

# **Uniform civil code: A deep outlook is the need of the hour**



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Since 1947 when India attained Independence, the uniform civil code law has been one of the features that distract the country's attention from its primary problems.

On the basis of the report submitted by the Rajya Sabha's standing committee on legal affairs, which was set up to ascertain the diverse views on the uniform civil code law, the Tamil Nadu government has recently established a committee.

## **Directive principles**

Several months before August 15, 1947, lots of legal formalities on India's Independence had started. A committee of legal luminaries was set up to frame our Constitution. On March 28, 1947 a sub-committee was also established in this regard. Minocher Rustom Masani or 'Minoo' Masani, one of the members of the committee, proposed the uniform civil code. But the

proposal was rejected as it sparked controversy and opposition from a majority of the members.

However, the uniform civil code was again discussed on March 30, 1947. Thereafter, it was decided to keep the concept of uniform civil code as one of the directive principles in the Articles 36-51 of the Constitution.

The directive principles insist on compulsory education for children up to 14 years of age, equal job opportunities and equal pay for both men and women and enforcement of prohibition all over the country. Instead of pursuing these primary and important principles, some elements have taken up the issue of uniform civil code for furthering their political ends, triggering a panic among the minorities.

### **Muslim Personal Law**

Shariat was formulated on the basis of the Quran and the precepts put forward by Prophet Muhammad. It has long been part and parcel of the Muslims' faith. It was enacted in India in 1937 as Muslims' Personal Law. This law applies only to four matters concerning Muslims – care for individual Muslims and their families, Muslim marriage and divorce, heirs and handling of Muslim voluntary and charitable organisations including Waqf.

### **Marriage contract (Nikah)**

In the presence of a bride's father and two witnesses of sound health and social status, the pair getting into wedlock should give their consent. Then, the bride will fix the wedding money at her own will and demand it from the bridegroom. After the 'Mahr' is obtained, an Islamic scholar will conduct the wedding ceremony called Nikah.

Shariat guides the conduct of such simple wedding ceremonies. The bridegroom will throw away the wedding feast, depending on his financial state. That is all. But the rites of tying

'karugamani'(black chain) around the neck of the bride, the 'marumakkal thaayam' (the bridegroom staying in the bride's house) and dowry were later added to the ceremony.

## **Divorce or talaq**

Talaq is severance of marital relationship. When a husband dislikes his wife and wants to get separated from her, the couple are formally separated in the presence of two witnesses - one each for either side. This is called talaq (divorce). But talaq has lots of rules and regulations.

Initially, peace talks between the two sides are held in the presence of the Jamaat elders who will try their best more to unite the couple rather than to separate them. When push comes to shove, the system of saying 'talaq' three times staggered over a period of time will be adopted. The idea behind the system is that in the intervening time before divorce is formally sealed, there will be ample time and chance for the couple to patch up and get reunited.

In case a woman wants to be divorced from her husband, there is a procedure through which she can get separated from her husband after waiting for some time. It is called 'khula.'

It is unfortunate that in a few jamaats, wrong consultations are given based on wrong understanding of Shariat. So, there are allegations of discrimination on the grounds of financial status and social influence.

According to the Compulsory Marriage Registration Act 2009, all weddings including the Islamic, must be registered within three months of the ceremony held. The registration happens only after verification of age of the couple concerned.

The court will get to ascertain if on the advice of Jamaat and Hajji peace efforts have been made in case of marital discord and if sufficient time interval has been granted for the couple concerned

to think over their problem and if possible, set things right. In the process, the court takes time ranging from six months to a year before granting the legal divorce. That is why remarriage among Muslims is delayed. Besides, the powers of Jamaats and Hajjis in marital divorces are curtailed. It is only the judiciary which has predominant powers in the matter.

### **Claims not backed up by data**

There is a misconception among the general public that the Muslim men easily adopt polygamy and they can marry as many times as they want.

As in all communities, there are a few men in the Muslim community too, who resort to polygamy.

Another wrong notion engraved in the popular imagination is that it is Muslim women who undergo domestic harassment much more than others. Like women of other religions, the Muslim women also fall back on law to battle domestic violence.

Enquiries with the Tamil Nadu committee have revealed that the members have said, "The committee is going to just examine if there are harmful features and human rights violations in the (Muslim) law, which militate against our Constitution. Otherwise, we have no idea about the uniform civil code."

However, the Islamic leaders say this is the committee tasked with suggesting measures to bring in the uniform civil code.

India has a law on marriage and family exclusively for Hindus. In fact, there are differences among several Hindu sects and communities in terms of wedding, family system and heirs. There are over 400 Hindu laws concerning, among other things, the hill tribes' cultural practices and mores. The joint family system is hailed as one of the distinguishing features of the Indian society. If the Hindus continue to live upholding the joint family values, they can enjoy the income tax exemptions, it is said.

Respecting the Sikhs' sentiments, they are allowed to wear their customary turban around head instead of the mandatory helmet while driving two-wheelers and also allowed to keep knife as part of their daily physical paraphernalia.

Thus, India endowed with various diversities is, however, seen as a vibrant and strong country in the global arena.

So, overcoming all differences and diversities, we continue to be united in spirit. For perpetuating the unity, what's most needed is only harmony, not uniformity.

**Translated by V.Mariappan.**