

The Existing Incompatibility Between Multiculturalism and Feminism in India

- By Anshika Singh & Khushi Agrawal

ABSTRACT

"A multicultural society does not reject the culture of the other but is prepared to listen, to see, to dialogue and, in the final analysis, to possibly accept the other's culture without compromising its own." - Reuven Rivlin

But gender equality often clashes with the interest of minority cultures and individual rights, as the fundamental position of the feminist movement cannot be sacrificed in the name of group rights, which do often reinforce existing hierarchies. The same is the case with India, the personal laws which are being practiced in India so that minority religions could get recognition and protection to practice their religion without fear. But, these laws do not offer enough recognition to women's issues within these communities, even if the recognition is given, the powerful, dominant, and patriarchal spectrum of these minority religions/communities assert giving women unique rights infringe their freedom to practice personal laws. This paper explores

such contradictions prevalent in the personal laws making it difficult for women to practice or perform their rights and liberty bestowed by the Constitution.

INTRODUCTION

Multiculturalism is a very broad concept that originated from western societies around the 1960s and 1970s. It refers to the coexistence of different cultures peacefully, enriched in society by preserving minority cultures from dominant cultures and respecting their cultural practices through the formulation and implementation of policies that deal with the equitable treatment of different cultures. India is a multicultural country where, different minority religions such as Islam, Sikhs, Christians, Buddhists, Jains, and other minority groups are free to practice their religion. These religions are protected by the government through personal laws so that minority cultures don't get suppressed from the majority culture such as Hindus in the Indian context. But,

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there have been instances when the claims of minority cultures or religions contradict the norms of gender equality formally endorsed in India's personal laws. We aim to explore more about these claims and prove that multiculturalism and feminism cannot reconcile with each other because these special rights or personal laws make minority cultures more patriarchal and suppressive towards women in India and understand whether it is fair to give minorities such special rights which inherently oppress women. To begin, this paper first explains how multiculturalism is linked to personal laws in India, whether it is being justly practiced in India and how minorities are permitted to practice their religions without interference. In the next section, the problems that exist within these personal laws (Islam, Christian, and other minority religions included in Hindu personal laws itself) towards women are pointed out and criticized from the feminist perspective. At the end of the paper, we try to give the solution regarding this issue which could make the situation of women better off in multicultural India.

MULTICULTURALISM AND PERSONAL LAWS

India is an amalgamation of different religions, cultures, traditions, languages, customs, and beliefs. Pluralistic diversity is an inherent part of the state's political discourse and social being. In a society so diverse, the idea of multiculturalism is hard to resist. The inescapable presence of diversity and acknowledgment of difference makes it a multicultural society. Though we need not forget that its historical context makes it different from the western form of a multicultural society. Multiculturalism in India is manifested through the policies of legal pluralism in religious family laws that offer protection from state interference in personal and family matters. Different religious groups have separate personal laws that govern the individuals. These laws have their roots in the colonial period and have been followed since then. Both Hindu and Muslim Personal Laws were brought within the early 20th century to guard the private realm of the household from the colonial state. Over the years, the recognition of various religious groups like Sikhs, Parsi, Jains, Buddhists, and Christians has led to the emergence of different personal laws under the ambit of the constitution. Consequently, these personal laws can be seen as the product of patriarchy and misogyny, which is deeply entrenched in Indian society. The customs and laws are oppressive to women and highlight the pervasiveness of gender inequality prevalent

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in all these cultures. These laws cover the area of marriage, divorce, inheritance and succession, adoption, and maintenance.

PERSONAL LAWS AND GENDER INEQUALITY

1. Muslim Personal Law

"Virgin girls are like fruits on trees. If not plucked in time, the sun will rot them and the wind will disperse them. When girls reach maturity and their sexual instincts arise, like that of women, their only remedy is marriage. If they aren't married, they are prone to moral corruption. It is because they are human beings and human beings are prone to making mistakes." said the Noble Prophet

With such an erroneous remark on girls as an object of sexual desires with marriage as the primary intention and motive of their life, let's move on to the most contentious areas in the Muslim Personal Laws which legitimize gender inequality prevailing in the society. The primary sources of Muslim Laws in general and Muslim Personal Laws, in particular, are the Quran, Sunna(traditions introduced by the practice of the prophet), Ijma(common opinions of the jurists), and Qiyas(analogical deduction of the three) along with the practices of Hadith. Further, it has been supplemented with Urf(custom), Judicial Decision, Legislation, etc.

Gender Inequality in Sharia

1. Capacity to Marry

According to Quran, generally, there are two criteria for marriage (with different criteria for minor and lunatic),

1. Sound Mind

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2. Puberty

So in short, a Muslim man of sound mind and who's attained puberty can marry himself without a guardian. (Consortium for Educational Communication, n.d)

But Muslim women in Shia or Shafi schools of thought are not allowed to marry themselves without the presence and consent of the guardian even when they meet the two criteria of marriage: sound mind and puberty.

2. Disability to Marry

Among the number of prohibitions to marry one from the opposite sex, gender inequality prevails mainly in the following cases,

1. Number

A Muslim man is permitted to have up to four wives at a time. However, marriage with the fifth one is not void but irregular and the issue would be legitimate, just that he should have the capacity to pay equal treatment to his wives without any sort of inequality.

But a Muslim woman cannot marry a second time in the presence of one husband else she can be charged for bigamy under section 494 of IPC.

2. Religion

A Muslim man can marry a woman of another religion but only Kitabiyya. However, in the Ithna Ashari school under Shia, a Muslim man can contract a mutta marriage with a fire worshipper as well.

But a Muslim woman is not allowed to marry anyone other than a Muslim man.

3. Iddat

When a marriage is dissolved by death or divorce in Muslim law, the woman is prohibited from marrying within a specified time. This period is called Iddat.

In case of divorce, the Iddat period is menstruation courses, or if the woman is pregnant, it is till delivery. If the marriage is dissolved by death, the period of Iddat is four months and ten days or in case the woman is pregnant, it is till delivery, whichever is longer.

Meanwhile, the husband/man is not required to follow any such custom so that his right to marry just after divorce or even after the death of his wife is not hindered.

People might counter this point with the historical reason behind iddat, it's just that the women

were prohibited from marrying another man during iddat to establish the paternity of the child in case she is pregnant. But the time has changed and with the advancements in medical science we can easily detect the paternity of the child through DNA tests but still, this norm exists in Sharia.

However, marriage during the observance of iddah is not void but irregular and thereby legitimate.

4. Divorce

A Muslim couple can remarry even after their divorce, but it's not as simple as it sounds because the divorce is as effective as triple talaq.

For the reunion of an already divorced Muslim couple, the woman has to observe Iddat lawfully, marry another husband, consummate the second marriage and the second husband should lawfully and effectively divorce her. (ibid, 4)

But the husband doesn't have to undergo such complexity. It's not just about the impending complexity but in a way, the woman is subjected to unnecessarily consummate with the second husband to remarry the previous one which is unethical.

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3. Polygamy

A Muslim man may marry several wives but not exceeding 4 but a Muslim woman can marry only one husband & if she marries another husband, she is liable for bigamy under Section 494 of IPC 23 & the offspring of such a marriage is illegitimate. - (Polygamy, Quran IV: 4)

The logic behind polygamy is twofold:

The first one is that after the battle of Urad many male warriors lost their lives leaving scores of young wives widowed and children orphaned. Polygamy as an institution could arguably serve to protect those women who would otherwise be condemned, discarded, or abandoned in that society.

The second logic behind polygamy is that during pregnancy or menstruation it is formally endorsed that a man has other legally married wives rather than going to other women. Monogamy results in promoting the institution of prostitution. (ibid, 4). This mentality is extremely shameful and disrespectful in general and for women in particular.

After analyzing both cases it's evident that the existence of polygamy is the manifestation of patriarchy in Islam because the first case is irrelevant as the thing was in the past and now we have an appropriate sex ratio while the second case is the manifestation of the highly patriarchal side of Islam since Quran or Sharia valued only the sexual desires of men and a reciprocal of the same case would enable men to charge their wives under bigamy.

4. Age Difference Between the Husband and Wife

Even when this one is not a strict instruction under Sharia, this is how they articulate their point -

“Since there is a difference in the age of puberty of girls and boys, they don't reach mental maturity at the same age either. Moreover, since women lose their sexual desires relatively earlier than men, a 5 to 6 year age gap between the husband and wife seems to be appropriate.

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With this age gap, women reach menopause when the sexual desires of men have somewhat subsided. This would add to the possibility of the success of their marriage and increase the spirit of sacrifice and intimacy between them.” (Hudda, n.d)

Even when they implicitly mention mental age as a criterion for marriage they still have

provisions in the Quran for marrying off the minors (those who haven't attained puberty) which establishes the double standard and hypocrisy of Sharia.

Here again, when they articulate the point of 5-6 years of an age gap between the couple, it indicates the wife to be 5-6 years younger than the husband to serve sexual satisfaction for the male community.

5. Role of Husband in a Marriage

“Men are in charge of women by (right of) what Allah has given one over the other and what they spend (for maintenance) from their wealth”. (Q4: 34)

Men are meant to be the protectors and maintainers of women according to the Quran. The Quran establishes man as the guardian of the family. Moreover, the wife is subjected to the power of restraint of the husband plus the husband becomes entitled to restrain the wife's movements reasonably and to exercise martial authority.

The supreme status given to men in the family along with the subordination of women in this regard is clear discrimination and a reflection of the gender division of labor according to which men engage in economic labor while the women are supposed to look after their husband and children.

6. Disciplinary Rights of the Husband

Islam recommends physical punishment of one's wife in two cases where his rights are violated (4:34).

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Case 1: A man is Islamically and lawfully allowed to seek sexual satisfaction and pleasure from his wife and to derive all sorts of enjoyment from this relationship. His wife is lawfully duty-bound to yield to her husband's sexual desires. If a woman refuses to satisfy her husband, the husband should initially persuade her in an orderly manner. However, if a man feels that his

wife is trying to be malicious to him, and if he cannot tolerate the situation, then observing the prescribed stages can punish her.

The Quran allows beating one's wife as the final stage of punishment, in the event of unreasonable behavior of a woman concerning the sexual desires of her husband.

The first stage is giving advice. Secondly, the man should avoid sharing her bed or turn his back towards her, and in this way, he should show his anger. If nothing positive happens at the end of the second stage and still the woman continues to refuse her husband, he is permitted to beat her (lightly).

Case 2: A woman can go out of the house only after obtaining her husband's permission. Going out without permission is lawfully not allowed and committing it is a sin.

This is the right of any husband which must be observed by their wives. This right of men is not meant to be a show of strength or an attempt at putting pressure on their wives, but a means of preventing women from going to undesirable and unsuitable places.

A man must stop his wife from going to corrupt and unsuitable places and gatherings. It is a religious obligation for women to obey their husbands. A disobedient woman can be punished by her husband. Here again, the punishment should be carried out in stages.

A woman, however, can go out of the house on specific occasions without her husband's permission and men are not permitted to hurt their wives in such cases:

- (a) Going out of the house to learn the necessary commandments of religion. 8
- (b) Going out of the house for Hajj when she possesses the necessary financial means and ability to perform Hajj.
- (c) Going out of the house to repay a debt provided it is not possible to repay without going out of the house. (ibid, 4)

↳ In case one, it's evident that the elements of choice and consent are taken for granted and devalued. They highlight the needs of men but fail to address the element of individuality from a gender-neutral perspective, thus undermining women's individuality, choice, and consent.

The most erroneous side was the right of the husband to beat his wife which articulated the element of patriarchy prevailing in these traditions which justifies domestic violence and pampers the male chauvinistic attitude.

↳ In case two, again the gender disparity is clear since the women lack freedom of movement which they've surrendered to their husbands. Surrendering their rights to their men articulated the superior status of men in Islam and it's clearly mentioned that it's the religious obligation of a woman to obey her husband else the husband is entitled to punish her.

7. Legal Requirements of Marriage

The legal requirements of a Muslim Marriage are Ijab (Proposal), Qubul (Acceptance), Wilayat (Guardianship), Wakalat (Representation), and Gawahi (Witness).

Wilayat (Guardianship):

Women in Shafi and Shia schools of law are not allowed to marry by themselves without the consent of guardians but men of all schools of law are allowed for the same.

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This again subordinates women to men as they are being controlled by men.

Gawahi (Witness):

Witness needed for marriage is two males or one male and two females. (ibid, 4)

This signifies the hierarchy assigned to women as subordinate to men. This is against the general or moral principle of equality and gender equality in particular since it was evident from these acts that they considered one male as equal to two females. Moreover, marriage can occur even without female witnesses, thus disregarding them compared to men.

8. Maintenance

Under Muslim Personal Law a woman is not entitled to get maintenance from her husband except for the “iddat” period. Here it's unfair to omit the Shah Bano case where Shah Bano a 62-year-old Muslim woman, a mother of five, from Indore(Madhya Pradesh) was divorced by her husband Muhammed Ahmed Khan without her consent through triple talaq which was applicable then.

In 1985, Shah Bano moved to the Supreme Court for seeking maintenance under section 125 of the Code of Criminal Procedure when her husband divorced her after 40 years of marriage by giving triple talaq and denied her regular maintenance. The Supreme Court gave the verdict in favor of Shah Bano by applying section 125 of the Indian Criminal Code and it is applied to all citizens irrespective of religion.

On the other hand, Rajiv Gandhi Government was not satisfied with the court decision; instead of supporting it, the government enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986 to nullify the Supreme Court judgment in the Shah Bano Case and let the Muslim Personal Law prevails in a divorce matter. In this act, it was mentioned that Muslim woman has right for maintenance only for three months after the divorce i.e. iddat, and then shifted her maintenance to her relatives or Wakf Board. (CUSB, n.d)

9. Property Inheritance

Even when the Muslim law doesn't make any distinction between men and women on the right

to inherit the property of the ancestor, the quantum of share of inheritance of the same is a clear manifestation of gender disparity that prevails in Sharia. It is found that women inherit only half the share inherited by men or in other words a man gets twice the share of his female counterpart. (ibid, 10)

2. Sikhs

With a total population of around 20.8 million, the Sikhs are the third-largest religious minority (after Muslims and Christians) group in India. According to section 9(1) of the Minorities Act of 1992, Sikhs are one of the minority communities in India other than Muslims, Christians, Buddhists, and Zoroastrians (Jodhka, n.d., 602).

Sikhs are not Hindus, however, they are subject to Hindu Personal Law under the Indian Constitution. The argument given in favor of putting Sikhs under Hindu personal law is that the Hindu community has always been a recruitment ground for Sikhs. These Guru (Sikhs) followers had continued with Hindus' customs and traditions in their social and cultural affairs. As a result, it was only natural that Hindu Law continued to apply to them. But from the past few decades, the Sikh rhetoric has changed significantly highlighting the fact that Hindu laws are age-old laws framed centuries ago, whereas the Sikh religion is the most modern religion whose doctrine is based on the concept of human rights and rationality. The two rhetorics seem to be internally incompatible with each other and beyond the scope of this paper.

‘Dharmashastra’ is the basis of Hindu law along with other sources like Vedas, Smritis, Shrutis, etc. The Hindu personal laws have undergone major reforms over time, to curb the discrimination between men and women and to save it from being outdated. The laws in the areas of marriage, adoption, matrimonial property, maintenance, widows’ property reinforce traditional patriarchal attitudes towards women and are oppressive.

Marriage and Divorce Laws

The old Hindu Law segregated women in all regards. The marriage laws were not equivalent for people. Vedas portray the concept of Hindu Marriage as a lifelong commitment. It is characterized as an association of "bones with bones, tissue with tissue, and skin with skin, in which the couple merges into one individual.

Hindu marriage is a sanskara or a Sacrament. It is insoluble in the sense, the woman can't request another spouse, regardless of how remorseless, lush, feeble, inconsiderate or otherwise he is. It is interminable and proceeds for life as in she can't take another spouse even after his demise. A couple becomes one individual in the sense she can't have any independence of her own. Yet, the spouse could go into the holy crease of marriage quite a few times because limitless polygamy was allowed under Hindu law before sanctioning the Hindu Marriage Act, 1955.

The Hindu Marriage Act, 1955 has taken out these aberrations generally. It has made monogamy the standard for the two people. A woman can break up her marriage and openly go into another marriage as per law. The Hindu Marriage Act, 1955 has identified the justification for separate. Segment 5 of the Hindu Marriage Act, 1955 sets out the conditions for marriage. It states that both the parties to the marriage should have the capacity to give consent to the marriage. Section 12 of the Act says assuming the assent was obtained violently or fraudulently, the marriage is voidable (Jain, 2018, pp 3-5). On the off chance that the assent isn't gotten in any way, it won't influence the legitimacy of the marriage. This applies both to the spouse and the wife. In any

case, what occurs in the male prevailing society is that alone the assent of the man is obtained, and the assent of the young woman is overlooked. The boy may be older than her, absolutely not suitable for her but without taking her consent the marriage takes place. However, on this ground marriage cannot be dissolved. She has to bring it under the grounds for dissolution of marriage provided under the Hindu Marriage Act, 1955, otherwise, dissolution of marriage is not possible. On the off chance that the marriage was solemnized without her assent or against her desires, she keeps on being in the marriage dreading society only because of family pressure.

Property Rights of Women

There were various schools of Hindu law before codification. Under these schools of law, just coparceners are the proprietors of the joint family property. Females couldn't be coparceners and consequently had no property rights. It was in 1937, the Hindu Women's Right to Property Act was passed. It gave property rights to women. However, it didn't grant her absolute control over the property. In 1956, The Hindu Succession Act was passed according to which any property owned by a woman is her absolute property, and she is allowed complete control over it, allowing her to deal with it and dispose of it as she sees fit. Mother, spouse, and the girl child were made Class-I beneficiaries. The idea of coparceners remained the same, with a son being able to be a coparcener and a daughter being unable to be a coparcener. Even after the passing of the Hindu progression Act, 1956, females were not kept comparable to their male partners. Yet, the Hindu Succession (Amendment) Act, 2005 has made a drastic change. Presently the daughter has similar rights in the coparcenary property as that of a son. But even after this rectification, there is a chance that women's property rights will be denied. Since only male children are considered qualified for property in a male-dominated society. The male coparcener who has the power to dispose of his property by executing a will may dispose of the property in favor of his sons, to avoid the property going to his daughter. Without keeping a check on the testamentary limit of Hindu males, the Hindu progression Amendment Act, 2005 may not fill its actual need.

Matrimonial Property

It's anything but an unwritten standard in Indian culture that dealing with the family and children is the obligation of ladies. A man can bring in cash just with the help given by his significant other. Just when she deals with the family, the man/husband can focus on monetary development. However, this commitment of the spouse is never mulled over. Whatever property is bought by the couple together, by their normal exertion, is by and large bought in the name of the husband. Then, at that point, the property belongs only to the husband. On the off chance that for reasons unknown, the marriage breaks, she needs to ask her better half for upkeep. In India, we don't have any law identifying wedding property as it exists in unfamiliar general sets of laws, where the interests of the ladies are secured.

Law of Adoption

The Shastric Hindu Law of appropriation contrasted starting with one school then onto the next. However, the Hindu Adoption and Maintenance Act, 1956 presented consistency in the law of appropriation among Hindus. Under the Shastric Hindu Law, a Hindu woman was allowed to adopt a kid just under rare circumstances. Her entitlement to adopt a child was extremely restricted. Although under the Hindu Adoption and Maintenance Act, 1956 the right of women to adopt a child is perceived, discrimination persists. As indicated by the Hindu Adoption and Maintenance Act, 1956, a wedded man can adopt however a wedded lady can't adopt during the means of the marriage. Presently this difference has been taken out by the Personal Laws Amendment Act, 2010.

3. Christian Personal Law

Christianity is India's third-largest religion after Hinduism and Islam. The "canon law of the catholic church" is the system of laws and legal principles made and enforced by the hierarchical

authorities of the Catholic Church to regulate, order, and direct its external activities of Catholics towards the mission of the church. Christian personal laws are derived from the “canon law”.

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Indian Christians have always shown their stand in equality between men and women. The code of law or “The canon law” is gender-neutral and non-discriminative in nature. Despite the codified law, within the religion of Christianity, various dimensions are discriminative for women. By overprotection of the minority culture customs, it enforces the dwindling of women within the community. The biblical version of the discrimination towards women is given below.

The patriarchal elements in Christianity will be addressed under the five symbols of **anthropology, sin and grace, God, Christ, and the Church.**

Anthropology

"But I want you to understand that Christ is the head of every man, and the husband is the head of his wife and God is the head of Christ" (1 Cor. 11:3, NRS). It lays out a cosmic hierarchical order of headship of God over Christ, Christ over the male human, and the male human over the female human and as the basis for his argument that the woman should cover her head, but the male should not cover his head. *"For a man ought not to have his head veiled, since he is the image and reflection of God; but the woman is the reflection of man" (1 Cor. 11:7).* "Man was not made from woman but woman from man. Neither was man created for the sake of woman, but woman for the sake of man. For this reason, a woman should have a symbol of authority on her head (1 Cor. 11:8-9). *"Wives obey your husbands, slaves obey your masters, and children obey your parents"* becomes a theme in the later strata of the New Testament, repeated in several epistles, such as Ephesians 5 and 6, Colossians 3, and 1 Peter 2-3. The repetition of these demands testifies to the extent to which traditional power relations in the family had been challenged by an incipient liberationist movement in early Christianity.

The first epistle to Timothy seeks to give the final basis for women's subordination in the church

and to refute any idea that this subordination had been overcome in Christ. Women are said to have been both created second after the male and also to have been guilty of originating humanity's fall into sin. *"For Adam was formed first and then Eve, and Adam was not deceived,*

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but the woman was deceived and became the transgressor" (1 Tim. 2:13-14). This locates women both inherently secondary in the creation and also as punished for text locates initiating the fall into sin. The consequences of this status are made clear: Women are to exercise no authority in the church. Their task is to bear children. *"Let a woman learn silence in full submission. I permit no women to teach or to a man. She is to keep silent...Yet she will be saved through childbearing, provided they continue in faith, love, and holiness with modesty"* (1 Tim 2:12,15). A similar passage was inserted into Paul's first epistle to the Corinthians by a later hand: *"As in all text was the churches of saints, women should keep silence in the churches. For they are not permitted to speak but should be subordinate. If there is anything they desire to know, let them ask their husbands at home. For it is shameful for a woman to speak in church"* (1 Cor. 14: 34-35). Christianity was committed from its beginnings to women's capacity to be redeemed and to be baptized. As a female, even in the original creation in paradise, a woman was created to be subject to the male in her sexual roles as wife and child-bearer.

Today, the committees (The Parish Assembly) formed in the church to make the important decisions have little or no representation for women. Men are the only ones, composed in the committee and given the powers of decision-making. Yet it is seen as normal and legit. Women are subordinated under these biblical verses. While men are given high positions and duties in the church, women are given meager duties like decorating the church, cleaning, being in the choir, teaching Christianity to children, etc.

Sin and Grace

"Women are said to be both second in nature and first in sin" (1 Timothy 2:13-14). Women are not permitted to exercise public leadership in society or the church. Luther and Calvin also worsened the early Christian tradition by denying that women can exercise the power prophecy.

They asserted that although this was allowed women in the New Testament period as a special dispensation, it was not continued in later Christianity. This view departs from the patristic and medieval views that denied women priesthood but allowed their role as prophetesses, on the grounds that this is God's power working in them, not their own power. Female subordination to the male is a matter of social order decreed by God to establish proper relations of authority

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between genders and also social classes, not a matter of inherent inferiority of some humans to others. Women accept their subordination as obedience to the divinely established social order, not because of a defective human nature. This western Christian tradition of female subjugation in the original order of creation was worsened by the view of woman's primacy in sin. "*Women are said to be both second in nature and first in sin*" (1 Timothy 2:13-14). If she behaved in an insubordinate manner against both God and her male head, she is punished by being placed under a coercive subjugation to her husband, and her pains in childbirth are worsened.

God

The patriarchal interpretation of God reinforces Christian doctrines of creation, sin, and salvation. God is portrayed as a patriarchal divine male who created the world as a system of rule of men over women, masters over slaves, and rulers over subjects. Dominant Christianity sees the patriarchal male metaphors for God as appropriate to express God's nature. God rules with sovereign authority to dominate and punish. Rationality and ruling power are seen as male qualities to be exercised by males and inappropriate for women. This view of God reinforces the view that female metaphors are inappropriate for God. St. Augustine follows this tradition in identifying Sapientia or wisdom as the higher or male part of the mind and science or sense knowledge as the female lower part of the mind. He argues that divine wisdom, although grammatically female and imaged as a female in the Biblical tradition, is male. Gender images: cannot be used interchangeably for God, because God's nature is purely spiritual and intellectual. This must be imaged exclusively as male.

Christ

The doctrine of Christ in Christianity reinforces both masculines, if not physically male, and also of masculinity as normative humanity. The divinity of Christ was identified as male qualities. According to Aquinas Christ could only be incarnated in a male because only the male represents normative and complete humanity. Women are incomplete or misbegotten beings with incomplete humanness, lacking full bodily power, and intellectual capacity. Thus, Christ's human or bodily nature must be male. A female Christ, it is argued, would not have been listened to,

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would not have had authority. Christ has to appear as a human male to be historically and socially influential.

The Church

This discussion of the normative masculinity of both the divinity and the humanity of Christ also implies a close relation of a masculine Christology with normative masculine priesthood or ministry in the church. Women are not only barred from priesthood juridically, but by nature, they cannot validly receive the sacrament of ordination. Their intrinsic defectiveness means they cannot exemplify excellence or exercise sovereignty. This view continues in Roman Catholicism today. The Vatican claimed that women cannot be ordained because the priest represents Christ. Maleness is intrinsic to Christ's nature and so to represent Christ the priest must be male. The Thomistic view is that only males are fully human, that Christ has to be male to be fully human, and that the priest must be male to represent Christ. These churches continue to try to balance these conflicts with difficulty. Thus the idea that women cannot or should not represent the public voice of God and Christ in the church remains potent in much of Christianity today.

Nunhood

A community of women, typically living under vows of poverty, chastity, and obedience in the enclosure of a monastery. This is what traditionally it has been. They had no specific roles or duties to be performed like in the priesthood. But today several nuns work in government

institutions as teachers. Earlier in the priesthood, the only duty to be performed were sacred rituals of the religion. But today several priests work as teachers and hold high positions in educational institutions. In nunhood, they are made to take vows of poverty before they are ordained so that they won't behold beyond a certain amount of wealth. Even though priests are seen as representations of Jesus on earth, they are not made to take this vow during their ordination. Only the strictest Catholic institutes require priests to take a vow of poverty. While nuns are under keen observation whether they hand over their remuneration for the work they do,

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priests have no such records and enjoy the plenties they get for the same work done. This is very unprofessional and portrays the patriarchal realm within the religion.

Way Forward

Contemporary India is a multicultural society that is pluralistic concerning religious law. Different groups in India have separate religious personal laws (RPLs), which India's secular state is reluctant to reform. However, these laws have generated debate about the meaning of gender equality in India, all RPLs to various extents give women fewer rights than men. Though the RPLs allow for inclusiveness in religion, the history of these laws in India shows that they have been used selectively as a tool of governance and often to the disadvantage of women. In the past, feminists argued that differences of identity such as race, ethnicity, and sexuality should be recognized and accounted for in the law. But in the case of India's cultural pluralism, the religious difference comes into conflict with gender equality.

Article 44 under the Directive Principles of State Policy states, "the state shall endeavor to secure for the citizens a uniform civil code throughout the territory of India ". It brings in the concept of one country, one rule. One of the most contentious political issues in postcolonial India is the unfulfilled project of a 'uniform civil code' (UCC).

The Uniform Civil Code places a set of laws to govern personal matters of all citizens irrespective of religion is perhaps the need of the hour and ensures that their fundamental and Constitutional rights are protected. It is the common set of governing rules for all citizens of India which replaces the personal laws (based on religious scriptures and customs). These laws are famous for public law and cover marriage, divorce, inheritance, adoption, and maintenance. Goa is the only state which has common family law and the 1954 Special Marriage Act allows any citizen to marry outside the realm of any special religious personal law.

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Since UCC is incorporated in DPSP they are neither enforceable in the court nor have any political discrepancy been able to go beyond it because minorities mainly Muslims felt that their laws are violated or abrogated by it. In 1985, the Supreme Court for the first time directed the Parliament to frame a UCC during the Shah Bano case.

Though the proposal of the 'Uniform Civil Code' is condemned as unconstitutional as it goes against an individual's freedom (Article 25 of the Constitution), it is the need of the hour, so far India's larger societal interest is concerned. A Common Civil Code would put in place a set of laws to govern the personal matters of all citizens irrespective of religion. In fact, it is the cornerstone of true secularism. Such a progressive reform would not only help end discrimination against women on religious grounds but also strengthen the secular fabric of the country and promote unity. There is a need to reform our social system, which is full of inequities, discriminations, and other things which conflict with our Fundamental Rights. As we know that there is a Criminal Code that applies to all people irrespective of religion, caste, tribe and domicile in the country but there is no similar code related to divorce and succession which are governed by Personal laws. It is also expected that UCC will successfully deal with the problem of Honour Killing in India which is being practiced by extra-constitutional bodies like Khap Panchayats. We have also seen the success of the contentious bill to ban instant triple talaq which is now punishable.

Uniform Civil Code in Goa

The adoption of the Portuguese Civil Code after independence led to the establishment of UCC in Goa. According to this code, all the assets owned and acquired by the married couples have equal and joint ownership of the same. Even the parents are required to inherit at least half of their property to their children. Moreover, as a result of UCC, polygamy is not allowed for a Muslim couple who has registered their marriage in Goa unlike the rest of the country.

Merits of Uniform Civil Code

The Uniform Civil Code would lead to the establishment of an equal society by bringing equal status to every Indian citizen irrespective of religion, class, caste, race in general, and gender equality in particular. In correspondence with what this paper has tried to prove, UCC would do

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away with all the personal laws which are inherently patriarchal and would bring an end to the legitimate gender disparity existing through these community laws. The Uniform Civil Code is a step for national integration since the criminal laws (The Criminal Procedure Code applies to every citizen irrespective of religion) and the rest of the civil laws except personal laws are the same for every citizen.

Demerits of Uniform Civil Code

It's a task for the Indian government to come up with a set of common and uniform rules for all, with India being a diverse and plural nation. The UCC is often perceived as an encroachment on the rights and freedom (personal matters) of the minority communities. Moreover, UCC is considered to contradict the right to freedom of religion bestowed by article 25 and thus considered as internally inconsistent. Thus, the establishment of UCC would reduce the scope of article 25 making it a nightmare for the minorities. Another controversial element with the implementation of UCC is it being an agenda of the ruling BJP government thus making skepticisms in the minds of the minorities that it would lead to Hindutva hegemony. Thus even when a lot of people including some minority communities support the implementation of UCC, they're against the BJP implementing the same because of the insecurity they have, as mentioned above.

Concerning the above-mentioned apprehensions, even article 25 is subjected to reasonable restrictions as nothing is absolute in the Indian Constitution. It is argued that even the right to profess one's religion shouldn't contradict the elements of liberty and human rights with India being a liberal democracy. The skepticism on BJP implementing UCC would lead to a Hindutva hegemony is a claim and any unethical move by any government which goes against the spirit of the Constitution can always be challenged in the court and with the existence of different organs of the government entrusted with the task of checks and balance makes it difficult for any government to go against the spirit of the constitution.

In short, bringing in UCC might be a sensitive and tough task but not impossible. (ibid, 10)

Conclusion

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Multiculturalism in India is ensured through personal laws, which offer every religion a kind of security to practice their own religion without being influenced by the dominant religion.

However, as we delve deeper into these laws, we discover that Muslim, Christian, and other minority personal laws are highly discriminative towards women which are not justified on the grounds of gender equality. These personal laws are legally protected which makes religions more patriarchal and enables them to claim authority over women. As a result, it is important to provide women with essential religious protection, which can be provided in India through the effective implementation of the Uniform Civil Code (UCC). Through this paper we concluded that the Uniform Civil Code can grant women more freedom and equal rights within their own community but implementing the Uniform Civil Code is difficult since it may put minority religions at risk indirectly.

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