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## Uniform Civil Code and its impact on social and cultural transformation in India – An Analysis

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### ABSTRACT

*Differences may be in any form say for in society, in language, in culture, in science, in technology, in law, etc. but altogether we joined in a single phenomenon is life existence. Even after attaining the existence, we searched for the needs to be fulfilled at different levels. Then, our conscience naturally will search for the wants to attain the most extent possible. By narrowing down the wants and needs, it has become unique for every human and multiplied into thousands and millions of desires to fulfilled in unique manner. Thus they formed different identity in culture and tradition. This inquiry made humans in searching the supernatural beings and started worshipping in their own way by practicing rites and rituals. This social and cultural transformation made the entire world to get fragmented with different ideology which made one to accept only their own ideology and not to accept the other ideologies. So, there is in need of law to overrule these differences and to attain similarities to establish social order.*

**Keywords:** Uniform Civil Code, Gender Justice, Personal Laws, Social and Cultural Transformation

### 1. INTRODUCTION

India is a sub-continent with multi-faced societies which are distinct in language, religion, caste, community, creed, ethnicity, traditions, culture, usage and customs, etc. which enables to retain as a sub-continent starting from pre historic ages till now. Even in this era of Liberalisation, Privatisation and Globalisation, the people are also distinct in adopting secular and socialistic principles. If we looked on to the history, Indian sub-continent was invaded by Europeans and Middle-East rulers and it was lasted for about two thousand years. In spite of all the above invaders, none of the rulers were thought of bringing all the people of Indian Sub-Continent under one umbrella of legal system. In fact, all the above invaders gave self-government in domestic matters to ourselves in the form of Panchayats, Zamindari System, etc. and absolute non-interference in religious matters by the alien, and followed the religious and customary practices till we attained independence.

### 2. FROM SUB-CONTINENT TO A NATION STATE

For the ages, India remained only as a sub-continent, so there was no single law to the whole of India. The different dynasties had different laws with respect to their own territories. After Sepoy Mutiny took place in the year 1857, Queen Victoria's Proclamation in the year 1858, made the Indian Sub-Continent as "Indian Nation", so the concept of Indian Nationality was formed only after the enactment of Government of India Act, 1858. Since 1858 till 1947, Britishers ruled India only in the political and social aspects but not in the cultural aspects. So, the age of Indian Nation is just 163 years. After replacement of Government of India Act, 1935 by the Constitution of India in the year 1950, India adopted Secular principle that enables India to preserve all the socio-cultural identities.

### 3. CONSTITUTION OF INDIA AND ALLIED LAWS

The Preamble of the Constitution of India says, India is a "Sovereign, Socialist, Secular, Democratic, Republic". In the light of the above statement the allied common laws were enacted to fulfill the needs of the Constitution stated in the Preamble. Thus, it has been categorised as (1) Common Civil Code (2) Unified Civil Code and (3) Uniform Civil Code.

(1) **Common Civil Code:** It states that the laws are applicable in common to all the people of India without any discrimination based on religion, language, sex, caste, community, creed, place of birth, etc. For example, Contract laws, Labour Laws, Business Laws, Taxation Laws, Environment Laws, Intellectual Property Laws, Criminal Laws, Human Rights Law, etc. in general, it is applicable to all whoever being as a party to that law.

**Unified Civil Code:** It states that the laws are applicable in common to all the people of India without any discrimination on the grounds of religion, language, caste, community, creed, sex, place of birth, etc. For example, Maintenance of Internal Security Act (MISA), National Security Act (NSA), TADA, POTA, COFEPOSA, Goondas Act, etc. will be applied to all the person whoever being as a party to that law. So, whenever there is a threaten to the sovereignty and integrity of India, they will apply the above said Unified Civil Laws to protect India from external and internal threats.

(2) **Uniform Civil Code:** In this arena, the Personal Laws in India such as different religious and customary laws related to Marriage, Divorce, Adoption and Guardianship, Maintenance, Succession and Inheritance, etc. are conglomerated to have a uniformity in implementing those laws across India, without any hindrances.

#### **4. LEGALITY OF UNIFORM CIVIL CODE**

Directive Principles of State policy under Part– IV of the Constitution of India, “The State shall endeavor to secure for the citizens a Uniform Civil Code throughout the territory of India”. As it is in the Directive Principles, it has become the duty of the State to enforce this, when there is a harmony and peace took place in the society. It can be enforced in a particular State or a Nation as a whole. So, both the State Government and Union Government are empowered to enforce this provision. In India, Goa is the first State to implement Uniform Civil Code.

#### **5. UNIFORM CIVIL CODE AND PERSONAL LAWS**

Generally, those who are against to Uniform Civil Code lay down their arguments that the implementation of Uniform laws will affect the basic structure of the constitution such as Secularism and fundamental freedom of religion. Here, I like to say that “religion” talks about relationship of human with god, immortality, attaining spiritual goals, salvation, etc., but the “personal law” is for worldly affairs, social order to maintain cordial relationship with fellow humans. Every religion has their own personal laws which will never disturb the basic tenets of the religion. But, the Uniform Civil Code particularly concentrates only on Marriage, Divorce, Adoption and Guardianship, Maintenance, Succession and Inheritance.

These concepts are no way connected to the relationship with god or the basic tenets of the religion, rather to the humans alone. Thus, by incorporating the Uniform Civil Code in India will not disturb the religious personal laws and also all the people of India feels that they belong to a single legendary nation which establishes the love and devotion to the entire world.

#### **6. PERSONAL LAWS AND GENDER JUSTICE**

The judicial decisions in Shah Bano case (1985), Sarala Mudgal case (1995) and Vallamattom case (2003) critically analysed that the justice to the women community was not ensured even in the present era. Further, the Judiciary stated that the gender issues should be addressed in the given context to ensure the gender justice, equality and dignity of the womanhood.

#### **7. CONCLUSION**

In the light of the above said averments, two conclusions can be drawn:

- (1) Amending the personal laws to ensure the personal liberty and dignity of women; or
- (2) Incorporating Uniform Civil Code to establish gender justice.

Therefore, it is not much easy to amend all the personal laws, but implementation of Uniform Civil Code will transform both the society and culture and ensures the peaceful living conditions in all walks of life. Further, it progresses our nation with ideal thoughts to ensure human rights and fundamental freedom guaranteed by the Constitution and other international instruments to facilitate and preserve social and cultural diversity, so that the justice delivery system also feels comfort in ensuring complete justice to all the people of India.

#### **8. REFERENCES**

- [1] Assistant Professor, Department of International Law, The Tamil Nadu Dr. Ambedkar Law University, Chennai
- [2] Article 44, Constitution of India
- [3] Mohammed Ahmed Khan -Vs- Shah Bano Begam AIR 1985 SC 945
- [4] Sarala Mudgal –Vs- Union of India AIR 1995 SC 1531
- [5] John Vallamattom & Anr. –Vs- Union of India 2003 (5) SCALE 384