



UNIFORM CIVIL CODE AND ITS LINKAGES WITH GENDER EQUALITY IN THE STATE OF UTTARAKHAND

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Abstract

This article examines the Uniform Civil Code (UCC) enacted by Uttarakhand in 2024 and implemented through rules by early 2025, and maps its linkages with gender equality across marriage, divorce, succession, and live-in relationships. It synthesizes statutory text with constitutional jurisprudence—especially privacy, autonomy and equality decisions of the Supreme Court—and situates the Code within long-running debates over Article 44 and personal law reform. While the Uttarakhand UCC standardizes several gender-salient rights (mandatory registration of marriage and divorce, unified intestate succession, recognition of live-in relationships), its regulatory design also raises equality-adjacent risks tied to surveillance, documentation burdens, and penal sanctions. The paper argues that the gender-justice dividend of the UCC will depend less on uniformity per se and more on rights-sensitive implementation that harmonizes equality (Articles 14–15) with autonomy and privacy (Articles 19, 21), informed by case-law such as Shah Bano (1985), Sarla Mudgal (1995), Puttaswamy (2017), Shayara Bano (2017), Shafin Jahan (2018) and Joseph Shine (2018). (Government of Uttarakhand, 2024; PRS Legislative Research, 2024; News18, 2025; India Today, 2024)

Introduction

Article 44 of the Constitution of India urges the State to endeavor to secure a Uniform Civil Code, while Articles 14 and 15 enshrine equality and non-discrimination. Uttarakhand is the first state in post-independence India to legislate a comprehensive UCC applicable across communities (with an exemption for Scheduled Tribes). The Uniform Civil Code of
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Uttarakhand, 2024 (*Act No. 3 of 2024*) codifies rules on marriage, divorce, registration, and succession, and introduces a regulatory framework for live-in relationships. The Act's text and official publication clarify its scope, structure, and enforcement design. (*Government of Uttarakhand, 2024; PRS Legislative Research, 2024*)

1. Overview of the Uttarakhand UCC: Scope, Structure, and Stated Aims

The Code comprises multiple Parts. Part I addresses marriage and divorce, including conditions of marriage, ceremonies, compulsory registration, restitution of conjugal rights and judicial separation, nullity, divorce, and incidental proceedings such as maintenance and custody. Part II covers intestate succession and related rules. A distinct feature is the compulsory registration regime—both for marriages (*Sections 6–11*) and for decrees of divorce/nullity (*Sections 8–9*). The statute expressly exempts Scheduled Tribes from applicability. These design choices aim at uniform proof, portability of rights, and reduction of discriminatory practices embedded in religious personal laws. (*Government of Uttarakhand, 2024; PRS Legislative Research, 2024*)

By January 27, 2025, the State operationalized rules and infrastructure to implement the Code, with news explainers and policy notes clarifying the impact on marriage, divorce, and live-in relationships. The rules retained the core architecture on registration, succession, and live-in recognition while streamlining certain proposals from earlier drafts. (*News18, 2025*)

2. Regulatory Recognition of Live-in Relationships: Promise and Peril

Perhaps the most debated innovation is the mandated registration of live-in relationships. Public explainers noted that couples cohabiting in Uttarakhand must file an online or in-person statement for recognition, with penalties for non-registration and enhanced notification requirements if either partner is under 21. Registration is barred where either partner is already married, a minor, or within prohibited degrees. Proponents argue this formal recognition extends maintenance-like safeguards and clarifies the status of children; critics warn of a chilling effect on privacy, particularly for inter-faith/inter-caste couples and women leaving abusive homes. (*India Today, 2024; Drishti Judiciary, 2025*)

From a gender-equality perspective, protective intent must be balanced with informational self-determination. After *Justice K.S. Puttaswamy v. Union of India (2017)*, informational privacy is a fundamental right under Articles 14, 19 and 21. Any data-heavy registration scheme must therefore satisfy tests of legality, necessity, and proportionality, with

privacy-by-design safeguards such as purpose limitation, minimal data collection, strict access control, and independent oversight. (*Puttaswamy, 2017*)

3. Marriage, Divorce, Maintenance: Standardization and Gender Justice

Uniform grounds for marriage and divorce can reduce asymmetries that arise from plural personal laws. Compulsory registration improves evidentiary certainty—crucial for women in securing maintenance (*pendente lite* and permanent), custody, and inheritance. However, penal consequences for non-registration could perversely burden women who often have less control over documentation and mobility. Accordingly, rule-design should prioritize accessible, low-friction registration (including mobile access, offline facilitation, fee waivers) and ensure that sanctions fall, where necessary, on deliberate non-compliance by more empowered parties rather than on vulnerable spouses. (*Government of Uttarakhand, 2024; PRS Legislative Research, 2024*)

4. Succession and Economic Equality

The UCC's unification of intestate succession rules aims to neutralize gender-differentiated entitlements across communities and to standardize heirs' rights. Historic jurisprudence like *John Vallamattom v. Union of India (2003)* struck down discriminatory testamentary disability on Christians under Section 118 of the Indian Succession Act, reaffirming equality under Article 14. A uniform succession framework in Uttarakhand can further women's economic security provided administration is timely, documentation barriers are reduced, and legal aid is available to enforce claims. (*John Vallamattom, 2003*)

5. Constitutional Case Law Touchstones for Gender Equality and Autonomy

5.1 Shah Bano (1985): Maintenance and the Secular Safety-Net

In *Mohd. Ahmed Khan v. Shah Bano Begum (1985)*, the Supreme Court held that Section 125 CrPC applies irrespective of religion, enabling a divorced Muslim woman to claim maintenance to prevent destitution. The decision catalyzed a national conversation on UCC and women's rights, and—despite subsequent legislative responses—remains emblematic of the Court's equality-centered approach to personal law conflicts. The Uttarakhand UCC's maintenance provisions and compulsory registration should be read in harmony with the *Shah Bano* principle that secular welfare statutes serve as a safety-net against destitution. (*Shah Bano, 1985*)

5.2 Sarla Mudgal (1995): Monogamy, Conversion, and Equality

Sarla Mudgal v. Union of India (1995) addressed the misuse of religious conversion to evade monogamy under Hindu law. The Court held that a Hindu husband cannot escape Section 494 IPC by converting to Islam to contract a second marriage without dissolving the first. The judgment linked gender justice with the call for a UCC, underscoring that formal pluralism must not become a shield for patriarchal harms. Uttarakhand's UCC reinforces monogamy and standard conditions of marriage for all communities. (*Sarla Mudgal, 1995*)

5.3 Puttaswamy (2017): Privacy as a Fundamental Right

Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) unanimously affirmed privacy as a fundamental right under Articles 14, 19 and 21. For Uttarakhand's UCC, this demands that registration systems (*marriage and live-in*) adhere to constitutional proportionality and data protection principles, and that any penalization for non-registration be strictly necessary and narrowly tailored. (*Puttaswamy, 2017*)

5.4 Shayara Bano (2017): Triple Talaq and Constitutional Morality

In Shayara Bano v. Union of India (2017), a 3:2 majority invalidated talaq-e-biddat (instant triple talaq) as arbitrary and unconstitutional, reiterating that personal law practices cannot trump fundamental rights, particularly gender equality and dignity. The decision's logic supports uniform divorce grounds that protect women from unilateral repudiation. (*Shayara Bano, 2017*)

5.5 Shafin Jahan (Hadiya) (2018): Choice in Marriage and Autonomy

Shafin Jahan v. Asokan K.M. (2018) restored the autonomy of an adult woman to choose her faith and spouse, holding that courts cannot annul the marriage of a competent adult in habeas corpus jurisdiction. For the UCC, this case cautions against paternalistic intrusions into intimate choices and supports safeguarding inter-faith couples against social coercion. (*Shafin Jahan, 2018*)

5.6 Joseph Shine (2018): Decriminalizing Adultery, Affirming Sexual Autonomy

Joseph Shine v. Union of India (2018) struck down Section 497 IPC as unconstitutional, recognizing sexual privacy and decisional autonomy within marriage and disavowing penal enforcement of morality. The proportionality ethos of Shine is a useful check against over-criminalization in the UCC's registration framework. (*Joseph Shine, 2018*)

6. Gender-Equality Gains and Implementation Risks

Gains: (a) Standardizing marriage conditions and divorce grounds equalizes entitlements and liabilities; (b) compulsory registration enhances proof and enforceability of rights; (c) recognition of live-in relationships can extend protections (maintenance, legitimacy of children) to women outside formal marriage; (d) unified intestate succession reduces discriminatory variance across communities. (*Government of Uttarakhand, 2024; India Today, 2024*)

Risks: (a) Penal provisions for non-registration and notification to parents for sub-21 partners may chill autonomy, especially for women, queer individuals (even if same-sex relationships are not recognized), and inter-faith couples; (b) heavy documentation may disproportionately burden women who face literacy and mobility constraints; (c) data processing without strong privacy guardrails could enable social surveillance and harassment. These risks must be mitigated through rule-making, administrative design, and judicial oversight. (*Puttaswamy, 2017; Drishti Judiciary, 2025*)

7. Policy and Design Recommendations for Rights-Sensitive Implementation

7.1 Privacy-by-Design in Registration Systems

1. Data minimization: Collect only what is strictly necessary for legal recognition.
2. Purpose limitation: Use data solely for registration and adjudication.
3. Access control: Role-based access logs and penalties for misuse.
4. Confidential workflows: Shield addresses/contact details in public copies.
5. Independent oversight: Designate a state privacy officer and publish transparency reports.
6. Sunset clauses: Auto-delete data after statutory retention. (*Puttaswamy, 2017*)

7.2 Gender-Responsive Administration

1. Mobile and offline registration vans.
2. Fee waivers and legal aid for women, Dalits, and economically weaker sections.
3. Presumptions favoring women's custody/maintenance claims in documentary disputes.
4. Penalties are calibrated to target willful non-registration by responsible parties.
5. Robust grievance redress with time-bound orders. (*Government of Uttarakhand, 2024*)

7.3 Protecting Autonomy in Live-in Recognition

1. Replace mandatory registration with voluntary recognition plus opt-in protections; or, if mandatory is retained, limit penal consequences to willful misrepresentation.

2. Remove parental notification below a bright-line adulthood threshold, replacing it with counseling and safety referrals.
3. Provide safe, confidential exit procedures for survivors of domestic/relationship violence. (*India Today*, 2024; *Drishti IAS*, 2024)

8. Synthesis: Uniformity, Equality, and Constitutionalism

The Uttarakhand UCC is a constitutional experiment at the intersection of equality and pluralism. Its gender-equality potential is real: standardization can close gaps and recognition can extend safety nets. Yet equality is inseparable from privacy and autonomy. The Supreme Court's recent jurisprudence demands that the State's pursuit of uniformity avoids paternalism and surveillance. A rights-sensitive UCC would make registration accessible but not punitive, recognize diverse family forms while protecting against exploitation, and treat data with constitutional care. (*Puttaswamy*, 2017; *Shayara Bano*, 2017; *Joseph Shine*, 2018)

Conclusion

Uttarakhand's UCC advances a decades-old directive to harmonize civil rules and promises tangible gains for women's rights in marriage, divorce, succession, and non-marital partnerships. Whether these gains materialize depends on careful administrative design, iterative rule-making, and vigilant judicial review. Reading the Code alongside landmark cases—from Shah Bano's secular safety-net to Puttaswamy's privacy, from Shayara Bano's strike against arbitrary divorce to Shafin Jahan's autonomy and Joseph Shine's decriminalization—yields a blueprint: build uniformity that empowers, not surveils; protect dignity and choice; and ensure that the everyday exercise of rights is simple, affordable, and confidential. (Government of Uttarakhand, 2024; News18, 2025)

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