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# **RIGHTS OF WOMEN: AN ANALYTICAL STUDY WITH SPECIAL REFERENCE TO THE UNIFORM CIVIL CODE, UTTARAKHAND, 2024**

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## **ABSTRACT**

Article 44 of the Indian Constitution states that, “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India”. The said principle has been debated since the time of the Constituent Assembly; Article 44 of the Constitution is not justiciable being part of Directive Principles of State Policy. Recently, a historic step was taken by the State of Uttarakhand by enacting the first post-independence Uniform Civil Code. The most highlighted aspect in favor of Uniform Civil Code has been its effectiveness in protecting women’s rights. This research will focus on the Uniform Civil Code, Uttarakhand, 2024 and its impact on women rights, cull out any limitations that the UCC, UK possess and then provide suggestions to overcome those limitations. The research will also include an international perspective on UCC and its impact on women rights. Further, it will assess whether the current UCC, UK can be used as a blueprint for country wide UCC. This research seeks to find out the efficiency of UCC, UK in protecting women rights.

**Keywords:** Article 44, Uniform Civil Code, Uniform Civil Code, Uttarakhand, 2024 and Women rights.

## 1. INTRODUCTION

PART IV of the Indian Constitution provides the State with Directive Principles which are to be followed by the State while making policies. Though these principles are not enforceable in the Courts, Article 37 of the Constitution of India states that they are “fundamental in the governance of the Country”. One such principle enshrined in PART IV is the Uniform Civil Code (hereinafter referred to as UCC). Article 44 of the Constitution of India provisions that, “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India”.<sup>1</sup> The implementation of UCC was also a topic of debate in the Constituent Assembly Debates.<sup>2</sup> During the debates, K.M. Munshi and Alladi Krishnaswami Ayyar had argued the importance of implementing a nationwide Uniform Civil Code. K.M. Munshi referred to the examples of “advanced Muslim countries”, stating that, “*the personal law of each minority has been recognised as so sacrosanct as to prevent the enactment of a Civil Code.*”<sup>3</sup> Alladi Krishnaswami Ayyar stated that, “*Today, even in regard to people in other parts of the country, if they have property in the continent of Europe where the German Civil Code or the French Civil Code obtains, the people are governed by the law of the place in very many respects. Therefore, it is incorrect to say that we are invading the domain of religion.*”<sup>4</sup> The necessity for having a Uniform Civil Code as a mechanism to demolish the customs and traditions that are derogatory in nature has been highlighted in various Law Commission reports and judicial pronouncements.

UCC is understood to be a law which provides Uniform laws in civil matters which includes Marriage, Divorce, Succession, Adoption and Custody. Currently, except Goa and Uttarakhand, people in India are governed under different personal laws according to their religion. But different laws resulted in inconsistency of relief available to the women across different religions. In the name of religion, traditions and customary practices some women were even subjected to derogatory practices.

The most argued facet in the favor of Uniform Civil Code has always been its potential to end the discrimination that the women face in the name of religion, tradition and customary

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<sup>1</sup> Article 44, The Constitution of India, 1950.

<sup>2</sup> Draft Article 35, Volume VIII of Constituent Assembly Debates.

<sup>3</sup> Statement of K.M. Munshi, Constituent Assembly of India, Debates vol. VII (Nov. 23, 1948), <https://www.constitutionofindia.net/debates/23-nov-1948/>

<sup>4</sup> Statement of Alladi Krishnaswami Ayyar, Constituent Assembly of India, Debates vol. VII (Nov. 23, 1948), <https://www.constitutionofindia.net/debates/23-nov-1948/>

practices. Landmark cases upholding the women's rights against the traditional practices include *Shayara Bano v. Union Of India And Ors.*,<sup>5</sup> and *Mohd. Ahmad Khan v. Shah Bano Begum*.<sup>6</sup> The biggest evidence of women being a vulnerable group is preferential treatment for women often referred to as protective discrimination as provided in the Constitution of India which gives power to the State to make special laws for women.<sup>7</sup>

In 2025, Uttarakhand became the first State after independence to implement a Uniform Civil Code outlining uniform laws for Marriage, Divorce, Succession (Intestate and Testamentary) and Live-in Relationship.<sup>8</sup> It becomes important to look into the efficiency of Uniform Civil Code in protecting the rights and dignity of women across different religions. It is also important to delve into the intricacies into the first ever Uniform Civil Code that has been implemented in the post-independence era and assess whether a similar legislation can inspire a country wide Uniform Civil Code to protect the women 's rights.

## 2. HISTORICAL BACKGROUND

### 2.1 Rights of Women in Ancient India

#### 2.1.1 Marriage and Divorce

##### 2.1.1.1 Forms of Marriage (where women had right to choose her groom)

Marriage and its respective rituals are closely linked with the religious practices a person follows. In ancient India the religion followed by the natives was Hinduism so the marriage practices were based on Hindu rituals and practices. In Hinduism, marriage is considered as a sacrament. Dharmashastras provided 8 forms of marriages out of which 4 were approved and 4 disapproved. One of the disapproved marriages where women had a right to marry whoever she wants (without seeking approval of guardian) was *gandharvavivah*. Another form of marriage prevalent in the royal families of India was *Swayamvar*. This form of marriage was widely celebrated, one where the women had the right to choose her groom through a ceremony.<sup>9</sup>

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<sup>5</sup> (2017) 9 SCC 1.

<sup>6</sup> (1985) AIR 945.

<sup>7</sup> Article 15(3), Constitution of India, 1950.

<sup>8</sup> Uniform Civil Code, Uttarakhand, 2024 (Act No. 03 of 2024).

<sup>9</sup> Dwivedi, M. and Sonal Malik, M. (2022). Status of Women in Vedic Period. *Journal of Positive School*

### **2.1.1.2 Marital Age and essentiality of consent**

Ancient India is divided into two timelines, one is the early vedic period and the other one is the later vedic period. In the early vedic period the marital age for women was post puberty (when they have reached a mature age). They also had a say in the selection of their grooms (consent necessary). But this trend was not followed in the later vedic period. The marital age reduced and child marriage become a common phenomenon and consent of women was removed from the scene.

### **2.1.1.3 Divorce and Widow Remarriage**

In Ancient India marriage was treated as sacrament thus, divorce was largely disapproved. This complexity has been portrayed by the Dharshastras. But some texts such as Narad Smriti and Parashara Smriti allowed for the divorce. P.V Kane's History of Dharamshastra notes that divorce was permitted under some situations such as abandonment, long absence or gross misconduct.<sup>10</sup> An interesting practice of Niyoga (Levirate) was also in existence. Where a woman was without a son, she was allowed to cohabit with her husband's brother for the sole aim of giving birth to an heir. Here as well, the woman is given the right to protect the male lineage.<sup>11</sup> In case of widow remarriage, the said practice was allowed in the Rig Vedic era. But by the Smriti period, the said practice was decried and a new practice of Sati came into existence where a woman was praised and encouraged to die with her husband on his burning pyre.

### **2.1.2 Succession**

As the Indian society is a patriarchal society, women in ancient India were not allowed to inherit ancestral property like men. Still the women had some financial assets.

#### **2.1.2.1 Stridhan (property where the women had an exclusive right on)**

A property is considered to be Stridhan when the woman has an exclusive right on it (including right to sell, give, gift or bequeath). A woman can acquire stridhan in the form of gifts received from relatives during her marriage, gifts received from her husband, any jewellery, ornament

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*Psychology*, 2022(3), pp.5693–5702.

<sup>10</sup> Kane, P.V., History of Dharmasāstra.

<sup>11</sup> *Ibid.*

and clothes. But the husband had legal control over Stridhan. In Manusmṛti it is stated that “any property earned by a married woman belongs to her husband.”<sup>12</sup>

### **2.1.2.2 Property Rights of a Widow**

Maintenance rights were given to the widow for her sustenance by her male progeny or the family of her husband. In Dayabhaga, a widow was allowed to inherit the property (in a limited manner) of her husband and the income arising from such property provided that the husband died without a male progeny but was not allowed to sell the same. While *Mitakshara* stated that a widow did not have such a right.

### **2.1.2.3 Property Rights of a Daughter**

The Rigveda comprises instances where the daughters were not allowed to inherit property. A father “divided his wealth among his sons.”<sup>13</sup> At the same time the daughters were “honoured” but were not given any property. This “honour” would generally mean that the daughters were given jewellery or apparels pre-marriage and no legal share in their father’s assets. The reason for doing so was that a daughter would someday be a part of her husband’s household, and thus making her an heir to father’s inheritance will result in a loss to the father's lineage. A woman in the ancient period was not considered independent. Manu expressly notes that a woman must be guarded by her father ‘during childhood’, by her husband ‘in youth’, and by her sons ‘in old age’.<sup>14</sup> AS Altekar in *The Position of Women in Hindu Civilization* stated that, “Land, house property, agricultural wealth, and cattle continued to belong to men.”<sup>15</sup>

### **2.1.3 Live-in-Relationship in Ancient India**

A notable example of live-in relationship in ancient India is a conversation between King Pandu and Kunti, provided in *Adi Parv*, Chapter 122. Here King Pandu informed Kunti that there was no restriction on women to be confined to their houses until recently. The women were allowed to pursue their own desires. Open weddings formed a common practice. As this practice was socially accepted, “married women who had companions other than their

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<sup>12</sup> Manusmṛti 8.416.

<sup>13</sup> Rigveda 3.31.

<sup>14</sup> Manusmṛti 9.3.

<sup>15</sup> Altekar AS. *The Position of Women in Hindu Civilization*.

husbands were not viewed negatively”.<sup>16</sup> Pandu told Kunti that a change in this practice happened due to a boy named Shvetaketu. The boy complained to his father, “traumatised by watching his mother leave with a strange man in tow, but his father told him it was just the way things were done.”<sup>17</sup> As an adult, Shvetaketu tried his level best to install a social reform and strictly placed a monogamy marriage onto women but at the same time no restrictions were imposed on married men.<sup>18</sup>

## 2.2 Rights of Women in Medieval India

### 2.2.1 Marriage and Divorce

Women's marriage rights were reduced to a minimum during this era. Child marriage became a prevalent practice where the women were married at a very young age “even before puberty”. Due to this practice the early age of development was already controlled by the in-laws, abolishing all the autonomous upbringing or ideology of the women and making them totally dependent on her husband for their survival.

Though divorce was recognised in some societies it often faced stigma and was least accessible by the women. One of the prevalent religions in medieval India was Islam. Islam gives the wife, a right to divorce in 3 following form:-

1. Talaq-e-tafweez - in this form of divorce, the husband delegates his wife with the authority to divorce him. In this form as well, the husband has the power.
2. Lian - in this form of divorce, the wife could ask for a decree of divorce if her husband falsely accused her of adultery (it is a loss for the woman as she is already financially dependent on her husband).
3. Khula - in this form of divorce, the wife can divorce her husband by returning the Mehr or by paying a consideration (it is a loss for the woman as she is already financially dependent on her husband).

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<sup>16</sup> Adi Parv, Chapter 122.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

“The power dynamics within marital relationships further constrained women's rights within these unions.”<sup>19</sup>

### **2.2.2 Succession**

Inheritance was based on the religion of a person and in most cases it favoured the men. The practice of Stridhan became the practice of dowry and the property began to be transferred to the in-laws rather than being given to the bride as a part of stridhan. Muslim women received the property rights by the way of mehr.

### **2.2.3 Live-in-relationship**

Live-in-relationship was prevalent in the form of concubines.

## **2.3 Rights of Women in Post-Independence India**

### ***2.3.1 Marriage and Divorce (in the context of Hindu and Muslim as these are the majorly practiced religion in India after Independence)***

In post-independence India, legislation covering requirements for marriage and divorce came into existence. These laws were based on different religion for example the marital age in Hindu Marriage Act, 1955<sup>20</sup> is 18 years for women and 21 years for men. Whereas, through different judicial pronouncements it has been established that Muslim women can marry as soon as they hit puberty. Marriage in Muslims is governed by Muslim Personal Law (Shariat) Application Act, 1937.<sup>21</sup>

Essential requirements for the solemnization of marriage in Hindus and Muslims are respectively covered under the respective Acts mentioned above. Consent is an essential phenomenon in both religions.

But there are some obsolete practices that are still prevalent. For example the practice of Halala

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<sup>19</sup> Vishwanath, V. (2023). *Impact Factor : 5.1651 (UIF) Volume -13 | Issue -1*. [online] Available at: <https://oldisrj.lbp.world/UploadedData/10834.pdf>.

<sup>20</sup> THE HINDU MARRIAGE ACT, 1955. Available at: [https://highcourtchd.gov.in/hclsc/subpages/pdf\\_files/4.pdf](https://highcourtchd.gov.in/hclsc/subpages/pdf_files/4.pdf).

<sup>21</sup> THE MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT, 1937. Available at: <https://www.indiacode.nic.in/bitstream/123456789/2303/1/A1937-26.pdf>.

and iddat period which enjoy a protection under the veil of right to practice religion under Article 25 of the Indian Constitution.<sup>22</sup> Even in the case of *State of Bombay v. Narasu Appa Mali*, the Bombay High Court stated personal laws do not come under Article 13 of the Indian Constitution thus, cannot be reviewed under the pretext of violating fundamental rights.<sup>23</sup>

### 2.3.2 Succession

Before the 2005 era, Hindu daughters were not considered as an heir to father's ancestral property but by the 2005 amendment to the succession laws, they were included as an heir by birth. Now the daughter will receive an equal share as a son would have. But in Islam though a daughter receives a share, but the quantum differs. In Surah al-Nisa, the rules related to property distribution to female heirs are elaborated. "The quantum of the share of males is double that of female heirs. In other words, the share of the female heirs is half of that of the male heirs."<sup>24</sup>

### 2.3.3 Live-in-Relationship

After Independence, in Hindus, having a relationship out of marriage while having a wife became strictly prohibited. In Muslims, with the permission of the first wife, a husband can take up to 4 wives.

In the case of couples, not married, who live together in the nature of marriage, no official guidelines were provided until 2025. Still protection to the woman in such a relationship was granted through multiple judicial pronouncements stating that a single man and woman being in a live-in relationship is neither a crime nor illegal.<sup>25</sup> A major protection of women in such relationships is provided in the Protection of Women from Domestic Violence Act, 2005.<sup>26</sup>

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<sup>22</sup> Article 25, Constitution of India, 1950.

<sup>23</sup> AIR 1952 Bom 84.

<sup>24</sup> Siddiqui, F. (n.d.). *Islamic Law of Inheritance*. [online] Available at: [https://www.sja.gos.pk/assets/presentations/april2016Pres/Laws%20of%20Inheritance%20in%20Islam%20\(2nd%20Session\)by%20Mr%20Fahim%20Ahmed%20Siddiqui.pdf](https://www.sja.gos.pk/assets/presentations/april2016Pres/Laws%20of%20Inheritance%20in%20Islam%20(2nd%20Session)by%20Mr%20Fahim%20Ahmed%20Siddiqui.pdf).

<sup>25</sup> college, L.L. (2022). *Live-in Relationship: Legal Rights of Live-in Partners in India*. [online] Lloydlawcollege.edu.in. Available at: <https://www.lloydlawcollege.edu.in/blog/legal-right-of-live-in-partners-in-india.html>.

<sup>26</sup> Yadav, S. (2026). *Live-in Relationships in India: What Rights Does a Woman Really Have?* [online] SCC Times. Available at: <https://www.sconline.com/blog/post/2026/02/17/womens-rights-in-live-in-relationships-in-india/>.

### 3. JUDICIAL PRONOUNCEMENTS RELATED TO THE NEED OF UNIFORM CIVIL CODE IN INDIA

Article 44 of the Indian Constitution states that “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.”<sup>27</sup> The following are the judgments that highlighted the need of Uniform Civil Code:-

#### 3.1 Keshvananda Bharti v. State of Kerala<sup>28</sup>

The Supreme Court stated in this case that “*Article 44 enjoins that the "State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." Desirable as it is, the Government has not been able to take any effective steps towards the realisation of this goal. Obviously, no Court can compel the Government to lay down a uniform civil code even though it is essentially desirable in the interest of the integrity, and unity of the country.*”<sup>29</sup>

#### 3.2 Mohd. Ahmed Khan vs Shah Bano Begum And Ors.<sup>30</sup>

The Supreme Court in this case states that, “*A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies.*” The case also referred to Dr. Tahir Mahmood in his book 'Muslim Personal Law' (1977 Edition, pages 200-202) He says: “In pursuance of the goal of secularism, the State must stop administering religion based personal laws.”

#### 3.3 Sarla Mudgal v. Union of India<sup>31</sup>

The Supreme Court in this case stated that, “*It appears that even 41 years thereafter, the Rulers of the day are not in a mood to retrieve Article 44 from the cold storage where it is lying since 1949. The Governments - which have come and gone - have so far failed to make any effort towards "unified personal law for all Indians". The reasons are too obvious to be stated. The utmost that has been done is to codify the Hindu law in the form of the Hindu Marriage Act, 1955. The Hindu Succession Act, 1956, the Hindu Minority and Guardianship Act, 1956 and the Hindu Adoptions and Maintenance Act, 1956 which have replaced the traditional Hindu*

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<sup>27</sup> Article 44, The Constitution of India, 1950.

<sup>28</sup> (1973) 4 SCC 225.

<sup>29</sup> Para. 146, (1973) 4 SCC 225.

<sup>30</sup> AIR 1985 SC 945.

<sup>31</sup> (1995) 3 SCC 635.

law based on different schools of thought and scriptural laws into one unified code. When more than 80% of the citizens have already been brought under the codified personal law there is no justification whatsoever to keep in abeyance, any more, the introduction of "uniform civil code" for all citizens in the territory of India."<sup>32</sup>

### 3.4 John Vallamattom v. Union of India<sup>33</sup>

The Supreme Court in this case stated that, "Before I part with the case, I would like to state that Article 44 provides that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. The aforesaid provision is based on the premise that there is no necessary connection between religious and personal law in a civilized society. Article 25 of the Constitution confers freedom of conscience and free profession, practice and propagation of religion. The aforesaid two provisions viz. Articles 25 and 44 show that the former guarantees religious freedom whereas the latter divests religion from social relations and personal law. It is no matter of doubt that marriage, succession and the like matters of a secular character cannot be brought within the guarantee enshrined under Articles 25 and 26 of the Constitution. Any legislation which brings succession and the like matter of secular character within the ambit of Articles 25 and 26 is a suspect legislation. Although it is doubtful whether the American doctrine of suspect legislation is followed in this country. In *Smt. Sarla Mudgal, President, Kalyani and Ors. v. Union of India and Ors.*,<sup>34</sup> it was held that marriage, succession and like matters of secular character cannot be brought within the guarantee enshrined under Articles 25 and 26 of the Constitution. It is a matter of regret that Article 44 of the Constitution has not been given effect to. Parliament is still to step in for framing a common civil code in the country. A common civil code will help the cause of national integration by removing the contradictions based on ideologies."<sup>35</sup>

### 3.5 Shayara Bano & Ors. v. Union of India & Ors. (Triple Talak Case)<sup>36</sup>

The Supreme Court by declaring the practice of instantaneous triple talaq as unconstitutional stated that, "the Constitution requires the State to provide for a Uniform Civil Code, to remedy and assuage, the maladies expressed in the submission advanced by the learned Attorney

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<sup>32</sup> *Ibid.*

<sup>33</sup> *John Vallamattom v. Union of India*, (2003) 6 SCC 611.

<sup>34</sup> *Supra* note 31.

<sup>35</sup> Para. 44, *John Vallamattom v. Union of India*, (2003) 6 SCC 611.

<sup>36</sup> *Shayara Bano & Ors. v. Union of India & Ors.*, (2017) 9 SCC 1.

General.”<sup>37</sup>

## 4. GLOBAL PERSPECTIVE OF UNIFORM CIVIL CODE

### 4.1 Turkey

Turkey is a country where the majority of the population follow Islam. Still, the laws governing the civil practices in Turkey are similar to that of Europe. In 1926, Turkey enacted the Common Civil Code, 1926 which provided regulations in the domain of marriage, divorce, maintenance, custody, succession etc. for the whole population of Turkey. This Code tried to focus on gender equality, prohibited polygamy for all, and conferred equal divorce rights to the spouses. In the case of Divorce, it can only be sought through judicial means and not via customary manner. Marital age for females was raised to 15 years whereas in case of males, the marital age was raised to 17 years.<sup>38</sup> In 2002, the 1926 Code was replaced by 2002 Code as it further tried to raise gender equality. Language such as spouses were used instead of wife or husband. The Code also raised the marital age of both the genders to 17 years.<sup>39</sup>

### 4.2 Saudi Arabia

Saudi Arabia in March 2022 presented a Personal Status Law which provided females the freedom to take a decision related to their marriage including choosing a life partner.<sup>40</sup> The said law includes the aspects of divorce, custody of a child, marriage and matters related to inheritance. The marital age prescribed by the Saudi Arabia Personal Status law is 18 years for both men and women.

### 4.3 Azerbaijan

Azerbaijan also has a civil code which is applicable on all its citizens and encompasses matters related to marriage, guardianship etc. The Family Code of the Republic of Azerbaijan, 1999 declares that to establish the validity of a marriage, it must be registered along with consent under the hand of both the parties to the marriage.<sup>41</sup> The marital age for both men and women

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<sup>37</sup> *Supra* note 31.

<sup>38</sup> Seval Yildirim, Aftermath of a Revolution, 17(2) Pace International Law Review (September 2005) <<https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1151&context=pilr>>

<sup>39</sup> Article 124, Turkish Civil Code.

<sup>40</sup> Tarek Antaki: Saudi Arabia: Introduction of a new Personal Status Law. Available at: <https://www.roedl.com/insights/saudi-arabia-personal-status-law-reform-human-rights>.

<sup>41</sup> Article 11.1., Family Code of the Republic of Azerbaijan (Approved by the law of the Republic of Azerbaijan)

is 18 years and are compulsorily required to get medically examined before registration of marriage.<sup>42</sup>

#### 4.4 France

The French Civil Code does not recognise weddings through religious methods. Instead, only a marriage that has been performed by authorities as prescribed under the French Civil Code is considered to be a valid one. The marital age prescribed by the Code is 18 years for both the men and women.<sup>43</sup> A notable feature of the Code is that it recognises same-sex unions.<sup>44</sup>

#### 4.5 United States of America

As there is a federal structure in the USA, matters pertaining to family fall into the domain of States. States like California and Louisiana have introduced the Civil Code of California and Louisiana Civil Code, respectively. Section 301 of Family Code of California states, “two unmarried persons, 18 years of age or older, who are not otherwise disqualified, are capable of consenting to and consummating marriage”.<sup>45</sup> Article 86 of Louisiana Civil Code states, “marriage is a legal relationship between a man and a woman that is created by civil contract”.<sup>46</sup>

### 5. UNIFORM CIVIL CODE IN INDIA

#### 5.1 Goa (Portuguese Civil Code, 1867)<sup>47</sup>

Until 27th January 2025, Goa was the only State in India to have a Uniform Civil Code. This Code is equally applicable to all the residents of Goa. The Code ensures equal share to both son and daughter in property. Irrespective of the religion, marriage registration is made compulsory. But the Code does have some religious elements to it for example, a Hindu married man is allowed to remarry if the wife does not give birth by 25 or does not give birth to a boy by 35 years of age. Catholic Christians also have exceptions based on canon law for marriage.

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No. 781-IQ dated December 28, 1999).

<sup>42</sup> *Ibid*

<sup>43</sup> Article 144, French Civil Code.

<sup>44</sup> Article 515-1, Law No. 99-944 of November 15, 1999, Relating to the Civil Solidarity Pact.

<sup>45</sup> Section 301, Family Code of California.

<sup>46</sup> Article 86, Civil Code of Louisiana.

<sup>47</sup> Portuguese Civil Code, 1867.

## 5.2 Uttarakhand (UCC, UK, 2024)

For the first time after independence, an Indian State (Uttarakhand) formed an expert committee (Justice Ranjan Desai Committee) on 27th May 2022 to indulge in public consultation and prepare the draft of 1st post-independent Uniform Civil Code. A total of 2,32,961 suggestions from the public was received by the expert committee.<sup>48</sup> The said suggestions are received in the following manner: -

1. Web Portal - 60811
2. By Post - 35288
3. By Hand - 111705
4. E-Mail - 23705
5. Suggestion received during public consultation - 1452

A petition was filed in the Hon'ble Supreme Court which challenged the formation of the Committee stating that the interpretation of 'State' in Article 44 should be treated as State of India and not individual States. The Court dismissed the petition by upholding the power of an individual State to form a committee for Uniform Civil Code.<sup>49</sup>

On 2nd February, 2024 the expert committee submitted their report along with the draft Uniform Civil Code. On 4th February, 2024, the cabinet gave its approval and on 7th February, 2024, Uttarakhand Legislative Assembly passed the UCC Bill. On 28th February, 2024 the Governor of Uttarakhand gave its assent and sent the bill for presidential assent. On 12th March, 2024, the President of India gave its assent to the bill.

The UCC, UK contains preliminary, four parts, and seven schedules. It has 392 sections. The four parts are as follows:-

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<sup>48</sup> Uk.gov.in. (2024). *About us | Uniform Civil Code*. [online] Available at: <https://ucc.uk.gov.in/about-us>.

<sup>49</sup> PTI (2023). *State Government's power to form a committee on UCC cannot per se be challenged: SC*. [online] The Hindu. Available at: <https://www.thehindu.com/news/national/supreme-court-dismisses-pil-challenging-committees-set-up-by-gujarat-and-uttarakhand-for-ucc/article66356556.ece>.

1. Part 1 - Marriage and Divorce
2. Part 2 - Succession
3. Part 3 - Live - in - Relationship
4. Part 4 - Miscellaneous

For effective implementation of UCC, a rules-making and implementation committee was formed. On 27th January, 2025 the UCC act along with rules was notified and enacted in the State of Uttarakhand, making Uttarakhand the first State to implement a UCC post independence.

### **5.3 Upcoming UCC in Gujarat**

Gujarat has become the second State to pass a Uniform Civil Code. Many provisions of the Gujarat UCC are similar to that of UCC, UK. To a greater extent it can be said that UCC, UK was the model that was used in drafting Gujarat UCC.

## **6. ANALYSIS OF THE UNIFORM CIVIL CODE, UTTARAKHAND, 2024 WITH REFERENCE TO RIGHTS OF WOMEN**

### **6.1 PART 1 – Marriage and Divorce**

#### ***6.1.1 Polygamy is disallowed***

Section 4 (i) of the UCC, UK states that any marriage that has been solemnised/contracted after the commencement, shall be registered only if neither of the parties to marriage has any spouse living at the time of marriage.<sup>50</sup> The practice of polygyny develops a scope for inequality among the wives. The women in such a marital relationship often experience neglect which might result in mental pressure. Another issue that arises out of such a relationship is the financial condition of the family. The income is divided among the wives which could have been utilized on one wife. The progeny out of such relationships inculcate the value system where inequality between a man and a woman is a normal phenomenon. The said provision in UCC, UK aims at preventing polygyny so that the woman can be empowered to have a

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<sup>50</sup> Section 4 (i), Uniform Civil Code, Uttarakhand, 2024 ( Act No. of 03 of 2024).

balanced and healthy marital relationship which ultimately betters the next generation. It also promotes equality by allowing both husband and wife to have a single spouse.

### **6.1.2 Prohibition of Child Marriage**

Section 4 (iii) of the Code states that a marriage which has been solemnised/contracted after the commencement of the Code shall be registered only if the man has completed the age of 21 years and the woman, the age of eighteen years.<sup>51</sup> Additionally, Section 32 (1) (i) of the Code, penalises a marriage solemnised/contracted in contravention of the above conditions.<sup>52</sup> Even after several decades, child Marriage is still a persistent social vice in Indian society. According to UNICEF 2023, India is home to one in three of the world's child brides.<sup>53</sup> Additionally, one in nearly four young women were married before the age of 18 years.<sup>54</sup> When a girl child is married, her education is seldom prioritised and she is pushed into the fulfilment of her marital obligations. Without education and skill development, she is not left with any option but to become dependent on her in-laws for survival. Another issue with child brides is that due to early marriage they are forced into early motherhood, impacting their mental and physical health. Modern world acknowledges education is a tool for empowerment and child marriage is a patent obstacle in realizing the same. So to eradicate this vice, UCC, UK has made child marriage punishable and it punishes any person who 'procures' such marriage which is inclusive of the officiant (who gets the marriage ceremony performed) of such marriage and the parents of the parties. This provision helps the woman to be empowered by trying to ensure that the child is subject to a healthy childhood and an opportunity to become independent. Section 24 (1) (b) of the Code provides that "a child marriage may be annulled at the instance of the petitioner if the petition as per Section 24 (2) (a) of the Code, is brought before the petitioner has turned 22 years."<sup>55</sup>

### **6.1.3 Special grounds for divorce provided to the Wife**

Section 25 (3) (i) of the Code encompasses additional grounds for divorce which are only available to the wife. It states that if after the marriage, the husband is found guilty of rape or

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<sup>51</sup> Section 4 (iii), Uniform Civil Code, Uttarakhand, 2024 ( Act No. of 03 of 2024).

<sup>52</sup> Section 32(1)(i), Uniform Civil Code, Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>53</sup> Moumen, H. (2023). *Ending Child Marriage: A profile of progress in India - UNICEF DATA*. [online] UNICEF DATA. Available at: <https://data.unicef.org/resources/ending-child-marriage-a-profile-of-progress-in-india-2023/#main>.

<sup>54</sup> *Ibid.*

<sup>55</sup> Section 24 (1) (b), Uniform Civil Code, Uttarakhand, 2024 (Act No. of 03 of 2024).

of unnatural sexual offence the wife is allowed to use the same as a ground for divorce.<sup>56</sup> This additional ground has been provided to women so that they can get a remedy for the wrong that they have suffered in their marital relationship. Indian Women often are often pressured by the society and parents to adjust with the wrongs so that their marriage can sustain. Codification of such grounds paves a way for the women to take her stand. The provision states that a woman may file for divorce on the ground that her husband has more than one wife.<sup>57</sup> This ground provides a woman with a legal recourse to reject a marital relationship which is based on inequality.

#### ***6.1.4 Dissolution of Marriage only through Court***

Section 29 of the Code states that after the commencement of the Code, dissolution of marriage can only be done through a Court and not by any usage, custom, tradition or personal law.<sup>58</sup> To ensure its compliance, Section 32 (1) (ii) of the Code penalises the dissolution of marriage by any usage, custom, tradition or personal law.<sup>59</sup> Due to India being a patriarchal society, the structure of the society has been formed in such a manner so as to cater to the rights of the man over the rights of woman. In Islam, the husband majorly has the divorce right creating inequality. Additionally, the procedure of divorce is relatively easy which makes it a convenient option to be chosen at any time. By enforcing that a marriage will be dissolved only through Court, the women of all religions are empowered to file for divorce and the proceedings of the same are to be conducted in a state institution where rule of law is followed.

#### ***6.1.5 No condition to be imposed on a divorced person when remarrying***

Section 30 (2) of the Code, states that a divorced person has right to remarry without any condition being imposed such as marrying a third person before such remarriage.<sup>60</sup> Halala is one of the practices that mandates a woman to marry a third person, consummate such marriage and then divorce such third person to become eligible to remarry the divorced husband. This practice is not only undignified but tries to suppress the will and self esteem of a woman. This section has been drafted to protect the women from this barbaric practice. To empower the women against the same, Section 32 (1) (iii) punishes a person who compels, abets or induces

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<sup>56</sup> Section 25 (3) (i), Uniform Civil Code Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>57</sup> Section 25 (3) (ii), Uniform Civil Code Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>58</sup> Section 29, Uniform Civil Code Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>59</sup> Section 32 (1) (ii), Uniform Civil Code Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>60</sup> Section 30 (2), Uniform Civil Code, Uttarakhand, 2024 (Act No. of 03 of 2024).

a person to observe any such condition.<sup>61</sup>

Another condition related to a divorced woman remarrying which is prevalent in Indian society is the Iddat period (in case of divorce). As there were no advanced medical facilities, this period was observed in the earlier times to ascertain whether the woman is pregnant with a child or not. This rationale has become redundant as the medical techniques have become advanced enough to confirm whether a woman is pregnant or not in a couple of days. To allow divorced women to remarry without any condition, Section 32 (1) (iii) punishes any person who compels, abets or induces the woman to observe any such condition.<sup>62</sup>

This section restricts any other conditions which have been put forth to be observed by a divorced person before she/he remarries.

## **6.2 PART 2 – Succession**

### ***6.2.1 Daughter, Wife and Mother included as Class I Heir***

Schedule 2 of the Code provides Class I heirs, which includes daughter, wife and mother. This means that if a person dies intestate, his daughter, wife and mother shall be prioritised in getting a share from his estate. The Code also provides that the share of a son and of a daughter shall be equal. This ensures that the women of a person's immediate family are economically sustained. This helps in economically empowering the women. To ensure that the women receive economic benefit, the term estate in the Code has been broadened. Section 3 of the Code, defines estate as "*property of any kind, whether movable or immovable, self-acquired or ancestral/coparcenary/joint, tangible or intangible and includes a share, interest or right in such property*".<sup>63</sup>

### ***6.2.2 Equal competency of man and woman for being a Witness***

The Code does not distinguish on the basis of the gender to consider a person capable to be a witness of a Will. In Islam the testimony of two women is considered to be equivalent to a man. This unequal treatment undermines a woman as a human. To empower them, the Code does not distinguish witnesses on the basis of gender and considers the woman to be equivalent

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<sup>61</sup> Section 32 (1) (iii), Uniform Civil Code, Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>62</sup> *Ibid.*

<sup>63</sup> Section 3, Uniform Civil Code, Uttarakhand, 2024 (Act No. of 03 of 2024).

to man as a witness attesting a Will. Additionally, there is no distinction on the basis of gender in the witnesses required for the several registrations under the Uniform Civil Code Rules, Uttarakhand, 2025.

### **6.3 PART 3 – Live-in-Relationship**

#### **6.3.1 Provision of Mandatory Registration**

Presently, a new practice of live-in relationship has been introduced in Indian society. Though the Supreme Court of India has upheld the legal validity of a live-in relationship, before UCC, UK there was no legislation specifically governing live-in relationship. As there was no law regulating the same, crime against women in live-in relationships was witnessed. Moreover, due to the absence of a special law, liability in live-in relationships was to a lesser extent which led to the exploitation of women. To regulate the same, Section 378 (1) of the Code provides mandatory registration for persons in live-in relationship within the territory of Uttarakhand.<sup>64</sup> This helps in setting the accountability of persons. The mandatory registration acts as a deterrence for the persons who have a guilty mind, to enter into a live-in relationship.

#### **6.4 Restricted Data Access (provided under Uniform Civil Code Rules, Uttarakhand, 2025)**

The Uniform Civil Code Rules, Uttarakhand, 2025 provide for a system of accessing information available in the Database of the UCC web-portal created by the State Government. The information in the database is the information that has been received through various registrations. Rule 20 (1) (b) states that certain restricted information namely the marital/relationship status, religion, category and number of children of a man and a woman can be jointly accessed after receiving their joint consent.<sup>65</sup> While providing the restricted information, the information of a third party (wherever applicable) is not disclosed. For e.g. if the marital status of the man is married, only the status 'married' will be shown and not the name and details of his wife. Similarly, if the number of children is sought, only the number '1,2,3..' shall be provided and not the details of the children.

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<sup>64</sup> Section 378(1), Uniform Civil Code, Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>65</sup> Rule 20(1)(b), Uniform Civil Code Rules, Uttarakhand, 2025.

This system allows a woman to ascertain whether a man with whom she wants to start a relationship is disclosing all the relevant facts about his life or not. This helps in reducing the cases of bigamy and the cases where the consent of the woman was obtained through fraud or misrepresentation. This system empowers the woman to seek information relevant to her in making life changing decisions. This empowers the woman to choose a right recourse.

### **6.5 Uniform Civil Code (Amendment) Ordinance, 2026<sup>66</sup>**

Some notable amendments include:-

1. the imposition of 7 years punishment for fraud or coercion in marriages and live-in relationships;
2. making a polygamous relationship, a punishable offence with punishments to be inflicted under Bharatiya Nyaya Sanhita, 2023;
3. making a child marriage, a punishable offence with punishments to be inflicted under Prohibition of Child Marriage Act, 2006; and
4. includes punishment for a person who marries by hiding her/his identity etc.

## **7. SUGGESTIONS AND RECOMMENDATIONS**

1. Currently, several Uniform civil code, Uttarakhand, 2024 provisions have been amended right after being enforced in 2025. This fact implies that there might be scope for improvement. A 5-year testing period should be imposed, where UCC, UK is made full proof before UCC is brought to any other State or a National UCC is imposed.
2. A major debate is on the exclusion of Scheduled Tribes within the meaning of clause (25) of Article 366 read with Article 342 of the Constitution of India and the persons and group of persons whose customary rights are protected under Part XXI of the Constitution of India.<sup>67</sup> Several judicial precedents have allowed the inclusion of tribes that follow Hindu tradition and extended the Hindu laws onto them.<sup>68</sup> A study on the

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<sup>66</sup> Uniform Civil Code, Uttarakhand (Amendment) Act, 2026 ( Act No. of 02 of 2026).

<sup>67</sup> Section 2, Uniform Civil Code, Uttarakhand, 2024 (Act No. of 03 of 2024).

<sup>68</sup> See: (2000) 8 SCC 587 and 2001 (3) SCC 13.

customary practices of all the scheduled tribes should be conducted so that a reasonable decision on the same can be taken. If the customs of Scheduled tribes are found to be similar to any of the religions that are included in UCC, the scheduled tribes may be included in the purview of UCC so that any gender inequality that is persistent in the customs can be removed.

3. The provisions such as forcing a person to perform a particular condition before remarrying requires mass awareness as the provision punishes a person who abets, compels or induces but may lack if a woman herself wants to perform such a condition. Here, explaining the nature of conditions can aid in distinguishing between legal and illegal conditions. A difference based on whether a condition harms the dignity of a person can be made.
4. For UCC, UK to be a model for implementation of UCC at the National level, a national level committee must be formed with one representative of each State with equal voting weightage.
5. Continuous mass awareness related to women rights protection offered by UCC, UK is required.
6. Continuous training of the officials dealing with the public related to UCC in different levels is required for the effective implementation of UCC, UK.

## **8. CONCLUSION**

Uniform Civil Code, Uttarakhand, 2024 as well as the Uniform Civil Code Rules, Uttarakhand, 2025 have provided the above mentioned provisions to protect and empower the women. But to realize these provisions to their fullest extent, awareness regarding the same is to be provided in a continuous manner. Based on the above discussions, to a greater extent, Uniform Civil Code, Uttarakhand, 2024 effectively protects women rights as it brings women of all religions under a single law and offers the same level of protection to them.