

## Personal Law -Uniform Civil Code and Beyond

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### Abstract

Religion and Law thereon are of the most diverse and complex phenomena. Merely a single religious statement by anyone may be the basis of thousands of people's aggressiveness and sometimes violate social actions. The statement given by Mohan Bhagwat who is the chief of Sangha creates controversy now a day. The statement given by sangha leader can be coated as "The cultural identity of all Indians is Hindutva and the present inhabitants of the country are descendants of this great culture, everyone who resides in India is Hindu<sup>1</sup>. Terming India as 'Hindu Nation' has sparked a controversy in the political circle<sup>2</sup>. This statement creates gossips in religious spare. As the same way, one religious Guru Swami Shankaracharya Sarasvati deemed authority representing sanatani Hindu had also made like the same statement which had created a disagreement by saying that, "Sai was not Hindu hence the preaching and professing him is sin and amount showing disrespect to the Hinduism". Shankaracharya had also refused to pay regard to Sai Baba as the epitome of Hindu-Muslim unity by saying, if it were the case; the spiritual man would have been revered by Muslims with as much devotion as Hindus<sup>3</sup>. These two controversial statements forced everyone to reevaluate the place of religion in the place of individual life and legal control of religious activities which violates the secular status of Nation. The, statement of Pravin Togadiya is also remarkable who said, those who will follow Hinduism has only right to live in India<sup>4</sup>. It obviously may hurt the emotion of Muslims, Jews, and among the all members who are not Hindu by religion. The Constitutional aspect of Uniform Civil Code (UCC) is enough but instead of it, concrete physical situation may hardly agree with the provision of UCC. But one cannot forget that the Parsis and Christians in India follow all rules and regulation like Hindu. Even the problem of polygamy also may not appear in case of Muslims if they agree to leave this practice and if State makes sufficient Uniform law in family affairs. After all marring more than one woman is not essential practice for the propagation of religion. Even if this is a case then it is opposing the public policies in India. "Love Jihad" is recently used in the spare of Hindus religious group. The present paper is the ultimate solution of all those problems. The spark even though initiated negatively but ended with probable dream in order to enjoy the fruit of religious unity through UCC at least once.

**KEYWORDS:** Uniform civil code –Constitutional Assembly debate- dispute between Personal and interpersonal –Reformist Vs Sanatani if anyone succeeds – Love Jihad as a challenge before Government –Role of Religion –Demand of Sanatani – Population Vs development - Regulation of personal Law in Turkey,

## Egypt, Afghanistan and Pakistan –Politicisation of Religious issue -Indian Secularism and Modified role of State under emerging situation – future of UCC in India.

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### **Introduction:**

Uniform civil code envisages governing the alike set of secular public laws to direct different people belonging to different religions and Social sections. This supersedes the right of citizens to subject themselves to different personal laws based on their religion or ethnicity. The most controversial area in the religion or ethnicity is a deliberate debate came out from the two supposed to be great personalities in India in the spare of religion and politics. Former is Shri Shankaracharya who denied the presence of any place to Sai in Hinduism expecting unexpected changes in Hindu Marriage Law<sup>5</sup>. Shankaracharya Swaroopanand sought from the Modi government to abrogate Article 370 and enable amendment in the Hindu Marriage Act where the restriction of keeping second wife should be removed for the sake of having a child<sup>6</sup>. Latter controversial statement is from Shri Mohan Bhagwat who tries to determine the religion of person on the basis of Region (Territory) by saying that “All Indians are Hindu<sup>7</sup>”. Shri Mohan Bhagwat and the analogy used behind the philosophy of all Indian are Hindus is a simple layman logic based theory, like in Amerika Americans are there, in Africa Africans are there, in japan Japanese are there, and hence in India instead of all Indians he used all Hindus which are rarely be possible in the large democratic Nation. The basic idea behind the used term of Hindu may the origin of word India. The origin of the word India was had a great nexus in Hinduism. The word Hindu is derived from the river Sindhu otherwise known as Indus which from the Punjab. The word Persians pronounced Sindhu as Hindu and the Aryans who had settled in near the valley of Sindhu were called Hindus. The Greek Later on dropped the hard aspiration ‘H’ and pronounced it as an Indoi later came to known as India<sup>8</sup>. In this reference one may know that, the word Hindu have territorial nexus.

India has had a long history of personal Laws. The Muslims in India followed different rules according to their practice till 1935. Khoja Muslims<sup>9</sup> and Kutchi Memons are examples of this. The Kutchi Memons worshipped Hindu Gods and Ali is their tenth avatar instead of Kalki. They had the inheritance laws as per Hindus and also the marriage laws as per Hindus. When a common Muslim Personal law was formed, there were many minority creeds of Muslims who had to accept these laws though they differed from their practices. The Hindu laws too were different in different parts of the country. However, they have undergone a turbulent change, courtesy, geographically united India<sup>10</sup>. The concept of UCC is expected to be implement in India and also it was supported by Dr. B.R. Ambedkar eminent nationalists like Gopal Swamy Iyenger, Anantasayam Iyengar, KM Munshiji, Alladi Krishnaswamy Iyer and others favoured the implementation of the Uniform Civil Code<sup>11</sup>. While explaining the necessity of Art.44 (Art. 35th of original Draft of debate) in part IVth Shri. K.M. Munshi specifically mentioned that, the clause violate the fundamental right mentioned under Art. 19 if Indian Constitution and secondly it

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tyrannous to minority groups in India<sup>12</sup>. Comparing to other countries, the personal law of each minority is recognised so sacrosanct as to prevent enactment of a Uniform civil code for e.g. Turkey, Egypt, Pakistan, Afghanistan etc. But if this is the case then what about the rights of those minority groups who known by their religion and not by their citizenship. There are so many factors which can bifurcate the community in to two or more fragment. And hence I would like to go further on the concept of fragmentation to defragmentation. What points one place forward this pick points matters. For instance, if one ask any Indian his nationality then he in India and not Hindu. If one asks the person his religion then he may be Hindu or Muslim of the member of any other community. This case is similar in case of castes, sub-cast, creed, sect, region etc. But instead of using sect, caste, creed, religion, region why one not use prefix citizenship? The simple logic is it's hard to maintain absolute equality, which hardly is possible to implement in the country like India. This may be the reason due to which 23rd November 1948 a Muslim member, in Parliament, gave an open challenge that India would never be the same again if it tried to bring in Uniform Civil code and interfere with Muslim personal law. Contrary taking the inference of Turkey or Egypt no minority of these countries has such rights<sup>13</sup>. But the India is not so communist country and assurance is always support the notion of apposed and unsatisfied sector of the Nation. Everyone have liberty to comment on the matter of religion and hence everyone try to use his liberty as according to his will irrespective of following the sense of unity in diversity.

Now a day, the issue as to who is Hindu and who are not become interpersonal among those, who are Sanatani and those who are reformist?The question that who is Hindu or non-Hindu is purely legal question and it should be deals only by legal mechanism. The Hindu Law itself syas that to whom this Act will apply and the composite answer of it are to Hindu<sup>14</sup>. New sects who consider themselves as Hindu but have different faith from Sanatani are also Hindu under Hindu Marriage Act.1955. But why appose to Saibaba Trust? The answer may be like that religious preaching and usages involve the major margined of right to life. Large number of people totally based on farming of Gods. Indirectly they claim supervision of the businesses arising out of religious practices. Indirectly they are totally dependent on the economy generated from the religious affairs. Directly their right to life is totally is God and practises of Donations (Chadhawa) and other money that can only be generate from religious affairs only out of which some are spent on social works. In that reference their right to life may be affected. The present issue is not only the conflict between Sanatani vs Sai Supporter (Reformist) but real dispute between Fundamental Rights Vs Fundamental Duties and Directive principles of State policies. The debatable point is which will prevail?

The debate surrounding personal religious law and the need for a uniform civil code constitutes a key concern in the concept of secularism and religious freedom in India. Though the substantive laws of crime, commerce, economy etc are now governed by secular law based on the principles of 'justice, equity and good conscience', personal religious laws continue to operate in the private domain of citizens<sup>15</sup>. The sanatani and reformist are two part of same Coin. The movement to win

the motion is set forth but understand the consequences if Sanatani Succeed in their motion.

**Reformist Vs Sanatani if anyone *succeeds*: A new War Begins:**

SN	Possible fear if Sanatani Succeed	Possible fear if Reformist Succeed
1	Hindus will divide in two sects between Sanatani and Reformist.	1. Secularism will maintain in India.
2	If it decides to remove the Statue of Sai from the Hindu Temple it will also be threat to those Saint who are in the usages of Guru like Tukdoji, Adkoji, Gadge Baba, Ghasidas, and Tukaram who interpreted the religious concepts by their personal analogies.	2. Placing the statue of Sai in Hindu temple amount to show respect for reformist and possible danger on other religious Trust may be avoid. It will maintain the unity among two articulate sects in Hinduism.
3	There is danger to convert large number of Hindu from Hinduism to other religion.	3. Conversion from Hindu to non-Hindu may avoid
4	All temples in India may be captured by Sanatani is danger to claim patent on Dharma.	4. The new generation of sages and saint may give the new thought which can reform the society in better manner than other.

If irrespective of other religious or caste based fragmentation, the concept of citizen would be proper to use by state and which is on right track till. Avoiding other interreligious matters. Supreme Court wisely passed an order to appoint the priest irrespective of his cast and gender in the matter of Vitthal Rukmini temple at Pandharpur. Where, appointment of priest assured for non-Brahmin backward woman authorised by Supreme Court. Out of 199 applications for the posts of priests including non-Brahmins such as Marathas, Dalit's, Malis and those from other communities too, as well as a handful of women specifically . Now, the selection committee conduct the interviews of all and then will submit its report to the MandirSamiti. The Samiti will then take a final decision about the new priests<sup>16</sup>. Obviously, one cannot expect that the business on the name of God be monopolised by particular sect of community and must have an open market of it to all. The Britishers fearing bitterness thought they not interfere in the 'religious' matters of the 'natives' and thus customary personal law remained untouched. But present government can do so. After the 68 year of Independence merely on the name of fear that Government will be revolted by citizen is not expected. The business of Religion must be regularised and controlled by the legislature by enacting strict law.

Law in order to be legitimate must satisfy the mandate of Constitution which talks about equality, fraternity and maintaining the sense of common brotherhood. Unfluctuating, activity of the state individuals must be regularised by the action of Law having normative nexus with Constitutional expectation. The directive principles of state policy ensured that, "The state shall end ever to secure for the citizens a

uniform civil code throughout the territory of India.<sup>17</sup> Most of the Law in India like Indian Penal Code, Cr.P.C 1908 are general in nature and hardly be interrupted on the ground of having any specific caste, religion, place of birth or on the basis of race. It is necessary that, law cannot be divorced from inner morality. The place of religion is like inspiring by inner morality of individual. The two different aspects of Indians needed to understand. What exactly the place of Dharma in the life of individuals and what exactly the role of State toward Dharma if it fails to follow the mandate of State made Law. Broadly speaking, both Dharma and Law try to regulate the activity of individuals sometime by fear created by Dharma or by the instrumentality of Law. In this connection, reference may also be please to mention hear by discussing Art.25 of Indian Constitution, which guaranteed freedom of conscience and profession practice and propagation of religion. Hear the role of individuals that, everyone has a right to profess, practice and propagate the religion of his choice. However, secular activity related to religious practice is exempted from this guarantee. It could therefore possibly be argued that, personal law pertains to secular activities and hence fails within the regulatory power of State<sup>18</sup>. Hare the role of State is cleared that; it can hardly be interfering in the matter of religion. Under such situation how one can imagine the possibility of uniform civil code?Is Art. 25 are in conflict with Art. 44 of Indian Constitution? First deals with individual liberty and second deals with the states expected role to regulate all by common Law without breaching the boundaries created by Dharma. In this manner Dharma is superior to Law. Avoiding these kinds of situation, Supreme Court has emphasised by saying that, Art. 44 are based on the concept that there is no necessary relation between religion and personal Law in civilised society<sup>19</sup>. But how one can imagine that there is no relation between religion and personal Law because religion is always the base of personal Law since the inception of civil Law. And if one tries to merge the several religions in to single one by saying that, “Everyone who lives in India are Hindu<sup>20</sup>” I feel it to be wrong somewhere because it breaches the sense of Art. 25. The logic applying behind the theory of all Indians all Hindu may be an effort of following the view of Supreme Court but Supreme Court itself stand corrected the earlier verdict by specifically decline the responsibility of State to work on UCC mentioned under directive principles of State policies.

The directive principle of state policy and the fundamental duties if not enforceable means it doesn't loss the assurance of enforceability the burden is on the State. Art. 44 of the Constitution of India directing the State to secure for citizens a Uniform Civil Code throughout the territory of India. The prevailing goals of unity and integrity of India is determined by the People of India in the Preamble. It supposed to be agreed to be obeyed as Fundamental Duty under Art. 51A(c) of the Constitution of India, even though unenforceable.The Uniform Civil code and need thereof get a pivotal place of conflict in respect of political ideologies of religion<sup>21</sup> and judicial activism.

### **Judicial Activism legislative Reforms Vs Religious DE activism:**

Though the answer in the end is negative, I want to start with one important area of agreement. The agreement is among the social components it popularly known as social security agreement most probably found in the theory of Hobbs Locke and Russo<sup>22</sup>. This social security contract is need to rememorize. Supreme Court in various matter including Shah Bano case ,HussainaraKhatun case , Anand Marg case , PandhapursVitthal Rukmini Temple case show its activism in very positive manner. As the same way one can see the legislative reforms in the spare of family law also where several laws been enacted for restriction on child marriage<sup>23</sup>, prevention of dowry system<sup>24</sup>, abolition of dasi and devdasisystem<sup>25</sup>, right to maintenance for Muslim u/s 125 of Cr.P.C<sup>26</sup>, registration of marriage compulsory and also by allowing inter-caste and adoption in country,inter-country<sup>27</sup> and abolition of polygamy<sup>28</sup>. Before independence polygamy existed in all concern of India. In India law of Marriage is governed by the personal Law. The Muslim Law restricted it to on four wives. Whereas, it is an offence under section 494 of Indian Penal Code, except due to applicability of the custom. Christian Law prohibits polygamy by section 60 of Indian Christian Act 1872, Parshish were restricted and made punishable under section 5 of Parsi Marriage and Divorce Act 1955. Similarly restriction is imposed by section 4 of special Marriage Act 1954<sup>29</sup>. If this is the case and if it opposed to the public policies in India then what wrong to stop the Muslims from more than one Marriage? Event marry more than one woman is not very essential part of any Muslims religious preaching. Doesn't matter wherefrom Muslims belong, but if they want Indian citizenship authoritatively they must be prevented from having more than two issue i.e children to them. Due to which proper population control will be there and gate of equal opportunity will open to all class of section in society.

### **Development Vs Population:**

If all other community in India are ready and agrees to follow the normative notions provided by Law them what's wrong involves if to not agreeing with the public policies set forth in India. Here new established Government headed by Mr. Modi concentrate much more on Development. The economy, culture and social development in all spears of all community is the agenda set forth. But the practices of polygamy in Muslims community become hurdles in the way of equal development of all components' of the society. Contrary to it, Hindu Religion also claiming the right to marry with more than one wives in order to increase the population ratio of their community to the new formed Government to increase the population of such community<sup>30</sup>. Increasing population is not the solution of present problem. The problem is needed to cure by instumentability of Law. Law must be uniform in nature irrespective of its personal nature if it contravening the policy of public. The legislature and Supreme Court must not be silent on the matter there is need to



generate the philosophy with the consultation of directive principle of state and sort an action plan to prevent such activities for avoiding the verses situation between judicial activism, legislature reforms and religious De activism. Otherwise some community may follow other unrecognised forms of conversion by using force sometime by using love jihad.

### **Love Jihad reality or myth:**

The concept of love Jihad is very new to Indians. It never been used in any statute book hereinbefore. But it was originated from the finding of Karnataka High Court, Kerala High Court and Allahabad High Court after the matter came forward by complaining the matter of Hindu woman's forceful conversion by using a method of love. The movement open by Media Trial try to aware the people's particularly Hindu girls, who has targeted by the some boys of Muslim Community and by changing their original name uses the tactics to show themselves as Hindu. After marriage they disclose their identity and force the woman to accept Muslim religion. Even though the term love Jihad is not legally recognised term, but create tempest in legal spear now a days. After all forceful conversion is against the law as well as religion also. If this is the case and if one want to enter in to interreligious marriage no legal bar is to them except facing the appose of some religious organization. No religion on the Earth can support such kinds of forceful conversion. Muslim law also may not be an exception of it. Dharma is for loving to each other, guiding the pupils to live their life in better manner as the same way the role of religion is to support the existing Government to work on the set forth agenda of Development. Ultimately, inter religious peace is one of the grate power itself and no one can circumvent it. The term love jihad is not a product of Muslim Religion itself but some orthodoxy in Muslims who want to support their religious movement by following the wrong way to propagate and profess the same. The recent statement of parliament yogi Adityanath on the issue of love jihad is found contradiction with law<sup>31</sup>. The whole matter is need to scrutiny and enquiry by high officials in the Government of India and if anyone found guilty he must have to be punish according to provision of Law unless and until these activities regularised by instrumentality of Law.

### **UCC only Dream or Can Come to be True:**

The UCC is the sweet dream of democracy with bitter taste. But what's wrong sometime as bitter good for individual's health like it will good to society. The dream of those philosophers and freedom fighter even though feels to be impossible still date to comes in to existence, but really this spark of movement start form the voice of some Muslim person's in CAD<sup>32</sup> who opposed the motion on the thought of UCC. Indians had a habit to live under the region of other with fear of law sometime and sometime punishment of such Law. Hear the role of Government is significant. Nothing is impossible. UCC is the sweet dream. As freedom is the result of some bitter experiences, the movement of UCC is also like the freedom fight movement which demand strengthens public law in private spare. Then and then only the sweet dream of UCC will come to be true and the sense of equality, common brotherhood and unity will assure.

## Conclusion:

The role of religion is to unify the people and not to create disturbance. The days are change and assisting the Government in development must be the aim of every individual. Imposing personal view from religious platform may affect the integrity and unity. The religious teacher also needs to sensitise not to speak on such issue which may create hatred among two communities. It's a Nation of Law, each and every activity must be regularised by Law. Parliament and legislative members expected to oblige by not making any religious issue to satisfy their political purposes. The State must be very cautious and stringent if anyone try to breach the integrity and unity of Nation and must punish the person even though he is a Swami, maharishi or Maulawi's or muftis or any political leader. The individual inhabitant either he may be Hindu (Sanatani / reformist) or Muslim (Shia / Sunni) need to forget all differences and clashes. Let's enjoy the fruit of unity, let's enjoy the fruit of UCC and concentrate on development.

## End Notes:

<sup>1</sup> Researcher is Ph.D. Scholar, working as an assistant professor in MATS Law School, MATS University, and Raipur (CG) India. The present research work is purely an educational effort. No agenda as to force the work mandatory on neither anyone nor it is so intended. anyone having any query ,doubt or objection with the contents of paper, the possible opportunity to caveat is expect on [mls.pankajumbarkar15@gmail.com](mailto:mls.pankajumbarkar15@gmail.com)

<sup>2</sup> <http://indianexpress.com/article/india/politics/shiv-sena-chief-uddhav-supports-bhagwats-hindu-nation-remark/> visited on 20<sup>th</sup> August 2014

<sup>3</sup> The Asian Age for more details see <http://www.asianage.com/mumbai/mohan-bhagwat-statements-under-attack-266> visited on 19th August 2014.

<sup>4</sup> For more details see [http://zeenews.india.com/news/nation/shankaracharya-says-sai-baba-devotees-should-stop-worshipping-lord-rama\\_942160.html](http://zeenews.india.com/news/nation/shankaracharya-says-sai-baba-devotees-should-stop-worshipping-lord-rama_942160.html) visited on 25th June 2014.

<sup>5</sup> Is an International working president of Vishwa Hindu Parishad for more details see <http://indianexpress.com/article/india/politics/no-one-thinks-of-millions-of-hindus-living-in-poor-conditions-togadia/> visited on 19/08/2014.

<sup>6</sup> Shankaracharya the great deemed authority in Hinduism claiming right of two wives of a Hindu husband if the first wife is unable to give baby. The issue is so controversial where, at one place Hindu husband promises a woman to be a partner for more than seven years and with assurance that he will be faithful to her in whole live. The marriage of Hindu is fully a sacrament and not contract like Muslims. Among the very essential conditions of valid Hindu Marriage, neither party should have a spouse living at the time of marriage. Otherwise the second marriage would amount to void as stated under Hindu Marriage Act 1955. The essential conditions are as follow. Section 5. A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely-

1. Neither party has a spouse living at the time of the marriage
2. At the time of the marriage, neither party-is incapable of giving a valid consent to it in consequence of unsoundness of mind; or though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or has been subject to recurrent attacks of insanity or epilepsy;
3. The bridegroom has completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage;



4. The parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;

5. The parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two. "Marriage of a female less than 18 years of age or a male of less than 21 years of age. Marriage is voidable and not void. Marriage will become valid if no steps are taken by such "child" seeking declaration of marriage as void. The other part of the movement is that the follower of Shankaracharya considered him an authority beyond the Supreme Court Under such situation the authenticate expectations assured by Indian Constitution and in the simple term it's an intentional intervention in personal matter by public way. The second aspect is open the space against the movement of feminism.

<sup>7</sup> For more authentication kindly refer <http://hindi.oneindia.in/news/india/shankaracharya-bats-for-re-marriage-of-childless-husbands-317025.html> visited on 27th August 2014 at 1.37 P.M

<sup>8</sup> The second issue raised by Shri Mohan Bhagwat and the analogy used behind the philosophy of all Indians are Hindus is a simple layman logic based theory, that in Amerika Americans are there, in Africa Africans are there, in japan Japanese are there, and hence in India instead of all Indians he used all Hindus which are rarely be possible in the large democratic Nation. The basic idea behind the used term of Hindu is the origin of word India. The origin of the word India was had a great nexus in Hinduism. The word Hindu is derived from the river Sindhu otherwise known as Indus which from the Punjab. The word Persians pronounced Sindhu as Hindu and the Aryans who had settled in near the valley of Sindhu were called Hindus. The Greek Later on dropped the hard aspiration 'H' and pronounced it as a Indoi later came to known as India. This History cannot be relied upon and in this sense if he used the term Indians for all Hindus then enough ok and could be justify. But in 21<sup>st</sup> century where most of the Nation believes on the concept of individuality and secularism, under such situation the statement affect the idea of common brotherhood and to maintain internal security for Nation.

<sup>9</sup>Raut Abhay, "Hindu Law" Abhay Publication Nagpur at P1 para 1.

<sup>10</sup> Khōjā, Persian Khvājeh, caste of Indian Muslims converted from Hinduism to Islam in the 14th century by the Persian pīr (religious leader, or teacher) Saḍr-ud-Dīn .

<sup>11</sup> For more details see <http://www.legalservicesindia.com/article/article/should-india-have-a-uniform-civil-code-394-1.html> visited on 21/08/2014.

<sup>12</sup>NeepaJain , "Uniform Civil Code A vociferous Judicial Claim and Reluctant political will ", Voice of research Vol 1 issue 4 march 2013 .

<sup>13</sup>visit on [http://www.voiceofresearch.org/doc/mar-2013/Mar-2013\\_12.pdf](http://www.voiceofresearch.org/doc/mar-2013/Mar-2013_12.pdf)

14. For Application of Act.-

(1) This Act applies-

(a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samam,

(b) to any person who is a Buddhist, Jaina or Sikh by religion, and

(c) to any other person domiciled in the territories to which this Act extends who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed.

Explanation. - The following persons are Hindus, Buddhists, Jainas or Sikhs by religion, as the case may be:-

(a) any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion;

(b) any child, legitimate or illegitimate, one of whose parents is a Hindu, Buddhist, Jaina or Sikh by religion and who is brought up as a member of the tribe, community, group or family to which such parent belongs or belonged; and

(c) Any person who is a convert or re-convert to the Hindu, Buddhist, Jain or Sikh religion.

(2) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled tribe within the meaning of clause (25) of article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs.

(3) The expression 'Hindu' in any portion of this Act shall be construed as if it included a person who, though not a Hindu by religion is, nevertheless, a person to whom this Act applies by virtue of the provisions contained in this section.

<sup>15</sup> For more details see <http://centrightright.in/2011/10/need-for-uniform-civil-code-in-india-a-human-rights-perspective/>

<sup>16</sup> The prolonged action has initiated by the order given by Supreme Court on the matter of VitthalRukaminiMandir at Pandharpur the most important religious institution of the state. The apex court's verdict in the 40-year-old case was announced on Wednesday. The state government had tried to take over the functioning of the temple in 1968 following the recommendations of the B D Nadkarni committee. The issue of the earnings and administration of the temple has been a tricky one given the high emotions, it evoked among the people. The apex court's decision has been welcomed by many who feel there would be transparency in the temple's functioning now. For more details see <http://indianexpress.com/article/cities/pune/sc-order-ends-badve-utpat-families-monopoly-on-pandharpur-temple/> on dated 16 Jan 2014 .

<sup>17</sup> Article 44 of Indian constitution 1950.

<sup>18</sup> Jain M,P, Indian Constitutional Law , Lexis Nexis Butterworth Wadhawa Fifth Ed.2003 reprint 2008 at page .1386 para 2<sup>nd</sup>

<sup>19</sup> Ibid P 1387 para 6<sup>th</sup> also refer Sarala Mudgal Vs Union of India AIR 1995 SC 1531 SCC 635.

<sup>20</sup> It was a statement made by Sangha leader Mohan Bhagwat for more details can view of <http://indianexpress.com/article/india/politics/shiv-sena-chief-uddhav-supports-bhagwats-hindu-nation-remark/> visited on 20<sup>th</sup> August 2014

<sup>21</sup> .Hear political ideology refers to ideology of State or Central legislature and Member of Parliament.

<sup>22</sup> The social contract is the assurance of social components' to King e.g. State that they are ready to accept it Sovereignty and reasonable Law favouring the notion of social development in respect of which the State also duty bound to protect the individuals from injustices caused against them. The counter promise by social components and king e.g. State now days is known as Social contract.

<sup>23</sup> The child Marriage Restraint Act is substituted by the prohibition of Child Marriage Act 2006

<sup>24</sup> The legislature has enacted this Law on prohibition of Dowry called Dowry Prohibition Act. Demanding and giving dowry made and offence in 1961 thereafter drastic changes in 1983 took place by amending the Indian Penal Code 304 B and also inserted some presumption under Indian Evidence Act 1872.

<sup>25</sup> The Karnataka Devdasi Act 1982 and Andhra Pradesh Devdasi Act 1947 ban the practice of marrying young girls to a deity. Presently this system is almost abolished later of this Act were substituted by 1988 Act .

<sup>26</sup> Moh.Ahemed Khan V Shah Bano Begum AIR 1985 SC 945 (1985) 2 SCC 556.

<sup>27</sup> See Hindu Adoption and Maintenance Act 1956 also Guardian and Ward Act 1890 also Guideline for inter – Country guideline issue by Government of India in 2004. There are also some provision favour to take a child in adoption who is in conflict with law or who is in need of care regulated by Juvenile Justice (care and protection children) Act 2000 and 2006 as amended.

<sup>28</sup> Raval and Malik, 'Law and Social Transformation in India ', Allahabad law Agency, Law Publishers, Second Ed.2009.P 328 para 3.

<sup>29</sup> Ibid

<sup>30</sup> Shankaracharya swami Swaroopanand Sarasvati, a deemed authority in Hindu Religion, claimed to have right of Hindu Husband to marry more than one wife if she is unable to conceive child. This kind of right is almost hurdles in the way of development in Hindu Dharma Sansad held at Kawrdha district in Chhattisgarh in August 2014.

<sup>31</sup> Who says “If they take one Hindu girl, we will take 100 Muslims girls,” the MP from Gorakhpur in Uttar Pradesh is seen as saying to a crowd of about a thousand people”. It’s like open challenge to those who involved in affairs of love jihad. But Law does not permit to speak anything which breaches the peace of society. For more details see <http://www.hindujagruti.org/news/20347.html> visited on Sept. 2014.

<sup>32</sup> CAD stands for constitutional Assembly debate.