

Part III - Politics of UCC

Following from the history of UCC in Constituent Assembly in Part I and knowing the interaction of Supreme Court with the issue in Part II, I would focus on the political history of UCC debate in this part III of the IV part series. If the issue has been kept alive since independence, it is because of the periodic seizing of the UCC debate by the political class. We can roughly identify three phases when this issue led to intense political and public debate

The three phases are from 1952-55, 1985-86 and the current phase from 2015-2017.

1951-1955

The UCC was intensely debated during the codification of Hindu Customary Practices and the need was felt keeping in mind the widely prevalent gender discriminatory practices within the Hindu Community.

The Hindu laws were extremely gender unjust compared to laws of other communities and needed immediate reforms. Daughters had no right to inherit property, the right of widows was a limited life estate. Women had no right to divorce and there was no restraint upon men regarding polygamy. Child marriage, abandonment of widows etc. were problems faced by women. The urgency was to reform Hindu laws and this issue saw huge division within the Parliament with Senior Leaders like Vallabhai Patel and Rajendra Prasad opposed to codification of customary Hindu practices. On the other hand, Dr. B.R. Ambedkar was dissatisfied with the diluted version of Hindu Code Bill and he felt the bill retained its Brahmanical –patriarchal bias and would achieve little for elevating the position of women within the Hindu fold. This issue led to resignation of B.R. Ambedkar from the Cabinet as he was dissatisfied with the final draft.

Finally, intense debate on reforming personal laws led to a lesser version of this bill being passed by the parliament in 1956, in the form of four separate acts, the Hindu Marriage Act, Succession Act, Minority and Guardianship Act and Adoptions and Maintenance Act. And the issue of reforming Muslim personal law was deferred till the time the demand was made from within the community. The political class was aware of the recent tragedy of Partition and didn't want to appear as majoritarian on this delicate issue.

1985-86

After 1956, with the passing of the Hindu Code bill, the personal laws in India had two major areas of application: the codified personal law and the uncodified Muslim Personal Law for the Muslims. The frequent conflict between secular and religious authorities over the issue of uniform civil code eventually decreased, until the 1985 Shah Bano case. And this phase of 1985-86 saw intense politicisation over UCC. Bano

was a 73-year-old woman who sought maintenance from her husband, Muhammad Ahmad Khan who had divorced her after 40 years of marriage by triple *talaq* and denied her regular maintenance. The Supreme court ruled in her favour by decalring that Sec. 125 of CrPC applied to all citizens irrespective of religion. It further recommended that a uniform civil code be set up. The issue was politicised with Rajiv Gandhi, the then PM overturning the effect of SC decision by passing the Muslim Divorce Act, which restricted mantainance to Muslim Women to first iddat period.

The AIMPLB (All India Muslim personal Law Board) defended the actions by Rajeev Gandhi government and supported the Muslim conservatives who accused the judiciary of promoting Hindu dominance over every Indian citizen at the expense of minorities. The Criminal Code provision, providing for mantainance, was seen as a threat to their religious-cultural identity.

2015-17

The third phase of politicastion of UCC starts from 2015 and merges two strands – one ofnational integration and the other of gender justice in support of UCC. It started with the Supreme Court hearing petition of Shyara Bano and invalidating the practice of instaneous triple talaq or talaq-e-bidat.. While Triple Talaq practice provided the instant context, the clamour for a Uniform Civil Code has increased since the coming into power of BJP. BJP has been a consistent supporter of UCC as it views the muticultural and multi-religious personal laws as countervailing forces to unity and integrity of the nation. So, today the UCC debate is seeing colaition of Hindutva forces, Women Groups on one side and conservative minority groups like All India Personal Law Board opposing the idea on the other. With the Supreme Court striking down triple talaq in August and with the case of FGM (Female Genital Mutiliation) among Bohra Muslims, a subsect of Shia, pending before the Supreme Court, there is every possibility of further polarisation on UCC.

With this, we conclude the third of our four part series on the UCC – covering the constitutional , judicial and the political history of UCC debate. In the next part, we will look at the feasibility of Uniform Civil Code in a multi-cultural polity like India and also the other ways of achieving gender justice apart from the statutory route of Uniform Civil Code.

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Thank You

