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INTRODUCTION
CHAPTER—I

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Let us forget 'I am a Hindu, you are a Muslim'..... Let us think 'I' and 'mine' in a common Indian nationality.
— Mahatma Gandhi

India is a unique country not only in terms of its geography but also in terms of its social scenario. It is a land of various religions and different cultures. Diversity in social life is important aspect of the Indian society. The Indian culture emphasises the spirit of unity in diversity but, unfortunately, this spirit of cultural unity has not helped to bring political unity in India. If we look back to the history we find that India as a State was divided in smaller political entities which ultimately brought foreign subjugation for a long period of time. In 1947, India achieved independence but again at the cost of partition of the country. In the light of the historical experience the goal of unity and integrity of the country had become the primary consideration for framers of the Constitution of India.

On 26th November, 1949, We the People of India through our Constituent Assembly solemnly resolved to secure to all its citizens 'Justice', 'Liberty', 'Equality' and 'Fraternity'. In order to achieve these ideals, the concepts of Fundamental Rights and the Directive Principles of State Policy were put in the Chapter III and IV of the Constitution of India. The ideals incorporated in the Fundamental Right Chapter were given immediate importance, for which one could approach the Courts And the ideas which were seemed difficult to achieve straightaway were put in the Chapter IV and termed as Directive Principles of State Policy as the future goals for the Indian State.
These principles were declared to be the fundamental in the Governance of our country. The literal interpretation of Art.37 makes it very clear that the law-making organ of the constitution must apply these principles in making laws, and if political considerations dictate them to work otherwise it will be illegal and unconstitutional on their part.

The founding Fathers, adopted a unique federal system having a strong centre. Founding fathers, again saw a Uniform Civil Code (here in after referred as UCC) as an important means to achieve national integration. In the beginning, the efforts were made to put UCC in Fundamental Right Chapter, but, in view of the conflicting opinion among the framers of the Constitute it was put in the Directive Principles chapter. But the goal was to define the U.C.C. anew in the light of new experiences and terms of the integratives factors of the nation and new needs of the modern society.

The religion has been a dominating factor in Indian society. On one hand the religions have brought the spiritual upliftment and peace of mind, on the other hand the religious practices have perpetuated many social evils like untouchability, Suttee, Devadasi etc. The religion and custom based personal laws of different communities have been a major cause for this discrimination. The progressive as well as women's movement has seen the UCC as an important means to achieve secular, progressive, and non-discriminatory personal laws in India. The feminist thinkers have always seen the personal laws as an important source for women exploitation. That is why the feminists in India have highlighted the need of a UCC to achieve gender justice. The
objectives of the preamble of the constitution are both, nondiscriminatory in matters of religion and has instrument of the removal and suppression of the social evils which have been the Hall-marks of our society for Centuries. The aim of our nation became to deal with the individual as a citizen irrespective of his religion Art 44 runs in this direction.

India has never been considered either a theocratic or an anti-religion State. It is clearly supported by the core provisions of the Indian Constitution which remained unchanged since their inception. The Indian Constitution though guarantees freedom of religion, yet it reserves the right of the state not only to regulate this freedom but also to bring social reform. Again, the State has been given the power to regulate or restrict the secular activities associated with religious practices. In other words, the Indian Constitution tries to make a balance between religious freedom and the concept of secularism. The Insertion of the word Secular in the Constitution in 1976 and the Bommai ruling raising secularism concept to the status of basic features of the Constitution have highlighted the cumulative effect of the Constitution. The nature of Indian Secularism is neither anti-religion nor does it create a wall of separation between the State and religion. Again it is not based on total neutrality towards religion. It is based on the Indian concept of Sarva-Dharma-Sambhava i.e. equal respect far all religion. However, the application of secularism has not been able to serve its purpose. It has not been able to achieve Constitutional goal of fraternity among "We the people of India". The secularism has not been able to withdraw secular matters from the regime of religion and bring them with the domain of
law even in those matters which have direct bearing on the Fundamental Rights of the citizens. In free India though the State did take some important steps to regulate secular practices associated with the Hindu religion and accordingly brought significant changes in the Hindu personal law but it failed to do so in respect of other religious Communities. The State has not been able to enact a secular civil code which might have helped to bring a secular ethos in the Indian society. We would like to Emphasise that is was the mixture of religion with politics that resulted the partition of this country. Art 44 of our constitution imposes a positive duty on the state to free many aspects of our life from the control of dogmas and evils of religious practices. This may be done without interfering in the right to conscience and religious. We are of the view that religions sentiments must be honoured but this has to be remembered that our founding fathers were not ready to accept what the many religion had to say about religious matters. They were conscious of irrationality of many religious practices U.C.C. was conceived to free the individual from the clutches of the religious supermen.

We must not forget that the law of gifts and Mohammedan Law of Evidence have been replaced by common law principles of equity and Indian Evidence Act. The enactment of U.C.C. is destined to change the social conditions of men in our society and will ensure the effect of law on men. We have emphasised here that the relation of law and religion must be viewed in the modern concept of society of 21 first century and tenents of every religion must be interpreted in this direction. The Govt. of India has done the rights thing by introducing the changes in Hindu.
succession Act in which the women is entitled to an equal share as the male in her father property. This will no doubt empower the women to have their just property rights. This will also arouse the awareness among the women folk. However taking the minorities as floating votes the Govt. has excluded them from the purview of the similar Act. This is again the wrecking of the constitutional mores.

At times, in India the question of relevancy of the UCC has been raised. Apart from the Constituent Assembly debates this question was highlighted when the Hindu personal laws were radically reformed during the mid 1950s. The demand was made by the opponents to bring all personal law within the reform process. The question of UCC became topic of discussion in 1970 when attempts were made to introduce an Indian Adoption Bill on secular lines. The judicial pronouncements have brought the question of UCC to the fore. In the light of these developments the questions arise' Why UCC is relevant? Is there immediate need of it? Whether incorporation of UCC in Article 44 of Constitution was self a mistake. UCC has been regarded as an important means to achieve Constitutional objectives but, at the same time there has been some genuine and practical problems for its adoption. There has been apprehension, confusion, fear and distrust within the community and between the communities. With the passing of each year the problem to enact a UCC is becoming more difficult in comparison to 1950 s. Now, the Indian society is less prepared to sacrifice their vested interests which is necessary condition for adoption of a UCC. In order to remove the fear and distrust relating the UCC There is a great need to educate the people. The right
thinking people in general and academics in particular have constitutional duty to educate the public opinion for adopting UCC.

The Constitutional objectives can not be achieved unless we reform our laws. The codification of laws is regarded as an important means of legal reform. In India the codification in the field of criminal and commercial laws was done by the British rulers. British maintained a policy of non-interference in religious matters. They did not attempt to codify personal laws in view of their declared policy of "Divide and Rule". However, the British rulers brought minor reforms in personal laws to satisfy certain progressive but assertive sections of the society, but, they failed to secularise the personal laws by way of codification. In free India, the successive governments have also adopted the same approach. The Indian rulers also followed policy of non-interference in religious matters. There has been no significant legislative attempt to secularise the personal laws. On the contrary through legislation, they negated progressive and bold attempts of judiciary to bring reform in personal laws. That is why the politicians and so called secularists have described the judgments of the Supreme Court in this regard as mere obiterdicta and not as command or ratio decidendi. This attitude has to be changed if we want to bring constitutionalism in its true perspective. It is worthwhile to mention in this connection that Indian rulers have taken into account the Vested opposition of a section of the minorities to restrict the initiatives of bringing uniformity in personal laws. The enactment of the Muslim women protection Act. 1986 is the glaring exam-
The present study has been made having the following objectives:

(a) To emphasise and reiterate the importance and urgency for adopting a UCC.

(b) To remove the apprehensions and misgivings of the people and particularly the minorities and to evolve a consensus.

(c) To promote public demand for a UCC in general and legislative opinion in particular.

(d) To analyse the constraints to enact a UCC and to suggest strategies to achieve the UCC in India.

(e) To solicit the opinions of the various sections of the society through interviews and questionnaires, in order to form the consensual opinion in this regard.

The methodology, adopted for this research work is both doctrinal and behavioural. We have distributed the questionnaires among lawyers and academics in law, Sociologists, Social workers and other persons of the field of Social Sciences, Field workers, Social Reformers and other Interested sections of the society in these fields. The responses of the respondents have been given and analysed in the eighth chapter.

In order to give a comprehensive views of the position of UCC under the Constitution of India the present research work has been divided under Nine chapters.
Chapter One—Introduces the subject.

Chapter Two—provides conceptual analysis and historical background of the UCC. In the historical background we have detail with the history of personal laws, origin of the idea of UCC in India and the Constituent Assembly debate on the UCC.

Chapter Three—deals with the Constitutional provisions relating to UCC. Here the relation of UCC with the Fundamental Right, Directive principles and Fundamental Duties has been discussed.

Chapter Four—concentrates on the objectives or purposes of the UCC in India. This Chapter critically analyses the potential of the UCC to achieve (a) unity and integrity of India, (b) equality and gender justice, (c) clarity and simplicity of civil laws and (d) secularism in India.

Chapter Five—deals with the objections and constraint on the enactment of the UCC.

In this chapter the efforts have been made to discuss critically all the possible objections relating to religion, culture immutability, undue interference of the State and the appropriate time of enactment of UCC etc. Apart from this, few major constraints have been briefly highlighted.

Chapter Six—reviews the progress made to achieve the UCC in India. In this connection secular enactments such as the Special Marriage Act, the Hindu Code of 1955-56. The Dowry Act and the Medical Termination of Pregnancy Act along with the Indian Adoption Bill, 1976, have been briefly analysed and newly introduced bill
of 2004 with regard to amendment to Hindu Succession Act has been referred to.

Chapter Seven—deals with the judicial Padyatra towards the UCC in India. This chapter has been broadly divided into three sections. In the first section the position before the shah Bano has been stated and Shah Bano case as well as post Shah Bano scenario up to present day has been analysed in the second and third section.

Chapter Eight—Present the jurimetrics Approach to the Problem : We have made it clear that the simple constitutional mandate has become the target of political spoil system and store house of Vote Bank. The classical method of the research is not producing the desired result. Thus our Jurisprudence has developed the technique of Jurimetrics and Judicial behaviourism. We have adopted this rich methodology to reach a coneret result. The technique of Jurimetrics. Signifies the scientific investigation of legal problems by the use of electronic computers and symboliclogic. The inter subjectivity of the law has been emphasised this Jurimetrics norms develop a sociological and psychological theory of law and tell us what is the impact of law on the men and of the men on law. This can only be done through adopting this methodology. In recent year the jurists have started taking the help of behavioural science this approach integrates the sociological jurisprudence with political science and the mans of predicting decision and technique of seeking the help of group psychology we, therefore propose to give a psychological and Social Touch to our problem of codification of U.C.C. by introducing questionnaire. The responses of the responets of various sections
of society of Varanasi is fully analysed and sociological method of data collection and seeking a definite result is ensured. In this method. We have interviewed lawyers, academicians, social workers, intellgentia of many fields and the social reformers we have excluded the politicians because of their biased attitude with regard to our problem. We have also tried our best to solicit the opinions of the leading personalities of the "Ganga-Jumuni" culture of our city the result is startling.

The critical legal writing movements in western countries has resulted in reforming many laws and moulding the public opinions that is why we have adopted this method of collecting views of many scholars of there fields so that a balanced and modernised opinion may be had which may in long tern change the attitude of the opponents of the codification of U.C.C.

Chapter Nine—relates with the concluding observations. This Chapter not only summarises the broad conclusions of the present study but also tries to advance few suggestions to achieve a U.C.C. in Indian circumstances.