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Critical Analysis of Uniform Civil Code

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ABSTRACT

The Uniform Civil Code (UCC), also known as "One Nation – One Law", is defined in the Constitution of India under Article 44 of the Directive Principles of State Policy, which states that it is the duty of the state to provide citizens with a uniform civil code. throughout the country. Its main objective is to replace the personal laws based on the scriptures and customs of each major religious community in India with a common set of rules to govern every citizen. Personal law differs from public law and basically includes marriage, divorce, inheritance, adoption and alimony. There are mainly three contextual issues that are related to the Uniform Civil Code in modern India. They are legitimacy, most viz. Minorities and gender equality. The main goal of this analysis is to understand the detailed concept of the unified civil code, i.e. its beginning, current development, advantages, disadvantages and the role of the judiciary. The Uniform Civil Code should strike a balance between the protection of fundamental rights and the non-secular dogmas of the people. So finally in the post critical analysis and conclusion.

Keywords: Personal laws, State Policy, Marriage, Divorce, Inheritance, Gender Equality.

I. INTRODUCTION

The Uniform Civil Code (UCC), defined under Article 44 of the Directive Principles of State Policy in the Indian Constitution, states that it is the duty of the State to secure a uniform civil code for the inhabitants throughout the territory of India. In other words, it stands for "one nation - one law", regardless of religion. The Uniform Civil Code is primarily intended to replace individual laws based on the scriptures and customs of each significant religious community in India with a typical system of rules governing every citizen. Personal law is distinguished from public law and basically covers marriage, divorce, inheritance, adoption and maintenance.

The Uniform Civil Code has always been a topic of controversy in the news. The Uniform Civil Code Bill was introduced twice in the Rajya Sabha in the last few months as a private member's bill but the opposition urged the Speaker to block it. Thus, it is now expected that the government may introduce the bill in the next parliamentary session.

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(A) Beginning**1. 1835: 2nd Law Commission Report**

The Second Law Commission Report of 1835 emphasized the need for uniformity in the codification of Indian laws relating to crimes, evidence and contracts, but recommended that codification should not extend to matters such as the personal laws of Hindus and Muslims which derive their authority from their respective religions.

2. 1858: Proclamation of Queen Victoria in 1858,

Queen Victoria in her proclamation promised the people of India total non-interference in religious matters.

(B) Contextual Issues in Modern India

There are mainly three contextual issues regarding the Uniform Civil Code in modern India. They are

1. Legality

It could be argued that in the overall interest of maintaining peace it might have been wise for a foreign colonial power in 1858 to stay away from areas related to religion and personal customs. But in independent India, where sovereignty rests with the people, there is no external constraint that can prevent an Indian from electing properly and successively to power for decades seven governments on the principle of universal suffrage to legislate on a common uniform personal code.

2. Majority viz. minority

It is not only non-Hindus who may strongly object to the promulgation of laws that would govern their most inherent beliefs and faith as well as customs and practices. This theory has also been opposed among sections of Hindus because of its wide variation in customs among many castes and communities.

3. Gender equality

It is also known that Hindu law has long discriminated against women by depriving them of inheritance, remarriage and divorce. Their position, especially that of Hindu widows and daughters, was weakened by these and other major traditions.

II. UNIFORM CIVIL CODE IN POLITICAL DESCRIPTION

Some arguments were made by fundamentalists against the Hindu Code. First, it was argued that the sacred traditions of Hindu scriptures needed to be protected. Second, there was

resentment that Muslim personal law remained untouched. Thirdly, the measure was not calculated to ensure public opinion and was rushed and lastly, giving equal property rights to women endangered the economic rights of men in society. In addition, a section tried to suggest that the Hindu Code should, eventually, create a communal standard and a uniform civil code to give effect to the country's secular ideals.

III. UNIFORM CIVIL CODE IN INDIAN CONSTITUTION

Jawaharlal Nehru admitted that the bill was incomplete. A uniform civil code, for him, was necessary for the country, but he was reluctant to force it on any community, especially if that community was not ready. In a gesture of Parliament's willingness to consider a Uniform Civil Code at some point, it was decided to add the enforcement of the Uniform Civil Code to Article 44 as a directive principle. This decision to include the Uniform Civil Code as a non-judicial directive was opposed by progressive women members like Rajkumari Amrit Kaur and Hansa Mehta.

(A) Efforts towards a Uniform Civil Code

Many efforts were made to implement the Uniform Civil Code.

1. The Special Marriage Act, 1954

The Special Marriage Act of 1954 provides for civil marriage for any citizen of religion, thus, permits any Indian to marry outside their boundaries of Any religious personal law.

2. Shah Bano Case1 of 1985

In this case, the Shah Bano were denied their claim for maintenance. The Supreme Court gave a verdict in her favour under Section 125 of the Criminal Procedure Code (CrPC), as applicable to her. Mandate maintenance of wives, children and parents to all citizens. Supreme Court It further recommended that the long pending Uniform Civil Code be finally enacted.

(B) Key observation of Supreme Court in Shah Bano case

The Supreme Court observed in the Shah Bano case that regrettably Article 44 A dead letter remained. A uniform civil code would help the cause of national integration Eliminating unequal allegiance to laws with conflicting ideologies. There is no community Probably will bell the cat by making unnecessary concessions on this point. It is the state Which is charged with the duty of upholding the Uniform Civil Code and undoubtedly, he has Legal competence to do so. There are difficulties in bringing different individuals Trust and persuasion on a common platform. But if there is a constitution, one has to start There is no meaning. Little effort by the courts to bridge the gaps between individual laws Cannot take application of

Common Civil Code. Thus, justice to all is a much more satisfying way Dispensing justice rather than doing justice on a case-by-case basis.

a. After the Shah Bano case

After the anti-Sikh riots of 1984, most minorities in India, Muslims being the largest, They feared an attack on their identity and felt the need to protect their culture. According to him, the judiciary recommending a Uniform Civil Code was evidence that Hindu values would Imposed on every Indian. The worst impact of this case was seen in Rajeev's suicide Gandhi's government, when it passed a law abolishing ordination by Muslim women (Protection of Rights in Divorce) Act, 1986, which made Section 125 of the CrPC inoperative Muslim women. It was strongly condemned by Hindu Right, Hindu Left. Muslim liberals and women's organizations.

IV. CONTEMPORARY DEVELOPMENTS

1. "Neither necessary nor desirable": 21st Law Commission

Most nations are currently moving toward acceptance of distinction, and The simple presence of contrast does not indicate discrimination although it is characteristic Hardik's majority government.

2. "Right of the Right": BJP

Hindu nationalists view this issue in the light of the concepts enshrined in the Hindu Code, Which they say, is secular and equal for both sexes. Bharatiya Janata Party (BJP). If it is the first party in the country to promise to implement the Uniform Civil Code were to be elected to power.

3. "Gender Equality": The Women's Movement

The importance of UCC for gender equality cannot be denied and in a country like India, Where women's rights are contested daily and often denied, this is of particular importance.

(A) Advantages of Uniform Civil Code

1. Give equal status to all citizens

A secular democratic republic must have equal status to its citizens General civil and personal law irrespective of their religion, caste, caste, gender, etc.

2. Promote gender equality

It is generally observed that men are given the highest preferred status in almost all religions

which results in discrimination in matters of succession and inheritance. Women. Thus, the Uniform Civil Code will promote gender equality and bring both Male and female equally.

3. Adjust to the aspirations of the young population

The social attitudes and aspirations of the youth population are shaped by universal and Universal Principles of Equality, Humanity and Modernity. Thus, the implementation of uniform Civil code will help them to use their full potential towards nation building.

4. Support national unity

All citizens are treated equally before a court of law, be it criminal law or otherwise Civil Law (other than Personal Law). Thus, the Uniform Civil Code will come into force. Give the same set of personal laws to all, thereby ending the politicization of issues of discrimination or concessions or, on the other hand, exceptional benefits. A particular community based on their specific religious personal laws.

5. Bypass the controversial issue of amending existing personal laws

The existing personal laws of all religions are based on the patriarchy of the elite Imaginations of society. Thus, the codification and enforcement of the Uniform Civil The Code would destroy or oppose the sanctity of patriarchal orthodoxy Abundantly.

(B) Disadvantages of Uniform Civil Code

1. Practical difficulties due to diversity in India

It is difficult to come up with similar rules for personal issues like marriage. For the tremendously diverse culture in India in religions, sects, castes, states etc.

2. Perception of uniform civil code as an encroachment on religious freedom

Many communities, especially minority communities believe that uniform civil The Code is an encroachment on their right to religious freedom. According to him, the A uniform civil code would ignore their traditions and impose rules that would be predominant. Influenced by majority religious communities.

3. State interference in private matters

Articles 25 to 28 of the Indian Constitution provide for the right to freedom of religion. But With the codification of uniform civil the scope of freedom of religion will be reduced code.

4. Sensitive and difficult work

Implementation of the Uniform Civil Code is a sensitive and arduous task as it will bring Many changes like issuance of judicial pronouncements ensuring gender equality, Adopting an

elaborate interpretation on marriage, maintenance, adoption and succession With a view that a community should ensure benefits from others. The task is too much demands and expects the government to be sensitive and impartial Dealing with minority and majority communities otherwise it will come out More destructive in the form of riots and communal violence.

5. The time is not yet right for this amendment

Given the large opposition from the Muslim community in India, there is issues like beef disputes, separatism of schools and colleges, love Jihad etc. Thus, sufficient time should be given to build trust in the community; Otherwise, they will become more insecure and vulnerable to attraction Extremist ideologies.

V. CRITICAL ANALYSIS

A strong women's movement and pluralist, with frequent exhortations by the judiciary. The government now has a better chance of getting through it. Take All India Muslim Personnel the Board (AIMPLB) is clear that it will oppose any attempt to adopt a Uniform Civil Code, however, the recent triple talaq law has been approved in most places, including by Muslim women The clerics still protest. Thus, in an age when citizen's rights are of paramount importance, and the accepted position is to move towards a society that respects human rights regardless of caste, The imperative of legislating on the basis of religion, region and gender, uniform civil code cannot be denied.

VI. CONCLUSION

Implementation of the Uniform Civil Code is a challenging process but not impossible. Dr. B.R. Ambedkar's conference suggested a middle way which it said was entirely possible A future Parliament may make provision by making a codification which shall apply only to those who declare that they are willing to be bound by it, so that in Application of the Code at an early stage may be entirely voluntary.
