

LOK SABHA COMMITTEE STUDY GUIDE

Committee: Lok Sabha (House of the People)

Agenda: Discussing the Nationwide Implementation of the Uttarakhand Uniform Civil Code Act, 2024

I. INTRODUCTION TO THE AGENDA

The Foundational Question

The debate surrounding the Uniform Civil Code (UCC) has remained one of the most contested constitutional and political questions since India's independence. At its core lies a fundamental question: should personal matters such as marriage, divorce, inheritance, adoption, maintenance, and succession continue to be governed by distinct religious laws, or should all citizens be subject to a common civil framework irrespective of faith? [4]

The Reality of Legal Pluralism

Unlike criminal law, contract law, taxation, or property transfer—which are governed by uniform statutes applicable across the country—family law in India continues to be regulated through a plurality of legal systems. Hindu, Muslim, Christian, Parsi, and numerous tribal communities remain governed by separate personal law regimes, each reflecting distinct religious traditions and historical developments. Consequently, two citizens may be treated differently by the law solely because they belong to different religious communities. [3]

The Competing Arguments

Supporters of a Uniform Civil Code argue that such a situation is incompatible with the constitutional commitment to equality before the law. They contend that family law should be governed by principles of citizenship rather than religious affiliation and that a common code would eliminate discriminatory provisions, particularly those affecting women. Proponents further argue that a uniform framework would strengthen national integration by reducing legal fragmentation. [4]

Opponents, however, view personal laws as an integral component of cultural and religious identity. They argue that India's constitutional commitment to pluralism requires recognition of legal diversity and that any attempt to impose a single civil code risks undermining minority rights guaranteed under Articles 25 and 29 of the Constitution. Critics also question whether a truly neutral and uniform code is possible in a country characterized by immense religious, linguistic, and cultural diversity. [7]

The Paradigm Shift: Uttarakhand 2024

For decades, the UCC remained largely a constitutional aspiration contained within Article 44 of the Directive Principles of State Policy. However, the passage of the **Uttarakhand Uniform Civil Code Act, 2024** fundamentally altered the landscape of the debate. For the first time since independence, a state legislature enacted a comprehensive civil code intended to replace religion-specific family laws within its jurisdiction. The Act received Presidential assent on **12 March 2024** and came into force on **27 January 2025**. [10]

As a result, the national conversation has shifted from whether a UCC is theoretically possible to whether the Uttarakhand model—or a modified version of it—should serve as the basis for a nationwide framework.

II. HISTORICAL EVOLUTION OF THE UCC DEBATE

The Colonial Inheritance

The origins of the Uniform Civil Code debate can be traced to the colonial period. The British administration gradually codified criminal and commercial laws applicable across India but largely refrained from interfering with personal laws. Marriage, divorce, succession, and inheritance continued to be regulated through religious norms. The colonial state considered these matters too sensitive and politically contentious for uniform regulation. Consequently, by the time India attained independence, it inherited a dual legal system: a largely uniform framework for public law and a highly fragmented framework for family law. [7]

The Constituent Assembly Debates (1946-1949)

The issue emerged prominently during the Constituent Assembly debates. Draft Article 35, which later became Article 44, proposed that the State should endeavour to secure a Uniform Civil Code throughout the territory of India. The proposal generated intense disagreement. [4]

Supporters of the Provision

K.M. Munshi argued that the existence of separate personal laws was incompatible with the project of nation-building. He maintained that modern citizenship required legal equality and that no community could claim permanent immunity from social reform. Munshi rejected the argument that personal laws constituted an essential part of religion, emphasizing that numerous Muslim-majority countries had already reformed family law through legislative intervention. [6]

Dr. B.R. Ambedkar similarly defended the inclusion of the provision. He observed that many areas of law had already been successfully unified and argued that there was no principled reason why family law should remain permanently exempt from reform. At the same time, Ambedkar adopted a pragmatic approach. He clarified that Article 44 would not compel immediate implementation of a Uniform Civil Code. Rather, it would empower future legislatures to introduce reforms gradually when political and social conditions permitted. [4]

Significantly, Ambedkar also remarked that regardless of which political party comes to power, it must respect the Directive Principles and cannot ignore them. He stated:

"Whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these instruments of instructions which are called Directive Principles. He cannot ignore them." [4]

Women members of the Assembly, including Hansa Mehta and Rajkumari Amrit Kaur, were among the strongest supporters. They called for making the UCC an enforceable fundamental right and remarked that one of the key factors hindering India's progress to an advanced nation was the existence of personal laws. [4]

Opponents of the Provision

Opposition emerged from several Muslim members of the Assembly, including **Mohammed Ismail Sahib** and **Naziruddin Ahmad**. They argued that personal law formed an inseparable part of religious practice and that a Uniform Civil Code could amount to state interference in matters of faith. Concerns were also raised regarding minority rights in a newly independent nation still grappling with the aftermath of Partition. [6]

The Constitutional Compromise

The compromise ultimately reached by the Constituent Assembly was significant. Rather than placing the Uniform Civil Code among the enforceable Fundamental Rights (Part III), the Assembly located it within the **Directive Principles of State Policy (Part IV)**. This decision reflected a deliberate attempt to balance competing constitutional values. The State was encouraged to work toward legal uniformity, but no immediate obligation was imposed. [4]

The resulting constitutional arrangement has shaped the UCC debate for more than seven decades. Article 44 remains an aspirational provision, while questions concerning the timing, form, and scope of implementation continue to be left to democratic deliberation.

III. CONSTITUTIONAL FRAMEWORK

Article 44: The Directive Principle

Article 44 of the Constitution of India states:

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." [7]

This provision is located in **Part IV** of the Constitution, which contains the Directive Principles of State Policy (DPSPs). Under **Article 37**, the DPSPs are explicitly declared **non-justiciable**—that is, they cannot be enforced by any court of law. However, they are nevertheless described as "fundamental in the governance of the country," and it is the duty of the State to apply them in making laws. [4]

The Fundamental Rights Tension

The UCC debate is rooted in a tension between the directive to unify (Article 44) and the right to religious freedom. Several Fundamental Rights are potentially implicated:

Article	Provision	Nature
Article 14	Equality before the law and equal protection of laws	Fundamental Right
Article 15	Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth	Fundamental Right
Article 21	Protection of life and personal liberty (includes right to privacy)	Fundamental Right
Article 25	Freedom of conscience and free profession, practice, and propagation of religion	Fundamental Right
Article 26	Right to manage religious affairs (establish institutions, own property)	Fundamental Right
Article 29	Protection of interests of minorities (culture, language, script)	Fundamental Right

The Essential Religious Practices Doctrine

The Supreme Court has developed the "**essential religious practices**" doctrine to resolve conflicts between state regulation and religious freedom. In **The Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (1954)** , the Court held:

"Religion is a matter of faith, but what is essential to religion is to be determined by the court. The state can regulate secular activities which are not integral to religion."

Applying this doctrine, Indian courts have consistently held that **marriage, divorce, and inheritance are secular activities**—not part of the *essential religious practice* of any faith. This opens the door for state regulation through a Uniform Civil Code. [10]

The Concurrent List and Federalism

Personal laws fall under **Entry 5 of the Concurrent List** (List III) of the Seventh Schedule to the Constitution. This means that **both Parliament and State Legislatures** have the competence to legislate on matters relating to "marriage and divorce, infants and minors, adoption; wills, intestacy and succession; joint family and partition." [10]

However, in case of conflict between a central law and a state law on a concurrent subject, the central law prevails (Article 254). This has significant implications for any attempt by individual states to enact their own UCCs. [2]

Article 245 and Territorial Nexus

Article 245 defines the territorial extent of legislation. While Parliament may make laws for the whole or any part of India, a State Legislature may make laws for the whole or any part of the State. Importantly, state laws are presumed to operate only within the territory of that state. [6]

This principle has been challenged by the **Uttarakhand UCC's extraterritorial provisions**, which claim jurisdiction over "residents" of Uttarakhand even when they are living outside the state. Legal experts argue that this may violate the doctrine of territorial nexus and exceed the state's legislative competence. [6]

Constitutional Morality vs. Religious Sentiment

The Supreme Court has increasingly invoked the concept of "**constitutional morality**" —a morality derived from constitutional values rather than social or religious customs. In **Naz Foundation v. Government of NCT of Delhi (2009)** , the Court observed that constitutional morality must prevail over societal morality when the two conflict. This principle has been cited by UCC proponents to argue that discriminatory personal laws cannot be defended merely on grounds of religious sentiment.

IV. JUDICIAL DEVELOPMENTS

The Supreme Court has repeatedly nudged Parliament towards a UCC across four decades. Instead of brief summaries, each case is analyzed below through its **facts, legal issues, holding, and relevance to the UCC debate**.

4.1 Mohd. Ahmed Khan v. Shah Bano Begum (1985) AIR 1985 SC 945

Facts

Shah Bano, a 62-year-old Muslim woman, was divorced by her husband, Mohd. Ahmed Khan, after 43 years of marriage and five children. He paid her the agreed *meher* (dower) of Rs. 3,000 and then denied further maintenance, claiming that under Muslim personal law, a divorced woman is only entitled to maintenance during the *iddat* period (approximately three months following divorce). Shah Bano filed for maintenance under **Section 125 of the Code of Criminal Procedure, 1973**, which provides a uniform, secular remedy for maintenance to all wives, regardless of religion.

Legal Issues

1. Whether Section 125 CrPC applies to Muslim women, or whether Muslim personal law overrides it.
2. Whether a divorced Muslim woman is entitled to maintenance beyond the *iddat* period.
3. Whether the court should consider the constitutional desirability of a Uniform Civil Code.

Holding

The Supreme Court held that **Section 125 CrPC applies to all citizens, irrespective of religion**. The Court reasoned that Section 125 was enacted to prevent vagrancy and destitution, and its secular character could not be defeated by religious personal laws. The Court further observed that Muslim personal law's limitation of maintenance to the *iddat* period was unreasonable and that a divorced Muslim woman is entitled to maintenance under Section 125 until she remarries.

Relevance to UCC

Justice Y.V. Chandrachud, writing for the majority, made the now-famous observation:

"A common civil code will help the cause of national integration by removing the tension between different personal laws. It is a matter of regret that Article 44 has remained a dead letter. There is no evidence of any official activity for framing a common civil code for the country." [10]

The judgment was explosive politically. Massive protests from Muslim orthodoxy followed, and in a rare move, **Parliament effectively overturned the judgment** by passing the **Muslim Women (Protection of Rights on Divorce) Act, 1986**, which limited maintenance for Muslim women to the *iddat* period. The Act also allowed Muslim women to approach a magistrate for maintenance under Section 125, but only if the husband consented—a provision widely criticized as regressive. [3]

Evolution in Understanding

1985: The Court saw UCC as a desirable but distant goal, lamenting its absence but not compelling action.

4.2 Sarla Mudgal v. Union of India (1995) AIR 1995 SC 1531

Facts

Four Hindu men, while married to their first wives (with their marriages still subsisting), converted to Islam and married second wives. They argued that under Muslim personal law, which permits polygamy (up to four wives), their second marriages were valid, and they could not be prosecuted for bigamy under the Hindu Marriage Act, 1955.

Legal Issues

1. Whether a Hindu husband, by converting to Islam, can solemnize a second marriage while the first marriage is still subsisting.
2. Whether such a second marriage would be valid or would constitute an offense of bigamy.
3. Whether the Court should reiterate the call for a Uniform Civil Code.

Holding

The Supreme Court held that the second marriage was **invalid and void**. The Court reasoned that the Hindu Marriage Act, 1955 governs the first marriage, and conversion to Islam does not dissolve that marriage. A husband cannot use religious conversion as a "cloak" to circumvent the law. The second marriage was held to be an offense under Section 494 of the Indian Penal Code (bigamy).

Relevance to UCC

Justice Kuldip Singh, writing for the bench, made a strong observation regarding the necessity of a UCC:

"Where more than 80% of citizens have already brought a uniform code (Hindus, Sikhs, Jains, Buddhists, and Christians have near-uniform laws), it is the State's duty to bring a Uniform Civil Code for all. Delay is no longer an excuse." [10]

The Court also expressed concern that "there is an open inducement to a Hindu husband, who wants to enter into second marriage while the first marriage is subsisting, to become a Muslim," calling for legal reform to close this loophole. [7]

Evolution in Understanding

1995: The Court grew more impatient. UCC shifted from "desirable" to a "duty of the State." The tone became urgent.

4.3 Shayara Bano v. Union of India (2017) 9 SCC 1

Facts

Shayara Bano was divorced by her husband through **talaq-e-biddat** (triple talaq)—the practice of instant divorce by uttering the word "talaq" three times, often in a single sitting, via any medium (letter, phone, text message). She challenged the constitutionality of the practice, arguing that it violated her fundamental rights. The All India Muslim Personal Law Board (AIMPLB) defended triple talaq as an integral part of Muslim personal law and protected under Article 25.

Legal Issues

1. Whether triple talaq is an "essential religious practice" of Islam, protected under Article 25.
2. Whether triple talaq is constitutional, given its potentially arbitrary and discriminatory nature.
3. Whether the Court can strike down a personal law practice on constitutional grounds.

Holding

By a **3:2 majority**, the Supreme Court struck down triple talaq as **unconstitutional**. Chief Justice Dipak Misra (for the majority) held:

- Triple talaq is **not essential to Islam**; it is a practice that evolved despite being disapproved by the Quran.
- The practice violates **Article 14** (equality) because it allows a Muslim man to unilaterally and arbitrarily dissolve a marriage without any opportunity for reconciliation.
- The practice violates **Article 15** (non-discrimination) as it discriminates against Muslim women.
- The practice violates **Article 21** (right to live with dignity) by rendering Muslim women vulnerable to destitution.

Justice Rohinton Nariman observed that triple talaq is "manifestly arbitrary" and therefore violates Article 14.

The dissenting judges (Justice Kurian Joseph and Justice Abdul Nazeer) argued that the Court should not interfere with personal law and that the remedy should be legislative, not judicial.

Outcome

Parliament subsequently passed the **Muslim Women (Protection of Rights on Marriage) Act, 2019**, which criminalized triple talaq with imprisonment up to three years.

Relevance to UCC

This case was significant because the Court explicitly held that **personal laws are not immune from fundamental rights scrutiny**. The majority observed that while Article 25 protects religious practices, it does not protect practices that are arbitrary, discriminatory, or against public order, morality, and health. This reasoning directly supports the constitutional validity of a UCC that overrides discriminatory personal law provisions. [3]

Evolution in Understanding

2017: The Court established that personal laws can be struck down if they violate fundamental rights, setting a powerful precedent for UCC.

4.4 Jose Paulo Coutinho v. Maria Luiza Valentina Pereira (2019) SCC OnLine SC 1359

Facts

This case arose from a dispute over inheritance and succession under the **Goa Civil Code** (Portuguese Civil Code of 1867, which continues to apply in Goa). The question was whether the Goa Family Law—which applies uniformly to all Goans regardless of religion—could be upheld as a valid legal framework, and whether it could serve as a model for a national UCC.

Legal Issues

1. Whether the Goa Civil Code is constitutionally valid despite applying uniformly to all religions.
2. Whether the Goa Civil Code can be cited as a "model" for a national UCC under Article 44.

Holding

The Supreme Court upheld the Goa Civil Code as constitutionally valid and praised it as a "**shining example**" and "**practical model**" of a Uniform Civil Code. Justice Sanjay Kishan Kaul observed:

"Goa has a uniform civil code for decades. There is no religious opposition. This shows that a UCC is feasible and desirable. The central government must examine the Goa code while drafting a national UCC. A uniform law does not necessarily violate the right to freedom of religion." [3]

The Court reiterated that Article 44 must be implemented and that the existing legal fragmentation is undesirable.

Critical Caveats

However, legal scholars have noted that the Goa Civil Code is **not perfectly uniform** in practice:

- **Catholic exceptions:** Catholics need not register their marriages (church registration suffices), and Catholic priests can dissolve marriages performed in church, with church tribunal decisions mechanically approved by the High Court. This is analogous to Sharia courts and raises questions about equal treatment. [7]
- **Historical Hindu polygamy exception:** Until amendments, Hindus in Goa were permitted limited polygamy on certain conditions, including "absolute absence of male issue, the previous wife having completed 30 years of age, and being of lower age, ten years having elapsed from the last pregnancy." [7]
- **Pre-nuptial contracts:** While the Code provides for community of property (joint ownership and 50-50 division on divorce), couples may opt out via pre-nuptial contracts. Critics argue that in practice, many women are forced to sign away their rights. [7]
- **Succession preferences:** The Goa Succession, Special Notaries and Inventory Proceeding Act, 2012, mentions the surviving spouse only as the **fourth preference** in order of legal succession (after descendants, ascendants, and brothers of the deceased). [7]

Evolution in Understanding

2019: The Court now had an existing, functioning model (Goa) to point to. The tone shifted from "we need a UCC" to "here is a working UCC—why can't the rest of India adopt it?"

Evolution Across Four Decades: A Summary

Decade	Case	Court's Stance on UCC
1980s	Shah Bano	Desirable, regrettable that it hasn't happened
1990s	Sarla Mudgal	State's duty; delay no longer excusable
2010s	Shayara Bano	Personal laws not immune from fundamental rights
2010s	Jose Paulo Coutinho	Feasible model exists (Goa); examine and adopt

V. PERSONAL LAW REGIMES IN INDIA

This section does not merely list statutes. It explains the historical development, current provisions, and remaining gender injustices within each regime. [3]

5.1 Hindu Personal Law

Applicable to

Hindus, Sikhs, Jains, Buddhists, and any person who is not Muslim, Christian, Parsi, or Jew, including converts and re-converts.

Governing Laws

Law	Year	Key Provisions
Hindu Marriage Act	1955	Conditions of marriage, divorce, restitution, judicial separation
Hindu Succession Act	1956 (amended 2005)	Intestate and testamentary succession
Hindu Adoption and Maintenance Act	1956	Adoption, guardianship, maintenance
Hindu Minority and Guardianship Act	1956	Guardianship of minors

Historical Development

Hindu law was **comprehensively codified** in the 1950s under the leadership of Dr. B.R. Ambedkar and Prime Minister Jawaharlal Nehru. The **Hindu Code Bill** faced fierce opposition from conservative Hindu groups but was eventually passed as four separate Acts. This codification was a significant step toward uniformity, as it replaced diverse customary laws among different Hindu sub-communities with a single statutory framework.

Key Features

- **Monogamy:** Polygamy is a criminal offense under Section 494 of the IPC.
- **Divorce:** Available on specified grounds (adultery, cruelty, desertion for 2+ years, conversion, mental disorder, venereal disease, renunciation, presumption of death, mutual consent).
- **Succession:** Since the 2005 amendment, daughters are **coparceners by birth**—they have equal rights to ancestral property as sons. This was a major gender justice reform.
- **Maintenance:** Wife, children, and aged parents are entitled to maintenance.

Remaining Gender Issues

Despite the 2005 reform, wives themselves are **still not coparceners** (only children are). Property devolves first to Class I heirs (which includes sons, daughters, widow, mother); only if there are no Class I heirs does it go to Class II heirs. Among Class II heirs, preference is still given to the male line. If a couple does not have a child, the property of not only the husband but also of the wife goes to the husband's parents. [7]

5.2 Muslim Personal Law

Applicable to

Muslims (both Shia and Sunni sects), by birth or conversion.

Governing Law

The **Muslim Personal Law (Shariat) Application Act, 1937**, which declared that Shariat (Islamic law) shall apply to Muslims in matters of marriage, divorce, inheritance, and maintenance. However, the Act **does not codify** these rules comprehensively; it merely applies uncodified Shariat principles, leaving significant room for interpretation by religious authorities and courts.

Why Muslim Law Remains Partly Uncodified

Unlike Hindu law, which was systematically codified in the 1950s, Muslim law has largely remained **uncodified**. Attempts at codification have been resisted by Muslim religious authorities (such as the All India Muslim Personal Law Board), who argue that Shariat is derived from divine revelation and cannot be altered by human legislation. The political sensitivity of the issue has also deterred successive governments from pursuing comprehensive codification. [3]

Key Features

Matter	Rule
Polygamy	Permitted (up to 4 wives), provided equal treatment
Divorce	Multiple forms: triple talaq (struck down in 2017), talaq-e-hasan (over three menstrual cycles), talaq-e-ahsan (single pronouncement), divorce by mutual consent (khula, mubarat)
Inheritance	Fixed shares under Quran. Son gets double the share of a daughter. Widow, parents, and other relatives get specified fractions

Matter	Rule
Maintenance	Wife entitled during <i>iddat</i> period (3 months post-divorce). Post-1986 Act, beyond <i>iddat</i> only if she approaches court and husband consents
Adoption	Not recognized. Only <i>kafala</i> (guardianship) exists, which does not confer inheritance rights

Gender Justice Concerns

- The son inheriting double the daughter's share is widely criticized as discriminatory (violates Article 15).
- Polygamy remains legal for Muslim men, though rare in practice.
- Before 2017, triple talaq allowed arbitrary, instant divorce.
- Post-divorce maintenance for Muslim women is significantly weaker than under secular law.

5.3 Christian Personal Law

Applicable to

Christians of all denominations.

Governing Laws

Law	Year	Key Provisions
Indian Christian Marriage Act	1872	Solemnization of marriage
Indian Divorce Act	1869	Divorce, separation, nullity
Indian Succession Act	1925 (Sections 5 and Schedule III)	Inheritance and succession

Historical Development

Christian personal law in India is largely **colonial-era legislation**, drafted by the British administration with minimal Indian input. Unlike Hindu law, it has not undergone comprehensive post-independence reform. The Indian Divorce Act, 1869, is particularly outdated.

Key Features

- **Monogamy** (polygamy prohibited)
- **Divorce grounds** are more restrictive than under Hindu law. For example:
 - Adultery by husband requires proof of "incestuous adultery" or "bigamy with adultery"
 - Desertion required for **7 years** (versus 2 years under Hindu law)
 - No divorce by mutual consent
- **Alimony** only for wives; husbands cannot claim maintenance
- **Inheritance:** Under the Indian Succession Act, 1925, with modifications

Gender Justice Concerns

Christian women were historically disadvantaged in inheritance (the **Mary Roy v. State of Kerala (1986)** case struck down discriminatory provisions). Divorce remains more difficult for Christians than for Hindus or Muslims.

5.4 Parsi Personal Law

Applicable to

Parsis (Zoroastrians).

Governing Law

The **Parsi Marriage and Divorce Act, 1936** .

Key Features

- **Monogamy** (polygamy prohibited)
- **Divorce** allowed on specified grounds including:
 - Adultery, cruelty, desertion, unsoundness of mind
 - **Mutual consent** (unique for its time; introduced in 1936)
- **Inheritance** under Indian Succession Act with special provisions for Parsis

The Parsi law was progressive for its era but has not been substantively updated since 1936.

5.5 Tribal Customary Laws

Constitutional Protection

Tribal communities enjoy special protection under the Constitution:

- **Fifth Schedule:** Applies to Scheduled Areas in several states; provides for tribal autonomy
- **Sixth Schedule:** Applies to tribal areas in Northeast India (Assam, Meghalaya, Tripura, Mizoram); grants substantial legislative and judicial powers to autonomous district councils

Key Features

Tribal communities are **exempt from most personal laws** and continue to be governed by their **customary laws**. These vary widely across tribes:

- Some tribes are **matrilineal** (e.g., Khasis, Garos in Meghalaya)—property and descent pass through the female line.
- Some have **unique marriage customs** (e.g., bride price, unique forms of divorce).
- Many have **customary dispute resolution** mechanisms (village councils, clan elders).

Implication for UCC

Any national UCC must address whether tribal communities remain exempt or are brought within the common framework. The Uttarakhand UCC explicitly exempts Scheduled Tribes. [10]

5.6 The Special Marriage Act, 1954: The "Soft UCC"

The **Special Marriage Act, 1954** provides a **secular, civil marriage** option for any two Indians, regardless of religion. It is frequently described as a "soft UCC" or an "optional UCC."

Key Features

- **Inter-religious marriage:** Two persons of any religion (or no religion) can marry under SMA.
- **Mandatory registration:** 30-day public notice and registration of marriage.
- **Monogamy** (polygamy prohibited).
- **Divorce:** Available on fault grounds or by mutual consent (1 year of marriage required).
- **Inheritance:** Governed by the Indian Succession Act, 1925 (secular law), not religious personal law.
- **No religious ceremonies required:** A civil marriage is valid.

Why It Is Not a Full UCC

- It is **optional**, not mandatory. Couples can choose to marry under personal law instead.
- It applies only to marriage and divorce, not to all civil matters (e.g., adoption, guardianship still follow personal law unless separately opted out).
- It requires a 30-day public notice, which critics say intrudes on privacy.

Relevance to UCC Debate

Proponents argue that the SMA demonstrates that Indians can accept a secular civil code for marriage and divorce. If the SMA were made the **default** law for all marriages (replacing personal laws), that would effectively be a UCC. However, the SMA's opt-in nature limits its reach. [10]

VI. GOA: INDIA'S EXISTING CIVIL CODE

Origin and History

Goa is the only Indian jurisdiction (other than Uttarakhand now) that has a functioning Uniform Civil Code. The Goa Civil Code is the **Portuguese Civil Code of 1867**, which was enacted in Goa when it was a Portuguese colony. It came into force in July 1870. [5]

After India annexed Goa in 1961, there were discussions about extending Indian personal laws to Goa. However, legal practitioners and Goan civil society lobbied successfully to retain the Portuguese Code, arguing that it was gender-just, equitable, and applied uniformly to all irrespective of religion. The **Goa, Daman and Diu Administration Act, 1962** preserved the Code. [5]

Key Provisions

A. Marriage as a Civil Contract

Under the Goa Civil Code, **marriage is a civil contract**, not a religious sacrament. Civil registration of marriage is **mandatory** for all communities. Religious marriages without civil registration have no civil effects. [9]

B. Four Marital Property Regimes

The Code provides four options for property ownership within marriage:

1. **Community of Property (default):** All assets existing before marriage and acquired during marriage are jointly owned by both spouses (50-50). Neither spouse can alienate immovable property without the other's express consent.
2. **Absolute Separation of Property:** Each spouse retains separate ownership of pre-marital and post-marital assets.
3. **Separation of Assets Existing Prior to Marriage + Communion of After-Acquired Property:** Pre-marital assets are separate; assets acquired after marriage are jointly owned.
4. **Total Regime:** Couples specify the property included in the endowment via a pre-nuptial contract.

About **98% of Goan marriages** take place under the default Community of Property regime. This gives Goan women significantly stronger property rights than women in the rest of India. [9]

C. Divorce

The Law of Divorce (1910) provides for:

- **Litigious divorce** on grounds: adultery, serious ill-treatment, abandonment for 3+ years, incurable lunacy, de-facto separation for 10 years
- **Divorce by mutual consent:** No grounds required if both spouses are over 25 and have been married for more than 5 years
- **Alimony and property division:** Under Community Property, the wife is automatically entitled to 50% of assets

D. Succession and Inheritance

- **Mandatory heirs:** Children (male and female equally) cannot be disinherited except under extraordinary circumstances (e.g., offense against parents with 6+ months imprisonment).
- **Quota disponivel (disposable quota):** A person may only dispose of **50%** of their estate by will. The remaining 50% must be divided equally among all mandatory heirs.

- **Equal division:** No distinction between male and female heirs; brothers and sisters inherit equally. [9]

Limitations as a National Model

Despite being praised by the Supreme Court, the Goa Civil Code has limitations:

1. **Colonial origin:** The Code is a Portuguese colonial law, drafted in 1867. It contains archaic language and provisions not suited to modern India.
2. **Religious exceptions:** Catholics need not register marriages if performed in church; church tribunals can dissolve marriages. Hindus were historically permitted polygamy in certain circumstances. The Code is not as uniform as advertised. [7]
3. **Pre-nuptial coercion:** Critics argue that women are often forced to sign pre-nuptial agreements opting out of Community Property, negating the protection.
4. **Succession hierarchy:** The surviving spouse is only fourth in line for succession (after descendants, ascendants, and brothers). [7]
5. **Non-integration with modern Indian laws:** The Code has not been updated to reflect the Hindu Succession (Amendment) Act, 2005, or other modern reforms.

VII. THE UTTARAKHAND UNIFORM CIVIL CODE ACT, 2024

This is the **largest section** of the guide, as the Uttarakhand UCC is the immediate model for the agenda.

A. Legislative Background

Political Context

The Uniform Civil Code was a **flagship electoral promise** of the Bharatiya Janata Party (BJP) in the 2022 Uttarakhand Assembly elections. Chief Minister Pushkar Singh Dhami made UCC his top legislative priority upon assuming office. [10]

Drafting Process

- **27 March 2022:** Uttarakhand Cabinet approved the formation of a UCC drafting committee.
- **Committee Chair: Justice Ranjana Prakash Desai** (retired Supreme Court judge; previously chair of the Delimitation Commission).
- **Committee Members:** Justice Pramod Kohli (retired Chief Justice of J&K High Court), Shatrughan Singh (retired IAS), Manu Gaur, Surekha Dangwal.
- **Consultations:** 43 public meetings; approximately **2.33 lakh written suggestions** received over 18 months.
- **Report submitted:** 2 February 2024 (740-page document).
- **Bill passed:** 7 February 2024 by the Uttarakhand Legislative Assembly.
- **Presidential assent:** 12 March 2024 (under Article 201 of the Constitution).

- **Came into force:** 27 January 2025, by notification of Chief Minister Pushkar Singh Dhami. [10]

Constitutional Justification

The State government justified the Act under:

- **Entry 5 of the Concurrent List** (marriage, divorce, inheritance, succession)
- **Article 44** (Directive Principle for Uniform Civil Code)
- **Article 246 read with Entry 5** (state legislature competence on concurrent subjects)

B. Scope and Applicability

Who is Covered?

The Act applies to:

1. All **residents** of Uttarakhand, irrespective of religion
2. Citizens of India **domiciled in Uttarakhand**
3. **Uttarakhandis residing anywhere in India** (extraterritorial application)
4. Central/State Government employees **posted in Uttarakhand**
5. Persons **ordinarily resident for more than one year** in Uttarakhand

The Controversial Extraterritoriality Clause

Section 1(3) of the Act asserts jurisdiction over "residents" even when they are **living outside Uttarakhand**. To prove resident status, individuals must provide documentation: [6]

- Domicile or permanent resident certificate, OR
- Employment certification from central/state government employers, OR
- Proof of one-year residency (electricity/water bills, passport extracts, rent agreement + tenant verification), OR
- Documentation proving status as beneficiary of applicable government schemes

Constitutional concern: Legal experts argue that this extraterritorial application violates **Article 245** (territorial jurisdiction of state legislatures) and the doctrine of territorial nexus. India does not have a system of state citizenship—only one Indian citizenship exists. State laws cannot follow citizens across state boundaries. [6]

Exclusions (Section 2)

The Act explicitly **does not apply** to **Scheduled Tribes** (who form approximately 2.9% of Uttarakhand's population: Jaunsari, Bhotia, Tharu, Buksa, Raji). Their customary laws continue. This exclusion is based on the constitutional protections under **Article 342, Part X, and Schedules V and VI** of the Constitution. [10]

C. Marriage and Divorce

Uniform Marriage Rules

Subject	Uniform Rule
Minimum marriage age	Male 21, Female 18 (already existing law, now codified)
Monogamy	Compulsory; polygamy banned for all communities (including Muslims)
Prohibited relationships	Parties within prohibited degrees of relationship cannot marry (with some exceptions that critics argue selectively target Muslims and Parsis) [2]
Registration	Mandatory within 60 days; failure to register is an offense
Capacity to marry	Neither party should have a living spouse; both should be of sound mind; not within prohibited degrees

The ban on polygamy for Muslims is a significant departure from Muslim personal law, which permits up to four wives. This is one of the most contentious provisions of the Act. [10]

Uniform Divorce Rules

Subject	Uniform Rule
Fault grounds	Cruelty, adultery, desertion (2+ years), conversion, unsoundness of mind, communicable venereal disease, renunciation of world, presumption of death, no resumption of cohabitation for 1 year after judicial separation
Irretrievable breakdown	Added as a ground for divorce (not available under all personal laws previously)
Mutual consent divorce	Available to all; minimum 1 year of marriage required
Extra-judicial divorce	Banned entirely. Triple talaq, halala, iddat, talaq-e-hasan are criminalized

Subject	Uniform Rule
Cooling-off period	6 months mandatory before divorce decree (waivable in exceptional circumstances)

The criminalization of extra-judicial divorce is a direct consequence of the Supreme Court's 2017 judgment in *Shayara Bano*, but the Act goes further by also criminalizing other forms of unilateral divorce. [10]

D. Succession and Inheritance

The Act establishes a **uniform inheritance regime** that replaces the different rules under Hindu, Muslim, Christian, and Parsi laws.

Subject	Uniform Rule
Gender equality	Sons and daughters inherit equally (Muslim women were previously entitled to half of a son's share)
Legitimate/illegitimate children	No distinction; all children inherit equally
Adopted children	Treated equally with biological children
Surrogate children	Treated equally with biological children
Widow's share	Uniform one-third share (aligned with succession rules; previously varied by community)
Coparcenary	The Hindu joint family coparcenary concept (with sons and daughters as coparceners by birth) is significantly modified; the Act introduces a simplified uniform regime

The inheritance provisions represent a **major gender justice reform**, particularly for Muslim women who previously inherited only half of what a male heir would receive. However, the abolition of the coparcenary system may be controversial among Hindus who see it as a dilution of traditional family rights. [10]

E. Live-in Relationships

This is arguably the **most controversial portion** of the legislation and deserves separate detailed discussion. [2][10]

Registration Requirement

Chapter 3, Part 3 of the Act imposes a mandatory registration framework for live-in relationships:

Requirement	Detail
Mandatory registration	Every live-in couple in Uttarakhand must register with the Registrar within one month of moving in together
Prohibitions on registration	Cannot register if either partner is married to someone else (bigamy), is a minor, is related within prohibited degrees, or if the relationship is obtained by coercion or fraud
Intimation to parents	If either partner is below 21 years of age, their parents must be informed of the registration
Digital portal	A UCC Portal (ucc.uk.gov.in) allows online registration of marriages, divorces, and live-in relationships

Penalties for Non-Registration

Offense	Penalty
Failure to register within 1 month	Up to 3 months imprisonment and/or Rs. 10,000 fine (Section 387)
Providing false information	Up to 3 months imprisonment and/or Rs. 25,000 fine
Non-compliance after Registrar notice	Up to 6 months imprisonment and/or Rs. 25,000 fine

Rights of Children from Live-in Relationships

Right	Provision
Legitimacy	A child born of a live-in relationship is declared legitimate
Inheritance	Such children are entitled to equal inheritance rights
Maintenance	A deserted female live-in partner can claim maintenance from the male partner

Criticisms of Live-in Provisions

1. **Violation of Right to Privacy (Article 21):** The Supreme Court's landmark judgment in **K.S. Puttaswamy v. Union of India (2017)** established the right to privacy as a fundamental right flowing from Article 21. Critics argue that mandatory registration of intimate relationships, with criminal penalties for non-compliance, is a severe intrusion into privacy. [2]
2. **Section 20 data accessibility:** The Rules provide that all collected data shall be accessible openly, including "personal information such as religion, caste, past relations, and number of children." This directly contravenes the **Digital Personal Data Protection Act, 2023** and the Puttaswamy privacy framework. [2]
3. **Criminalization of civil matters:** Registration of personal relationships is a civil matter, but non-registration attracts imprisonment. This represents overcriminalization—a problem that the Supreme Court has repeatedly flagged in other contexts. [6]
4. **Risk of outing LGBTQ+ couples:** The registration requirement, combined with public data accessibility, could forcibly out same-sex couples to families and communities, exposing them to violence and discrimination. The Act does not recognize same-sex relationships, creating ambiguity.
5. **Contradiction with Supreme Court precedents:** In **Mamta Rani v. Union of India (2024)**, the Supreme Court had earlier emphasized that live-in relationships should not be subject to punitive registration requirements. The Uttarakhand Act contradicts this guidance. [6]

F. Exemptions

Exemption	Details
Scheduled Tribes	Excluded under Section 2 to protect customary law as recognized by the Constitution
Religious rituals	Wedding ceremonies, funeral rites, cremation/burial practices are not regulated—only civil rights are covered
Special Marriage Act	Marriages already registered under SMA, 1954 are not automatically covered; they can opt into UCC but are not forced
Territorial jurisdiction	The Act applies only to Uttarakhand (unless extended nationally); its extraterritorial claims are constitutionally contested

G. Criticisms and Constitutional Challenges

Multiple legal challenges are pending before the Uttarakhand High Court and the Supreme Court as of 2026, including petitions from:

- **Jamiat Ulama-i-Hind** (challenging overrides of Muslim Personal Law)

- **All India Muslim Personal Law Board**
- Public interest petitions on live-in registration violating privacy
- Appeals concerning ST exclusion as under-inclusive classification under Article 14

The Supreme Court in **February 2025** refused to grant an interim stay but issued notices and tagged matters for hearing. [10]

Major Criticisms

Criticism	Legal Basis
Extraterritoriality (Section 1(3))	Violates Article 245 (territorial jurisdiction of state legislatures) and doctrine of territorial nexus. A state cannot regulate personal matters of its "residents" outside its borders. [6]
Encroachment on religious freedom (Section 4, etc.)	Violates Article 25 (freedom of religion). The Act overrides personal laws of Muslims, Christians, and Parsis without their consent. [2]
Federalism overreach	Personal laws are in the Concurrent List; state legislation may conflict with future central legislation. Under Article 254, central law prevails. The Act also potentially interferes with other states' legislative authority. [2][6]
Right to privacy violation (live-in provisions)	Section 20 and associated provisions violate the fundamental right to privacy under Article 21 as established in <i>K.S. Puttaswamy</i> . Mandatory registration with public data accessibility is a severe intrusion. [2]
Inconsistent with national law	Contravenes the Digital Personal Data Protection Act, 2023, and may conflict with the Special Marriage Act, 1954. If conflict arises, central law prevails. [2]
Gender justice concerns (live-in maintenance)	Section 19 denies maintenance to a woman in a live-in relationship unless she provides proof of cohabitation in a government-approved format—contradicting Supreme Court rulings (e.g., <i>Indira Sarma v. V.K.V. Sarma</i>) that recognized maintenance rights for live-in partners. [2]
Exclusion of STs	Critics argue that exempting only STs is arbitrary and violates Article 14 (equality). Why are religious minorities not also exempted?

VIII. QUESTIONS BEFORE THE HOUSE

1. Should a national UCC be enacted by Parliament, or should states be allowed to enact their own UCCs (as Uttarakhand has done)? If the latter, how should inter-state recognition of marriages/divorces be handled?

2. Can Parliament validly legislate on agricultural land inheritance (State subject under Entry 18, List II) as part of a UCC, or would this violate the federal structure?
3. Does a state UCC with extraterritorial provisions (like Uttarakhand's Section 1(3)) violate Article 245 and the doctrine of territorial nexus? Should such provisions be struck down?
4. Should a national UCC be mandatory for all citizens, or should it be opt-in (allowing citizens to choose between UCC and their personal law)? If opt-in, how would this affect the goal of uniformity?
5. Should tribal communities remain exempt from a national UCC (as under Uttarakhand and the Constitution), or should the goal of uniformity extend to them? If exempted, does this violate Article 14 (equality)?
6. Should religious personal law boards be consulted before implementing a national UCC? If so, what weight should their opinions carry?
7. Should live-in relationship registration be mandatory (as in Uttarakhand) or voluntary? Should non-registration attract criminal penalties?
8. How should a national UCC address the right to privacy (Article 21) in the context of collecting personal data on marital status, live-in relationships, and family composition? Should Section 20's "public accessibility" clause be removed?
9. Should a national UCC include community of property (joint ownership, 50-50 division on divorce) as in Goa, or retain the separate property system? What are the implications for women's economic security?
10. Should the marriage age be equalized at 21 for both men and women, or should the existing 21/18 distinction be retained? If equalized, what about existing child marriages?
11. Should a national UCC cover adoption (including introducing secular adoption for Muslims, who currently have no statutory adoption)? If yes, how should this interact with existing personal law adoption provisions?
12. Should a national UCC cover surrogacy and assisted reproductive technology (ART) , or should these be governed by separate legislation (as currently)?
13. Can a national UCC coexist with the Special Marriage Act, 1954? Should the SMA be repealed and subsumed into the UCC, or retained as a separate opt-in secular option?
14. What should be the implementation timeline for a national UCC? Should it be phased (e.g., marriage first, then succession, then adoption), or implemented all at once?
15. How should a national UCC address the problem of inter-state recognition if some states enact UCCs before others? Should the central government enact a framework law that states must implement within a specified timeframe?

BIBLIOGRAPHY

Primary Legal Sources (Acts & Constitutions)

1. The Constitution of India, 1950. Available at: <https://legislative.gov.in/constitution-of-india>
2. The Muslim Personal Law (Shariat) Application Act, 1937 (Act No. 26 of 1937). Available at: <https://www.indiacode.nic.in>
3. The Hindu Succession Act, 1956 (Act No. 30 of 1956), as amended by the Hindu Succession (Amendment) Act, 2005 (Act No. 39 of 2005).
4. The Hindu Marriage Act, 1955 (Act No. 25 of 1955).
5. The Uttarakhand Uniform Civil Code Act, 2024 (Uttarakhand Act No. 3 of 2024). (Official Gazette notification available on Uttarakhand Legislative Assembly website: <https://ukvidhansabha.uk.gov.in>). See also: Uniform Civil Code Rules, Uttarakhand, 2025. [10][1]
6. The Special Marriage Act, 1954 (Act No. 43 of 1954).
7. The Indian Divorce Act, 1869 (Act No. 4 of 1869).
8. The Parsi Marriage and Divorce Act, 1936 (Act No. 3 of 1936).
9. The Muslim Women (Protection of Rights on Divorce) Act, 1986 (Act No. 25 of 1986).
10. The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act No. 20 of 2019).
11. The Portuguese Civil Code, 1867 (continued in Goa under the Goa, Daman and Diu Administration Act, 1962). [9][5]
12. The Digital Personal Data Protection Act, 2023 (Act No. 22 of 2023).

Supreme Court Judgments (Case Citations)

13. *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556 (AIR 1985 SC 945). Available at: <https://main.sci.gov.in> [10]
14. *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635 (AIR 1995 SC 1531). [10]
15. *Shayara Bano v. Union of India*, (2017) 9 SCC 1. [3][10]
16. *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, (2019) SCC OnLine SC 1359. [3][7]
17. *The Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, 1954 AIR 1954 SC 282.
18. *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (Right to Privacy judgment).
19. *Mary Roy v. State of Kerala*, 1986 AIR 1011 (Christian inheritance case). [3]
20. *Indira Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755 (live-in relationship maintenance). [2]
21. *Mamta Rani v. Union of India*, (2024) (pending/decided? reference in Vidhi article). [6]
22. *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (Section 377, privacy, dignity). [2]

23. *State of Bombay v. Narayandas Mangilal Dayame*, (1958) (territorial nexus). [6]

Constituent Assembly Debates

24. Constituent Assembly Debates (CAD) – Volume VII, 23 November 1948. Official copy available at: <https://eparlib.nic.in/handle/123456789/759> [6]

Government Reports & Commission Documents

25. Law Commission of India. (2018). *Consultation Paper on Reform of Family Law*. Available at: <https://lawcommissionofindia.nic.in> [3]

26. Law Commission of India. (2003). *170th Report on Reform of the Hindu Succession Act (Amendment)* .

27. Committee on the Status of Women in India. (1975). *Towards Equality: Report of the Committee on the Status of Women in India* (CSWI Report).

28. Uttarakhand UCC Drafting Committee Report (February 2024, 740 pages). Chair: Justice Ranjana Prakash Desai. [10]

Books & Academic Sources

29. Austin, G. (1966). *The Indian Constitution: Cornerstone of a Nation*. Oxford University Press.

30. Mahmood, T. (2005). *Muslim Personal Law: Role of the State in the Subcontinent*. Universal Law Publishing.

31. Agnes, F. (2011). *Family Law: Volume 1 & 2*. Oxford University Press.

32. Rai, A.K. & Singh, S. (2025). *Uniform Civil Code and the Directive Principles of State Policy: Analyzing Article 44 of the Constitution*. International Journal of Law Management & Humanities, Volume 8, Issue 2, Page 4830-4851. [8]

Journal Articles & Legal Commentary

33. Mustafa, F. (2019, October 30). *Uniformity in civil law can only be achieved in a piecemeal manner*. The Hindu. [7]

34. Tripathi, S. (2024, August 22). *On the Uniform Civil Code: Constitutional veneration cannot be selective*. Bar and Bench. [4]

35. Rai, A. & Chauhan, A. (2025, March 1). *State Laws Without Borders: The Constitutional Implications of Uttarakhand's UCC Experiment*. Vidhi Centre for Legal Policy. [6]

36. D'Mello, P. (2016, November 2). *Goa Leading by Example*. India Legal. [5]

37. Manyu, A. (2025, September 7). *Uniform Civil Code Rules Uttarakhand, 2025: A Nightmare Ordeal*. TaxGuru. [2]

Reliable Websites & News Sources (for current affairs)

38. PRS Legislative Research. (2024). *Uniform Civil Code: Uttarakhand Bill Analysis*. Available at: <https://prsindia.org>

39. The Hindu. (2024). "Uttarakhand UCC Act: Provisions, Exemptions, and National Implications." Available at: <https://www.thehindu.com>
40. Indian Express. (2024). "Explained: What Uttarakhand's UCC Contains and What It Leaves Out." Available at: <https://indianexpress.com>
41. BBC News. (2024). "India's Uniform Civil Code: What is it and why is it controversial?" Available at: <https://www.bbc.com/news/world-asia-india>
42. LiveLaw. (2024). "Supreme Court on Uniform Civil Code – A Timeline." Available at: <https://www.livelaw.in>
43. Supreme Court Observer. (2023). "The UCC Debate: All Landmark Cases." Available at: <https://www.scobserver.in>
44. Anantam IAS. (2026, April 13). *Uniform Civil Code Uttarakhand: First UCC State — UPSC Complete Guide*. [10]

Additional Data Sources

45. Census of India 2011 – Religion data. Office of the Registrar General & Census Commissioner. Available at: <https://censusindia.gov.in>
46. Ministry of Law and Justice. (2023). "Question No. 1234 in Lok Sabha: Uniform Civil Code – Status." Available at: <https://loksabha.nic.in>
47. Uniform Civil Code Portal, Uttarakhand: <https://ucc.uk.gov.in> [10]