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sheep whose



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The mensuration of the quality of our democracy geared to the preservation of structural integrity and social identity that does not negate the nationalist commitment of the entire population. This is the materialist dialectics and moral dynamics of our Democratic Republic, given shape and beauty by the Founding Fathers as an articulation of the values, which find finer expression in the Preamble and Articles of the Constitution, liberally illumined and hermeneutically Programatized. One of the major problems, which have provoked exciting polemics and aggravated Majority pressures, is the enactment of a Uniform Civil Code for the citizens throughout the territory of India as desiderated in Article 44 of the Constitution. Nevertheless, till today no Universal Civil Code has taken shape on Indian soil, except in Goa, which is regulating family laws, namely, marriage, divorce adoption, succession, legitimacy of children, registration etc. from times of Portuguese rule. Indian fraternity and human solidarity have non- negotiable validity, be he a Hindu, Muslim or other minority member. To behold a human being as human is the best tribute to secularism as secularism, is not, however, merely the broad pattern of management of equations between politics and religion, rather, it is a spirit of tolerance, universalism and freedom to all religions.

Amidst all these, in an Indian family, how could it be fair that there be one rule for the mother, other for the father, and a different one for the children, shaking the epitome of our national cooperation and putting in danger our national integration itself? The founding fathers of our Constitution were all wise men of vision, fired by the concept of democracy treating everyone equal before law, and for whom everything subsumed to the fraternity, unity and integrity of the nation. Unfortunately, some of those founding fathers, it

must be accepted in retrospect, were the proverbial black sheep whose religious faith could not quite be overcome by national ideals. Thus, a few members wanted the Constituent Assembly to believe that the Muslim Personal Law was an immutable law in India from ancient times and believed that enactment of a civil code would be oppressive to the minorities, each of which had a personal law. It took Dr. B. R.

Ambedkar's and Dr. K. M. Munshi's erudition to demolish the myth of the immutability of "divine" law and to prove that the proposed new civil code at that point of time would be most suitable to apply for all citizens, irrespective of their religion. Ultimately, it was only the personal laws of the Hindus that were subjected to scrutiny and then altered.

However, the Muslim Personal Law remained untouched barring a few changes in deference to evolving legal grammar. The pumpkin was quietly buried under secular rice! Eventually, because of discrepancies in the personal law, numerous cases came before the courts. Long years ago, in the Shah Bano case, the Supreme Court held that Article 44 has remained as a dead letter. The then Chief Justice of India Mr. Y. V. Chandrachud observed that, "A common civil code will help the cause of national integration by removing disparate loyalties to law which have conflicting ideologies". Demand for the Uniform Civil Code was resisted in full fury by the Muslim minority, with distinguished exceptions.

In many instances the Supreme Court directed the Government of its Constitutional obligations to enact a Uniform Civil Code like Sarla Mudgal case, Mary Roy Case vs. State of Kerala, Jordan Deinddeh vs. S. S. Chopra,

Pannalal Bansilal Case, etc. The latest reminder of the Supreme Court, setting the cat amongst the pigeons, on the matter a Uniform Civil Code, was in the case of John Vallamattom vs.

Union of India (AIR 2003 SC 2902). In that case Chief Justice Mr. V. N. Khare stated that, " We would like to state that Article 44 provides that the State shall endeavor to secure for all citizens a Uniform Civil Code throughout the territory of India.

It is a matter of great regret that Article 44 of the Constitution has not been given effect to. Parliament is still to step in for framing a common civil code in the country. A common civil code will help the cause of national integration by removing the contradictions based on ideologies."

Lamentably, the concept of a Uniform Civil Code is not made a Fundamental Right of the citizen but relegated to the position of a concept desirable but not enforceable by any court in the country. The world treads forward, ever forward, while those damned " secularists" of ours have forced us back to the shameful sinister ages.

Secularism, the corner stone of our nation and the radical locomotive of social democracy for integration are confused with and propagated by bigoted extremists as the tombstone of the body politic — a terrible outrage. If secularism ceases to be the bedrock of our Republic, Swaraj becomes a mirage. If we, as people do not belong to a single nation, politically cemented by a strong sense of human solidarity, we will splinter and founder.

Our national campaign is not pampering majority malignancy or minority prejudices. We must be secular in every cell. There cannot be democracy if any section of society is discriminated on the basis of religion or inequality. Therefore a Uniform Civil Code is the way out to avoid further chaos in the Indian Cosmos. In advanced Muslim regimes around the world like in Turkey and in Egypt, the personal laws are being amended in tune with modern times, but secular India remains cursed to linger in medieval mindset of the Aurangzeb era. The Muslim clergy had always succeeded in resisting changes under the pretext that sacrosanct. To negate, if you perceive countries like Europe and United States, which have a civil code, any immigrant has to submit to that civil code and has never felt tyrannical. M.

J. Akbar wrote: " It is a myth that Islamic law is not amendable to re-interpretation. Islam has always been a dynamic faith, not a static one and principles have been placed in context whenever needed." If the Shariat is to be strictly observed, a thief should have his hands cut off. Would today's fundamentalist Muslims in India agree to this being practiced? Diversity in personal laws reinforces gender inequality and injustice. Furthermore, when criminal laws and some aspects of civil laws were common to the country as a whole then why the variation of personal laws? By accepting a Uniform Civil Code, the identity of no Muslim is threatened; only his social well-being is heightened and strengthened.

Moreover, is not that what laws are made for? How Muslims will lose their identity in the country, having a Uniform Civil Code? How can a common civil code ever affect faith? What does law have to do with faith? When Muslim in many parts of India went by Hindu law in certain matters, did they become

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less Islamic? Or less Muslims? In succinct, a Uniform Civil Code is a social imperative, which the people during against it, yet have to comprehend forsaking their insular thinking. Conclusion: In future, while implementing the Uniform Civil Code that has to be done, Shore nicely paraphrases: “ A Uniform Civil Code should not be put together as the amalgam of or the common denominator of personal laws based on religion but as the Code that guarantees the best rights to all citizens, a Code in which each provision has been incorporated not because it is to be found in the Shariat or Manu or Christian or Parsi law but because on that matter it is the most humane and just provision we can think of, the one that is most in accord with good conscience, the one that is most likely to induce good conduct and creative flowering of the individual.” The melody of the communal unity, the beauty of religious amity and the security of Indian humanity by way of Uniform Civil Code for national integration — these glorious values are the mission and message to the nation. We should therefore struggle to sustain this supreme value so that we do not perish, as a people, by discordant ideology.