

Beyond Personal Laws

Creating a 'Time and Space' for the Uniform Civil Code

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Successive governments have sided with the minority conservative opinion, which on important occasions has reframed and reconstituted the identity of the community only as a religious minority. This top-down construction of identity has had an important connotation in reference to the identity structure of Indian Muslims, as religious identity continued to occupy a place of priority and as a result came to be asserted more often. Insofar as Muslims continue to manifest personal laws as an indispensable part of their socio-religious identity and as a part of their right to live as a religious minority, an abrupt transition from personal laws to the Uniform Civil Code, politically, remains inexpedient.

The Muslim community in the postcolonial Indian state has arguably asserted a minority identity with a tinge of separateness. This separateness has remained the quintessential result of the external definition of Muslim identity, with an emphasis on religious aspects (Bader 2020). However, Muslim identity in itself has emerged as a resultant phenomenon of "top-down construction of identity as a minority identity through the actions and policies of the state" and the bottom-up construction of identity as "other" at the societal level through the competing claims advanced in response to other identity claims (Roy 2007). However, this construction does not emerge as the product of any abrupt eruption, but has evolved over time in a contingent and cumulative manner, reinscribed and reiterated at different periods of time (Williams 2012). The political developments and changes in political environment which include a renewed presence of religion in the political sphere, in the form of right-wing assertions and the often close relationship between Hindu revivalism and the Congress in the past and Hindu assertion and the Bharatiya Janata Party (BJP) contemporaneously, has manifested an overarching capacity to make for a difficult relationship between Muslims and Indian nationalism. More so, with the emergence of BJP on the political scene, and the right-wing assertions that have followed, carried an inherent tendency to shape an antagonistic Muslim political identity. The identity composition that has been constructed with religious identity occupying a priority, thus, has not experienced much restructuring, but has instead been reinforced by political developments in the subsequent years.

This paper forms an attempt to understand how this construction has been reinforced and crystallised on successive occasions, while personal laws were being considered an indispensable aspect of their group identity. As has been argued that Muslim identity has been externally defined with an emphasis on religious aspects, religious identity continues to occupy a place of priority in the discrete identity structure of the community (generally called as salience hierarchy). The argument follows then, that unless the identity structure is restructured and religious identity moves down the ladder, the introduction of the Uniform Civil Code (UCC) carries an inherent threat of major resentment from the Muslim community, since members may consider it a threat to their religious and minority identity.

The paper first focuses briefly on how the personal laws came to be constituted as an important instrument that both the Hindu and Muslim communities and how it promoted the

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