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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **LOVE, LAW, AND LIVE-IN: THE UTTARAKHAND WAY**

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## **ABSTRACT**

To marry in Indian society is considered to be a sacrosanct duty of binary-gendered individuals. With swiftly moving lives of people, long-term commitments seem to be redundant. However, communities at large place the locus of social, political, economic, and every other development onto the matrimonial institution solely. Live-in relationships, although not highly accepted, have emerged as an age-old yet modern makeshift to marriages. The parties have control over the entire situation and are not intrinsically bound by familial or legal obligations arising out of a marital relationship. This practice is nuanced and modernized lifestyles cannot be accredited to its emergence. The Indian sub-continent remains drenched in intersectionality, and it is more than visible through the caste-based and religious differences between communities that give rise to issues arising out of the concern for the safety and security of women. Currently, in India, there exists no legislation governing this practice, nonetheless, a Uniform Civil Code passed by the Legislative Assembly of Uttarakhand attempts to create State control herein. The extent of control remains unidentified and ambiguous as the State awaits the long-term enforcement of the statute. Through this paper, we shall try to delve into three major corresponding themes thereof, namely, issues of personal liberty and privacy, implications of State intervention, and enforcement. Lastly, to examine the similitude between the provisions of the Uniform Civil Code of Uttarakhand and other existing family laws within Indian jurisdictions. Individual autonomy and capacity to self-govern lie amongst the individuals in any relationship for their private matters. This has been a reaffirmed stance of the Indian Judicial System across various themes in a similar context. This paper shall critically examine the said statute by way of review of literature.

**Keywords:** Uniform Civil Code, Uttarakhand, Live-in, Privacy.

## I. Introduction

Uttarakhand is known as Devbhoomi, the Land of Gods. Surrounded by the magnificent Himalayas, it homes various cultures, traditions, and mythology. On November 9, 2000, it was carved out of Uttar Pradesh as Uttaranchal and later in 2007, the state was renamed as Uttarakhand.<sup>1</sup> The differences in culture, languages, and economic development between the two states and the urge to protect the Pahadi identity led to the separation. The hill state consists of two major ethnic groups, Garhwali and Kumauni. Like the rest of the country, marriages here are considered to be sacrosanct. The ruling political party is in majority in the state and it aligns with the one at the Union level.

Predominantly, influenced by the Hindu religious rights and rituals, the political ideology of Hindutva has time and again raised hue and cry for a uniformed practice in family spheres. In India, laws of the private domain concerning personal or family traditions of the people were intentionally set aside from the intervention of the secular State.<sup>2</sup> The Indian theory of secularism highly regards diversity and duty of the State to uphold the same. In doing so, family laws for each religious group were determined to be unique and not applicable upon the others. However, the above-mentioned ideology aimed at unification of family laws and one of the steadfast reasons for this could be, to bring Indian ideologies to a global comparative *in casu*, western secularism.

In the 2014 election manifesto of the party<sup>3</sup>, a Uniform Civil Code was this aspired which has not been legislated or effectuated at the Centre. However, the Legislative Assembly of Uttarakhand facing an overwhelming majority of the ruling party on February 7, 2024, passed the Uttarakhand Uniform Civil Code (UCC) Bill<sup>4</sup> with no reservations thereupon. The Uniform Civil Code<sup>5</sup> came into effect in the State on January 27, 2025.<sup>6</sup> Article 44 of the Indian Constitution<sup>7</sup> that reads as “The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.” Whereas Article 25 of the Constitution<sup>8</sup> guarantees a right to freedom of conscience. The enforceability of the two articles remains unambiguous

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<sup>1</sup> The Uttar Pradesh Reorganization Act, 2000, No. 29, Acts of Parliament, 2000 (India).

<sup>2</sup> Ahmedabad Women Action Group (AWAG) vs. Union of India, AIR (1997) 3 SCC 573.

<sup>3</sup> *Bharatiya Janata Party, EK BHARAT, SHRESTHA BHARAT: ELECTION MANIFESTO* (2014).

<sup>4</sup> The Uniform Civil Code of Uttarakhand Bill, 2024, No. 02 of 2024 (India).

<sup>5</sup> The Uniform Civil Code, Uttarakhand, 2024, No. 3, Acts of Uttarakhand State Legislature, 2024 (India).

<sup>6</sup> Govt. of Uttarakhand, Home Section-05, No. 101/XX/5/25-03(10)2024/T.C-II (Jan. 27, 2025).

<sup>7</sup> INDIA CONST. art. 44.

<sup>8</sup> INDIA CONST. art.25.

through set precedents. The former has been regarded as a “dead letter”<sup>9</sup> that could be revived as the bequest of the latter. Live-in relationships as the pivotal exclusion of family laws have been attempted to be governed under the proposed UCC. This raises intrinsic issues pertaining to the assimilation of the Directive Principle of State Policy as enshrined in the Indian Constitution over the inalienable rights deemed to be fundamental as stipulated therein.

## II. Live-in as a Species of Marriage

It is expedient to assume that live-in relationships are not synonymous to marital ones. Marriages, as a unit of societal constructs, bear deep inferences as to legitimacy of a relationship and that of a child that trickles down to an array of family law concepts. The importance of a marriage as a designated relationship could be traced back to the Harappan Civilisation from the elaborate burials.<sup>10</sup> Had the case not been as such, live-in could be the norm akin to marriages, at least in the subcontinent. In recognition of the same, it is understandable that in India no laws, except the one we deliberate upon here, have been culled out in recognition or regulation of live-in relationships. The Indian Judiciary through a series of case laws has enunciated an eye of a needle definition of live-in relationships to be held analogous to marriages, that means, a very constricted interpretation. The negative interpretation thereof is construed to maintain the distinction between the two while not letting the same be the cause of injustice.

The matrimonial benefits and safeguards enjoyed by married couples have also been extended to live-in partners. In a leading case of *Indra Sarma vs. V.K.V. Sarma*<sup>11</sup>, the Supreme Court placed live-in relationships within the purview of “relationships in the nature of marriage.” This has profoundly benefited women. The court has widened the scope of Section 125 of the Code of Criminal Procedure of 1973<sup>12</sup> to extend the right of maintenance, as a secular law right available to wives, parents, and children, to a live-in partner and has included such a union under the ambit of the Protection of Women from Domestic Violence Act of 2005.<sup>13</sup> Other privileges include the legal right to inherit self-acquired property. A child born from a relationship of this sort shall be considered legitimate in the eyes of the law and would also

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<sup>9</sup> Shabbeer Ahmed & Shabbeer Ahmed, *Uniform Civil Code (Article 44 of the Constitution) A Dead Letter*, 67 (3) INDIAN J. POL. SCI., 545-552 (2006).

<sup>10</sup> P. Rissman, *Public Displays and Private Values: A Guide to Buried Wealth in Harappan Archaeology*, 20 (2) WORLD ARCHAEOLOGY, 209-228 (1988).

<sup>11</sup> *Indra Sarma vs. V.K.V. Sarma*, 15 SCC 755 (2013).

<sup>12</sup> The Code of Criminal Procedure, 1973, § 125, No. 2, Acts of Parliament, 1973 (India).

<sup>13</sup> The Protection of Women from Domestic Violence, 2005, No. 43, Acts of Parliament, 2005 (India).

become entitled to maintenance. Additionally, live-in couples have also been held possess the choice of entering a live-in relationship deed before cohabiting in order to secure their rights in case any dispute arises. The deed is corresponding to a prenuptial agreement as held in the case of *Vidhyadhari vs. Sukhrana Bai*.<sup>14</sup>

The aforementioned maintenance provision garnered a divergence of judicial view on interpretation of the word “wife.” In the matter of *Chanmuniya vs. Virendra Kumar Singh Kushwaha*<sup>15</sup>, again such relationships to be *de facto* or presumed marriages were read as a golden interpretation of the word ‘wife,’ pertaining to domestic violence only. Insofar, no matter has been brought up in the any court of law in India to raise issues related to recognition of live-in as marriage in any other regard. In 2008, the National Commission for Women also beseeched the Ministry of Women and Child Development that the definition of wife shall be inclusive of presumed marriages under the ambit of Section 125 of Code of Criminal Procedure.<sup>16</sup>

Part 3 of the UCC<sup>17</sup>, bearing the head; Live-in Relationships is the main point of contention in this paper. The provisions therein have put an obligation onto the couples in Live-in relationships to declare the same and get registration duly completed. It however remains ambiguous to procure rationale behind such registrations. The legislative intent has been assumed to be for the safety of women from crimes likely to be committed by their male counterparts. The judgments of higher courts and the report of the Malimath Committee<sup>18</sup> seem to have no bearing on the nexus of UCC although, it does follow their suggestions.

### III. Privacy and Individual Autonomy in Personal Relations

Live-in relationships are viewed through a veil of social norms and morality. While the society may deflect its moral compass, it still may not be in accordance with the one that was enshrined by the makers of our Constitution i.e., the Constitutional Morality.<sup>19</sup> Such relationships are

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<sup>14</sup> *Vidhyadhari vs. Sukhrana Bai*, 2 SCC 238 (2008).

<sup>15</sup> *Chanmuniya vs. Virendra Kumar Singh Kushwaha*, 1 SCC 141 (2011)

<sup>16</sup> Ministry of Women and Child Development, GOV'T OF IND., ANNUAL REPORT, 161 (2008-09), [https://wcd.gov.in/documents/uploaded/1710322304\\_de4QDh3X3f.pdf](https://wcd.gov.in/documents/uploaded/1710322304_de4QDh3X3f.pdf).

<sup>17</sup> The Uniform Civil Code, Uttarakhand, 2024, pt. III, Acts of Uttarakhand State Legislature, 2024 (India).

<sup>18</sup> Ministry of Home Affairs, GOV'T OF IND., Report of Committee on Reforms of Criminal Justice System, (2003), [https://www.mha.gov.in/sites/default/files/criminal\\_justice\\_system.pdf](https://www.mha.gov.in/sites/default/files/criminal_justice_system.pdf).

<sup>19</sup> LOK SABHA SECRETARIAT, CONSTITUENT ASSEMBLY DEBATE: OFFICIAL REPORT, 38 (2014), [https://eparlib.sansad.in/bitstream/123456789/763001/1/cad\\_25-11-1948.pdf](https://eparlib.sansad.in/bitstream/123456789/763001/1/cad_25-11-1948.pdf).

constantly under the scrutiny of self-organized or vigilante groups. The need of the hour is that such relationships be observed through the lens of individual autonomy and privacy. The right to privacy was upheld by the Supreme Court of India in the case of Justice K.S. Puttaswamy vs. Union of India<sup>20</sup> making the right an integral part of Article 21 of the Indian Constitution<sup>21</sup> that ordains the right to life and personal liberty. Privacy as per the ruling of the Court goes beyond bodily autonomy and covers the right to make one's own decisions and choices for the fundamentality of their being. Privacy encompasses the concept of liberty and dignity as well. While this right is of paramount importance, it is not absolute in nature. However, the Court made it clear that privacy can only be invaded on the grounds of reasonability and must be done in a non-arbitrary manner.

On the contrary, Part 3 of the UCC which deals with live-in relationships presents a different story. The Code mandates the registration of live-in relationships against the concern of privacy without mentioning any sufficient reason as to why it is required truly reflecting its unconstitutional nature. Registration of a live-in relationship is a matter of discretion vested with the registrar. It is evident that the Code has placed absolute power in the hands of the registrar and undoubtedly, this can lead to grave injustice stemming from arbitrariness. It should be the voluntary decision of a couple, whether they wish to proceed with registration or not rather than putting an obligation on them. One of the major points of difference between a marriage and a live-in relationship is that the latter allows the partners to keep their relationship private while enjoying the gravity of cohabitation.

This may be interlinked with the conception of morality. While the hon'ble Supreme Court has been of a liberal view, the matter of privacy has been at vantage by cross-fertilization from other jurisdictions.<sup>22</sup> Largely, the issue lies at the confluence of a harmonious construction of the Right to Freedom<sup>23</sup>, Right to Life and Personal Liberty<sup>24</sup> and Right to Equality.<sup>25</sup> Section 387 (2) of the UCC<sup>26</sup> mentions 'withholding material facts.' However, the Code does not specify what facts are considered to be material. To determine what is material is yet again a prerogative of the registrar which places an arbitrary power in his hands. In Francis Coralie

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<sup>20</sup> Justice K.S. Puttaswamy vs. Union of India, 8 SCC 735 (2015).

<sup>21</sup> INDIA CONST. art 21.

<sup>22</sup> See case cited *supra* note 19.

<sup>23</sup> INDIA CONST. art. 19.

<sup>24</sup> INDIA CONST. art. 21.

<sup>25</sup> INDIA CONST. art. 14.

<sup>26</sup> The Uniform Civil Code, Uttarakhand, 2024, §387 cl. 2, Acts of Uttarakhand State Legislature, 2024 (India).

Mullin vs. Administrator, Union Territory of Delhi & Ors.<sup>27</sup> and, in the matter of Common Cause vs. Union of India & Ors.<sup>28</sup>, dignity as envisaged under Article 21 is a futile expression of life when activities constituting the same do not resonate with the human self. What the Constitution beholds is not the literature within, but the plurality of opinions around that form a structure of constitutionalism.

### **Heteronormative Enactment**

Usage of the word “persons” is refreshing given the assumption of gender neutrality in the Code. Nonetheless, registrar may believe sexual orientation of a to be such a fact material to registration and may compel a person to reveal a piece of information that they wish discretion about, violating their fundamental right to privacy. This thought springs from the fact that homosexuality remains a taboo in the society. In the landmark judgment of Navtej Singh Johar vs. Union of India<sup>29</sup>, the unconstitutional provisions of Section 377 of the Indian Penal Code of 1860<sup>30</sup> that deals with unnatural offences, were read down, decriminalizing sexual intercourse between two consenting adults with special regards to homosexual couples and men who have sex with men (MSM). The Supreme Court of India opined that sexual orientation of a person is an intrinsic part of their identity and autonomy. Relying on Puttaswamy<sup>31</sup>, the Court observed that the right to privacy should be further widened to incorporate sexual privacy to protect the rights of sexual minorities. The Court in Navtej Singh Johar<sup>32</sup> made it evident that the State must not intervene in the private matters of individuals. While public indecency may still be a crime, what is happening behind the doors and within the four walls is not the concern of the State. The Court considering this context used a Latin maxim ‘*et domus sua cuique est tissimum refugium*’ referring to ‘house of each man is his secure refuge.’ In the recent case of Supriyo @ Supriya Chakraborty & Anr. vs. Union of India<sup>33</sup>, that sought the legalization of same-sex marriages, wherein it reaffirmed the right to bodily integrity and personal autonomy. While the right to marry may not be a fundamental right, the right to choose a partner most definitely is. The majority bench held the LGBTQ+ community must not be denied the right to sexual privacy and the State should not step in their private spaces. It, therefore, is intelligible to think that such persons may be denied their

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<sup>27</sup> Francis Coralie Mullin vs. Administrator, Union Territory of Delhi & Ors., 2 SCR 516 (1981).

<sup>28</sup> Common Cause vs. Union of India & Ors., 5 SCC 1 (2018).

<sup>29</sup> Navtej Singh Johar vs. Union of India, 10 SCC 1 (2018).

<sup>30</sup> Indian Penal Code, 1860, § 377, No. 42, Acts of Parliament, 1860 (India).

<sup>31</sup> See case cited *supra* note 19.

<sup>32</sup> See case cited *supra* note 29.

<sup>33</sup> Supriyo @ Supriya Chakraborty & Anr. vs. Union of India, SCC OnLine SC 1348 (2023).

cardinal rights if the discretionary power of registering a live-in marriage is placed in the hands of the registrar who may sit in his seat with countless taboos and stereotypical views. The case highlighted that the decision of legalizing marriage between homosexuals should be left to the Legislature. Up to the time, the legislature does not come up with any laws addressing this concern, the homosexual couples are left with no option but to resort to a live-in relationship if they look forward to establishing a civil union.

### **Hate Crimes and Personal Relationships: Measure of Constitutional Morality**

There is no clarity regarding the confidentiality of the register where the records of live-in relationships would be maintained. The Code makes no mention of the persons having access to the records. It is simple to comprehend that anyone, apart from the registrar having access to the records would amount to a breach of privacy. A file of this kind must remain classified in nature and by no means be obtainable by any unauthorized official or public at large lest the couples would be subjected to moral policing. Section 385 (3) of the UCC<sup>34</sup> states that when a notice of termination is given to the registrar, he is required to inform the same to parents/guardians of the partners if the person is under twenty-one years of age. One of the reasons why live-in relationships have acquired prominence is because couples have the freedom to cohabit with a partner of their choice and not of their parents.

It is no rocket science to understand that the parents of many such couples are not aware of their children's live-in relationships. Moreover, there exists a plethora of stereotypes and several parents/guardians still hold on to their primitive and orthodox beliefs. For the same reasons, couples may choose not to update their parents or guardians about their relationship and partner. While society may not conform to this practice, it does not render itself to be a crime. For the Code to have a provision like Section 385 (3) is therefore mind-bending. Episodes of horrifying crimes such as honour killing, are an iniquitous happening that India is suffering from. Honor killing is a cultural crime that refers to the killing of a family member, essentially a female who is believed to have brought 'dishonour' to the family or even the community. Such inexorable crimes will only witness a hike if provisions like Section 385 (3) are allowed to exist. The moment, parents/guardians are notified of their daughter's relationship, her own family may put her on a perpetual siesta singing a lullaby of morality.

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<sup>34</sup> The Uniform Civil Code, Uttarakhand, 2024, §385 cl. 3, Acts of Uttarakhand State Legislature, 2024 (India).

History is witness to the occurrence of such heinous incidents. Qandeel Baloch was a famous Pakistani social media celebrity who rose to fame owing to her active social media life but soon got trapped in the web of controversy. Her, breaking the social norms and beliefs of her country, aspired to live as a free bird. Her dauntless and bold posts made her acquire fame across countries. However, her community condemned her acts and was utterly disappointed. There were newspaper reports and media broadcasts showcasing her passport and identity cards revealing that her real name was in fact Fouzia Azeem. On the night of July 15, 2016, she was put to death bed by her brother through asphyxiation while she was asleep. When inquired about the reason for the murder, her brother disclosed that Dera Ghazi Khan had been dishonoured beyond repair.<sup>35</sup> Her tragic case is a testimony to the fact that women can be subjected to utmost cruelty, injustice, and even murder by their family members in the name of honour and dignity.

The said provision of the UCC is even more strenuous for the rural population. In rural areas, love is viewed from the standpoint of religion and caste. Their understanding of relationships is marriage in an arranged manner, posing significant challenges to the rural youth who wish to explore live-in relationships. The episodes of odious crimes like honour killing are a relatively common phenomenon in rural spaces, majorly due to the existence of assemblies like Khap Panchayats who put barricades in the way of freedom to choose a significant partner.<sup>36</sup> Khap refers to a small group of people, essentially comprised of elderly men. These are self-organized groups often formulated on the lines of class or caste commonality. This group looks after civil or family-related disputes that pertain to marriage, divorce, property, and so on. One of the tasks that these Panchayats perform is to punish the ones who wish to pursue a relationship with someone of another caste or faith. In the Indian case of *Shakti Vahini vs. Union of India*, honour killing was elaborately discussed, and the Court held that the right of an individual to choose their partner in no way harms the family and society. The Court remarked,

*“When the ability to choose is crushed in the name of class honour and the person’s physical frame is treated with absolute indignity, a chilling effect dominates over the brains and bones of the society at large.”<sup>37</sup>*

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<sup>35</sup> *Pakistan: brother’s acquittal in Qandeel Baloch murder challenged*, Al Jazeera (Mar. 21, 2022) <https://www.aljazeera.com/news/2022/3/21/pakistan-appeal-over-brother-acquittal-in-qandeel-baloch-murder>.

<sup>36</sup> Sneha Annavarapu, *Human Rights, Honour Killings and the Indian Law: Scope for a 'Right to Have Rights'*, *ECON. & POL. WKLY.* 48 (50) 129-132 (2013).

<sup>37</sup> *Shakti Vahini vs. Union of India*, 7 SCC 192 (2018).

The Court directed the state governments to join hands with the Centre, and along with the assistance of the police force, combat the issue of honour killing. On one hand, is this important ruling of the Court, and on the other hand, is statutes like Uttarakhand UCC. Legal provisions of this kind make it cumbersome to understand whether the Code is attempting to protect the women and the vulnerable or subject them to further exploitation. The Court, in *Shakti Vahini (supra)* further discussed the illegality of actions taken by the Khap Panchayats, yet informal assemblies of this kind refuse to change their *modus operandi*.

Privacy has rather become a matter of convenience for the State. The State did not interfere when the Supreme Court struck down the penal provision that criminalized Adultery on the grounds that the sexual autonomy and privacy of a person should be maintained.<sup>38</sup> No steps towards a gender-neutral adultery law have been taken so far. Marital Rape despite being a vile act is not a criminal offence. The Legislature has not come up with any piece of legislation on the matter despite the recommendations put forth by the Justice Verma Committee<sup>39</sup>, which suggested the deletion of marital rape exception from the rape provisions under the Indian Penal Code of 1860, to protect the sanctity of marital union and privacy of the couples. On the other hand, Part 3 of the UCC may leave live-in partners bereft of privacy.

#### **IV. Role of State Authority in Enforcement of UCC**

The entire Part 3 of the UCC, for each of its sections, is subject to State Government Gazette (Official Gazette) notifications for implementation of portions pertaining to enforcement of this Part but not the rest of provisions. A registrar who would register the live-in need not be appointed as per the notifications due. Nonetheless, the Officer in Charge of the local Police Station may take “appropriate action” upon information by any such registrar upon failure to register a live-in. The term appropriate action gives wide discretionary powers in the hands of Uttarakhand Police which rather seems to be worrisome. The Police force started booking cattle smugglers<sup>40</sup> under the U.P. Gangsters Act of 1986 in January of 2023.<sup>41</sup>

However, in a country where most of the marriages have not been registered, it is fascinating

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<sup>38</sup> Joseph Shine vs. Union of India, 3 SCC 39 (2019).

<sup>39</sup> JUSTICE VERMA COMMITTEE, AMENDMENTS TO CRIMINAL LAW 117 (2013).

<sup>40</sup> Kalyan Das, *Uttarakhand: Now, cattle smugglers to be booked under Gangster Act.*, Times of India (Jan. 29, 2023), <https://timesofindia.indiatimes.com/city/dehradun/uttarakhand-now-cattle-smugglers-to-be-booked-under-gangster-act/articleshow/97409062.cms>.

<sup>41</sup> The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, No. 7, Acts of Uttar Pradesh State Legislature, 1986 (India).

to see live-in relationships to be registered. As per law, child marriages in India are against the public policy but they are voidable at the option of the minor parties after attaining the age of majority. This is indicative of the settled law that marriage registrations are relatively irrelevant given adherence to respective rites and rituals. Its purpose comes out in light of Special Marriage Act of 1954<sup>42</sup>, where the conflict of family laws seeks a secular remedy. Registration has also been seen essential to marriages for instances that particularly are not related to marriages but are emergent thereto, like divorce. Unlike cars with number-plates, people do not bear the names of their cohabitational partners. Thus, registrations as a mandate would become a game of hide and seek for the sake of its implementation.

As per Section 386 of the UCC<sup>43</sup>, persons cohabiting shall register their live-in within 30 days of cohabitation and failure to submit the statement of registration shall lead to service of a notice. However, how the law enforcement agency is able to keep such watertight surveillance would be surprising. To act in aid of the police, the registrar may take cognizance of an unregistered live-in even based on any complaint or information. This remains the only possible way forward to implement the penal provisions. The government would assume the function of an inquisitive observer, while neighbours would become increasingly intrusive to assist the government. Although, the aspect of privacy has been already talked about in previously given paragraphs, the alternative option shall be for the police to knock doors to seek information of every threshold.

The registrar as rightfully may reject registrations upon certain justified, other arbitrary and the rest residuary grounds as mentioned under Section 380.<sup>44</sup> One such instance is the requirement of a certificate from a religious leader as prescribed under Rule 5(4)(b)(i) of The Uniform Civil Code Rules Uttarakhand 2025<sup>45</sup>, confirming that the couple do not fall under the degree of prohibited relationship comes with several challenges. The certification relies on the knowledge and expertise of the religious officials concerned. The discretion given to them causes problems, especially for interfaith relationships. Moreover, discretion negates the idea that there would be uniformity in decisions of all the religious officials. Thus, inconsistent or erroneous interpretation of similar customs would lead to disputes in ascertaining eligibility

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<sup>42</sup> The Special Marriage Act, 1954, No. 43, Acts of Parliament, 1954 (India).

<sup>43</sup> The Uniform Civil Code, Uttarakhand, 2024, § 386, No. 3, Acts of Uttarakhand State Legislature, 2024 (India).

<sup>44</sup> The Uniform Civil Code, Uttarakhand, 2024, § 380, No. 3, Acts of Uttarakhand State Legislature, 2024 (India).

<sup>45</sup> The Uniform Civil Code Rules, 2025, Gen. S.R. & O. GOV'T UTTARAKHAND, Rule 5 sub. rule 4 cl. b sub. cl. i (India).

and would be unfair for couples. Upon such rejection, must the parties separate is not provided in the statute that renders them dangling. The termination provision is also in a similar nature. Either of the parties may terminate the relationship with the submission of a statement of termination to the registrar, who shall accept such statement and intimate the other partner upon receiving the same. Given no grounds to reject the termination statement and the registration compulsory therebefore, the purpose of the latter becomes redundant. In the similitude of divorce proceedings, restitution of conjugal rights and preservation of marriage are the guiding principles for dissolution of marriage is not a right but a discretion of the court. should the couple of a live-in relationship undergo counselling on the similar lines as of a divorce, given the efforts put in the legitimization thereof. The information to be given to the parents of the couple in both the instances also stands absurd considering the Guardians and Wards Act of 1890<sup>46</sup> and the Hindu Minority and Guardianship Act of 1956.<sup>47</sup> While privacy concerns the parents, a male above the age of majority does not have a guardian under the Indian family laws. Keeping aside the debate of gender equality, no intelligible line of reasoning suffices the necessity of the registrar to inform the parents or the guardians.

Drawing further the comparison of live-in as a matrimonial institution, maintenance of a woman becomes a concern demanding attention. Primarily, due to absence of any corresponding legislation, maintenance of the woman partner to be incorporated into the Code becomes imperative. To address this issue, Section 125 of the Criminal Procedure Code of 1973, as judicially scrutinized, pertaining to maintenance must be included into the Code. Additionally, the only basis for requesting maintenance after termination of a live-in desertion must be reinterpreted. The provisions outlined in family laws such as the Hindu Adoptions and Maintenance Act of 1956<sup>48</sup> shall apply to both the partner and maintenance of the child.

## V. Conclusion

It comes with utmost puzzlement to welcome the Uttarakhand Uniform Civil Code devoid of reservations or with apprehensions. While the Code is a step towards bridging the gap between Indian disparities in family laws *qua* standards in the international jurisdictions; it seems to be the result of a positivist thought of legislation. Law is neither morality nor ethics however, the law-makers must be so. *Conscientia Legi Nunquam Contravenit* is a profound maxim for

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<sup>46</sup> The Guardianship and Wards Act, 1890, No. 8, Acts of Parliament, 1890 (India).

<sup>47</sup> The Hindu Minority and Guardianship Act, 1956, No. 32, Acts of Parliament, 1956 (India).

<sup>48</sup> The Hindu Adoptions and Maintenance Act, 1956, No. 78, Acts of Parliament, 1956 (India).

legitimization of this code. It refers to that the legal conscience never contravenes the law. With the prospect of growing crimes against women and those directed towards non-heteronormative identities, the aspect of registration of any cohabitational relationship comes with a sense of security for safety of the people is the supreme law. It shall entail a piece of evidence lest any unfortunate incidence occur. Should the subject matter of registration be corresponding to liberal constitutionalism, its facsimiles pertaining to the Registrar and the Police Officer-in-Charge, and the maintenance of the register concerning the implementation process, it remains a vain activity.

As per a Times of India article, in the 110 days following the enforcement of the UCC in Uttarakhand on January 27, 2025, only 28 couples in live-in relationships have registered their status. Furthermore, government data analysed by it indicates that no sanctions have been imposed for instances of non-compliance. The UCC portal, which was initiated concurrently with the code, has also documented 1,40,000 marriage registrations, 178 divorce filings and no recorded terminations of live-ins. These figures starkly contrast with the state's demographics, implying that over three months post-implementation, the effectiveness of the code has significantly diminished. Advocate Abhijay Negi remarked to TOI that numerous individuals exhibit reluctance to register due to the perceived intrusiveness of the Act. He stated that many individuals are also postponing their decisions pending the High Court's ruling on the challenges to the UCC and will make choices based on that outcome.<sup>49</sup>

Privacy stands at the threshold of the very essence of our being. Its protection may not be the prerogative of the UCC but, it must be intrinsically inseparable. Parental intervention is looked as an anathema by those who elope for new beginnings. Intimation to them would go against the ethos of our constitutional mandate. Correspondingly, the termination procedure shall seek some nuance and no simple utterances. If preservation of familial bonds is the keystone of personal laws, live-in relationships must not be excluded. Although being a relatively informal institution, it shall be saved through a legal course and not be made prey to whims and fancies of ever evolving adults of a globalized world. This is a consideration only when the need thereof arises i.e. the registrations, for legitimacy of children born out of wedlock be also contemplated and such a child not become destitute, viewing the validity of child marriages in

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<sup>49</sup> *Only 28 live-in relationships registered under UCC in 110 days, no penalties imposed yet*, Times of India (May 17, 2025), <https://timesofindia.indiatimes.com/city/dehradun/only-28-live-in-relationships-registered-under-ucc-in-110-days-no-penalties-imposed-yet/articleshow/121237880.cms>.

this context. In furtherance of this concern, maintenance, as outlined by case laws for Section 125 of the Criminal Procedure Code of 1973, must be included within the Code and the sole ground to seek the same upon termination of a live-in as desertion shall be reinvented. Maintenance of the child and also the partner shall be comparative to the provisions as elaborated under the family laws like the Hindu Adoptions and Maintenance Act of 1956.

In summation, the Uttarakhand UCC shall not be forcibly applicable to other states in India as the law has been legislated by the Legislative Assembly of Uttarakhand. A state may enforce a law say that regarding land revenue to the extent of the territorial limit of the state boundaries and not on a land lying exclusively in another jurisdiction. The phrase, “Law of the Land” becomes quintessential to understand the ability of an executive to take action elsewhere that does not entail in its prerogative power. The doctrine of self-determination as understood in the international law may trickle into the federative principles of a union as well.

