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UNIFORM CIVIL CODE: A NUANCE

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ABSTRACT:

THE SUPREME COURT OF INDIA, in the landmark judgment of Sarla Mudgal, has emphasised the importance of a consistent civil code for all Indians in personal law disputes. The Supreme Court has reminded the Government of India of its need to create a standard civil code to protect the oppressed while also promoting national unity and integration. The decision has caused consternation among power-hungry politicians and religious extremists. Since the inception of the Constitution in 1950, no central government has had the courage to impose a Uniform Civil Code for all inhabitants of India in matters of marriage, succession, inheritance, adoption, and so on. Article 44 of the Indian Constitution attempts to establish a Uniform Civil Code. The state shall make every effort to ensure that citizens have access to a Uniform Civil Code throughout India's territory. This article is one of the state's policy directive principles. It lays a positive obligation on the state to adopt a unified civil code for all Indians across India's territory. Though not enforceable in a court of law, it is critical to the country's governance. The authors of the Constitution set no time restriction for implementing the directive principles of state policy. This was made available because the members wanted the scars of partition to heal and the country to be ready for a change in personal law. Because Article 44 is not a mandate to it, the Government of India has not committed its mind to fulfilling this positive obligation imposed by the Indian Constitution. This fact in and of itself is a barrier to its implementation. Another impediment is the ability of the Parliament of India and state legislatures to legislate on most of the themes that could be included in the uniform civil code. The primary impediment is that different religious sects have extremely diverse personal laws. They do not appreciate it when any outside agency interferes with them. Nonetheless, the objectives outlined in Article 44 of the Indian Constitution demand the state's undivided attention and a concerted effort to implement them as quickly as possible. Making one major law on all domains of marriage, divorce, succession, adoption, and so on with one stroke of the pen, on the other hand, may bring enormous trouble in modifying age-old traditions and practises.

Key Words: consistent civil code, personal law disputes, national unity and integration, extremely diverse personal laws,

Introduction:

Uniform Civil Code, Whether Feasible in Indian Demographic Situations

The recently elected Bharatiya Janata Party (BJP) government in India has brought back to the forefront an issue that has vexed Indian feminists for decades: the lack of a unified civil code (UCC), for all Indian citizens. On the surface, implementing a standard norm in marriage, property inheritance, and child guardianship appears to be completely congruent with feminist aims. However, the way and context in which the UCC is formulated in India indicates why Indian feminists are now opposed to the policy. The Hindu right BJP actively strives to market itself as secular and pro-women, while opponents of a UCC are seen as "pseudo-secular" and anti-women. Both as an individual citizen and as a member of a group. Articles 14 to 24 of the constitution secure the individual's rights to equality and freedom, while Articles 25 to 30 defend religious freedom as well as minorities' educational and cultural rights. It is from the latter that religious communities draw the right to be ruled by their own "personal laws."

Because these personal laws involve marriage and property inheritance, The tension in Part III of the constitution is a contradiction between the rights of women as individual citizens and those of religious communities as collective entities of a democracy. Part IV of the constitution, "Directive Principles of State Policy," which calls on the state to bring about a UCC, reflects the view that establishing universal laws for all citizens is the properly modern goal for a nation-state. Although the majority of prevailing narratives, particularly those of the Hindu right, frame the need for a UCC as a question of national integrity, a significant shift during the 1990s is that the UCC has also come to be framed as a "women's rights" issue.

Only minority women need to be saved, according to the BJP's majoritarian Hindu interpretation of the UCC, because "we" (Hindus) have already granted "our" women equal rights. Self-styled leaders of minority religious communities, on the other hand, criticise the UCC on the grounds that It would erode minority cultural identities, the preservation of which is critical to democracy. However, both of these viewpoints are extremely problematic for feminists. Over the decades, the debate within the women's movement has evolved in complex and numerous directions, which this essay will quickly summarise.

Because of its implied homogenising thrust, the argument that portrays national integrity as the

justification for a UCC, together with its combination with "women's rights," is objectionable. To begin with, it is incorrect to believe that while Hindus have freely accepted reform, "other" communities continue to adhere to various and retrogressive anti-women policies, endangering the nation-state's integrity. The argument that Hindu Personal Law was modified is deceptive: it was only codified. Laws designed to reform marriage and inheritance were withheld from discussion in parliament on the eve of the first general election, conducted in 1951, in response to pressure from conservatives in the Congress party.

In protest, B.R. Ambedkar, the original drafter of the Hindu code bill, resigned as law minister. Prime Minister Nehru eventually succeeded in passing four pieces of legislation in 1955-1956: the Hindu Marriage Act, the Hindu Succession Act, the Hindu Minority and Guardianship Act, and the Hindu Adoption and Maintenance Act. These laws codified the wide and diversified practises of all communities that were neither Muslim, Parsi, nor Christian, bringing them into accordance with what were considered to be "Hindu" principles, but were, in fact, North Indian, upper-caste practises. Other practises that did not conform to these ideals were expressly condemned during parliament debates as "un-Indian."

These legislation enacted in the mid-1950s were far from unqualified advances for women's rights. On the contrary, codification eliminated the multiplicity of Hindu laws practised in different locations, erasing existing and frequently more liberal customary norms in the process.

In contrast, there are aspects of Muslim Personal Law that are more beneficial to women than Hindu Personal Law: In circumstances of divorce, the Muslim marriage-as-contract protects women better than the Hindu marriage-as-sacrament; the Muslim law of inheritance protects women's rights better than Hindu law; and the mehr (bride-price) is the sole property of the wife. Furthermore, Muslim males who marry more than once are legally obligated to fulfil commitments to all of their wives, whereas Hindu men who get into polygamous partnerships (illegal since 1998) are not.

In their second or third weddings, they are exempt from this responsibility under the 1955 Hindu Marriage Act. In practise, the BJP's claim that a UCC will take into account "positive features" of all personal laws is unworkable. Mehr, for example, cannot be brought into Hindu marriages, nor can the Hindu marriage rite be transformed into a contract, despite the fact that both are favourable characteristics of Muslim law in comparison to Hindu law.

Another flaw in the national integrity argument is that it is built on the marginalisation and exclusion of a wide range of other interests and identities, and thus it is not a value that feminists can support. Simultaneously, feminists cannot accept the unconditional claims of minority religious communities to unreformed personal laws in the name of cultural identity. For one reason, the cultural identity included inside personal laws, which is presently regarded as "natural" and prior to all other identities, is no more primal than the nation. It is vital to remember where personal laws came from: the British colonial authority, in consultation with self-styled community leaders, simplified extremely diverse family and property structures under the reach of the law. Hindu, Muslim, Christian, and Parsi religions are all represented. Thus, the resulting personal rules of each of these religions, which are upheld today in the guise of tradition and religious freedom, are colonial products of the past.

Discussion:

The women's movement's reaction to a UCC has taken many different forms. The All India Women's Conference expressed the need for a unified civil code for all religious communities for the first time in 1937.

Until the late 1980s, greater segments of the women's movement amplified this demand. However, there was significant reassessment in the early 1990s. By 1995, a wide range of viewpoints had evolved, ranging from continuous support for a UCC to explicit rejection of such a step and, instead, a call for revisions within each religion's personal rules. By the end of the 1990s, the women's movement had reached a general understanding that the campaign for gender-just laws should be done on three levels:

1. support for efforts to reform personal laws;
2. a push for legislation in areas not covered by either secular or personal laws (for example, domestic violence and the right to matrimonial home), thereby avoiding direct confrontation with communities and communal politics; and
3. the establishment of a longer-term, comprehensive, gender-just framework of rights covering not only areas covered by personal laws, but also the public domain of work (laws encompassing day and night shifts).

There have been notable accomplishments in the first two areas mentioned above. Through ongoing interactions within the community, feminists made divorce law more just for Indian Christians, resulting in the passage of the Indian Divorce (Amendment) Act of 2001. Muslim

reform groups have also created various types of model marriage contracts (nikahnamas) that protect women's rights, albeit they have yet to be recognised by Muslim community leaders. The Domestic Violence Act is the consequence of the strategy of focusing on issues not covered by personal laws, which provides women with protection from domestic violence as well as rights to the matrimonial home, and in modifications to the Juvenile Justice Act (2006), which allow people from different cultures to lawfully adopt children.

It is important that the phrase "uniform" has been withdrawn entirely as a positive value from the arguments within the women's movement, even in stances that reaffirm the need for state law. Thus, in the proposals for a mandatory code presented by advocacy groups like Saheli and The terms "common," "gender-just," and "egalitarian" are used to describe codes by the Delhi-based People's Union for Democratic Rights, or an optional code by the Bombay-based Forum Against Oppression of Women, or a negotiable common code by the Delhi-based Working Group on Women's Rights, not "uniform." This broad rejection of uniformity by the 1990s is noteworthy because it represents the women's movement's recognition of the necessity to reconsider both the nation as a homogeneous entity.

Uniformity as a value is, strangely, consistent with both secularism and marginalising other cultures. As we can see in France, where the Muslim veil might become a problematic declaration of religious difference, the norm remains invisibly imprinted with the veil.

Uniformity as a value of the dominating community. The BJP may present itself as a Hindu nationalist party while also preaching the language of abstract citizenship. As a result, it is easy to use the epithet "pseudo-secularist" to designate individuals who accept the necessity for minority protection, or the claim that provisions such as distinct personal laws, special status for Kashmir, and minority status for educational institutions are "anti-secular."

In other words, within an abstract citizenship framework, it is feasible to declare that it is "communal" to raise the problem of (minority) religious identification and "casteist" to proclaim (lower) caste identity at the same time that the dominant community and caste are considered to be the norm.

The Indian women's movement rejects the imposition of majoritarian uniformity while also supporting reform movements within religious organisations. Heterogeneous practises do not have to be fundamentally inequitable, and uniform law does not have to imply the reverse. The women's movement works to guarantee that the rights of women are respected.

Women's rights do not suffer as a result of minority communities' worry that altering their personal laws will erode their identity.

When a minority community faces extermination, the natural reaction is to band together. When a community is confident, it can afford to be critical of itself.

The stronger investigation of the supposed heteronormative family at the heart of personal laws is a second significant change since the 1990s. Even in the 1990s, the Forum Against Domestic Violence expanded the term of "family" in its optional code to include homosexual relationships and heterosexual couples living together outside of marriage. In the uncertain aftermath of the Indian Supreme Court judgement in 2013 that effectively recriminalized adult, consensual, same-sex relationships, the subject of non-heteronormative partnerships is even more central today, in 2014. Equally crucial is the need to rethink all personal relationships in contractual terms that safeguard all of the women involved, so that men in bigamous and polygamous partnerships that are not official marriages are required to accept responsibility for all the women concerned.

Individual property rights, on the other hand, undermine the objective of regulating name, lineage, and handing on of property. In light of this tension, we must regard the state's gradual granting of property rights to women under Hindu law—the most recent change in 2005 allowing women access to ancestral property—as more than a symbolic gesture.

A straightforward triumph of feminist demands. It also reflects, at least in theory, the formation of a bourgeois property rule for the Hindu society, which makes land entirely alienable by each independent individual owner. In the current atmosphere of widespread opposition to state land acquisition, this is a significant victory for the state, as it is always simpler to compel or tempt individual owners to surrender land than communities. Should the greater issue of land rights and state land acquisition be set aside while considering individual women's property rights? Clearly, the feminist argument over the UCC has reached a new level of complication, and new debates have begun.

The necessity for a Uniform Civil Code was felt as soon as the constitution went into effect. Even after 54 years, this directive could not be implemented for reasons known to all those involved with this directive. The UCC also attempts to overcome the particularistic and frequently reactionary characteristics of many religious communities' personal rules. Thus, the goal is to bring about societal improvement while also elevating women's position.

The absence of UCC results in sharp, unnecessary, and unpleasant situations. Marriage, in the opinion of the court, is "the very foundation of civilised society." Once a relationship is formed, the law comes into play and binds the parties to different obligations and liabilities. Marriage is not an institution in which the general people is particularly invested. It is the foundation of the family and, by extension, society, and without it, no civilization can exist. Until we create a government-wide standard civil code for all citizens, we cannot enter into second marriages while the previous marriage is still active in order to become Muslims. Since Hindu law requires monogamy and Muslim law allows for up to four wives in India. "A Hindu husband converts to Islam in order to avoid the provisions of Hindu law and avoid punishment."

The Indian Constitution went into effect in 1950. Since then, Article 44 has gathered dust, with no central administration ever having the guts and foresight to touch it. This awful circumstance unquestionably burys the spirit of the constitution a thousand fathoms below the surface. Of course, there was outcry and opposition in the constituent assembly to the creation of UCC for the entire nation when article 44 was drafted.⁴ First, it would violate the fundamental right to religious freedom guaranteed in article 25, and second, it would be severely detrimental to the interests of minorities. It is argued that the first issue is greatly misconceived, because the goal outlined in article 44 does not in any way violate religious freedom or the promise outlined in article 42. Clause (2), subclause (b), offers an exception to the effect that any existing or future laws providing for social welfare and reform are unaffected.

In response to the second objection, that the enactment would be tyrannical to minorities, Shri K.M. Munshi, a member of the constituent assembly's drafting committee, stated that nowhere in the advised Muslim countries has the personal law of each minority been recognised as so sacred as to preclude the enactment of a civil code. While justifying the introduction of the Hindu Code Bill instead of a UCC in parliament in 1954, Pundit Jawaharlal Nehru stated, "I don't think that time is ripe in India for me to try to push it through." Even after 51 years, it appears that the ruling class is unwilling to recover Article 44 from the cold storage where it has been since 1949. Governments that have come and gone have made no efforts to create a unified personal law for all of India.

The Supreme Court confirmed this in the well-known Sarla Mudgal Case⁶ of 1995. Following this, the Hon'ble Supreme Court advised on July 23, 2003, that parliament design a uniform civil code for the country in order to aid the cause of national integration. This suggestion was made by a three-judge bench consisting of Chief Justice V.N. Khare, Justice S.B. Sinha, and Justice

A.R. Lakshmanan while declaring unconstitutional Section 18 of the Indian Succession Act, 1925 (ISA) on the grounds that it was arbitrary, irrational, and violated Article 14 of the constitution, which states that the state shall not deny to any person equality before the law or equal protection of the laws.

According to Section 18 of the ISA, "No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than 12 months before his death and deposited within six months from its execution in some place provided by law for safe custody of the wills of living persons." The bench was hearing a writ petition from a Christian priest, John Vallamattom, who was contesting the provision on the grounds that it discriminated against Christians who left property to charitable and religious causes. "It is a matter of regret that article 14 of the constitution has not been given effect," wrote the Chief Justice in the main judgement.

However, the reactions have been mixed. According to Section 18 of the ISA, "No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than 12 months before his death and deposited within six months from its execution in some place provided by law for safe custody of the wills of living persons." The bench was hearing a writ petition from a Christian priest, John Vallamattom, who was contesting the provision on the grounds that it discriminated against Christians who left property to charitable and religious causes. "It is a matter of regret that article 14 of the constitution has not been given effect," wrote the Chief Justice in the main judgement.

Arguments:

Arguments for UCC:

1. Women and children are subject to unjust laws in all personal civil codes. These must be changed, not on the basis of conformity, but on the basis of equity and justice for the marginalised and oppressed. Uniformity will surely result if all communities work together to correct the inequalities in their personal laws.
2. After a careful examination of the Supreme Court's observations, it is clear that no matter how well-intentioned the judges are, such difficulties will only generate problems. Women do not receive justice under Muslim personal law. Any such reform, however, must originate from inside the Muslim women themselves. The solution is not the rule of law. Muslims would not accept a consistent code in such a hostile environment.

3. Muslims are economically and educationally behind. If the government is truly interested about equality, it should focus on these areas rather than the emotionally charged topic of the Uniform Civil Code.
4. The main argument of the AIMPLB is that Sharia (Islamic Law) is an inherent part of Islam, and that implementing the Uniform Civil Code will deprive Muslims and many communities of their particular laws and fundamental right to religion. Sharia is a divinely ordained law. No human being succeeds.
5. When select people are given special status, it creates an unpleasant religious separation. When even the law of the land is not the same for all people in India, it becomes increasingly difficult to teach equality among residents.
6. In this country, all laws, including penal laws, apply to all citizens without regard to religion, race, caste, creed, or gender. The peculiarity is that it is not applicable to Muslim personal law. Muslim personal law controls marriage, inheritance, divorce, and other aspects in the Muslim religion. There is an urgent need to correct this uneven and haphazard state in order to bring light into the lives of Muslim womenfolk in India. One country and one
7. In Islam, there is a lot of misinformation about bigamy. Ironically, Islamic countries such as Syria, Tunisia, Morocco, Pakistan, and Iran have codified personal law in which polygamy is either completely forbidden or severely restricted in order to prevent the misuse and abuse of this toxic practise.

Arguments Against UCC:

1. All personal civil codes have unjust laws dealing to women and children. These must be changed, not on the basis of conformity, but on the basis of equity and justice for the oppressed and marginalised. Uniformity will inevitably result if all communities work together to eliminate inequities in their personal laws.
2. All personal civil codes have unjust laws dealing to women and children. These must be changed, not on the basis of conformity, but on the basis of equity and justice for the oppressed and marginalised. Uniformity will inevitably result if all communities work together to eliminate inequities in their personal laws.
3. Muslims are economically and educationally backward. If the government is truly interested about equality, it should focus on these areas rather than the emotionally charged topic of the Uniform Civil Code, and it also depends on the government's desire to implement it.
4. The main argument of AIMPLB is that Sharia (Islamic Law) is an inherent part of Islam, and that implementing the Uniform Civil Code will deprive Muslims and many communities of

their particular laws and fundamental right to religion. Sharia is a divinely inspired law. Any human being does not succeed. As a result, no one has the authority to intervene.

5. The goal of secularism cannot be realised unless the right to religion and some religious customs give priority and permanence to the mandate provided in article 44 of the constitution. As a result, it is one of the most pressing needs of our day to attain consistency in social connections, which will serve as the foundation for constructing the world's most cohesive, integrated, and powerful democracy. Then comes the magnificent idea of the Supreme Court to create a unified civil code in order to strengthen the sense of oneness among all religious sects in order to protect religious freedom.

6. Uniform personal law is essentially political, a sectarian weapon used to penalise Muslims by falsely claiming that Hindus have a code and forcing Muslims to provide one. Hindus did not codify joint family property law, which granted men authority and money. That, however, is beside the issue. Do we desire a Uniform Civil Code (actually uniform personal laws) for the sake of giving the B JP and others political clout?

7. The goal of secularism cannot be realised unless the right to religion and some religious customs give priority and permanence to the mandate provided in article 44 of the constitution. As a result, it is one of the most pressing needs of our day to attain consistency in social connections, which will serve as the foundation for constructing the world's most cohesive, integrated, and powerful democracy. Then comes the magnificent idea of the Supreme Court to create a unified civil code in order to strengthen the sense of oneness among all religious sects in order to protect religious freedom.

Conclusion:

The Indian constitution envisions a secular state by ensuring religious freedom to all citizens within the framework of a religion-free state. An analysis of articles 25 through 30 reveals this. However, religious freedom is subject to some constraints. Similarly, while the state is prohibited from preaching or promoting any religion, it can create a general fund through taxation to promote and maintain all religions, as well as to provide aid in appropriate instances, without prejudice.

These clauses clearly demonstrate the significant significance that religion plays in some elements of our lives. It is true that establishing a standard code for all religions is a difficult assignment for legislators. As a result, Indian secularism must establish a philosophy of coexistence. "The traditional Hindu law governing inheritance, succession, and marriage was codified in 1955-56." There is no need to postpone the implementation of uniform personal law in the country forever.

The learned judge went on to say that those who wanted to stay in India after partition were aware that Indian leaders did not believe in the two or three nation theories, and that in an Indian republic, there would be only one nation - Indian nation, and no community could claim to be a separate entity on the basis of religion. Not just a lawyer, but even a layperson, may appreciate the verdict. Everything, however, is dependent on the government's willingness to implement it. Will the government require Sikhs to remove their turbans if everyone is required to wear a helmet while driving? Will Christians tolerate it if the government legalises abortion to regulate population growth? Or, if the government makes cow slaughter legal, will it not harm Hindus? As a result, it must be handled carefully. In India, religion is a sentimental and spiritual matter. Before doing anything, the government should consult with everyone. It is past time for the government to take serious steps towards implementing the Uniform Civil Code, rather than avoiding the topic for the sake of short-term political advantage.

A calm, steady, and compelling approach is required because justice delayed is justice denied, while justice hastened is justice buried. The legislature should leave no stone unturned in realising this fundamental aim, no matter how difficult or long the process. However, enacting consistent legislation should not jeopardise the intended balance of legislative authorities.

It is at this point that one recalls the words of Congressman Acharya Kripalani, who said when the Hindu personal laws were significantly modified in 1955-56, despite the vehement resistance of an orthodox president and Hindu religious leaders. He stated, "We call our state a secular state because it is not bound by scripture or custom." It must function on both sociological and political levels. If we are a democratic state, I believe we must develop rules that apply to all communities, not just one. Today, the Hindu community is less prepared for divorce than the Muslim community is for monogamy.... Will our government draught legislation to legalise monogamy among Muslims? Will my beloved law minister apply the monogamy section to every community in India? The government remained mute and proceeded as planned. Fifty years later, the government remains silent. A bold government could have enforced equality and justice for all Indian women at the time. A progressive administration should act now to promote equality and justice for all Indian women by enacting a standard civil code.

Discrimination against women is codified in Indian Muslim personal law. Worse, attempts by the courts to improve their standing have enraged elements of the population. The Supreme Court granted support to an impoverished divorced lady denied by her ex-husband in the Shah Bano case on grounds other than Muslim personal law. The resulting controversy drove the

pusillanimous, vote-seeking administration of the day to hurry a law through Parliament, the obliquely worded Muslim Women (Protection of Rights on Divorce) Act, in order to annul the ruling and deny Muslim women this protection.

REFERENCES:

1. AIR 1981 SC 298
2. AIR 1982 SC 232
3. (1991) 1 SCC 611
4. C.A.D. (Constituent Assembly Debates) Vol II pp.546-548
5. 1985 2 SCC 556
6. 1995 3 SCC 635
7. Supra note. 5

ARTICLES

- 1) B .G. Verghese, Who is afraid of a Uniform Civil Code? The Hindu (13/8/2003)
- 2) Personal Laws and Common Sense, The Hindu (28/7/2003)
- 3) Supreme court suggest framing of a common civil code, The Hindu (23/7/2003)
- 4) Vir Sanghvi, Towards a Uniform Civil Code, Sunday Hindustan Times (10/8/2003)
- 5) Do we need a uniform civil code? Hindustan Times (30/7/2003)
- 6) A.G. Noorani, UCC: Keep the faith, Hindustan Times (28/7/2003)
- 7) Babir K. Punj, Common chord - A Uniform approach to the Law, Times of India (15/8/2003)
- 8) B JP welcomes court suggestion on common civil code, The Hindu (24/7/2003)
- 9) Who is for a Common Civil Code? Hindustan Times, (22/1/2004)
- 10) Religious groups unhappy with SC s remarks on UCC, Hindustan Times, (23/7/2003)
- 11) J. Venkatesan, SC suggests framing of a Common Civil Code, The Hindu, (24/7/2003)
- 12) Chandan Mitra, What if we had a Uniform Civil Code, The pioneer (August, 2003)
- 13) Rakesh Bhatnagar, The long wait for Uniform Civil Code, Times of India, (March 4, 1997)
- 14) Christopher Jaffrelot, Ambedkar and the Uniform Civil Code, Ambedkar and untouchability-analyzing and fighting Castes, Permanent Black Publications 2004
- 15) Ms. Ritu Raj, Uniform Civil Code and National Integration, Competition Success Review, November 2003
- 16) V.R. Krishna Iyer, Unifying Persona Laws, The Hindu (8-7-2003)
- 17) Rajeev Dhawan, Codifying Personal Laws, The Hindu (1 -8-2003) JOURNALS 1) Too personal to be Uniform? Lawyer's Collective, July 2003.