



UNIFORM CIVIL CODE FOR AMITY OR ANIMOSITY

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ABSTRACT

The "de jure" of the Uniform Civil Code (UCC), if introduced in India, what are its manifestation on the day-to-day civil life of the people with Polytheism, varying religious functions and festivals, marriage ceremonies etc. The necessity of the introduction of UCC after 70 years after Independence, the impact on Indian polity, social life of the present volatile situation in India has to be analysed. Because, one cannot venture to introduce a law which may likely to become draconian law affecting the Amity of the people resulting in animosity among the different religious groups.

KEYWORDS :

INTRODUCTION:

Every citizen of India aspire for a uniform laws for all. Of-course, if the "All Citizens" are of Monotheism, unanimity in festivals, marriage, property rights means the Uniform Civil Code may suit well. Even then, the uniformity in all walks of life cannot be achieved in marriage, food, life style etc.

Of-course most of the Laws of India are applied uniformly to all the citizens of India except Jammu and Kashmir. Laws pertaining to crimes and punishment, trade and commerce, taxation and education, laws relating to evidence are uniform. There are laws all citizens are expected to be followed unscrupulously. The Indian Constitution, after a detailed discussion in the Constitution Assembly permitted the citizens of India to follow the respective family affairs like marriage, divorce, inheritance, guardianship and adoption to be governed by customs or rules applicable to the persons and their community of the religion.

Though the Uniform Civil code was given in the Article 44 in The Constitution Of India as to formulate the Uniform civil code throughout the territory of India.

CONSTITUTIONALITY OF INTRODUCING UNIFORM CIVIL CODE:

Now let us analyze the "de jure" of introducing Uniform Civil Code through out India. Before analyzing, let us clear ourselves as some of the questions which are likely to arise when introducing Uniform Civil Code to the length and Breadth of our Country. After Independence and adopting our own Constitution on 26th November 1949, The people of India took oath as:

How the Introduction of Uniform Civil code will benefit the people of India?

What are the Economical/social benefits accrue out of the introduction of the Uniform Civil code?

Who are the people or section of people likely to be affected and in what ways?

What are "pros" when Introduction of Uniform Civil code?

What are "Cons" when Introduction of Uniform Civil code?

Will this Introduction of Uniform Civil code result in amity or animosity among the people?
Etc.

Let us answer these above questions first, how the Introduction of Uniform Civil code will benefit the people of India?

The proponents of the Introduction of Uniform Civil code to all the people of India suggest various reasons^{2,3}:

1) It will enhance the status of women and so-called lower

castes as many personal laws are

biased against them.

- 2) Many provisions are violations of human rights.
- 3) Article 25 and 26 guarantee freedom of religion and UCC is not opposed to secularism.
- 4) Modern, liberal and gender-sensitive civil code is need of the hour.
- 5) A sign that the Nation has moved away from caste and religion considerations.
- 6) Will help in reducing vote bank politics that most political parties indulge in during elections and in National integration.

The opponents of the Introduction of Uniform Civil code to all the people of India suggest various reasons^{2,3}:

- 1) Change in laws in favour of women like Hindu inheritance Act has neither brought about any change in the percentage of property held by women nor in their status.
- 2) Some sections in Minorities claim it is a way of imposing majority views on them.
- 3) Lack of political will due to the complexity and sensitivity of the issue.
- 4) Misinformation about UCC - Content of UCC has not been spelt out leading minorities to believe that it is a way of Hinduise them.
- 5) Different religious communities have different personal laws which lead to politicization. Due to these, UCC has become next to impossible.

What are the Economical/social benefits accrue out of the introduction of the Uniform Civil code?

In an Internet arguments/answer Smt. Sridevi Raman (2014) told " world is moving towards treating humans beings as one, beyond barriers of nations and across genders. Archiac Hindu Personal Laws and equally misogynistic (hating women) Islamic laws hardly have any place in an equal world. Please look beyond your own Islam-infused-insecurity and see the world of good it will do to women in general". Here the democratic approach has to be appreciated as she relegated both Archiac Hindu personal laws and misogynistic Islamic laws of no use in the speeding world⁴.

If you think of economic benefit on the introduction Uniform Civil code, we are forced to refer Japan's economic development.

What is that Meiji Constitution ?

Japan was founded as the nation by Emperor JIMMU some times during 660 B.C.. Later, on 29th November, 1890 Meiji Constitution provides for constitutional monarchy⁵.

Japan adopted the constitution for Japan in 3rd May 1947 as amendment to Meiji Constitution.

The Japanese Constitution of 1946, effective from May 1947, in its preamble that the constitution is founded on the "universal principle of mankind" (*jinnri fuhen no genri*) that "government is a sacred trust [*genshukuna shintaku*] of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people." The constitution declares in its bill of rights section that "these fundamental human rights guaranteed to the people by this Constitution" are "eternal and inviolate rights." It includes a "right to life, liberty, and the pursuit of happiness" among these fundamental rights⁶.

What was the economic status of Japan before Independence and after?

There are two Economic period listed usually when referring to Japan's economic progress. One is Edo period and the other is Meiji period before Independence. A brief information will suffice to understand how Japan was in these two periods.

EDO PERIOD:

Economic development during the Edo period included urbanization, increased shipping of commodities, a significant expansion of domestic and, initially, foreign commerce, and a diffusion of trade and handicraft industries. The construction trades flourished, along with banking facilities and merchant associations. Increasingly, **han** authorities oversaw the rising agricultural production and the spread of rural handicrafts.

MEIJI PERIOD:

The industrial revolution first appeared in textiles, including cotton and especially silk, which was based in home workshops in rural areas. By the 1890s, Japanese textiles dominated the home markets and competed successfully with British products in China and India, as well. Japanese shippers were competing with European traders to carry these goods across Asia and even to Europe.

In September 1945, Japan had nearly 3 million war dead and the loss of a quarter of the national wealth. Nationalism and the desire to catch up with the West persisted after WWII, but now the efforts were focused on economic and industrial goals. For example, machine gun factories were converted to make sewing machines; optical weapons factories now produced cameras and binoculars¹⁰. Production indices of Japan showed increases of 24 percent in manufacturing, 46 percent in steel, 70 percent in nonferrous metals, and 252 percent in machinery.

Here I wanted to equate the present situation of the religious composition and their cultural, religious privileges they are enjoying.

Hindus have about 102 major festivals which is celebrated one in every third day approximately. Apart from this common festivals of Hindus, the each sect/cast has profess their own functions¹¹. Jains have 13 festivals in an year¹², while Buddhist celebrate 71 festivals in the world¹³, however, in India 7 festivals are followed¹⁴. The Parsis who are the followers of Zoroastrian faith has six seasons in a year, with each season a feasts known as Gahambars, that later got associated with religion¹⁵. The Muslim population follow 10 festivals¹⁶. The Sikh celebrate 7 festivals in India¹⁷.

REFERENCES

1. Constitution of India, 1949
2. Akand Sitra. 2014. Aspiring Civil Servant-<https://www.quora.com/Does-India-really-need-a-uniform-civil-code-Why-or-why-not?>
3. Aditya Thakoor. 2013. <http://hillpost.in/2013/08/top-7-reasons-why-india-needs-a-uniform-civil-code/95038/>
4. <http://hillpost.in/2013/08/top-7-reasons-why-india-needs-a-uniform-civil-code/95038/>
5. <http://www.indexmundi.com/japan/independence.html>

6. <http://chnm.gmu.edu/declaration/japanese/aruga2.html>
7. https://en.wikipedia.org/wiki/Economic_history_of_Japan
8. James A. B. Scherer. 1926. The Romance of Japan, through ages. George H. Doran Company., New York, pp-361.
9. James A. B. Scherer. 1926. The Romance of Japan, through ages. George H. Doran Company., New York, pp-361.
10. Pile, Kenneth. 1996. The Making of Modern Japan, 2nd ed. Lexington, MA: D.C. Heath.
11. http://hinduism.about.com/od/festivalsholidays/a/hindu_calendar.htm
12. Gordon Melton, J. 2011. "New Year's Day (Jain)". Religious Celebrations: An Encyclopedia of Holidays, Festivals, Solemn Observances, and Spiritual Commemorations. p. 635.
13. https://en.wikipedia.org/wiki/Category:Buddhist_festivals
14. <http://www.buddhist-tourism.com/countries/india/festivals/>
15. <http://festivals.iloveindia.com/zoroastrian-festivals.html#c3Xjjeo350F5H6zLg.99>
16. <http://www.festivalsofindia.in/Religions/Muslim.aspx>
17. <http://www.indiacelebrating.com/festivals-of-india/>