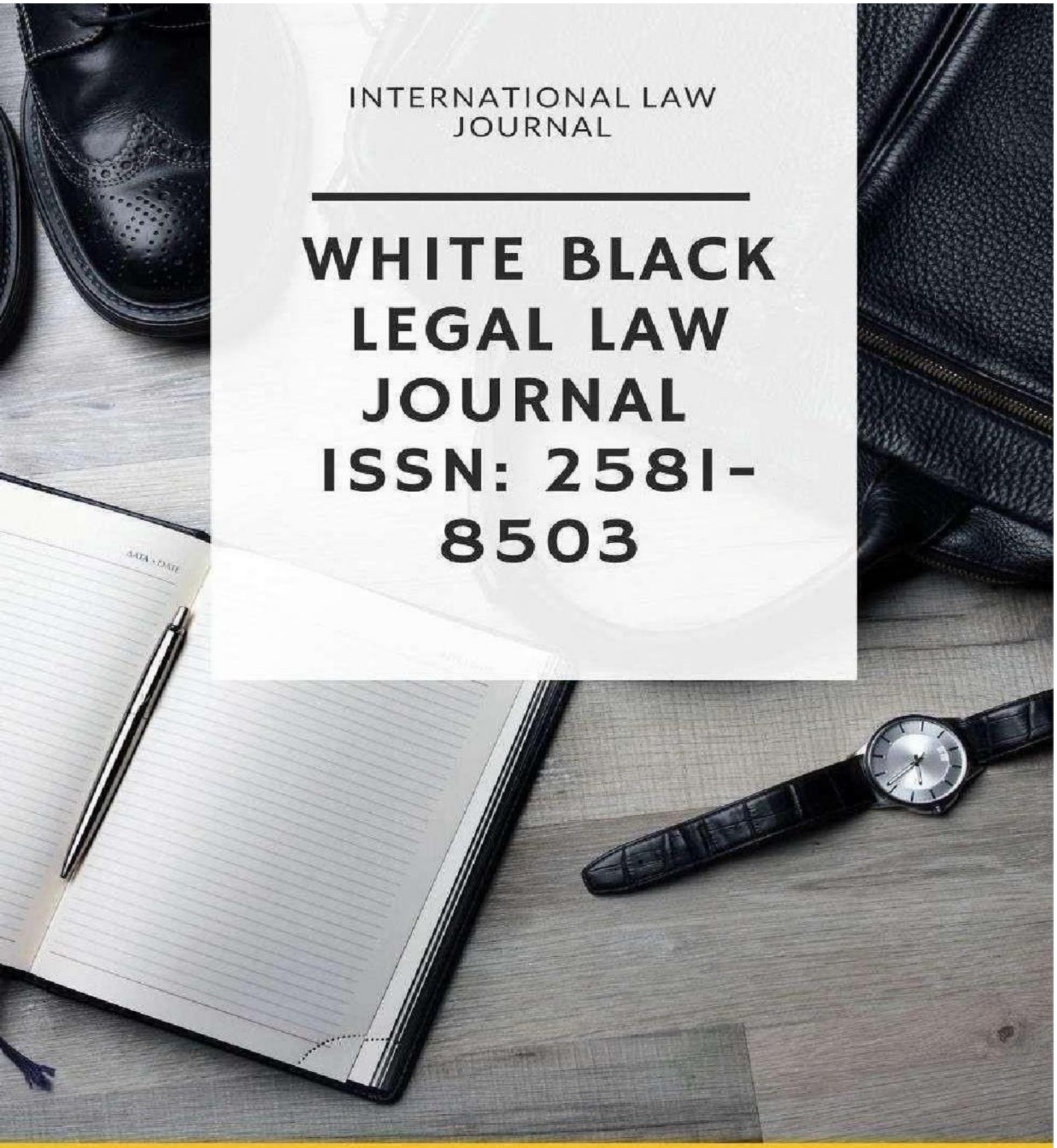


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THE UNIFORM CIVIL CODE AND ITS IMPACT ON FAMILY LAWS IN INDIA: A HUMANIST PERSPECTIVE

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ABSTRACT

The Uniform Civil Code (UCC) is India's oldest unfinished constitutional promise and, since 2024, a live legal experiment. This paper examines how a common civil code reshapes family law (marriage, divorce, maintenance, inheritance, guardianship and cohabitation) in a country whose personal laws grew out of religion, custom and colonial administration. It argues that a code should be judged by one test above all: does it enlarge the dignity, safety and freedom of the people who live inside families, especially women, children and minorities? Uniformity is a means, and human flourishing is the end. On that test the early record is mixed. Equal inheritance, the end of the legal category of the "illegitimate" child, and simple online registration answer real suffering. Compulsory registration of live-in couples, thin public consultation, and the exclusion of Scheduled Tribes and queer couples raise hard questions about privacy, equality and trust. The paper closes with six recommendations for lawmakers and courts.

Keywords: *Uniform Civil Code; Article 44; Family Law; Personal Laws; Uttarakhand; Live-in Relationships; Humanist Jurisprudence; Federalism*

1. Introduction

Imagine three households. These are hypothetical composites, not real cases. In the first, a woman learns that her daughters will inherit less than her sons because the law of her community says so. In the second, a young couple wants to live together before marrying and dreads a landlord's questions. In the third, a man from a customary tribal community wonders whether a distant legislature will rewrite how his family settles its disputes. Each household can gain from a civil code, lose from it, or simply be watched by it.

Public argument about the UCC often passes over these households. It turns instead on national unity, secularism, minority rights or electoral advantage. A humanist approach begins from the opposite end. It treats law as an instrument made for persons, and it asks what a rule does to the lived dignity of those it governs. Three commitments guide the analysis that follows: the equal worth of every human being, the freedom of adults to shape their intimate lives so long as they do not harm others, and a preference for lawmaking that is reasoned, evidence-based and open to the people affected.

The question is no longer abstract. Article 44 of the Constitution directs the State to endeavour to secure a uniform civil code for citizens across India.[1] For seven decades that remained an aspiration. Uttarakhand brought its code into force in January 2025, and Gujarat and Assam followed with codes of their own that received the President's assent in September 2026.[2] There is still no national code, so the real subject is a set of state laws that are testing the idea in practice.

The paper proceeds in the order the journal's format requires. Part 2 sets out the materials and methods. Part 3 analyses the data in six steps: it first traces the constitutional and historical background, then describes the three state codes. It next studies their effect on marriage, divorce and maintenance, and then on inheritance, children and cohabitation. It examines minorities, tribal communities and federalism, and ends with a humanist assessment. Parts 4 and 5 give the conclusion and the recommendations.

2. Materials and Methods

Nature of the study. This is a doctrinal and analytical study. It does not rest on surveys or interviews. It reads constitutional text, statutes, judgments, Law Commission reports and official statements, and it tests what they say against a stated humanist framework.

Objectives. The paper pursues four objectives: (i) to trace the constitutional and judicial history behind Article 44; (ii) to describe the three state codes enacted so far; (iii) to assess their effect on marriage, divorce, maintenance, inheritance, children and live-in relationships; and (iv) to recommend reforms that serve equality without sacrificing autonomy or trust.

Research questions. Does a uniform code protect the vulnerable members of a family better than separate personal laws? Where does uniformity collide with privacy, autonomy and community identity? And can a state-by-state approach deliver a fair and workable family law?

[1]Constitution of India, art 44.
[2]"Gujarat, Assam Uniform Civil Code Laws Get President's Assent", *The Statesman* (2 October 2026).

Sources. Primary sources are the Constitution, the central personal-law statutes and the reported judgments of the Supreme Court. Secondary sources are the reports of the Law Commission and contemporary reporting on the three state codes. Because the codes are recent and the scholarly literature on them is thin, the paper relies on news and policy outlets for the text, dates and implementation figures of the codes. These are listed in the References and cited in the footnotes.

Analytical framework. The three commitments in Part 1 are turned into four practical tests: does the law protect the vulnerable, does it respect autonomy, does it treat communities with respect, and will it actually work for people? These tests structure the assessment in Part 3.6.

Limitations. Four limits should be stated plainly. First, the registration figures for Uttarakhand are state-government claims and have not been independently audited. Second, the sources consulted do not confirm when the Gujarat and Assam codes come into force, so their effects cannot yet be measured. Third, challenges to the Uttarakhand code are pending before the High Court, and the legal position may change. Fourth, the paper reflects information available in October 2026.

3. Data Analysis

3.1 Constitutional and Historical Background

A promise placed outside the courts. The framers put the UCC in Article 44, within the Directive Principles. Those principles guide the State but cannot be enforced by a court, and the placement was a compromise. In the Constituent Assembly of 1948, members who feared a loss of community identity argued for safeguards, while others, including B. R. Ambedkar, defended the Article as a long-term goal that would arrive only with social readiness. Ambedkar's own commitments were clear: he saw personal laws as carrying deep inequalities, above all for women. He also accepted that change in family life could not simply be imposed overnight.

Reform by community, not by code. After independence, the State chose to reform personal laws one community at a time. Parliament codified Hindu law in the 1950s through the Hindu Marriage Act, the Hindu Succession Act, and related statutes on adoption and guardianship.[3] These laws also covered Sikhs, Jains and Buddhists. The Special Marriage Act of 1954 gave couples a civil route to marriage outside any religious law. Muslim, Christian and Parsi families

[3]Hindu Marriage Act 1955; Hindu Succession Act 1956; Hindu Adoptions and Maintenance Act 1956; Hindu Minority and Guardianship Act 1956.

remained under their own personal laws or older statutes, which kept their own mixture of religious texts, custom and colonial legislation.

Courts as reformers. With the legislature cautious, the Supreme Court repeatedly pressed the issue. In *Shah Bano* (1985) the Court granted a divorced Muslim woman maintenance under the general criminal law and remarked that a common code was overdue.[4] Parliament answered in 1986 with a statute narrowing that protection, and the episode hardened a belief among many that the UCC was a threat rather than a gift.[5] In *Sarla Mudgal* (1995) the Court condemned the misuse of conversion to escape a first marriage.[6] In *Shayara Bano* (2017) it struck down instant triple talaq, and Parliament criminalised the practice in 2019.[7] The same decades produced reforms inside Hindu law: the 2005 amendment gave daughters equal coparcenary rights, which the Court reaffirmed in *Vineeta Sharma* (2020).[8]

Goa as precedent. Goa is often cited as proof that a common code can work. Its family law descends from the Portuguese Civil Code of 1867 and applies to residents of all faiths, with certain exceptions for Hindus and rules on registration and property sharing between spouses. Goa shows that a shared civil framework can coexist with a plural society, but it also shows a limit: it was inherited, not negotiated, and it keeps its own religious carve-outs. As the reporting on the Assam bill notes, Goa's code predates independence.[9]

Lessons from other jurisdictions. Comparative experience cuts both ways. Turkey replaced religious family law with a secular civil code in 1926, and Tunisia's Code of Personal Status of 1956 abolished polygamy and gave courts control over divorce, yet both reforms were driven by a strong central state and were never negotiated with religious communities.[10] South Africa chose a different road: its Recognition of Customary Marriages Act 1998 brought customary unions into a statutory framework and gave wives equal status within them, instead of abolishing custom.[11] India's own choice need not be binary. The comparison suggests that durable reform comes either from a decisive state or from patient accommodation, and that a humane code should borrow the protections of the first without the coercion that often accompanies it.

The Law Commission's caution. In 2018 the 21st Law Commission concluded that a UCC

[4] *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556.
[5] Muslim Women (Protection of Rights on Divorce) Act 1986.
[6] *Sarla Mudgal v Union of India* (1995) 3 SCC 635.
[7] *Shayara Bano v Union of India* (2017) 9 SCC 1; Muslim Women (Protection of Rights on Marriage) Act 2019.
[8] Hindu Succession (Amendment) Act 2005; *Vineeta Sharma v Rakesh Sharma* (2020) 9 SCC 1.
[9] "Uniform Civil Code Bill 2026 Introduced in Assam Assembly", Vision IAS (26 May 2026).
[10] Turkish Civil Code 1926; Tunisia, Code of Personal Status 1956.
[11] Recognition of Customary Marriages Act 120 of 1998 (South Africa).

was neither necessary nor desirable at that stage, and recommended instead that discriminatory provisions within each personal law be reformed.[12] In June 2023 the 22nd Law Commission reopened the question by inviting public views. The two positions capture a lasting divide. One side holds that equality demands one law. The other holds that equality is better served by repairing each system from within while respecting diversity.

Rights that changed the ground. Two later developments matter for any code written today. *Puttaswamy* (2017) recognised privacy as a fundamental right, and *Navtej Johar* (2018) decriminalised consensual same-sex relations on grounds of dignity and autonomy.[13] In October 2023, in *Supriyo*, the Court declined to order marriage equality and left the question to Parliament.[14] Any family code now has to answer to these standards of privacy, autonomy and dignity, and not only to the older language of religious identity versus equality. Articles 14 and 21, which guarantee equality and a life of dignity, now sit alongside Articles 25 and 26 as measures of a family law.

3.2 Where the Law Stands Today: Three State Codes

Three states have now legislated, all governed by the Bharatiya Janata Party, and each has excluded Scheduled Tribes. Because family law is a concurrent subject, state codes that touch central statutes need the President's assent, which is why the dates below include two steps.

	Uttarakhand	**Gujarat**	**Assam**
Assembly passed	7 Feb 2024	24 Mar 2026	May 2026
President's assent	11 Mar 2024	17 Sep 2026	29 Sep 2026
In force	27 Jan 2025	Not confirmed in sources found	Not confirmed in sources found
Scheduled Tribes	Excluded	Excluded	Excluded
Live-in relationships	Mandatory registration	Registration and formal termination	Registration
Polygamy	Banned	Banned	Banned; up to 7 years' imprisonment

Sources for the table: Pioneer Edge, The Statesman, All India Radio on Gujarat, and Vision IAS on Assam.

Uttarakhand, the model. The Uttarakhand code covers marriage, divorce, succession and live-in relationships for residents of the state, and it reaches residents who live elsewhere. It

[12]Law Commission of India, *Consultation Paper on Reform of Family Law* (31 August 2018).
[13]*Justice K S Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Navtej Singh Johar v Union of India* (2018) 10 SCC 1.
[14]*Supriyo v Union of India* 2023 SCC OnLine SC 1348.

was passed by the Assembly in February 2024 after the BJP had made it a promise in the 2022 election, and its rules were framed by a committee under Justice Shatrughan Singh.[15] The state runs a single online portal for registering marriages, divorces and live-in relationships, and for filing wills and grievances. Marriages must be registered within 60 days, and marriages since 26 March 2010 had to be registered within six months of the rollout.

Gujarat and Assam follow the template. Gujarat's bill was passed after a seven-hour debate, a week after an expert panel under Justice (retd.) Ranjana Prakash Desai submitted its report.[16] It bans bigamy and provides for registering live-in relationships and for ending them formally. Assam's code mandates monogamy, sets the marriageable age at 21 for men and 18 for women, and requires marriages and divorces to be registered within 60 days. Both states have copied Uttarakhand's central choice to exclude Scheduled Tribes.[17]

What implementation shows so far. The most visible effect in Uttarakhand has been administrative. By 19 January 2026 the state reported 4,74,447 marriage registrations, about 1,400 a day against roughly 67 a day under the earlier 2010 Act, with certificates issued in about five days.[18] These figures come from the state government and should be read as official claims. The live-in provision has had a very different reception: only one live-in relationship was registered in the first ten days, and about 90 had been registered against more than two lakh marriages by the July 2025 deadline.[19] Couples, it seems, are voting with their silence.

The code is also under legal challenge. More than half a dozen petitions before the Uttarakhand High Court contest its validity, among them a petition on live-in provisions that argues the code ignores the marital customs of some communities.[20] The petitioners and critics also raise privacy, surveillance and the risk of vigilantism.

3.3 Impact on Marriage, Divorce and Maintenance

A single door into marriage. Under the state codes, a marriage is lawful on equal terms for every resident: monogamy, a fixed minimum age, and registration. Uttarakhand and Assam set the age at 21 for men and 18 for women, and critics note that this keeps a gap between the sexes that many reformers want closed. For a girl at risk of an early marriage, a shared

[15]"Uttarakhand Becomes First State to Implement UCC", SCC Online; "Uttarakhand UCC Key Provisions", ETV Bharat (January 2025).
[16]"Gujarat Assembly Passes Uniform Civil Code Bill After 7-Hour Debate", All India Radio (25 March 2026).
[17]"Uniform Civil Code: After Gujarat, Assam Follows Uttarakhand Model", Pioneer Edge.
[18]"One Year of UCC: Over 4.7 Lakh Marriages Registered in Uttarakhand", *Outlook India*.
[19]"Only 1 Live-in Relation Registered after UCC Implementation", News Arena India; "2 Lakh Marriages, 90 Live-ins Listed under UCC", *The Tribune*.
[20]"Uttarakhand HC to Hear Petitions on Constitutional Validity of UCC", ETV Bharat (16 October 2025).

minimum age and a registry that is simple to use are real protections. The code also recognises that a marriage's validity cannot rest on an unwritten promise. A registered record helps a wife prove her status when she needs a ration card, a bank account, a visa or a claim on her husband's estate.

The age of marriage and the girl child. The minimum age of marriage is already fixed by a central statute, the Prohibition of Child Marriage Act 2006, at 21 for men and 18 for women.[21] A state code that repeats this adds little in law, but it adds something in administration, because a registry that refuses to record an under-age marriage becomes a checkpoint that the older system lacked. A Bill to raise the age for women to 21 was introduced in Parliament in 2021 and referred to a standing committee.[22] The Supreme Court has also held, in *Independent Thought*, that sexual intercourse with a wife below 18 is rape, which shows that the age of consent and the age of marriage must be read together.[23] A humane code would align them and would also fund the schooling and employment that actually delay early marriage.

Ending polygamy and unequal exits. Polygamy is now an offence, and Assam attaches a prison term of up to seven years. The Uttarakhand code also outlaws practices such as nikah halala and iddat, and prohibits extra-judicial divorce, which includes talaq-e-hasan. From a humanist standpoint, the strongest argument for these provisions is the harm they remove: a woman who can be divorced without a hearing, or who must marry and divorce a stranger to remarry her husband, is not treated as an equal person. Triple talaq had already been struck down by the Supreme Court in 2017, so the state codes extend a principle the Court had accepted.

There is an important caution. A prohibition does not by itself create a remedy. If a woman has been abandoned and her community's religious council is no longer an option, she needs affordable courts, quick maintenance orders, and a way to reach them. Without these, a ban can leave a vulnerable person with fewer places to turn, and the law can punish a husband while leaving a wife without money or housing.

Maintenance and the economics of separation. Maintenance is where a family law is tested hardest, because divorce is often a fall in income for the weaker spouse. The general right of a wife to maintenance already exists under section 125 of the Code of Criminal Procedure, now section 144 of the Bharatiya Nagarik Suraksha Sanhita 2023, and it applies to women of every

[21] Prohibition of Child Marriage Act 2006, s 2(a).
[22] Prohibition of Child Marriage (Amendment) Bill 2021 (introduced in the Lok Sabha on 21 December 2021).
[23] *Independent Thought v Union of India* (2017) 10 SCC 800.

faith.[24] That is the lesson of *Shah Bano*. A common code adds value only if it makes maintenance quicker, more predictable and easier to enforce. A uniform rule on paper that takes years to enforce gives a wife little.

Fair maintenance in practice. Courts have already built much of the machinery a code would need. In *Danial Latifi*, the Court read the 1986 Act so that a divorced Muslim woman receives a fair and reasonable provision that covers her future, and not only the period of iddat.[25] In July 2024 it confirmed in *Mohd Abdul Samad* that a divorced Muslim woman may claim maintenance under the general criminal procedure law.[26] In *Rajnesh v Neha*, it required both spouses to file affidavits of their income and assets, so that interim maintenance rests on facts and not on guesswork.[27] A code that wishes to improve on this record should write these safeguards into statute, set time limits for deciding interim claims, and provide for enforcement through attachment of wages.

Grounds for divorce on equal terms. A common code gives husbands and wives the same grounds for divorce, which removes the situation in which the same marital injury opened the courtroom door to one spouse and not the other. This matters most to women in communities where the old rules gave them narrow grounds or none. It also reduces forum shopping, where a spouse changes religion or personal law to gain an advantage. Courts have criticised exactly that tactic since *Sarla Mudgal*.

Irretrievable breakdown. Equal grounds are only the beginning. The Hindu Marriage Act 1955 does not list irretrievable breakdown as a ground, although the Law Commission recommended it as long ago as 1978 and again in 2009.[28] The Supreme Court has relaxed the six-month waiting period for mutual consent divorce in suitable cases, and in 2023 it held that it may dissolve a marriage that has broken down beyond repair under Article 142.[29] A common code is the natural place to settle the question by statute. A no-fault ground, paired with fair financial terms, would spare couples years of litigation in which each side must paint the other as guilty, and it would end a practice in which the Court's extraordinary power is used to fill a gap that the legislature has left open.

Registration as protection and as burden. Registration is the code's quiet centrepiece. For

[24] Code of Criminal Procedure 1973, s 125; Bharatiya Nagarik Suraksha Sanhita 2023, s 144.
[25] *Danial Latifi v Union of India* (2001) 7 SCC 740.
[26] *Mohd Abdul Samad v State of Telangana* 2024 INSC 508.
[27] *Rajnesh v Neha* (2021) 2 SCC 324.
[28] Law Commission of India, *71st Report: The Hindu Marriage Act 1955, Irretrievable Breakdown of Marriage as a Ground of Divorce* (1978); Law Commission of India, *217th Report: Irretrievable Breakdown of Marriage, Another Ground for Divorce* (2009).
[29] *Amardeep Singh v Harveen Kaur* (2017) 8 SCC 746; *Shilpa Sailesh v Varun Sreenivasan* 2023 SCC OnLine SC 544.

people who have the documents, internet access and confidence to use an online portal, registration brings certainty. For many others it is a new hurdle. Women in rural areas, migrant workers, the very poor and persons with low literacy may not be able to complete a digital process alone. The Uttarakhand experience, with a large rise in daily registrations, suggests that a well-designed portal can reach many people. A humane system would also keep a simple, assisted route, for example through local registrars and community workers, so that no one is penalised for failing to navigate a website.

Same-sex couples. Commentators note that the Uttarakhand code does not address same-sex or transgender marriage and does not recognise queer relationships. A code that promises equality "irrespective of gender" while leaving some couples outside its protection is not yet uniform in the sense that matters. This gap also follows from *Supriyo*, in which the Court left the decision to Parliament. The humanist question is whether a modern civil code can remain complete while leaving a group of adults unable to marry the person they love.

3.4 Impact on Inheritance, Children and Live-in Relationships

Equal shares for daughters and sons. Inheritance is where a common code can do the most good for the most people. The Uttarakhand code gives sons and daughters equal inheritance rights across all religions and communities, uses the neutral word "child" in place of son or daughter, and treats both parents as first-class heirs. Land, housing and savings are how families hold security across generations, so equal shares change who has bargaining power in a household. A daughter with a legal claim to the family home is less dependent on a brother's goodwill and less trapped in a bad marriage. Indian history already offers a lesson here: the 2005 Hindu amendment and the *Mary Roy* decision on Christian women in Travancore each widened women's property rights, and neither destroyed the family.[30]

Two cautions apply. First, a legal right is not a received right. Many daughters still waive their shares by informal family arrangement, sometimes under pressure, and registries and wills will need to protect their choice. Second, the codes' treatment of wills and the online drafting of succession documents is new. Digital convenience should not replace the safeguards that protect an elderly parent from undue influence.

Ending the idea of an "illegitimate" child. Perhaps the most humane provision in the state codes is the one that recognises children of void and voidable marriages and of live-in relationships as legitimate, and treats adopted children, and children born through surrogacy or

[30] *Mary Roy v State of Kerala* (1986) 2 SCC 209.

assisted reproduction, on equal footing with other biological children. A child does not choose the circumstances of birth. For centuries, the label of illegitimacy has cost children their inheritance, their names and their standing. Removing it is a clear gain for human dignity, and it is consistent with the Supreme Court's own long-running trend of protecting such children.

What the courts already do for children. The state codes build on a body of judicial protection. Section 16 of the Hindu Marriage Act already treats children of void and voidable marriages as legitimate, and in *Revanasiddappa* the Supreme Court held that such children may claim a share in their parents' property.[31] In *Tulsa v Durghatiya*, the Court presumed legitimacy where a man and woman had lived together for a long period, so that a child could not be branded illegitimate for want of a ceremony.[32] The contribution of a code is therefore to make this protection uniform across faiths and easy to claim, so that a child of any community does not have to litigate for a status the law already wishes to give.

Children, custody and guardianship. A family code is also a code for the child in a broken home. Whatever the faith of the parents, the test for custody and guardianship should be the welfare of the child, and not the religion or sex of the parent who asks. The paper's reading of the state codes is that their strongest child-centred gain is the equal status of every child. Courts and registrars will still need clear, child-focused rules on custody, visitation and the child's own views, and these should be reviewed in the evaluations recommended in Part 5.

Property inside marriage. One gap that no state code appears to close is the absence of a general regime of matrimonial property. Indian personal laws mostly treat spouses as separate owners, so a wife who has spent decades in unpaid household labour may leave a marriage with little more than her stridhan and a claim for maintenance.[33] Goa's system of communion of property shows that another model is possible. A humane code would at least recognise the economic value of care work when a court fixes maintenance or divides assets, and would let spouses choose a community-of-property regime if they wish.

Live-in relationships: protection or surveillance? The Uttarakhand code defines a live-in relationship as one between a man and a woman living together in the nature of marriage. It requires couples to register within one month, and non-registration can lead to up to three months in jail or a fine of ₹10,000. The state justified registration as protection against violence, and the Chief Minister pointed to the murder of Shraddha Walkar as an example. Landlords may not refuse housing to registered couples, and women abandoned by a partner can claim

[31] Hindu Marriage Act 1955, s 16; *Revanasiddappa v Mallikarjun* (2011) 11 SCC 1.
[32] *Tulsa v Durghatiya* (2008) 4 SCC 520.
[33] On stridhan, see *Pratibha Rani v Suraj Kumar* (1985) 2 SCC 370.

maintenance.

The objections are substantial. The registration process asks for Aadhaar details and for a landlord's name and rent agreement, and the registrar contacts the landlord to verify them. Critics, including petitioners before the High Court, say this amounts to surveillance of intimate life.[34] They argue that it conflicts with the right to privacy recognised in *Puttaswamy*, and that any person can raise a complaint about a couple, which invites vigilantism. The state's reply in court has been that the provision is regulatory and protective. The Court itself observed that live-in relationships are rising and that the code aims to protect women and children born from them, while also questioning how much public consultation preceded the law.[35]

Live-in relationships in existing law. Indian courts had already addressed cohabitation before any state code. The Supreme Court held in *S Khushboo* that living together is not an offence, and in *Indra Sarma* it set out the features of a relationship in the nature of marriage, so that a woman in such a relationship can seek relief under the Domestic Violence Act 2005.[36] These decisions protect the weaker partner without requiring the couple to announce themselves to the State. They suggest that the real gap lay in remedies such as maintenance and housing, and that closing it did not require compulsory registration with penalties for default.

The low registration numbers tell a human story. When only about ninety couples register against two lakh marriages, the likeliest reading is not that few couples cohabit. It is that many do not trust the process, fear social retaliation, or cannot meet its requirements. A law meant to protect a vulnerable partner works only if that partner is willing to use it. A humanist test would ask whether the protections (legitimacy of children, maintenance, housing) can be offered without compulsory disclosure, for instance by allowing a couple to register voluntarily and by guaranteeing the same child rights whether or not they do.

3.5 Minorities, Tribal Communities and the Federal Question

Whose uniformity? Critics, many of them from minority communities, fear that "uniform" will in practice mean the majority's customs written into law for everyone. The worry is understandable. Muslim personal law has been the most frequent target of the state codes' prohibitions, and the codes set aside several religious practices without naming them. At the same time, Hindu law has been reformed repeatedly, and much of what a common code now

[34] "Why This Live-in Couple Is Taking on Uttarakhand's UCC", *Scroll*.
[35] "Uttarakhand UCC: High Court Observations on Live-in Provisions", Drishti IAS.
[36] *S Khushboo v Kanniammal* (2010) 5 SCC 600; *Indra Sarma v V K V Sarma* (2013) 15 SCC 755; Protection of Women from Domestic Violence Act 2005, s 2(f).

provides draws on those reforms. A fair code must therefore show that it has borrowed the best of every tradition, and not only the legal habits of the largest. Religious freedom under Articles 25 and 26 protects belief and essential practice, but it does not protect a practice that denies a person equal standing. That distinction is a sound principle, yet it has to be applied by a process that minorities believe is fair.

Essential practices and personal law. Two older doctrines frame the answer. Under the essential practices test developed from *Shirur Mutt*, the courts protect only those practices that are integral to a religion, and the test has been criticised for asking judges to decide theology.[37] Separately, the Bombay High Court held in *Narasu Appa Mali* that personal laws are not 'laws in force' for the purpose of Article 13, which has left them outside direct fundamental-rights review for decades, although the Supreme Court has since tested particular practices against Articles 14 and 21, as in *Shayara Bano*.[38] A code removes the need for this awkward inquiry by applying one constitutional standard to every community, but only if the standard is applied with equal care to the customs of the majority.

The tribal exception. Every state code so far excludes Scheduled Tribes. The reasons are constitutional and cultural: the Fifth and Sixth Schedules and Article 371 protect tribal self-governance and customary law, and several communities, including some in the North-East, have long histories of their own marriage and inheritance practices. The exclusion respects real rights, but it also exposes an inconsistency. If uniformity is justified by equality, then women in tribal communities, who face their own disputes over land and inheritance, are left outside the promised protection. A humanist reading would not choose between the two values. It would ask tribal communities themselves, and especially tribal women, how their customary systems should be reformed from within.

Customary inheritance and tribal women. The exclusion has real consequences for property. The Hindu Succession Act 1956 does not apply to Scheduled Tribes unless the Central Government so notifies, and in *Madhu Kishwar* the Supreme Court declined to strike down customary rules that deny tribal daughters a share in land, while suggesting that legislative reform was needed.[39] Tribal women therefore face the risk of falling between two systems: excluded from the new code and also outside the reformed Hindu law. Any plan for tribal customary reform should begin from this gap and should rest on the testimony of tribal women

[37] *Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* AIR 1954 SC 282.
[38] *State of Bombay v Narasu Appa Mali* AIR 1952 Bom 84; *Shayara Bano v Union of India* (2017) 9 SCC 1.
[39] Hindu Succession Act 1956, s 2(2); *Madhu Kishwar v State of Bihar* (1996) 5 SCC 125.

themselves.

Equality before the law and reasonable classification. The exclusion also raises an Article 14 question. Equality law permits a classification only if it rests on an intelligible difference and serves a legitimate aim. The Constitution itself recognises Scheduled Tribes as a distinct category with special protections, so a legislature can reasonably say that tribal communities differ from others. The harder question is whether that difference justifies leaving tribal women with fewer family-law protections than other women. A defensible answer would be reform that tribal communities lead, with a clear timetable, and not an open-ended exemption.

Consultation and trust. The strongest criticism of the state codes is procedural. The Uttarakhand High Court asked the state whether it had sought public suggestions before implementing the code, and whether those suggestions had been taken into account. Gujarat's committee reported only a week before its bill was passed. Family law touches the most intimate part of life, and a rule that people had no part in shaping will struggle to win their trust. Reform that arrives with wide listening, including to religious scholars, women's groups, jurists and local communities, has a better chance of lasting.

The federal puzzle. India has no national code, so a person's rights may now depend on the state where they live. Uttarakhand even claims to reach its residents living outside the state. This creates a patchwork: a couple moving from Uttarakhand to a neighbouring state might meet different registration duties, different inheritance rules and different treatment of live-in relationships. Whether a state can enact a code on subjects already covered by central laws such as the Hindu Marriage Act, the Special Marriage Act and the Indian Succession Act turns on the President's assent under Article 254(2), and the challenges pending before the Uttarakhand High Court bear directly on that question.[40] For families, the practical result is uncertainty. A national conversation, led by Parliament and informed by what the three states learn, would offer a clearer path than a growing set of local experiments.

The extra-territorial claim. Marriage and divorce, infants and minors, adoption, wills, intestacy and succession all appear in Entry 5 of the Concurrent List, so both Parliament and the states may legislate on them.[41] The harder problem is territorial. A State law ordinarily applies within the State, and may reach persons outside only where there is a real connection between the law and the State.[42] A resident of Uttarakhand who marries in another state, or a couple who relocate after registration, will test whether residence alone is a sufficient

[40]Constitution of India, art 254(2); Special Marriage Act 1954; Indian Succession Act 1925.
[41]Constitution of India, Seventh Schedule, List III, entry 5.
[42]*State of Bombay v R M D Chamarbaugwala* AIR 1957 SC 699.

connection. Until the courts answer, families who move for work face real uncertainty about which rules govern their marriage and their estate.

3.6 A Humanist Assessment

A humanist does not worship either side of this debate. Law is neither sacred tradition nor a tool of national branding. It is a human artefact, and it earns respect when it reduces suffering and widens freedom. Four tests follow from the three commitments in the introduction.

Test one: does it protect the vulnerable? Equal inheritance, the end of illegitimacy, a common age of marriage and bans on unilateral divorce all pass this test, because they remove rules that left women and children exposed. These gains are real and should not be dismissed because of who introduced them. A woman who can inherit her father's land, or a child who can bear her father's name, does not experience the code as a political slogan.

Test two: does it respect autonomy? Here the record is weaker. Adults who live together, and adults who wish to marry someone of the same sex, are not clearly served. Compulsory registration of cohabitation, with a criminal penalty and the involvement of landlords, treats an intimate choice as a matter for the registry. The humanist principle is that the State may protect people from harm but should not require them to account for their private lives. The right to privacy confirmed in *Puttaswamy* points the same way.

Test three: does it treat communities with respect? A code can be uniform and still be unfair if it grows out of one community's assumptions or is drawn up without listening. Respect means consultation, evidence and humility about how much a legislature knows of the lives it governs. It also means admitting that some current exemptions, especially for tribal communities, leave women's equality unfinished. Neither full exclusion nor imposed uniformity serves those women well.

Test four: will the law actually work for people? A right that cannot be claimed is a promise on paper. The Uttarakhand portal shows how effective administration can make a legal duty easier to meet. The weak response on live-in registration shows what happens when people do not trust the system. A humane code needs courts that decide quickly, registrars who help the uneducated and the poor, and enforcement that targets harm and not harmless choices.

The optional-code alternative. One idea deserves a place in the debate. The Special Marriage Act has for decades offered every couple a civil route to marriage and a civil law of succession, whatever their faith. A strong, modern and optional civil code would extend that model: any family could choose it, and none would be forced into it. It would not deliver full uniformity. But it would give each person a secular option, and would let confidence in the code grow

through use and not through compulsion. A humanist who values both equality and consent can see merit in this path as a first stage, even if the constitutional aim of a common code remains.

4. Conclusion

The Uniform Civil Code is neither the rescue its champions describe nor the threat its opponents fear. Its early state versions have delivered tangible goods: equal inheritance, legitimacy for every child, an end to several one-sided practices, and a registration system that many families find faster than before. They have also shown the cost of acting without enough listening. The live-in provisions, the exclusion of queer couples, the tribal exemption and the thin consultation record each leave a group of persons uncertain of their place.

The constitutional promise in Article 44 asks for more than one rulebook. Read in the light of dignity, autonomy and equality, it asks for a family law in which every person, whatever their faith, gender or circumstances, can marry, separate, inherit and raise children with security and without fear. Whether the state codes, and any future national one, meet that standard will depend less on how uniform they are than on how humane they prove to be in practice. The evidence is still young, and fair judgement will need the final rulings of the courts and several more years of data.

5. Recommendations

Drawing on the analysis above, this paper proposes six steps:

1. Treat the state codes as pilots and publish independent evaluations after two years, covering registration, maintenance orders, inheritance disputes, child custody and complaints.
2. Make live-in registration voluntary, and guarantee the legitimacy of children and access to maintenance whether or not a couple registers.
3. Remove criminal penalties for non-registration and limit who may file a complaint about a couple, so that registration cannot become a tool for harassment.
4. Hold structured consultations with religious scholars, tribal councils, women's organisations, queer communities and legal experts before any further code or amendment.
5. Invite tribal communities, with women at the table, to propose their own reforms of customary law rather than leaving them wholly outside.

6. Fund legal aid, family courts and assisted registration counters so that rights can be used by those with the least money and education.

These steps keep the aims of equality and clarity that supporters of the UCC value while answering the fears of its critics. They also reflect a view that appears in both traditions of the argument: law should serve the person, and not the other way round.

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