CHAPTER - V

OBJECTIONS AND CONSTRAINTS ON
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The objections, difficulties and constraints relating to the UCC are as old as the idea of the UCC itself. Since this idea involves the codification of personal laws and such laws often mingle with religion and culture, therefore, it has been under attack. Our effort here would be to discuss the main objection, difficulties as well as the causes of non-implementation of the UCC in India. We may now discuss the objection first.

[A] OBJECTIONS RELATING TO THE UNIFORM CIVIL CODE

Being a controversial idea the objections relating to the UCC have come from one than more quarter.1 In India objections to the enactment of a UCC have been raised mainly by the minorities and especially the largest minority community, i.e., the Muslim community. The objections raised by the opponents may be discussed under the following heads.

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1. One Social thinker has stated that those opposed to having a U.C.C. can be divided into three category. The first category comprises fundamentalist and communalist Muslims. The second category comprises Muslims who are neither communalist nor fundamentalist, it incudes the Muslim intelligentsia and for them it is more a question of identity and security. The last category, comprises non-Muslims who also feel that a U.C.C. should not be enacted in hury. For details See: Asghar Ali Engineer, The Right of women in Islam, 1992, PP. 167-169.
(1) **THE UCC IS AGAINST THE FREEDOM OF RELIGION**

In our earlier discussion relating to historical development we have seen that the codification of laws in India was started during the British period. In this period most of the civil and criminal laws were codified, but, personal laws were not subjected to reform as was done in case of criminal or non personal civil laws. The reasons behind this policy was that British did not want to infuriate the Indian religions society which considered the personal laws as an integral part of their religion. The conflict between the UCC and the religion was surfaced in the Constituent Assembly Debate and the opposite views were expressed.

The Muslim members opposed idea of UCC by saying that it would violate their religions freedom. On the other hand the supporters of the UCC saw it as a means to achieve equality, gender justice and unity of the nation. They argued that personal laws are not integral part of religion and if it is so the State has power to regulate the religions freedom. In our earlier discussion we have analysed in detail the scope of freedom of religion under the Indian Constitution and its relation with Article 44 which relates with UCC.

The Constitutional conflict, between freedom of religion and requirement to have a UCC, has not been resolved even after fifty years of India's independence. It seems that the nation is as divided as it was before 15 August 1947; The opponents of the UCC still take shelter of religions freedom. However, in support of the idea of the UCC the following submissions may be advanced:
(1) Though traditionally religion has socio-religious aspects but under the progressive thinking it has been said that it must be confined to individual faith and beliefs and one's personal relation with the God must be separated from other aspects of social life.

(2) Though the Indian Constitution provides fundamental right to freedom of religion but the same constitutional provision i.e. Article 25 expressly saves

(a) The laws relating to secular activity which may be associated with religions freedom;

(b) The laws providing for social welfare and reform. It has been rightly argued that the personal laws of various communities may be amended or subjected to change under the said regulatory power of the State. The traditional orthodox Indian society can not be reformed unless State regulates the personal laws. At times, the State has shown the courage to regulate the religious freedom but because of the political considerations nothing was done to achieve the constitutional goal of UCC in India. Constitutionally, secularism is now the "basic structure" and the State must start to secularise the personal laws in order to achieve a preferred constitutional objective.

(c) Most of the European countries have their uniform civil code and every citizen including the minorities are subject to the same sets of laws. No exceptions are made and no protest are heard. In such countries the uniform laws in civil matters are not considered tyrannical or oppressive by the
minorities. In comparison to European countries our position is totally different. Though we made our Constitution on secular principles and adopted a UCC as a future constitutional goal, still we have various discriminatory, unprogressive and dividing religious personal laws. We are one of the few existing orthodox nations where even an attempt to achieve gender justice has been dubbed as an attack on a particular religion. Many countries of the world including Islamic nations have accepted progressive laws but in India we have been unable to secularise our personal laws because of the resistance of religions fundamentalists.

(d) At times, it has been argued that the replacement of personal laws with a State enacted uniform family code will retard further development of religious laws and it will lower the authority and dignity of religion. In this connection it has been also argued that in a religious society like India reforms in family laws may be more effective if such reforms come by the initiative of a community itself. With reference to these kind of objections it may be submitted that no doubt many times, the great religious messengers and leaders have succeeded to reform the society by using the tool of religion. But, after the end of the life of such messengers the succeeding heirs often fail to carry the real spirit behind the religion. They also fail to impart the required interpretations, often needed in the changing time and circumstances. Because of this failure a religion looses its authority and dignity and even some times stands against the reform and progress. In the light of this development the replacement of religious personal laws by the State made UCC should not be seen as an obstruction to the further development to religious personal laws.

The second important objection against the UCC in India has been that the imposition of uniform civil laws on people will damage the cultural heritages; that forced imposition of uniformity will alienate the people from the State. In this connection it has been argued that Article 29 guarantees to every section of the citizens of India the right to conserve its languages, script or culture and since a UCC may impose a different kind of values and culture on citizens therefore, a UCC is against the constitutional protection. It has been also said that the law or the legal system is closely inter-linked with the culture of any society, therefore, the protection of culture requires that the personal laws of that society should not be interfered. It is interesting to note that the objections based on cultural rights against the UCC in India, has been raised by the minorities and especially from the Muslim Community.

The argument that the substitution of the State enacted UCC for personal law will damage the cultural identity of any section of citizen, presents not a true role of the UCC.

The expression 'culture' has not been defined in the Constitution of India but historians, sociologists and other experts have defined it. Some have defined it narrowly while others have defined it widely so as to include the whole way of life of a community and, therefore, it includes the law within its scope. In view of this

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2. Generally culture is defined as a way of Life of People in its scope it includes values, beliefs, economic activity, institutions, technologies and many other factors.
broad definition it may be submitted that culture of a community will not be damaged if one component of it, is subjected to modification or reform. Again the nature of culture has never been static and change is one of the essential properties of any culture. The law, being a part of culture, therefore, can also not be static and it requires the modification with changing social circumstances. Therefore, obsolete, or unjust laws can not be prescribed in the name of protections of culture.

Infact, undue emphasis to preserve unjust laws will affect the growth of a culture. We have already demonstrated the unequal and discriminatory nature of various personal laws which can not be preserved in the name of cultural protection.

The objections that a UCC in India may impose uniformity without appreciating the cultural modes of various religious communities and that it may lead to the alienation of such community from the State is not true. Such apprehensions are misplaced because the Indian Constitution ensures required protection under religious and cultural freedoms and a free judiciary has interpreted the Constitutional provisions to provide maximum protections to the religious and cultural minorities. Moreover, the history of parliamentary practice shows that often the laws are formulated with the consent of affected population and especially in case of minorities communities.

In order to bring a UCC in India and to protect it from unnecessary objections based on cultural protection it may be suggested that in order to remove any confusion in the Constitution, a proviso to article 29 (1) may be inserted explaining
that nothing contained in this clause shall affect the operation
of any existing law or prevent the State from making any law
advancing social welfare, reform or regulating any secular activity.

[3] THE RELIGIOUS LAWS ARE IMMUTABLE

One another important objection to the UCC in India as been
that the religious communities cannot accept a UCC because their
personal laws being inseparable part of religion, are immutable.
In other wards religious personal laws are divine and inviolable
because such laws are ordinance by God or the prophets. The
history of personal laws tells that except the said argument has
been used by most of the religious communities but, in course
of time accept the Muslim community others communities have
diluted their stands. Because of this dilution the codification of
Hindu law was done by ignoring the protests of few
fundamentalist Hindus.

So far stand of Muslim community is concerned, they are
maintaining a rigid approach. The rigid stand of Muslim
community is as old as the idea of UCC in India. In the
Constituent Assembly the most of the Muslim members opposed
the UCC by advancing argument based on immutability of
personal laws. On the other side Shri Munshi, Shri Ayyar and
Dr. Ambedkar presented a strong case in favour of the UCC. Shri
Munshi argued that nowhere in advance Muslim countries like
Turkey or Egypt the personal laws of is minority was recognised
as so sacrosanct as to prevent the enactment of a Civil Code. He
further pointed out that in India when the Shariat Act was passed
or when certain laws were passed in the Central Legislature in
the old regime the Khojas and cutchi Memons were highly dissatisfied. They then followed certain Hindu customs, for generations being converts. They did not want to conform to the Shariat, and by a legislation it was applied on them because certain Muslim members felt that Shariat should be enforced upon the whole community. The Khojas Cutchi and Cutuchi Memons most unwillingly had to submitted to it. Shri Munshi then argued:

'When you want to consolidate a community you have to take into consideration the benefit which may accrue to whole community and not to the customs of a part of it, If you will look at the countries in Europe which have a Civil Code, every one who goes there from any part of the world and every minority has to submit to the Civil Code.  

Shri Munshi was of the view that present law should be separated with the religion. He referred the proposed Hindu Law draft which was before then Legislative Assembly and said:

"if one looks at Manu and Yagnyavalkya and all the rest of them, I think most of the provision of the new Bill will run counter to their injunctions."

Shri Munshi. finally opined:

"We are in a stage where we must unify and consolidate the nation by every means without interfering with religious practices. If however the religious practices in the past have been so sacrosanct

3. VII CAD at 547.
as to cover the whole field of life, We have reached a point when we must put our foot down and say that these matters are not religion, they are purely matters for secular legislation."4

In his concluding speech Dr. Ambedkar also contested the notion of immutability of Muslim personal laws in India. In this connection he presented several practices5 as existed in India and proved that the personal law of Muslims was not rigid but it was subject to change and amendment. Dr. Ambedkar reached to the conclusion that "it is therefore no use making a categorical statement that the Muslim law has been and immutable law which they have been following from ancient times."6

4. VII CAD at 547.
5. According to Dr. Ambedkar up to 1935 the North-West Frontier province was not subjected to the Shariat Law. It followed the Hindu law in the matter of succession and in other matter, so much that it was in 1939 that the Central Legislature had to come into the field and to abrogate the application of the Hindu Law to the Muslims of the North-West Frontier Province and to apply the Shariat Law to them. That is not all. Apart from the North-West Frontier Province, up till 1937 in the rest of India, in various parts, such as the United Provinces, the Central Provinces and Bombay, the Muslims to a large extent were governed by the Hindu Law in the matter of succession. In order to bring them on the plane of uniformity with regard to the other Muslims who observed the Shariat Law, the legislature had to intervene in 1937 and to pass an enactment applying the Shariat law applied to all— not only to Hindus but also to Muslims. It is to be remembered that the Marumakkathayam law is a patriarchal form of law and not a patriarchal from of law. The Muslims, therefore, in North Malabar were up to then following the Marumakkathayam law. See, VII CAD at 551.
6. Ibid
If we analyse the argument of immutability of personal laws we find that this argument has brought many ill effects in India. It has prevented progressive interpretation and, it stands against the reform, and secularism, it makes a community blind and orthodox and finally it affects the growth of the community in a fast changing world.

If we study position of Muslim personal law in Islamic countries itself we find that such laws do not strictly adhere with the concept of immutability. The Muslim world has undergone a sea change and adopted progressive interpretation and in this way ensures the continuing development of the society. For example, polygamy has been completely prohibited in Tunisia and Turkey while it has been curbed in Egypt, Iran, Syria and Pakistan by making it permissible subject to certain conditions. Similarly the right to give unilateral and instant talak of a husband has been curtailed in most of the Muslim countries.

The history of personal laws in India presents several instances when the Muslim laws were amended to bring progressive reform within the Muslim communities. For example by enacting the Dissolution of Muslim Marriages Act, 1939 the Muslim women got certain grounds of divorce which were not available them under the traditional Muslim personal laws.

Under the Indian Constitution though religious personal laws of the minorities are given a special status but it should not become an obstruction for enactment of a UCC. In this connection the argument of immutability of personal laws should not have any place because it has potential to destroy the constitutional objectives of equality, justice, fraternity and secularism.
(4) ENHANCEMENT IN THE POWER OF THE STATE

One of the objections against the UCC has been that if the State holds power to regulate the personal affairs it will increase its power which may not be in the interest of the people. This objection is related with the nature of the 'power'. Here we may recall the famous saying-"power tends to corrupts and absolute power tends to corrupts absoletely".

So far 'power of the State' is concerned, history tells, that initially it was discovered to save the society from the exploitation of the Pope and feudalism in Europe. But, latter on the danger from power of the State was also realised and certain safeguards were developed in different legal systems. For example under the Constitution of United State of America the concept of residuary Fundamental Rights was adopted to save the citizens' freedom from the power of the State. Again the whole idea of the Human Rights had come into existence to save the freedom of the people from the oppressive power of the State. Many critics object to any increase in the power of the State but it has been difficult to determine that what should be the desired extent of the State power.7

In this respect history tells that the power of the State has been used both for oppression as well as for welfare of the people. The concepts such as democracy, rule of law, separation of power, natural justice and limited amending power of the legislature have been developed to check the possibility of misuse of the State power.

The assumption behind the idea of limited power of the State has been that a community or denomination can better regulate certain areas of their own affairs. There may be some substance in this argument but our experience, tells that in most of the societies either there is no mechanism of regulation or it has lost its effectivity. The argument that various communities should be left free to develop their personal laws, may present many ill consequences for example, they may preserve discriminatory personal laws in the name of religion and custom. The Indian experience shows that the power of the State has been used to reform the personal laws.

We may conclude by saying that there may be genuine problems or fears relating to the growing power of the State but such fears are not applicable in India. Our Constitution provides effective checks on State power and a free judiciary is the ultimate guardian of the rights of the citizen.

**5. THERE SHOULD BE NO HURRY TO ENACT A UCC**

One objection against the adoption of UCC in India has been related to the time factor. This objection is not a new and also not related to the India alone. The objection of time factor is as old as the idea of codification itself. It may be pointed out that the usual objections which English writers have made to codification are directly or indirectly based on theory of Savigny (1779-1869) Savigny successfully used, his "Volksgeist" (spirit of the people) theory to reject the French Code and the move to codification in Germany. As a result German law remained, until 1900, uncodffide until the Roman law adapted to German conditions with the injunction of certain local ideas.
One of the important objection of the Savigny was related to the time factor. Accordingly Savigny objected that the codes made in the past were the work of person who did not have a deep knowledge of the subject and that they acted in hurry. We will examine the Savigny's objections in latter part of this discussion.

In India the objections related to the appropriate time for UCC was raised in the Constituent Assembly itself. In this connection one Muslim member Shri Naziruddin Ahmad pointed out that during the 175 years of British Rule the rulers had not interfered with certain fundamental personal law and the people should not be asked at that stage of Indian society to give up such laws associated with religion.

Dealing with the time factor Shri Ahmad Submitted

The interference with these matters should be gradual and must progress with the advance of time. I have no doubt that a stage would come when the civil law would be uniform. But then that time has not yet come. We believe that the power that has been given to the State to make the civil code uniform is in advance of the time.8

8. VII CAD at 542 in the end of his speech Shri N. Ahmad cautioned : (T)he UCC is not a matter of mere idealism. It is a question of stern reality which we must not refuse to face and I believe it will lead to a considerable amount of misunderstanding and resentment amongst the various sections of the country. What the British in 175 years failed to do or was afraid to do, wait the Muslims in the course of 500 years refrained from doing, We should not give power to the State to do all at once. I submit, Sir that we should proceed not in haste but with caution, with experience, with statesmanship and with sympathy, Ibid at 543.
In the Constituent Assembly the supporters of the UCC contested this type of objection/suggestion. They advocated for adoption of UCC as soon as possible. Some of the activist supporter even tried with failure to make a UCC as a justiciable fundamental right. In view of the strong feelings as well as the practical difficulties the supporters of the UCC agreed to give reasonable time period and it was left for the State (Future Parliament) to decide about the appropriate time for adoption of a UCC in India. In this connection Dr. Ambedkar specifically gave an assurance to the minorities. He said:

"They (minorities) have read rather too much into Article 35, which merely propose that the State shall endeavour to secure a civil code for the citizen of the country. It does not say that after the code is framed the State shall enforce it upon all citizens merely because they are citizens. It is perfectly possible that the future Parliament may make a provision by way of making a beginning that the code shall apply only to those who make a declaration that they are prepared to be bound by it, so that in the initial stage the application of the code may be purely voluntary...it would perfectly possible for Parliament to introduce a provision of that sort; so that the fear which my friends have expressed here will be altogether nullified."

The traditional objections of a Uniform Civil Code hark back to the arguments posed when the matter was debated in the

9. VII CAD, at PP. 551-552.
Constituent Assembly. The two main objection then were that it would infringe upon the fundamental right to freedom of religion guaranteed by Article 25 and that it would constitute tyranny of the majority.

Resistance to a Uniform Civil Code has mainly come from the Muslims and is superheaded by the Muslim Personal Law Board. Even a reference to a Uniform Civil Code is like a red rag to a bull, with Muslim Orthodoxy being up in arms whenever there is any reference to Article 44. Surprisingly where secular law benefits the community there is no outcry against it. One of the weakness of the legal system in countries such as Saudi Arabia, which strictly adhere to the Shariat, is that in commercial matters, contracts and transfer of property the legal system is inadequately developed. Therefore, a well established legal system based on Anglo-Saxon jurisprudence, as in India is welcome because it eliminates ambiguity and gives litigants a fair chance in count. Indian Muslim like such laws and the Muslim Personal Law Board has never raised any objection to their application.

Unfortunately, the debate on a Uniform Civil Code is so surcharged with emotion that no one has ever sat back and asked what we mean by such a code. We became independant more than 48 years ago. During this period neither Government nor any political party has ever prepared a draft of such a Code which could be circulated for the widest possible public debate. One appreciates that in a country in which we have chosen to be secular in an environment surcharged with communal tension because of the creation of Pakistan, one has to be very careful not to hurt even the smallest section of the smallest minority. At the same
time we cannot lose sight of the Constitution which makes us secular and gives every minority group a status equal to that of the largest majority. Article 25 gives the fundamental right of freedom of religion and Article 26 the freedom to every community to manage its own religious affairs. The operative word here is religious because the Constitution nowhere permits discrimination in the matter of application of laws. Article 14 mandates equality before the law which, if read with Article 44, would make the framing of a Uniform Civil Code not only a guideline for the State but would make it compulsory to frame such a code.

If criminal law is Uniform if a whole series of civil laws are accepted by every community, what are the points of dispute? In the absence of an objective debate on the subject one can but make an uninformed guess, but in my view Muslims are agitated about matrimonial matters, polygamy, divorce, maintenance, adoption, succession and inheritance. Let us take the easy part first. Inheritance and succession are not matters which generally go before the courts and the majority of such cases are decided according to custom, family understanding and undisputed wills. Any property settlement done by mutual consent is acceptable to any court and there is nothing to prevent Muslims who do not indulge in litigation, or for that matter, Hindus, Christians and Sikhs to settle matters relating to property within the family. Courts acting under a Uniform Civil Code; While extending the protection which Hindu women have to Muslim women, could still take into consideration custom, personal law and common law while adjudicating on a matter relating to succession to property. They do so even today when deciding cases, under Hindu Law. The fact that the rights of women with regard to inheritance to
property are viewed differently by Sunnis and Shias would suggest that even with regard to the Shariat there are different schools of thought and such differences do not make different sects un-Islamic. Therefore, bringing a certain secular uniformity into the framework of law should also not be viewed as un-Islamic.

Hindus, Sikhs and Christians consider marriage to be a sacrament, whereas Muslims view marriage as a contract. There is nothing to prevent a Uniform Civil Code from taking note of both these views and having variations build into law which would recognise both types of marriages. It is from the contractual nature of Muslims marriage that the next point, that is, divorce arises. The popular conception is that a marriage can be ended, by the man by thrice declaring, 'talaq'. Here too, there are different views amongst Muslims as to whether the divorce is complete by declaring talaq thrice in quick succession or whether an interval is needed between each of the three declarations which would give time to the two parties to see whether reconciliation is possible.

It is well settled question of law in India that a contract cannot be without consideration, one-sided and almost totally weighed in favour of one party, or terminable arbitrarily. In other words, equity is an essential ingredient of a contract. In terminating the marriage contract there cannot be arbitrariness and even the Shariat itself lays down the conditions of talaq. The women cannot be abandoned, there is a period of 'iddat' or compulsory waiting, during which the women has to be maintained and there is the 'mehar', the contract for which is entered into at the time of 'nikah', which has to be paid on divorce. In a true contract the mehar cannot be nominal and must be adequate to sustain the woman
and the minor children during her life time and their minority. All these elements of the contract of nikah can certainly be built into a Uniform Civil Code. Personal law would be protected in that this Islamic contract would be given due recognition, but justice would be done by a court of law and would not be subjected to the Whims of Individuals or lay kazes.

Then there is the question of polygamy. Here one has to understand the background in which the Quranic injunction was given permitting a man to have up to four wives. Widespread polygamy was practised by the nomadic Arabs, which obviously affected family life. The Quran, far from blessing polygamy, placed the strictest possible restrictions on it. The fourth Surah, Surah Annisa, gives the background to the Quranic view of polygamy. This Surah was revealed between the third and fifth year of the Prophet's reign at Madina and after the battle of Udud. when thousands of Muslims were killed, many women were widowed and their children orphaned. Therefore, the Quran first calls upon Muslims to look after the orphans and if the man felt that he could not do justice to the children of another man, then he could marry the mother of the children. Here, too, the restriction was that not more than four wives could be taken by the man and that he could not look after more than one women and the children, then he could not marry more than one. No where does the Quran say that Muslims must have four wives, failing which they would cease to be Muslim.

It is on this basis that many Muslim Countries prohibit or strictly restrict multiple marriages. If a Uniform Civil Code in India does the same one failed to understand how this would be
an attack on Muslims Personal Law or on Islam in general. This is a mythos spread by the Maulvi's because it suits their interests and the politicians who feel that by supporting this fallacy they would command a vote bank.

Thus, the real problems that emerge after taking into account the various arguments with regard to framing and implementing the Uniform Civil Code are to be solved amicably if the impediments towards framing of Uniform Civil Code are to be removed. The first and foremost impediment towards it is the nature of the plurality of our people. We may frame the Uniform Civil Code but we cannot compel the people of our country who belong to various religious faith to accept it. Unless we respect diversity among our people, diversity of the minority, Uniform Civil Code is not possible. An atmosphere should be created by mass movement where a consensus is arrived at a uniformly acceptable marriage. Thus, we must adopt the course of consensus and agreement that will build a common understanding step by step.

The second impediment towards realization of the goal of Uniform Civil Code is the absence of an atmosphere in the country where the insistence may be given on the agreement on a common approach to the substance of the Uniform Civil Code rather than its form. Sometimes the opposition to the Uniform Civil Code is made to the form of the code, we should not insist upon a particular form and the idea behind the Uniform Civil Code should be the real motive of the law maker. What is of great importance is the creation of a common family law that may be implemented without any impediments.

The supporters of the Uniform Civil Code must have restraint and they must not seek to force the Uniform Civil Code upon any section of the Society. If that is done the minorities and tribals will create tension and instead of consolidating the nation it would
promote disintegration of our country. Certainly it is not the aim of Uniform Civil Code. Thus, the third impediment with regard to this is the feelings of insecurity among the minorities and if anything is done to increase this feelings the idea of uniform Civil Code cannot be implemented.

Thus, persuasion, not the coercion, is the only way towards the realisation of the goal of Uniform Civil Code. Persuasion gradually may lead to social acceptability. If such atmosphere is created all the impediments towards the framing of Uniform Civil Code will whither away.

In present discussion up to now we have stated the views of Savigny as well as the members of the Constituent Assembly about the time factor controversy related to the civil code. So far as objections of Savigny is concerned, it has been pointed out that Savigny was not against the Civil Code perse rather he was against the immediate imposition of a Civil Code based on alien legal system. He was not against to import the Roman Law in Germany. In fact, he wanted to have a reasonable period for Germans so that real spirit of the people may find the place in the proposed Civil Code.¹⁰

As regards the Indian position, the post independence history of the UCC has been a sad story. No genuine efforts were made to achieve a UCC after adoption of the Constitution in the year

¹⁰ Savigny's hostility was qualified rather than absolute. He believed as against Thibaut that attempts to codify were premature, and would be an obstacle to the natural developments of law through the Volksgeist. But codification would be a proper course of action when experts (Jurists, historians, linguists, which resided in the collective consciousness. Codification was then desirable. For detail see M.D.A. Freeman, edi, LLOYDS INTRODUCTION TO JURISPRUDENCE, Sixth Edition 1994, p. 785 and pp. 799-803.
1949. From the year 1949 the UCC has remained a distant dream. The successive governments have taken the stance that the appropriate time has yet to come to have a UCC. Even today the most of the political parties are of the opinion that the time has not come to adopt a UCC.

In the end of this discussion it may be submitted that the objection relating to appropriate time for UCC have lost its force in India. In view of the peculiar needs of the Indian society there is a immediate need to enact a UCC.

**B. CONSTRAINTS ON THE ENACTMENT OF UNIFORM CIVIL CODE**

In the previous part of present chapter we have analysed in detail the various objections of theoretical nature. the said objections often present a great difficulties before the legislature. Apart from these objections there has been certain more practical problems/difficulties for enacting uniform civil law in India.

The major practical problems may be discussed under the following heads:

1. Lack of Information
2. No Build-up of Public Opinion
3. No Draft Bill

**1. LACK OF INFORMATION**

The importance of the 'information' has been realised for the development of the society in all stages of history. There is a famous saying "Knowledge is power". We cannot dispute the philosophy behind this saying but in the information age of this 21st century, the said saying is being replaced by a new one that is "Information is power".
If we see the history of law reform in general and process of codification in particular, we find that in India the criminal and commercial laws were codified by collecting and processing of the information of many legal systems.

So far history of codification of personal law of various communities is concerned, the great effort were made by law makers in India. If we see the process of codification of Hindu Law, we find that there were several difficulties. One difficulties was relating to collection and assimilation the provisions of various schools and sub schools of Hindu Law. This process involves the collection of relevant informations relating to all the said school. It may be pointed out that process of codification of Muslim personal law has been a difficult task because there has been lack of information about various schools of Muslim Law.  

For example the Muslims of India are divided into Sunnis and Shias, the Sunnis into Hanafis and Shafis and Shafins, the Shias into Ithna Asharis and Ismailis, the Ismailis into Khojas Bohoras, the Bohoras into Daudis and Sulaymanis and so on. Each of these groups has its own personal laws. The personal laws of the Ithna Asharis and the Ismailis are very much different from those of the Hanafis and Shafis specially in the field of interate succession. In regard to testamentary succession an ordinary muslim can opt between the Sharia and local custom (most Khojas prefer the latter), but a Shafis mapilla of south India is bound to adhere to the law of Islam. In matters of legacies and adoption every Indian Muslim has a discretion to choose between the Sharia law and the local custom.

Members of the Mapilla community have their own Maurmakkatayam law of quasi Coparcenary, unknown to the rest of muslims. The dower stipulated in a marriage contract, if found excessive with regard to the husband's means, can be reduced by the courts in the Oudh area of U.P. and in Kashmir, but not in any other part of India.

It has been pointed out that the successive governments in India have not ventured to codify the Muslim personal law which in itself is a bundle of diversity. The same problem is more or less applicable to other personal laws as well.

So for enactment of a UCC is concerned, there is great need to collect the informations about the all the personal laws existing in India. For this important task it is submitted that there should be a body of experts and it should be assigned this job. Though various Law Commissions in India have ventured to collect such informations but this task is still unfinished. Again Law Commissions have been over burdended, therefore a separate body can do justice with this job.

2. NO BUILD-UP OF PUBLIC OPINION

The history of legal reform shows that how difficult the task or has been law reform. There has been two method of the process of legal reform.

In the first method the reforms may be imposed by the law makers whereas the second method requires that society should be prepared to accept the reform.

In free India the successive governments have imposed certain reform on society. This method has been used especially in areas such as land reform, untouchability, Suttee, child marriage and so on. But, this method has not been used to enact a UCC in India. As we know that of founding fathers were divided on the issue of UCC and also on the methodology to achieve it. This difference of opinion reflected in the language of Art. 44 of the Constitution. They deliberately used the expression 'endeavour'
to secure, which envisages that the people would be prepared to accept the UCC.

In free the governments have failed to initiate any programme of mass education. If the people of India had been educated about the benefits of the UCC then there would have been less problem to enact a UCC.

The public response towards the framing of the Uniform Civil Code is not too responsive. Most people in our country are illiterate and they do not understand the impact of uniform civil code. They are, specially the Muslims, guided by the opinions of the orthodox Muslim leaders. The negative response on the part of Muslims makes it very difficult to have a uniform civil code. The Institute for Development studies at Aligarh has conducted a survey and the result reeeaes that the majority of Muslim population has not responded to the questionnaire and those who has responded have not favoured the Uniform Civil Code. A survey conducted by the above Institute has revealed that barely 8.65 percent of the Muslim respondents to a questionnaire expressed the desirability of introducing a uniform civil code. On the other hand, as many as 74 percent of the Hindu respondents wanted a Uniform Civil Code. The result of the survey is as, follows:

A majority of such Hindu respondents said that a uniform civil code will not only help in promoting national integration and secularism but will also contain the growing communal and caste violence. The Muslim respondents who endorsed the idea

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of the uniform civil code believe that such a preposition will strengthen the process of civil justice. The majority of Muslim respondents who came out in support of a uniform civil code belonged to professional and white-collar categories (doctor, lawyer, engineer, college and school teachers, office workers and students).

A section of the Hindu respondents who expressed the desirability for the inclusion of the uniform civil code, however shaped their perceptions on the assumption that the content of the uniform civil code will be mainly drawn from the Hindu Act which already contained strict provisions to check polygamy and unilateral divorce.

There were as many as 395 respondents including 187. Hindus and 208 Muslims in the survey, conducted by Mr. Dildar Khan, Director of the Institute for Development studies. Interestingly, about 60 percent of all the respondents, irrespective of religious affiliation, expressed the undesirability of a uniform civil code. They do not want any change in the personal laws of any community until and unless the community members themselves feel the necessity for any change.

Sixty three percent of the Muslim respondents, irrespective of occupational categories, accused political groups of exploiting the religious sentiments of the people for creating their vote-bank. A notable feature of the perceptions expressed is that a sizeable section of the middle classes amongst both Muslims and Hindus feel that the Indian democratic system had become communualised and criminalised.
However, more than 70 percent of the Hindu respondents said that main motive of political parties in raising such sensitive issues as a common civil code was to cultivate and consolidate their vote bank but, at the same time, they opined that each community should join the mainstream - a step which, according to them, will help promote Indian culture.

About 56 percent of the Hindus were of the opinion that the uniform civil code will help in reversing the orthodox tendencies like, polygamy and triple talaq which promote a discriminatory attitude towards women. However, about 13 percent Hindus believe that the uniform civil code will help in mitigating gender biases and will perpetuate the feelings of equality amongst women. These perceptions were also shared by a negligible percentage of Muslims.

Another notable feature of the perceptions expressed by about 52 percent Muslims is that the Uniform Civil Code will generate heat, discontent and intolerance amongst different religious groups as well as beget feelings of identity crisis, particularly amongst minorities.

About 76 percent Hindu respondents condemned both polygamy and triple talaq prevalent amongst Muslims. As many as 24 percent Hindus believe that the practice of polygamy and triple talaq reinforce male domination and discrimination against women. About 69 percent Muslims justified polygamy and divorce (in certain conditions) as prescribed in their personal law, by saying that in Islam, marriage was a social contract and it was healthier because it could check adultery and provide freedom to both husband and the wife for living together or not.
According to them, living under strain and in distressful conditions was humiliating. Furthermore, according to them, the ban on polygamy will enhance the incidence of female deaths. They added that the Hindu often demand a ban on polygamy, a matter about which they have no concern whatsoever.

About 31 percent of the Muslims believe that the system of polygamy and divorce in itself checks atrocities and humiliation against women. According to them, though some persons may misuse such provisions, it did not mean that the law required change. The need is to put in check those who misuse such provisions of the law according to their own convenience.

Similarly, about 80 percent Muslim respondents pointed out that the introduction of a uniform civil code would be counter productive. It will also tantamout to a denial of the fundamental right of freedom to religion and will hamper the development of the concept of "unity in diversity". According to them, such a move will create hindrance and negate the development of a composite culture in "our plural society". However, only a small percentage of the Hindu respondents shared this opinion. A majority of about 88 percent Hindu respondents said that the uniform civil code will help Indian culture to flourish which in turn of will help in the promotion of patriotic sentiments.13

In a latter chapter of this work we will examine in detail the approach of the successive government as well as progress made to achieve a UCC in India. Here we may conclude by saying that there is great need to educate the Indian society by building a strong public opinion in favour of the UCC.

13. Ibid.
There are so many approaches and views with regard to framing of a Uniform Civil Code. The accepted rational approach is that the Uniform Civil Code must not mean that the Hindu Code should be extended to each and every community. There are so many difficulties in Hindu Code and they should not be imposed upon others. The Uniform Civil Code must incorporate the good elements of all the personal laws which are in vogue in our country. If the experience demands that more should be done the necessary changes can be made in Uniform Civil Code. The approach towards framing of Uniform Civil Code should be based on the policy of national integration and formation of a dynamic society in our country. We should not do anything that may violate the equality clause of our Constitution. If such approach is not taken towards framing of Uniform Civil Code it may give wrong signal to minority and the fundamentalist and traders of politics may misuse it in their favour.

We present here the various approaches expressed in writings of political parties, religious communities and intellectual thinkers with regard to the framing of Uniform Civil Code. The issue has been confined to the three alternatives. The first is that there must be a separate codification of every personal law. The second is that there should be an optional Civil Code and the third is that there must be a Compulsory Uniform Civil Code for each and every person of our country.

Those who approach the problem of Uniform Civil Code in the context of separate codification of every personal law urge that there must be some minimum requirements for the codification of every personal law so that it may -
(i) Endeavour to reduce the distance between the laws of separate communities as well as laws of sects within the community.

(ii) Make changes in the personal law compulsory on the followers.

(iii) Give more rights to the disadvantaged groups like the women and the children, and better protection to tribals and other oppressed groups.

(iv) Work toward achieving equality between men and women, regardless of their religion.

How far do the codified personal laws of the various communities meet these tests? The codified laws of the non-muslim communities are binding upon their followers without any right of option to follow the previous uncodified laws.

The first objective of codification of personal laws, is fraught with difficulties. Given that there is a large number of local traditions, not to mention the sect-specific interpretation of law and religion in existence, one can hardly say that such codification can be done without damage to the varieties of laws followed in a community. This can only be justified in the larger interests of the community, an argument that will also hold for the Uniform Civil Code.

The Muslim leaders also say that they cannot go out side the Shariat, even in areas recognised by others as secular. It is, therefore, difficult to see how codification of Muslim Personal law could move in the direction of Uniform Civil Code. Indeed, in the
circumstances, there is reason to doubt the possibilities of codification of Muslim law as a genuine condition precedent to the Uniform Civil Code the foreseeable future.

The Shariat Act defeated the first and the Muslim Women's Act, the third and fourth objectives, for regarding codification as the first step towards the Uniform Civil Code.

On review of the existing situation vis-a-vis codification of personal laws as the first step towards the Uniform Civil Code, it may be summed up as follows:

(1) The Personal Laws of the Hindus, Christians, Muslims and Parsis have been codified. The Hindu Laws which, are the most recent, by and large meet the above mentioned four tests, thought not in the area of succession.

(2) The Christian Laws are discriminatory, both between men and women, and between Christians and non Christians. But the Christians want to change their laws in the direction of a Uniform Civil Code and are actively working towards this goal. The same may be said of Parsis. Both these communities have practical problems not difficulties in the score of religion.

(3) The Muslim Law has been codified in such a way that with the exception of Dissolution of Muslim Marriages Act it moves away from the Uniform Civil Code.

(4) The Laws of Jews, Buddhists and Scheduled Tribes have not been codified but there is reason to believe they will accept Uniform Civil Code.
One is constrained to believe that waiting for codification of personal laws as the condition precedent on Uniform Civil Code is not going to serve any purpose. Nor is there much point in waiting for initiative to come from within the Muslim minority for any change affecting them and their personal law. The past record, as we have seen, does not justify any such hopes. Other communities are indicating a wish for a Uniform Civil Code and they have a right to be consulted in the matter.

It is submitted that a policy, decision has to be taken at this juncture on the desirability of a Uniform Civil Code without waiting for phase one which has not even begun.

Those who approach the problem of Uniform Civil Code in the context of it being an optional or it should be a compulsory they urge that a voluntary Code would be a stepping stone towards a compulsory code and would also allay the misgivings of the Muslims that the Code would impose Hindu personal law upon them.

An optional code can not be a uniform. It can only be one more addition to the existing family laws, thus compounding rather than reducing the confusion that exists.

If civil law is already governing a voluntary sphere of life have meaningful is it to ask for it to be double voluntary? If I do choose to adopt or many why should I not be governed by a clear set of rules which apply equally to all citizens and create the same rights in them at Civil law? If a penal law may be uniformly compulsory why not a facilitative law?
These are some of the questions to which we should apply our minds. Should the answer still be in favour of an optional code we should still have one more task left: that of separating those areas of life and law which are clearly optional from those where there may be doubt. Thus, in a society like ours, given the social pressure, marriage may perhaps not be seen as truly optional. But adoption is clearly entirely an optional behaviour. And an Adoption Act is equally clearly an enabling piece of legislation.

Should the entire code be optional including even the enabling legislation? Or, should the enabling laws be available to everyone? Should the prohibitory legislation be optional?

**TO WHOM SHOULD THE OPTIONS BE RESTRICTED?**

If retention of polygamy is desired by a minority openly and by many others privately—especially those who practice it any way—who should have the option? Should one go back on those personal laws that now demand monogamy? What about child marriage? or the growing evil of dowry?

There are other facets to the concept of optionality. It can be understood in two ways. Either one has to opt for the entire code or one may opt for selected areas. One feels that opting for the Uniform Civil Code should be a one-way process. There should be no withdrawing. Once a person opts he/she will have opted for their future generations as well. There will be no opting out. If one spouse opts for the Code, the other will also have to do so as otherwise the option will be ineffective.
The access that the majority of our people have to knowledge of law (other than penalties) is very poor. A voluntary code will create its own uncertainties, confusion and misinformation. For all these reasons, the Uniform Civil Code will have to be an improvement on the existing laws in all respects and it will have to be very clear in its expression a tall order indeed.

To begin with the modus operandi will have to be determined. For example, the following points will need answers. This list is by no means exhaustive.

(1) What steps are to be taken to explain the Uniform Civil Code to the ordinary citizens? Special access must be devised to women and also special care must be taken to prevent inflaming of the ordinary man's passions by mischievous, rabblerousing methods.

(2) What age should be specified at which one is eligible for making one's option? Who will opt on behalf of the Child? or will a minor be regarded as coming under the Uniform Civil Code? Are any grounds to be given for the option? Should the option be exercised for personal law or for uniform civil code? Should be option be for the entire Code/Personal Law or for parts of it? In consequences of not making one's option by the given date shall such a person be taken as having opted for Uniform Civil Code or for the Personal Law?

(3) Who should be authority before whom the option is to be specified? What should be the form of specification and the method by which the option may be verified at a later date?
(4) The final date if any, for choosing one's option, must one opt by a given date or can one opt when the need arises?

The Shariat Act of 1937 required the Muslims to specifically opt for the Shariat, and yet even where they have not so opted, they have been brought under the Shariat. In other words, whose socially powerful forces within a community choose to go against the statute they are able to do so and the people who have opted for the Uniform Civil Code may be pressurised later on to deny that they have opted for it with full knowledge and free consent. This is known to happen whenever (free choice is required to be exercised by those who are under social pressures the withdrawal of evidence in criminal cases even to the point of denying the F.I.R, is not an uncommon happening. There is also the danger that the voluntary Uniform Civil Code may never reach stage three and become compulsory - this is indicated by our legislative history. A Uniform Civil Code that is compulsory from the beginning would by-pass all these problems and create many of its own. Voluntary or compulsory, it seems that if and when the Uniform Civil Code is introduced there is a strong possibility of a period of deep social unrest taking place. Unless the Government is prepared to rid this period, if it then gives into those who do not want the Uniform Civil Code, more damage will be by introducing than by holding the Uniform Civil Code.

PRACTICAL APPROACH

It is, therefore, clear that consistent with the observations of Justice Sahai in the Sarla Mudgal case a very balanced and careful approach should be adopted vis-a-vis the framing of a Uniform Civil Code for all citizens keeping in mind the requirements of
gender justice and human rights jurisprudence on one side and the pragmatic societal imperatives on the other.

The Pondicherry Experience: A Common Civil Code has been the dream of many a political thinker throughout the world. But an absolutely uniform code applicable to all is nearly impossible. That could be attempted only when the country is a small one with homogenous population.

The mostly resorted way is to have a common code applicable to all citizens and to subject such a code to exceptions and options provided in the code itself. This technique was used in the Hindu Marriage Act when the Hindu law in that field was sought to be unified. The same technique was widely resorted to in the French-speaking African countries after their independence. They have codified their family laws with the French code as a model, but they took care to incorporate all that was found important in the local customs and they made room for options taking into account the diversity of religions.

The third way to reach uniformity at least in appearance is to devise a common code open to all but imposed on none and this is the voluntary common civil code.

We turn our attention to find out how such a voluntary common code should be elaborated to meet with success. In such an endeavour the safest way is to draw lessons from previous experiences.

The experience in Pondicherry reveals that acts of express option to a common code are rare. Even if some people resort thereto on account of incentives, such acts are not always fully sincere. on the contrary, partial adoption of the provisions of the common
code, the enrichment of the customs by the borrowal of the provisions found in the code, the patient and silent (as it should be) work of court sustaining the society in its natural tropism towards common code produced wide ranging results. But for these side effects to take place the contemplated common civil code should be brought into existence in such a shape as to appeal to the population. It should not be the result of a hasty process in order just to assuage the feelings of the protagonists of the Common Civil Code. This last course should be avoided at all costs because it would mar the prospect of a common law for years to come. The Common Civil Code should be elaborated with care and statesmanship. The main conditions for its success is that it should be surrounded by a halo of prestige, arising out of its intrinsic value. The code should be clear and simple, rich in content without descending to details, offer the best solutions to problems that are likely to arise and above all, it should meet the aspirations of the people. In this connection, it may be useful to recall the reasons which made the French code civil one of the finest pieces of legislation of modern times and a model for other countries. First reason for the success is that they had before them a large number of drafts elaborated during the course of a century.

Secondly, if the French code civil could penetrate deep in Pondicherry it was on account of the attitude of judiciary prone to avail of all the interstices with readiness allied with prudence.

The third reason for the success of the code civil in Pondicherry is that the corresponding administrative and judicial machinery was within the easy reach of the population.
APPROACH OF POLITICAL PARTIES

There is a great deal of disagreement among political parties. Some hold that a Uniform Civil Code is necessary and desirable in principle, but the moment is not ripe for it. Others believe that, while desirable, a Uniform Civil Code should not be imposed by the State, but must evolve from below. Yet others argue that a transitional measure is required in the form of a voluntary, nonbinding model code which gradually wins consensual support before it can be turned into Uniform Civil Code.

PRINCIPLED POSITION

However, the most clear-cut cogent and principled position is that a Uniform Civil Code is neither necessary nor desirable, that there is no virtue in such anti-pluralist uniformity, but that a thorough reform of all personal laws on the central criterion of gender equality is necessary, indeed overdue. This proposition is much stronger than the somewhat lame, "not-yet" position or the argument that gender justice must wait indefinitely till the entire society is ready for a Uniform Civil Code evolved from below. Three premises underlie this view. First, Constitutionally, legally and morally, pluralism and individual rights precede uniformity or community rights, custom practices. Therefore all personal laws must be subjected to the elementary test of fundamental rights, but their essential plurality must also be maintained..

Second, in highly diverse, heterogenous and variegated society such as India, pluralism is not just desirable but essential to democracy and to good governance. Indeed, the diversity of what the Anthropological Survey identifies as over 3,500 distinct
communities the richest such heterogeneity anywhere in the world- is something to conserve, cherish and celebrate. Indian culture would be greatly impoverished if an artificial uniformity were imposed and the natural original diversity of language, dialect, customs, rituals, modes of knowledge, rationality and discourse were undermined. So long as these customs are not unconscionably discriminatory, repugnant or violative of fundamental rights, they must be allowed to exist and flourish. We simply have no right to tamper with them.

And third we must distinguish between the requirements of criminal and civil law.

**FEMALECENTRIC APPROACH**

Femalecentric approach is the confrontationist approach. This approach suggests several ways to manage plight of minority women. First, the Government should draw up a common law that would apply to women of all communities. Such a law would guarantee women certain minimum economic rights within marriage, for example, the right to reside in the matrimonial home and joint sharing of property. Meanwhile, the task of reforming other aspects of personal law - divorce, maintenance, custody of children, adoption - should be left to reformists within the religious communities.

Second a "femalecentric" approach suggests that the Government introduce a set of optional laws - like the Special Marriage Act, 1954 - that women of any religion could choose to be governed by both these gradualist approaches. It is thought that is will not only diffuse an explosive issue but also get women the concrete reliefs they need and prepare the ground for
establishing greater equality between the sexes in the institution of marriage and the family.

Eminent lawyers and jurists have also pointed out that a single, one-point legal solution is impossible in a country as complex as India were neither all Hindus nor all Muslims are governed by one set of religious laws. Members of scheduled castes and tribes to have a wide range of separate customary laws. It intends to ask the Law Commission to examine the laws of all communities.

DESIRABILITY OR CHANGE IN PERSONAL LAW

While sceptics may scoff at the idea, there is reason for hope. For a start, Hindu law has been reformed, even if not in an entirely satisfactory way, Many Muslim countries have changed the law to strengthen women's right. And in recent years, a number of initiatives by Christians and Feminists, including a national conference on Christian family law in 1990 organised by the Women's Centre, Bombay, have resulted in a draft Bill for reforms in Christian personal law. This Bill, which has the broad support of both the Christian clergy and lay groups, is ready to be presented to Parliament.

The path of internal reform as the Hindu and Christian examples indicate has not been exhausted. Other communities should follow the suit. The Muslim community in India which, for historical and cultural reasons, has shown the greatest reluctance to review its gender biased laws, should listen to its progressive leaders and take a look at what Pakistan, Tunisia, Turkey and other Muslim countries have done. In the end only a change of heart can prevail over a change in law.
Concerning Muslim personal law there have been two schools of thought, one radical and the other liberal. Muslim jurists belonging to the radical school advocate immediate replacement of the personal laws of different communities by a common civil code without going through the intermediate stage of reforms in each set of personal laws. While others belonging to the liberal school believe that an intermediate stage of introducing in the first stance which will facilitate the ultimate enactment of a Uniform Civil Code and for bringing about the requisite reforms in Muslim personal law they suggest that it could be achieved through a liberal and progressive interpretation of the Shariat as has been actually done in other Muslim countries. Having regard to the diehard sentimental opposition based on emotive grounds rational or irrational that is being encountered to the enactment of a Uniform Civil Code, it will be highly desirable to have recourse to the modus operandi suggested by the liberal school in the matter.

**CONCRETE STEB**

It is necessary that the Government must shed its apathy and complacency in the matter and without waiting for the demand for reforms being backed up by majority members of any minority community, the Government must take the initiative in pushing through the needed reforms with the support of the existing progressive elements available in the concerned community irrespective of their strength. Party politics and electoral considerations should be treated as thoroughly irrelevant. It will redound to the credit and political stature of any ruling party to go out of power for the sake of principle rather than making exist on indictments of corruption and inefficiency. Once there is
codification of each set of personal laws by incorporating therein the needed improvements and reforms, it will go a long way towards achieving the objective of a Uniform Civil Code. Following the liberal school Government should take immediate steps to codify each set of personal laws by amending and incorporating therein the requisite reforms with a view to doing social justice to weaker sections in each community and on completing such process of codification undertake the framing of the Uniform Civil Code. The best possible way is to provide change in the habits and traditions of the people by a gradual process.

In this connection the noted social scientist, Praful Bidwal has rightly suggested\textsuperscript{14} that - the best solution is to take each personal code - In reality a set of laws - and rewrite it for gender equality, discarding unacceptable provisions where necessary. There is no reason for secularists or feminists to be defensive about this or to confine themselves to the issues raised by the Kuldip Singh R. M. Sahai obiter dicta, which have no legal sanction or moral authority. Rather they should go on to define a broad, comprehensive agenda that actively campaigns for women's equality in different communities. They should set themselves a deadline, say, 2000 or 2005, by which the reforms come into force and demand that the state promote consultation and debate in which the voices of the enlightened and liberal elements of each community - and of its women - are fully represented. This is perhaps the best way of seizing the reform initiative and isolating those who shed crocodile tears over the plight of women in the "other"

\textsuperscript{14} Bidwai, Praful, Revamping Personal Law-Reform Yes; common code, no, The Times of India, New Delhi, 17-8-95.
community (which they otherwise despise) only to spread hatred and gain votes. Nothing could better serve the cause of women's equality as well as pluralist secularism in this country.

III. NO DRAFT BILL

The law making process requires so many things including preparation of initial draft of the proposed law. The preparation of a draft requires collection of informations study of the needs of people, and comparative study etc. We have already discussed the problem of lack of information, for enacting a UCC. The preparation of a Draft Bill also requires research relating to all the aspect of the problem associated with the UCC. Though the successive government have been showing their willingness to bring a UCC but no efforts have been made to prepare a Draft Bill. Unless we have a Draft Bill there cannot be any serious debate about the benefits or harm of the UCC. Till now, all the debates relating to UCC have been made more in the air. However, certain efforts have been made to formulate a draft bill by academics and experts.¹⁵

In the end of this discussion it is submitted that if the government of India is, serious to achieve the goal of UCC it must order to ask the law minister to prepare a draft bill of the UCC so that Parliament may discuss and try to achieve a consensus over it.

¹⁵. See the proceedings of "National convention on Uniform Civil Code for all Indias" Edited by N.R. Madhava Menon, 1986, New Delhi, Bar Council of India Publication.