CINEFORUM
ISSN: 0009-7039
Vol. 66. No. S9, 2026 (Special Issue S9)

From Uniformity to Substantive Equality: Reassessing Women's Rights Under Uttarakhand's Uniform Civil Code

Seema Dhankher[1], Dr Parmila[2]

[1]Research Scholar, Faculty of Law, Baba Mastnath University, Asthal Bohar, Rohtak - 124021, Haryana, India
Email: Seema.dhankher@gmail.com
[2]Associate Professor, Faculty of Law, Baba Mastnath University, Asthal Bohar, Rohtak - 124021, Haryana, India
Email: parmila@bmu.ac.in

ABSTRACT
The Uniform Civil Code of Uttarakhand, 2024 introduces a common legal framework governing marriage, divorce, maintenance, succession and live-in relationships. This article evaluates the framework from the perspective of women's substantive equality. Adopting a doctrinal and analytical approach, it examines the Code, its implementing Rules, relevant constitutional guarantees and important judicial decisions. The analysis indicates that common rules relating to monogamy, divorce and succession strengthen formal equality, but their practical effectiveness depends upon women's ability to access remedies, secure maintenance, retain property and preserve privacy and autonomy. The article argues that legal uniformity should not itself be treated as proof of gender justice. The more appropriate constitutional test is whether the Uttarakhand framework enables women to exercise family-law rights with dignity, economic security, autonomy and meaningful equality.
Keywords: Uniform Civil Code; Uttarakhand; women's rights; substantive equality; gender justice; family law.

1. INTRODUCTION

The Uniform Civil Code has occupied an important place in Indian constitutional discourse since the adoption of the Constitution. Article 44 directs the State to endeavour to secure a Uniform Civil Code for citizens throughout the territory of India. Despite this constitutional aspiration, matters relating to marriage, divorce, maintenance, succession and other family relations have historically continued to be governed through a combination of religious personal laws, secular legislation and principles developed through judicial interpretation. The enactment of the Uniform Civil Code of Uttarakhand, 2024 therefore represents an important shift from constitutional aspiration to legislative practice by creating a common statutory framework in several areas of family law.[1]

From the perspective of women's rights, however, the central question is not merely whether one common law replaces different personal-law systems. The more significant issue is whether the legal framework enables women to exercise family-law rights as equal constitutional citizens. This article therefore evaluates the Uttarakhand UCC through the distinction between formal and substantive equality. While formal equality concerns the application of common legal rules, substantive equality asks whether women can actually exercise those rights despite economic dependence, unequal access to legal institutions, unpaid care responsibilities, social pressure and unequal control over property.[2]

2. METHOD AND ANALYTICAL FRAMEWORK

This study adopts a doctrinal and analytical research methodology. The primary legal materials examined include the Constitution of India, the Uniform Civil Code of Uttarakhand, 2024, the Uniform Civil Code Rules, Uttarakhand, 2025, subsequent legal developments and important judgments of the Supreme Court dealing with equality, maintenance, property rights, privacy and marital autonomy. Articles 14, 15, 21 and 44 provide the

[1]Constitution of India 1950, art 44; Uniform Civil Code of Uttarakhand Act 2024.
[2]Agnes F, Law and Gender Inequality: The Politics of Women's Rights in India (Oxford University Press 2001); Parashar A, Women and Family Law Reform in India: Uniform Civil Code and Gender Equality (Sage 1992); Menon N, 'A Uniform Civil Code in India: The State of the Debate in 2014' (2014) 40 Feminist Studies 480.

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principal constitutional framework because any common family-law regime must operate consistently with fundamental rights while pursuing the constitutional objective reflected in Article 44.[3]

The analytical focus of the study is substantive equality rather than uniformity in isolation. The research therefore evaluates whether the provisions of the Code remove unjustified legal distinctions, whether they recognise existing social and economic disadvantages, and whether the institutions created to implement them enable women to exercise their rights effectively. The analysis is informed by selected academic works on gender justice, family-law reform, constitutionalism and the UCC. Its purpose is not to establish a separate research gap but to directly evaluate the legal design and practical implications of the Uttarakhand framework.

3. CONSTITUTIONAL FOUNDATIONS OF GENDER EQUALITY

The constitutional validity of the Uniform Civil Code cannot be decided by referring to Article 44 alone. It is also necessary to consider other Articles of the Constitution. Article 14 provides equality before the law and equal protection of the laws. Article 15(1) prohibits the State from treating citizens differently only because of their sex or other grounds mentioned in the Article. But Article 15(3) gives the State the power to make special provisions for women and children. Both these provisions have to be understood together. They make it clear that equality under the Constitution does not always require identical treatment. The important point is that laws should be fair to everyone and should not go against the rights provided by the Constitution. Where existing social and economic conditions place women at a disadvantage, formal neutrality may be insufficient and substantive equality may require legal rules and institutions to respond to those inequalities.[4]

Article 21 also plays a central role because the Supreme Court has interpreted life and personal liberty to include dignity, privacy and autonomy. In Justice K.S. Puttaswamy (Retd.) v Union of India, privacy was recognised as a constitutionally protected right. In Shafin Jahan v Asokan K.M. and Shakti Vahini v Union of India, the Court reaffirmed adult autonomy in personal and intimate relationships. These decisions make it clear that any family-law regime must respect not only equality but also individual choice, dignity and privacy. The constitutional assessment of the UCC must therefore consider Articles 14, 15, 21 and 44 together.[5]

4. JUDICIAL DEVELOPMENT OF WOMEN'S RIGHTS IN FAMILY LAW

The development of women's rights in Indian family law began long before the enactment of the Uttarakhand UCC. In Mohd Ahmed Khan v Shah Bano Begum, the Supreme Court recognised the availability of a general maintenance remedy to a divorced Muslim woman who was unable to maintain herself. In Danial Latifi v Union of India, the Court interpreted the Muslim Women (Protection of Rights on Divorce) Act, 1986 in a manner that protected the entitlement of a divorced woman to reasonable and fair provision. More recently, Mohd Abdul Samad v State of Telangana reaffirmed the relevance of maintenance remedies within the legal framework under consideration. These decisions demonstrate that maintenance is connected to dignity and economic security rather than being merely a technical matrimonial entitlement.[6]

Other decisions have similarly strengthened women's legal status. In Shayara Bano v Union of India, the Supreme Court invalidated instant triple talaq, addressing the inequality created by disproportionate unilateral power over marital status. In Vineeta Sharma v Rakesh Sharma, the Court affirmed daughters' coparcenary rights under the amended Hindu succession framework. In Joseph Shine v Union of India, the Court rejected patriarchal assumptions concerning the legal personality and autonomy of married women. These decisions demonstrate that the Uttarakhand UCC should be evaluated as part of an existing constitutional movement towards gender equality rather than as the first legal measure to address women's rights in family law.[7]

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[3]Constitution of India 1950; Uniform Civil Code of Uttarakhand Act 2024; Uniform Civil Code Rules, Uttarakhand 2025; Uniform Civil Code, Uttarakhand (Amendment) Ordinance 2025; Uniform Civil Code, Uttarakhand (Amendment) Ordinance 2026; Uniform Civil Code, Uttarakhand (Amendment) Act 2026.

[4]Constitution of India 1950, arts 14, 15(1), 15(3) and 44.

[5]Constitution of India 1950, art 21; Justice K.S. Puttaswamy (Retd.) v Union of India (2017) 10 SCC 1; Shafin Jahan v Asokan K.M. (2018) 16 SCC 368; Shakti Vahini v Union of India (2018) 7 SCC 192.

[6]Mohd Ahmed Khan v Shah Bano Begum (1985) 2 SCC 556; Danial Latifi v Union of India (2001) 7 SCC 740; Mohd Abdul Samad v State of Telangana, Criminal Appeal No 2842 of 2024, Supreme Court of India, judgment dated 10 July 2024; Muslim Women (Protection of Rights on Divorce) Act 1986.

[7]Shayara Bano v Union of India (2017) 9 SCC 1; Vineeta Sharma v Rakesh Sharma (2020) 9 SCC 1; Joseph Shine v Union of India (2019) 3 SCC 39; Hindu Succession (Amendment) Act 2005.

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5. MARRIAGE AND MONOGAMY

The Uniform Civil Code of Uttarakhand lays down common rules for marriage. One of these rules is that a person cannot marry if he or she already has a living husband or wife. This rule applies equally and removes differences arising from the marriage laws of different communities. It also helps in avoiding problems that may arise when a person has more than one spouse. Such marriages may lead to disputes about maintenance, residence, property, inheritance and financial duties. A common rule regarding marriage may therefore help in providing equal legal rights and greater certainty in family matters. A common statutory standard can therefore contribute to both equality and legal certainty.[8]

However, the effectiveness of the monogamy rule depends upon enforcement. A statutory prohibition provides limited protection where a subsequent marriage is concealed or where the affected spouse cannot easily access legal remedies. Marriage registration therefore becomes particularly important because documentary proof can assist women in establishing claims relating to maintenance, succession, pension benefits and other matrimonial rights. The effectiveness of registration must also be judged by its accessibility. Women who lack independent digital access, identity documents or administrative assistance may find a formally available system difficult to use, demonstrating that substantive equality requires more than the existence of a legal procedure.[9]

6. MARRIAGEABLE AGE AND EQUAL LEGAL CAPACITY

The Uttarakhand framework retains different minimum marriageable ages for men and women, with twenty-one years for men and eighteen years for women. This distinction raises an important constitutional issue because a common family-law framework is expected to reduce unjustified gender-based differences. A different legal capacity to marry solely on the basis of sex may reinforce traditional assumptions that men should be older and economically established while women may enter marriage earlier.[10]

At the same time, reform of the marriageable age requires careful consideration. Any change must balance gender equality with adult autonomy and should take account of the consequences for young persons who enter self-chosen relationships against family wishes. The constitutional issue is therefore not merely whether the age should be increased or reduced, but whether different legal capacities based exclusively on sex remain justified. From the perspective of formal equality, a common marriageable age may better reflect equal legal adulthood, while a substantive approach must also protect young persons from coercion and respect the choices of legally competent adults.[11]

7. DIVORCE AND ACCESS TO JUSTICE

The common framework for divorce under the Uttarakhand UCC is significant because both spouses are recognised as independent legal actors capable of seeking dissolution according to statutory grounds. This reduces the possibility that marital termination will depend upon gender-specific or religion-specific unilateral privileges. In formal terms, such a framework strengthens equality by ensuring that both spouses are governed by common legal standards and procedures for ending a marriage.[12]

However, equality in the wording of the law does not necessarily produce equality in access to legal remedies. Divorce proceedings may require financial resources, legal representation, documentation, travel and time. A financially independent spouse may therefore be able to exercise the right to divorce much more effectively than a spouse who has spent years undertaking unpaid domestic and caregiving work. The practical value of equal divorce rights consequently depends upon accessible legal aid, affordable procedures, timely interim relief and effective enforcement. Substantive equality requires not only equal legal entitlement but also realistic access to the institutions through which that entitlement is exercised.

8. MAINTENANCE AND ECONOMIC INEQUALITY

The question of maintenance shows that giving equal rights in law and ensuring real equality between men and women are not always the same. A law may allow both husband and wife to ask for financial support, but their financial position after marriage may be different. In many families, women have to give more time to looking after children, elderly family members and household work. Some women may leave their jobs, work fewer hours

[8]Uniform Civil Code of Uttarakhand Act 2024; Narayan CL and Narayan M, 'Uniform Civil Code, Uttarakhand, 2024—Uniformizing Marriage Laws and Legalizing Live-in Relationships' (2024) 6 Journal of Psychosexual Health 220.
[9]Uniform Civil Code of Uttarakhand Act 2024; Uniform Civil Code Rules, Uttarakhand 2025.
[10]Uniform Civil Code of Uttarakhand Act 2024; Constitution of India 1950, arts 14 and 15.
[11]Shafin Jahan v Asokan K.M. (2018) 16 SCC 368; Shakti Vahini v Union of India (2018) 7 SCC 192.
[12]Uniform Civil Code of Uttarakhand Act 2024.

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or give up opportunities for higher studies and better employment. Pregnancy and childcare may also affect their working life. These family responsibilities may affect their earnings and opportunities for better jobs. As a result, they may have less savings and face financial difficulties in the future. For this reason, the income, financial needs and responsibilities of both husband and wife should be taken into account while deciding maintenance.[13]

A substantive approach to maintenance should therefore recognise the economic value and consequences of unpaid care work. Relevant considerations may include the duration of marriage, income and assets, caregiving responsibilities, career interruption, future earning capacity, health, age and responsibility for children. The principle of entitlement may remain gender neutral while its application remains responsive to actual disadvantage. Effective enforcement is equally important because a favourable maintenance order has limited value if payment is substantially delayed. The success of the UCC in this area should therefore be assessed according to whether maintenance operates as a genuine instrument of economic security rather than merely as a formal legal entitlement.[14]

9. SUCCESSION AND WOMEN'S ECONOMIC EQUALITY

Succession is one of the strongest areas of the Uttarakhand framework from the perspective of formal gender equality. The Code establishes common rules of intestate succession and does not assign daughters an inferior share merely because of sex. Equal property rights are important because inheritance can affect financial independence, housing security, access to credit and bargaining power within the family. The significance of equal property status is also reflected in Vineeta Sharma v Rakesh Sharma, where the Supreme Court affirmed daughters' coparcenary rights under the amended Hindu succession framework.[15]

Nevertheless, equal statutory entitlement does not necessarily guarantee equal enjoyment of property. Women may face family or social pressure to relinquish inheritance in favour of brothers or other relatives. A woman who legally receives an equal share but is unable to retain it because of economic dependence or family pressure has achieved formal rather than substantive equality. Transparent registration procedures, access to independent legal advice and legal awareness are therefore important safeguards. The practical success of succession reform should be evaluated according to whether women can actually retain, control and benefit from the property to which they are legally entitled.[16]

10. LIVE-IN RELATIONSHIPS: PROTECTION, PRIVACY AND AUTONOMY

The regulation of live-in relationships is one of the most distinctive features of the Uttarakhand UCC. Legal recognition may provide important protection to women in long-term non-marital relationships by creating documentary evidence of cohabitation and strengthening the ability to seek financial or other legal relief when the relationship ends. In this sense, recognition may reduce evidentiary uncertainty and acknowledge that legally relevant relationships can exist outside formal marriage.[17]

At the same time, the regulation of live-in relationships raises significant concerns relating to privacy and autonomy. Disclosure of intimate relationships may expose women to family pressure, social stigma or harassment. Following Puttaswamy, intimate choices form part of a constitutionally protected sphere of privacy, and State regulation should therefore remain proportionate to a legitimate objective. The preferable approach is one of protection with minimum necessary intrusion. Sensitive personal information should be collected and disclosed only where genuinely necessary, while adults who choose non-marital cohabitation should retain meaningful control over their private relationships.[18]

11. SCHEDULED TRIBE EXEMPTION AND CONSTITUTIONAL PLURALISM

[13]Uniform Civil Code of Uttarakhand Act 2024; Mohd Ahmed Khan v Shah Bano Begum (1985) 2 SCC 556; Danial Latifi v Union of India (2001) 7 SCC 740.

[14]Agnes F, Law and Gender Inequality: The Politics of Women's Rights in India (Oxford University Press 2001); Agnes F, 'Has the Codified Hindu Law Changed Gender Relationships?' (2016) 46 Social Change 611.

[15]Uniform Civil Code of Uttarakhand Act 2024; Hindu Succession Act 1956; Hindu Succession (Amendment) Act 2005; Vineeta Sharma v Rakesh Sharma (2020) 9 SCC 1.

[16]Agnes F, Law and Gender Inequality: The Politics of Women's Rights in India (Oxford University Press 2001); Parashar A, Women and Family Law Reform in India: Uniform Civil Code and Gender Equality (Sage 1992).

[17]Uniform Civil Code of Uttarakhand Act 2024; Uniform Civil Code Rules, Uttarakhand 2025; Narayan CL and Narayan M, 'Uniform Civil Code, Uttarakhand, 2024—Uniformizing Marriage Laws and Legalizing Live-in Relationships' (2024) 6 Journal of Psychosexual Health 220.

[18]Justice K.S. Puttaswamy (Retd.) v Union of India (2017) 10 SCC 1; Shafin Jahan v Asokan K.M. (2018) 16 SCC 368.

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The Uttarakhand UCC contains an exemption relating to Scheduled Tribes and specified customary arrangements, demonstrating that the framework does not create absolute legal uniformity. The exemption reflects the constitutional recognition of tribal customs, cultural autonomy and distinctive institutions. It also illustrates that Indian constitutionalism may accommodate certain forms of legal pluralism even within a broader movement towards common family-law principles.[19]

Difficult questions nevertheless arise where women within exempt communities challenge customary practices as discriminatory. Neither absolute uniformity nor complete deference to custom provides a satisfactory solution in every situation. A constitutional approach must consider both collective cultural rights and individual fundamental rights. Women belonging to affected communities should therefore participate meaningfully in any process of reform rather than being treated merely as subjects of decisions taken by the State or community leadership. The legitimacy of legal pluralism should ultimately depend upon its consistency with equality, dignity and individual rights.[20]

12. ADMINISTRATIVE ACCESSIBILITY AND DIGITAL IMPLEMENTATION

The practical success of the Uttarakhand UCC depends significantly upon administrative implementation. The Rules make substantial use of digital procedures, which may improve speed, record creation, transparency and traceability. Digital administration may also make legal services more accessible to individuals who live far from administrative centres and may help create reliable documentation for future legal claims.[21]

However, digitalisation can also reproduce existing inequalities. Some women may lack independent access to smartphones, reliable internet connections, digital literacy or identity documents. A service that is technically available online may therefore remain practically inaccessible to individuals who most need legal protection. Meaningful offline alternatives, physical administrative assistance and Common Service Centres are consequently important. Administrative accessibility should be regarded as part of substantive equality because a legal right has limited value where the mechanisms necessary to exercise it remain inaccessible.

13. DISCUSSION: DOES UNIFORMITY PRODUCE SUBSTANTIVE EQUALITY?

The Uttarakhand UCC makes significant progress when evaluated according to formal equality. Common monogamy rules reduce differences in marital status, a common divorce framework recognises both spouses as legal actors, succession provisions strengthen equal property status and the recognition of live-in relationships may provide protection outside formal marriage. These reforms demonstrate that legal uniformity can contribute to the removal of discriminatory distinctions and can create greater clarity and consistency within family law.

Substantive equality, however, requires a more demanding inquiry. A woman may possess the same right to divorce as her husband but lack the financial resources required to litigate. She may receive an equal inheritance share but face pressure to surrender it. She may possess a maintenance entitlement but experience delay in enforcement. She may receive legal recognition in a live-in relationship while simultaneously becoming vulnerable to unnecessary disclosure of private information. The Uttarakhand UCC should therefore be evaluated according to whether it removes unjustified distinctions, responds to existing social and economic inequalities and provides institutions capable of making rights practically enforceable.[22]

14. REFORM IMPLICATIONS

The evaluation indicates that the Uttarakhand framework can be strengthened by paying greater attention to the conditions under which women exercise family-law rights. The difference between the minimum marriageable ages of men and women should be periodically reviewed from the perspective of equal legal capacity. Maintenance adjudication should recognise unpaid domestic labour, caregiving responsibilities, career interruption and diminished future earning capacity. Legal aid and timely interim financial relief should also be strengthened so that economic dependence does not prevent women from exercising divorce and maintenance rights.

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[19]Uniform Civil Code of Uttarakhand Act 2024.

[20]deSouza PR, 'Politics of the Uniform Civil Code in India' (2015) 50(48) Economic and Political Weekly 50; Menon N, 'A Uniform Civil Code in India: The State of the Debate in 2014' (2014) 40 Feminist Studies 480; Gundimeda S, 'Debating Uniform Civil Code: The Making of Article 44 in the Constituent Assembly of India' (2025) Indian Law Review.

[21]Uniform Civil Code Rules, Uttarakhand 2025; Uniform Civil Code, Uttarakhand (Amendment) Act 2026.

[22]Agnes F, Law and Gender Inequality: The Politics of Women's Rights in India (Oxford University Press 2001); Parashar A, Women and Family Law Reform in India: Uniform Civil Code and Gender Equality (Sage 1992).

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Giving women equal rights in family property is important, but they should also be protected from pressure to give up their share. In some cases, women may agree to leave their property rights because of family pressure or lack of legal knowledge. They should be informed about their rights and allowed to take advice from a lawyer before making such a decision. The law relating to live-in relationships should also protect the private information of the persons involved. Along with online facilities, there should be a way to complete legal formalities without using the internet. These steps would not go against the idea of one common law. They would help ensure that the rights given by law can actually be used by people in their daily lives. Equality should not remain only in the words of the law but should also be seen in its application.

15. CONCLUSION

The Uniform Civil Code of Uttarakhand represents an important development in contemporary Indian family law because it provides a practical statutory framework through which longstanding claims concerning uniformity, equality and gender justice can now be evaluated. The Code makes meaningful advances in formal equality through a common monogamy requirement, a common divorce framework, equal succession principles and legal recognition of live-in relationships. These reforms demonstrate that legal uniformity can contribute to the advancement of women's rights.

Nevertheless, uniformity cannot itself be regarded as the final measure of gender justice. Women's ability to exercise family-law rights continues to be influenced by economic dependence, unpaid care work, property control, access to courts, social pressure, privacy concerns and administrative accessibility. The appropriate standard for evaluating the Uttarakhand UCC is therefore substantive equality. Its success should ultimately depend upon whether women can genuinely exercise the rights created by the law with dignity, autonomy, privacy, economic security and meaningful independence

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