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Humane approach to Uniform Civil Code for gender equity

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Humane approach to Uniform Civil Code for gender equity

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How can the Uniform Civil Code surgically focus, as promised in the BJP manifesto, on gender equity without disturbing religious sentiments in a diverse country like ours?

A week ago, the BJP came out with its election manifesto triggering a raging debate on a few bold but contentious issues like Article 370 and Ayodhya dispute. However, what has generated an internecine undercurrent among Muslims is the BJP's pledge to make concerted efforts for the Uniform Civil Code (UCC) with the sole aim of achieving the elusive gender equity. Taken at face value, any political endeavour to improve the standards of women seems a magnificent idea, but considering the diversity of the nation and societal-systemic flaws in giving women their dues, the implementation of the UCC is a Herculean task which portends the repeat of post-Shah Bano agitation.

looking back

Relationship between women and laws were determined by local customs. The British rulers, though considered India as a uniform category, felt the need for laws based on religions for administrative purpose. Thus started the task of codification of local customs and traditions; Hindus were administered under the Hindu Civil Code, Mohammanan Civil Code applied to Muslims. Even though sacred books had great impact on judicial decisions, local traditions prevailed. However, later on complexities arose, as the rulers tried to develop a uniform civil code on the lines of laws back home.

Warren Hastings had then protested against the proposal to introduce British laws in India, given that Hindus followed a set of laws that had continued from time immemorial. This misadventure sowed the seeds of communal discord.

As British authorities needed to go into deep to understand the local traditions, they indulged in translation of holy books. But the translation rather created new difficulties of alleged misinterpretation. Justice Mahmood expressed his anger on paucity of reference for Muslim laws resulting in increased dependency on inaccurate translation. The British-Indian laws were lopsided in favour of men. Even though, Shariat laws give Muslim women right on parental land, the British were inclined to declare inheritance of property to Muslim men.

As the reform age took birth, Muslims alienated themselves from the process as some of the practices were not prevalent among them, while at the same time they believed that the Quran provided answers to their problems. Muslim men felt there was no need to modify Shariat laws, particularly those related to marriage and divorce. Whenever efforts were made for modification, Muslim men protested saying Islam provide more rights to women. Even the Age of Consent Bill faced strong opposition from Muslims who considered it interference into their religion.

Fear of assimilation

After division of the British India into an "Islamic Pakistan" and a "secular India", those Muslims who preferred to stay in India had a new task — to safeguard their identity. Any move to implement the UCC has been considered a threat to their culture leading to nationwide agitation. For example, the Shah Bano verdict was seen as an ulterior motive of the Indian judiciary to assimilate Muslims into the majority group. This movement became a milestone in the history of Muslim men's protest against efforts to bring Muslim women on a par. However, it also gave impetus to the feminist movement with covert support from Muslim women for a Uniform Civil Code that can promise to deliver gender equity. Mullahs who claimed to be the sole interpreter of the Quran raised voice against the SC judgement terming it as anti-Islamic. And the opponents of Shariat laws raised issues of triple talaq and maintenance that are biased against women.

Unfortunately, the judgement that aimed to be just and humane was given a communal colour, and the Rajiv Gandhi Government revoked the SC ruling for the sake of political consideration. I have vivid memories of those days of childhood when Muslim youth took recourse in religious hymns to blast the Shah Bano verdict as sacrilegious. Moreover, rubbing salt into the wounds, rightwing activists took up the cudgels on behalf of the silent voice of Muslim women and raised noise for the implementation of the UCC by abolishing all Personal laws.

Hypocrisy

Muslims are not a homogenous category. Shariat does not have a uniform impact and importance for Muslim women from Arzal (dalit) and Ashraf communities. lower class Arzal women follow minimum tradition, while Ashraf women conform to maximum extent.

position.

When language, traditions and identity change from village to village, any move to bring in the UCC is not just a threat of assimilation but the removal of the acceptable hierarchical barriers between Arzal and Ashraf.

Another significant obstacle in the UCC is local customs that prevail over the sacred book in day-to-day life. For example, the Quran talks about inheritance rights for women, but Indian Muslims have selectively accepted Indian custom of male inheritance. Muslims from western and south coast follow their own culture and code of conduct. Their dress code is different from that of north Indian women. They are more similar to their Hindu counterpart than north Indian Muslims.

The tendency to see Muslim women in comparison to Hindu women needs to be changed. There is nothing wrong in making comparisons, but then comparison can only be made among comparable groups. Like Hindu women, Muslim women are not a monolithic bloc. Ashraf women have different socio-economic and cultural background, and their issues can never be that of Arzal women.

The hypocrisy of the custodians of the religion is spectacular. While the Shah Bano verdict which tried to mend the skewed gender equation was termed as anti-Islamic, religious scholars keep mum about the implementation of Shariat acts on corporal punishment. Why do they only try to protect the family fabric?

Uphill task

Even though we ignore the voice of prejudiced men who raise a hue and cry whenever any honest effort is made to give women equal status, the formidable challenge of the implementation of the UCC remains there.

The main task is the formulation of the Uniform Civil Code. How can the UCC surgically focus, as promised in the BJP manifesto, on the gender equity without disturbing the religious sentiments? Would it include all positive things from all religions for gender equity? Would rights given by the Quran to women be applicable on non-Muslims as well?

The UCC that only focuses on gender equity will find challenge from non-Muslims as well. For example, what will happen if the religious sanction of marriage among close cousins becomes part of the UCC? The certain possibility is more khap diktates and honour killings.

South India and North-East States follow matrilineal norms unlike the patriarchal north. Will we have different sets of UCC to suit gender equity in different regions? There are innumerable questions whose answers are elusive. Gender equity is need of the hour if we want to ensure women's share in India's development, but at what cost, we have to decide.

(The writer is Assistant Professor, Sarojini Naidu Centre for Women's Studies, Jamia Millia Islamia, New Delhi)

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