

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
LEGISLATIVE DEPARTMENT

L O K S A B H A

UNSTARRED QUESTION No. 4515

TO BE ANSWERED ON WEDNESDAY, THE 29TH MARCH, 2017.

Uniform Civil Code

4515. SHRI R. DHRUVA NARAYANA
SHRIMATI RANJANBEN BHATT

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether the implementation of a Uniform Civil Code (UCC) has been considered by the Government;
- (b) if so, the details thereof;
- (c) whether the Law Commission has released a questionnaire on the possibility of a UCC and if so, the details thereof;
- (d) whether several communities across the country have rejected the possibility of a UCC fearing an encroachment on their religious rights and if so, the reasons therefor;
- (e) whether the Government has looked into regressive practices like triple talaq, fasting unto death in Jainism etc. which violates human rights and if so, the action taken by the Government to address the same; and
- (f) whether the Government plans to formulate a provision in the law to introduce uniformity in succession, marriage and divorce in order to safeguard the rights of everybody especially women and children and if so, the details thereof?

A N S W E R

MINISTER OF STATE FOR LAW AND JUSTICE AND
ELECTRONICS AND INFORMATION TECHNOLOGY

(SHRI P.P. CHAUDHARY)

- (a) and (b) Article 44 of the Constitution relating to Directive Principles of State Policy provides that State shall endeavor to secure for the citizens a uniform civil code throughout the territory of India. In view of

the importance of the subject matter and sensitivity involved, and the matter requiring in-depth study of the provisions of various personal laws governing different communities, the Government has requested the Law Commission of India to undertake examination of various issues relating to uniform civil code and to make recommendation thereof.

- (c) Yes, Madam. A copy of questionnaire issued by the Law Commission is annexed herewith.
- (d) As the matter is under examination of the Law Commission, it is not possible to give any reply in this regard.
- (e) No, Madam. However, the issue of triple talaq is challenged before the Supreme Court in the matter of Shayara Bano Vs. Union of India in Writ Petition (Civil) No. 118 of 2016 and Union of India has filed a counter affidavit stating that the validity of triple talaq, *nikah halala* and polygamy needs to be considered in the light of the principles of gender justice and the overriding principle of non-discrimination, dignity and equality enshrined under the Constitution.
- (f) In view of the reply to part (a) of the question, reply to part (f) does not arise.

Law Commission of India

Questionnaire on Uniform Civil Code

1. Are you aware that Article 44 of the Constitution of India provides that “the State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India”?
 - a. Yes
 - b. No

In your view, does this matter require any further initiatives?

2. The various religious denominations are governed by personal laws and customary practices in India on matters of family law, should the UCC include all or some of these subjects?
 - i. Marriage
 - ii. Divorce
 - iii. Adoption
 - iv. Guardianship and Child custody
 - v. Maintenance
 - vi. Successions and
 - vii. Inheritance
 - a. Yes, it should include all these
 - b. No, it should exclude_____
 - c. It should further include_____
3. Do you agree that the existing personal laws and customary practices need codification and would benefit the people?
 - a. Yes
 - b. No
 - c. Personal laws and customary practices should be replaced by a uniform code
 - d. Personal laws and customary practices should be codified to bring them in line with fundamental rights.

4. Will uniform civil code or codification of personal law and customary practices ensure gender equality?
 - a. Yes
 - b. No

5. Should the uniform civil code be optional?
 - a. Yes
 - b. No

6. Should the following practices be banned and regulated?
 - a. Polygamy (Banned/ Regulated)
 - b. Polyandry (Banned/ Regulated)
 - c. Similar customary practices such as *Maitri-karaar* (friendship deed) et al. (Banned/ Regulated)

7. Should the practice of triple *talaq* be
 - a. Abolished *in toto*.
 - b. Retained the custom
 - c. Retained with suitable amendments

8. Do you think that steps should be taken to ensure that Hindu women are better able to exercise their right to property, which is often bequeathed to sons under customary practices?
 - a. Yes, Hindu women must be made aware of this right and measures should be taken to ensure that women, under pressure from family do not forego their property.
 - b. No there are adequate protections in the existing law.
 - c. Legal provisions will not help in what is primarily a cultural practice, steps have to be taken so sensitise the society instead.

9. Do you agree that the two-year period of wait for finalising divorce violates Christian women's right to equality?
 - a. Yes, it should be made uniform across all marriages
 - b. No. This period is sufficient and in-keeping with religious sentiments.

10. Do you agree that there should be a uniform age of consent for marriage across all personal laws and customary practices?
- a. Yes.
 - b. No, customary laws locate this age at the attainment of puberty.
 - c. The prevailing system of recognising 'voidable' marriages is sufficient.

11. Do you agree that all the religious denominations should have the common grounds for divorce?
- a. Yes
 - b. No, cultural difference must be preserved.
 - c. No, but there should be the same grounds for divorce available for men and women within personal law.

12. Would uniform civil code aid in addressing the problem of denial of maintenance or insufficient maintenance to women upon divorce?
- a. Yes
 - b. No

Give reasons:

13. How can compulsory registration of marriages be implemented better?

14. What measures should we take to protect couples who enter into inter-religion and inter-caste marriages?

15. Would uniform civil code infringe an individual's right to freedom of religion?
- a. Yes
 - b. No

Give reasons:

16. What measures should be taken to sensitize the society towards a common code or codification of personal law?

Remarks:

Please provide us with your name, contact number and address.