 1860, s.494 and 495"

by simply pronouncing the formula of repudiation." On the one hand, Muslim women's right to divorce is constrained by significant restrictions; whilst the husbands have a totalitarian ability to exercise their rights to divorce that is essentially unhindered by any major restrictions. After the "Dissolution of Muslim Marriages Act, 1939" was passed, a Muslim wife can now seek a divorce through the assistance of a court, however she will first need to establish one of a select few legal grounds for divorce. The fact that divorce is morally abhorrent in Islam and was condemned by the Prophet does not give consolation to women because unilateral divorce is still a common practise in many nations, including India.

- iv. Even regulations pertaining to maintenance show an underlying bias towards women. According to the "1956 Hindu Adoptions and Maintenance Act", a woman has the legal right to support throughout her lifetime. An "unchaste" wife is not entitled to separate housing and maintenance, despite efforts to promote the conservative notion of a Hindu wife even in this progressive statute. According to various interpretations of the sharia, divorced women in Muslim countries are not entitled to maintenance from their ex-husbands beyond the three-month iddat period. "The Dissolution of Muslim Marriages Act, 1939" prohibits divorced Muslim women from requesting support in India. The judiciary tried to eliminate this problem in the well-known Shah Bano<sup>11</sup> decision by specifically covering such Muslim women by the 1973 secular "Code of Criminal Procedure", which gives a wife the right to sue her husband for maintenance if he neglects or refuses to support her. The Shah Bano<sup>12</sup> case was a textbook example of how the "*secular criminal code and religious personal law clashed*". In this instance, an elderly Muslim widow had been divorced by her husband after he used Islamic personal law to stop paying her maintenance. But in order to give support, the Supreme Court applied and interpreted the 1973 Criminal Procedure Code, which is a secular statute. The judiciary deserves praise for applying the pertinent provisions in a humane and comprehensive manner. The deliberate use of the Quran and attempts to interpret it in a certain way, however, angered traditional Muslims, who emphasised community concerns about the loss of freedom of religion. In the end, the Government gave in to pressure from the more conservative Muslims and, over the objections of progressive Muslims and feminists, approved the "Muslim

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11"Moht. Ahmed Khan v. Shah Bano Begum 1985 SCR (3) 844"

12Ibid.

Women's (Protection of Rights in Divorce) Act, 1986”, without any consultation. By not requiring the husband to pay maintenance, this Act benefits the husband in actuality while purporting to protect the wife. Because Muslim women are no longer covered by “s. 125 of the Criminal Procedure Code, 1973”—the law that had previously protected “*Shah Bano*”—it is extremely discriminatory towards them. A Muslim woman is significantly more likely to need to file a lawsuit in order to receive any maintenance at all due to specific provisions of the new Act. The administration of the day hastily produced this piece of legislation through vote-bank tactics in order to support the conservative and conventional interpretation of the Muslim law controlling the "maintenance" of divorced women.

- v. The majority of inheritance laws were retrograde and hostile to women. Because her position in the paternal family was only temporary because she joined her husband's family upon marriage, the Mitakshara branch of Hindu law denied a Hindu daughter a right by birth in the joint family inheritance. The Hindu law of succession has been updated to grant Hindu widows the ability to inherit their husband's estate. Due to “The Hindu Succession Act, 1956”, which barred daughters from coparcenary ownership of ancestral property; Hindu law was still discriminatory until recently. Daughters were granted the status of coparceners in the family of their birth in 2005, ending the centuries-old Hindu inheritance laws that had lost their meaning and justifications and marking a radical but long-awaited step in balancing freedom of equality between Hindu men and women in terms of succession. According to Islamic law, a man is typically entitled to twice as much inheritance as a woman who has the same degree of kinship to the deceased. Since it is a blatant example of uneven treatment, this part of Islamic law has drawn the most vociferous criticism for its discrimination against women. However, it is significant to note that compared to Hindu law, Islamic law was more tolerant of women.
- vi. In terms of guardianship and custody of her children, mothers typically hold a statutorily inferior status. The mother is the minor's natural guardian only after the father, who is designated as the child's first natural and legal guardian. The father is the only guardian of the minor child's person and property in accordance with Islamic law. Adoption is another aspect of family relationships where women encounter prejudice based only on their marital status. Adjustments are required even here.

A Christian woman seeking a divorce from a Christian man must demonstrate that her

spouse has committed multiple offences, such as adultery with brutality or adultery with separation. A Christian man may also obtain a divorce if his spouse has an affair. Under the pretence of protecting religious communities' rights, "Lawmakers has thus far avoided its responsibilities to some of those communities' most vulnerable members—the women. State neutrality in religious questions should not come at the expense of women's rights. Religious reforms" shouldn't be postponed in the name of protecting minority' rights. Women in India now have official political rights and equality under the country's constitution. But because of the different personal laws, women are more likely to be assaulted, denied rights, and treated unfairly. They are treated pitifully within the family. "Personal laws are outmoded and outdated in a modern free democracy where individual decisions are prioritised. These laws consider women as property and are designed to maintain men's dominance over them at all times." Therefore, when developing a coherent civil code, gender fairness is the main consideration. One of the main defences against personal laws is that they discriminate against women and try to discredit their standing in the private domain by including out-of-date terms.<sup>13</sup> "The compatibility of personal religious laws with the egalitarian values that our Constitution upholds as well as with international declarations and accords to which India is a party needs to be examined. The most reliable approach to guarantee gender equality is to have a UCC. Personal laws were never regarded as a component of the right to freedom of religion, according to Pune resident S. P. Sathe, who has been working on establishing a Gender Equal Family Code." According to him, the freedom of religion, which is a basic right protected by Art. 25 of the Indian Constitution, is not unaffected by prevailing views on morality, public order, and public health. After discussing the two strongest arguments in favour of UCC, it would be appropriate to quote R. M. Sahai J. from his concurring judgement in "*Sarla Mudgal v. Union of India*",<sup>14</sup> where he stated: "The foundation of our civilization is religious freedom. The social fabric is shook by even the smallest departure from it. However, religious practises that include sacerdotal stifling of fundamental civic and material liberties and violate human rights and dignity are to be condemned. A unified code is therefore essential for both the protection of the

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13"Martha Nussbaum, 'India: Implementing Sex Equality through Law' (2001) 2 Chicago Journal of International Law Chicago Journal of International Law <<https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&art=1118&context=cjil#:~:text=the%20laws.>> accessed 25 July 2022."

14" *Sarla Mudgal, President, Kalyani v. Union of India* 1995 SCC (3) 635"

oppressed and the encouragement of national solidarity and unity.”

In his book "Muslim Personal Law," Tahir Mahmood, a leading figure in Islamic law, also makes a compelling case for the creation of a uniform civil code for all Indian people. He claims: "The State must stop enforcing personal rules based on religion in order to achieve secularism. In his words, "Instead of wasting their energies in exerting theological and political pressure in order to secure a immunity for their traditional personal law from the state legislative jurisdiction, the Muslims will do well to begin exploring and demonstrating how the true Islamic laws, purged of their time-worn and anachronistic interpretations, can enrich the common civil code of India.”

- vii. Using the uniform civil code to make personal laws more comprehensible, clear, and simple a legal system cannot fulfil the lofty goal of justice distribution without simplicity and clarity in its laws, as is common knowledge and experience. According to the history of codification, achieving stability and certainty was one of the main goals of codification. Diverse legislation may result in opposing viewpoints and, as a result, ambiguity. As a requirement for any legal system, Lon Fuller's inherent morality of law stipulates that laws must be certain. He claims that inconsistencies in the law hinder the effectiveness of the legal system. The same can be stated of India's diverse system of personal laws. Conflicting laws cause uncertainty and confusion in citizens' civil relationships. Even though it is sometimes claimed that the Special Marriage Act has successfully ended this crisis, it is important to understand that as long as it is just one of the numerous laws in use in India, its effectiveness will inevitably be diminished. Additionally, very few people, typically those from the educated class, use the “1956 Special Marriage Act”.

### **3 THE JUDICIARY'S ROLE FOR CREATING A COMMON CIVIL CODE.**

The government has received numerous orders from the Supreme Court to implement the directive principle entrenched in Art. 44 of our Constitution. It is depressing to observe that there is no political will to enforce such a crucial progressive law change, which will guarantee gender justice, remove obscurantist ideas and behaviours, and simultaneously advance the goal of national unification. However, the judiciary has made concerted efforts to ensure that the concept of a common civil code is not forgotten, so all is not lost.

A few recent decisions from high courts and the Supreme Court are listed below that emphasise the importance of adopting a UCC.

The Bombay High Court stated in “Narasu Appa Mali v. State of Bombay”<sup>15</sup> that: “Art. 44 of the Constitution is very important. This art. states that the State shall strive to establish for the citizens a consistent civil code throughout the territory of India. In other terms, this art. implicitly recognises the existence of several personal law codes that apply to Hindus and Muslims and authorises their continued application until the State is able to secure an unitary civil code for all of its citizens.”

The current personal rules in this nation have their roots in biblical writings. It is difficult to develop a uniform civil code that is relevant to the various populations in this country since in many ways, their rules are entwined with and based on religious and cultural considerations. The Constitution's creators deliberated not to intrude with the protections given to the personal laws at about this moment because they were fully aware of these difficulties. Instead, they founded a core principle that an effort should be made in the long term to secure a uniform codified enactments across India.

The Supreme Court ruled in “Mohd. Ahmad Khan v. Shah Bano Begum” that:

Regrettably, Art. 44 of our Constitution has remained a mere piece of paper. There is no proof that any official work has been done to create a common civil code for the nation. It is the State's responsibility to ensure that the nation's citizens have access to a uniform civil code, and it is without a doubt within its legislative purview to do so. By removing varying allegiances to legislation with opposing ideas, an unified civil code will aid in national cohesion. Making unnecessary concessions on this matter won't likely alarm any community. However, if the Constitution is to have any significance, a start must be made. It is beyond the capacity of sensitive minds to permit injustice to be experienced when it is so evident, thus the courts must inevitably take on the role of the reformer. However, courts' haphazard attempts to reconcile disparate personal laws cannot replace a single Civil Code. Justice for everyone is a much more satisfying form of justice than justice in each individual situation.

“Union of India v. Sarla Mudgal”, President, Kalyani, the Supreme Court noted that: Up until this point, no significant progress has been made toward "unified personal law for all Indians" by

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15 “Narasu Appa Mali v. State of Bombay AIR 1952 Bom 84”

the various governments that have come and gone. It would be unnecessary to list the causes. “The Hindu Marriage Act of 1955”, “The Hindu Succession Act of 1956”, “The Hindu Minority and Guardianship Act of 1956”, and “The Hindu Adoptions and Maintenance Act of 1956”, It transformed the old Hindu law into a single, unified code based on different school systems of thought and biblical rules, represent the pinnacle of what has been accomplished. There is no longer any excuse to put off the establishment of a "uniform civil code" for all residents on Indian territory as larger chunk of the Indian population is already covered under the codified laws. The obligation of carrying out the constitutional mandate under Art. 44 of the Indian Constitution has been entirely neglected by the Successive Governments up to this point. Therefore, we ask the Indian government to reconsider Art. 44 of the constitution and "endeavour to secure for the citizens a uniform civil code throughout the territory of India" through the prime minister of the nation.<sup>16</sup>

In “*John Vallatammom v. State of Kerala*” and “*Shabnam Hashmi v. Union of India*”, However, one unsettling aspect of the judiciary's approach to religious matters so far is that it has remained unwavering in its belief that preserving personal laws outside the purview of art. 13 is the best course of action.<sup>17</sup> “These personal laws continue to violate fundamental rights with impunity frequently because of the parochial approach that has effectively shielded them from constitutional review.” It is past time for the judiciary to abandon its cautious approach to personal laws in order to avoid public backlash. The judiciary defends constitutional morality, not popular morality and religion; hence it must immediately invalidate everything that is unconstitutional.

## **CONCLUSION**

India is a land of diversity where several personal laws govern the people. Also, following the traditional pattern of patriarchy, discrimination against women is often observed in different spheres of society; property rights are one such area. Though there has been a great development in property rights given to women, equality is still a far fetched idea. Judicial development in this area is commendable; the Judiciary has at times given landmark decisions that worked towards providing equal rights to a woman.

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<sup>16</sup> Union of India v. Sarla Mudgal AIR 2003 SC 2902.

<sup>17</sup>“Narasu Appa Mali v. State of Bombay, AIR 1952 Bom 84”

The author has worked on this thesis to answer four research questions, and in the above chapters, the author has tried to answer each question to the best of their knowledge through doctrinal research.

The first research question that the author analysed in the chapter is what are the various provisions relating to personal laws in the constitution. In the above chapters the author concluded that Personal laws in India are unique creations of a multi-cultural system that has developed over many generations.

Despite the fact that there is little connection between personal law and religion, some orthodox groups in society actively or covertly oppose efforts to achieve social justice in this area due to their sentimental regard for the "living law" of tradition. The majority of people have, nevertheless, reacted favourably to the adoption of social changes in their own laws. However, the lawmaker's experience indicates that it is exceedingly challenging to implement reforms, especially those that are small-scale.

The Indian Constitution's Part III, or Fundamental Rights, is regarded as being necessary to safeguard the liberties and rights of the people from the abuse of the authority that they have granted to their government. Part III of the Constitution, according to Dr. B.R. Ambedkar, is the s. that most directly affects ordinary people. It includes all of the civil and political rights listed in the "Universal Declaration of Human Rights" as well as the fundamental principles upheld by the nation's citizens. Thus, in order for a person to reach his or her full intellectual, moral, and spiritual potential, fundamental rights are necessary. "Art. 25 of the Constitution" gives everyone the right to "freely profess, practise, and propagate religion," but in reality, these rights are frequently divided based on gender, and surprisingly, most women do not object to this practise because they have been led to believe that such behaviour is for their protection and for the best. The foundation of our secular nation is the ability to practise, profess, and propagate one's religion freely, subject to constitutionally permitted limitations.

It's interesting to note that our Constitution emphasises both gender equality and the need for a more inclusive society. Even the drafters of the Constitution could not have anticipated a time when the right to pray and practise one's religion would be contested and discussed in a court of law. Going with the flow and promoting the current, courts have upheld women's rights to equality and freedom of religion, attempting to put an end to the long-standing practise and

overturn the restrictions put in place.

Also there is a problem with non-enforceability that prevents the DPSP from becoming a potent social engineering tool. In recent years, there has been some effect on the legal system. The judiciary has proven in numerous cases that the effective method for internalising the values purposes of Part IV is to read DPSP and FR together. The relationship between personal law and religion is remote, and neither the judiciary nor the legislature encounter any obstacles on that basis, thus there is no need to change any Part III provision dealing with religious freedom to safeguard reforms in personal laws. Additionally, Art. 25(2) (b) is fairly flexible.

Despite the Muslim members' best efforts, it is clear from the talks so far that the majority of the Constituent Assembly members did not want to provide the "personal laws of diverse communities for all time to come" a constitutional guarantee. "Art. 44", which calls for a "Universal civil code," was instead included. In terms of personal laws' compliance with part III of the Constitution, the judicial perspective demonstrates that this s. does not apply to personal laws. The courts have construed the constitutionally protected right to freedom of religion in such a way that it offers minimal protection for personal laws. However, the Constitution does address personal laws under Entry 5, List III of the Seventh Schedule together with art. 372 when it comes to the issue of their recognition. Art. 44's requirement for uniformity itself acknowledges the existing diversity of personal laws Thus, through this chapter the author tried to understand the personal laws in the religion.

Now, the author tried to answer the second research question to understand the recent trends of the personal laws in the religion. Through this chapter, the author researched on the various current issues that the religious institutions are facing currently in India. In this chapter the author analysed the Entry of worship, the hijab controversy, property issues, triple talaq and the azzan issues. The author did an in-depth research on each individual issue to determine the rationale behind these issues. In the Right of property issues, the author was able to determine that there is a lacuna in the law since it does not recognize a notion of marital property in India. Barring the limited case of the Civil Code of Goa, the personal laws in India have yet to acknowledge this gap. S. 27 of the Hindu Marriage Act 1955 does not suffice, as Sivaramayya himself convincingly argued. Given the limited rights to inherit property that women have in many religious personal laws and their lower levels of participation in the labour force, it comes as no surprise that women's property ownership is limited. There can be no debate that ownership of assets is

invaluable in the empowerment of women.

Whereas, for the remaining issues, the author understood that a judicial analysis is required to determine what can be an essential religious practice and secular practice in India and to determine that the author answered the third research question pertaining to do judicial analysis of all the recent trends and events that have happened in the recent times. The author has come to the conclusion that the court has yet to determine a precedent that will set the definition of essential religious practices of India and what should be secular practices.. Through various cases such as Sabarimala Judgement, Santhara Incident, the court was able to determine what are the essential religious practices in India. But with incidents such as Azan Loudspeaker, the court is yet unable to differentiate between what should be an essential religious practice and secular practice in India. Thus, that is why the author recommended and suggested the implementation of UCC in India and through that the religious practices and secular practices in India.

### **SUGGESTIONS**

In this paper, the researcher had shed light on the recent trends in the religious based practices and their correlation to their rights in personal law. I have placed various examples from the past where the essential religious practices have come to contention in the judiciary.

While still, there are concerns that need to be put forward for better efficiency of the existing laws and protect women from all communities.

Firstly, equal inheritance rights should be availed by women in the Parsi Community. Parsi law is purely patriarchal, and women are often discriminated against in socio-economic-legal issues. The Parsi Law needs to be addressed before the Parliament to make it more gender-equal and confer the inheritance rights on Parsi women. In the case of marrying outside the Parsi Community, they are considered Parsi.<sup>18</sup>

Further, as per the recent trends are concerned, the author believes that the judiciary through their judgement have taken positive steps towards ensuring the equality of women. Through the Sabarimala judgement, more and more awareness should be shed on the menstruation of women, and rather it being a taboo in the society. The government needs to create advertising campaigns

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<sup>18</sup> Menski, Werner. 2003. Hindu Law. New Delhi: Oxford University Press.

highlighting the struggle and issues that women face during menstruation to create a more sympathised society for the women.

Lastly, in today's world, the judiciary should take even a step to ensure that they work towards creating a concrete definition of the essential religious practices that can be followed through and set a precedent. As currently the Azzan issues have made the court analysed what should be the secular essential practices so that the freedom of religions is upheld.

I point out these main reforms and suggestions from the above chapters require urgent attention by the legislature. I would also like to suggest that there is ample legislation for securing women's interest in society and the judiciary needs to set a precedent that will define the Essential Religious practices of India.. The implementation part of these laws is the real problem that needs to be assessed by law enforcement agencies. In India, a time will come for adopting the Uniform Civil Code, which is not currently approved by the law panel.

