
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**THE UNIFORM CIVIL CODE OF UTTARAKHAND: AN ANALYTICAL
RESEARCH**- Dr. Rajesh Kumar Dube¹**ABSTRACT**

The Uniform Civil Code, Uttarakhand, 2024 (from now on shall be referred to as the Code) was enacted by the Uttarakhand Legislative Assembly in the 75th years of the Republic of Bharat and received the permission of the President of Bharat on 13th March 2024. The Code provides governance and regulations relating to the laws on marriage and divorce, maintenance, succession, live-in relationships, and matters concerning it. The State of Uttarakhand is the first state of Bharat that has fulfilled its constitutional obligation to govern and regulate through laws relating to marriage and divorce, maintenance of succession, live-in relationships, and other incidental matters. In this research paper, an endeavor is made to conduct analytical research on the code.

INTRODUCTION

We, the people of Bharat, have solemnly resolved to constitute Bharat as a sovereign and democratic republic to attain the constitutional objective of socio-political justice. One of the very attributes of such justice is equality before the law and equal protection of the law, which envisages that the State shall govern the Bharat by the provisions contained under the law of the land without causing discrimination based on religion, *Dharma*,² race, caste, sex, place of birth, etc.³ The State has a constitutional mandate to provide a Uniform Civil Code under the Directive Principles of the State Policy (from now on referred to as DPSP) for the

¹ Associate Professor, Department of Law, D. A. V. (P. G.) College, Dehradun.

² As per researcher's opinion religion and *Dharma* are altogether different concepts and should be used appropriately, according to the context.

³ The Constitution of Bharat: Article-14.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

citizens. Accordingly, the State shall endeavor to secure a uniform Civil Code for citizens.⁴ The provisions contained under DPSP are not enforceable by the Courts established under the Constitution of Bharat. Still, the principles contained therein are fundamental in the governance of Bharat, and the State is legally obligated to apply such principles in making laws.⁵ Under entry 5th of the List III-Concurrent List, both the Parliament and the State Legislative assemblies are competent to legislate on subjects relating to marriage and divorce, intestacy and succession, will, joint family and partition, and matters relating to personal laws of any community. The Constitution of Bharat confers fundamental rights that no person shall be denied equality before the law or equal protection of the laws.⁶ The Scheduled tribes under sub-clause (25) of Article 366 read with Article 342 of the Constitution of Bharat and certain groups of persons whose customary rights are protected explicitly under part XXI of the Constitution have been exempted from the applicability of the provisions of the Code.⁷ This Code consists of four parts.

MARRIAGE AND DIVORCE

Part I of the Code deals with marriage and divorce and has been divided into seven chapters, which shall be elaborated on in this research paper appropriately. The connotation of the word 'child' has been assigned a broader meaning under the Code; accordingly, besides biological children relating to parents, other children such as adopted children, illegitimate children, children born through surrogacy, etc., are included within its scope.⁸ A certain prohibited degree of relationship between a man and a woman prohibits such man and woman from entering into matrimonial ties through marriage.⁹ The parties to the marriage mean a man and woman between such marriage is either solemnized as per *Dharmik Samskar*¹⁰ and customary rites/rituals of either party to the marriage and also any ceremonies and practices including *Saptapadi*, *Ashirvad*, etc.; or contracted as per religious beliefs and practices such as '*Nikah*,' '*Holy Union*,' '*Anand Karj*.'¹¹ The term 'estate' means

⁴ Id. Article 44.

⁵ Id. Article 37.

⁶ Supra at note 2.

⁷ The Uniform Civil Code of Uttarakhand, 2024; Section 2.

⁸ Id. Section 3 (1) (a).

⁹ Id. Section 3 (1) (d).

¹⁰ *Dharmik Samskar* is an essential and integral part of the *Sanatan Dharma* for performing *Vivah Samskar* of any *Sanatani* practicing such *Dharmain* his/her life.

¹¹ Supra at note 6; Section 5.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

movable and immovable property, self-acquired or ancestral, coparcenary, joint property of any kind, tangible or intangible, and includes share, interest, or right in such property.¹² The provisions of the UCCUK regarding registration of marriage¹³ or live-in relationships shall apply to all residents of the State. The term 'resident' means a citizen of Bharat who is eligible to be a permanent resident of Uttarakhand or is a permanent employee of the State and Central Government (within the territory of the State of Uttarakhand) or its entities or has been residing in the State of Uttarakhand for not than less than a year; or is a beneficiary of any scheme of the State of Uttarakhand and the Central Government applicable in the State of the Uttarakhand.¹⁴ The term 'spouse' has been defined as either husband or wife.¹⁵ The term 'maintenance' shall be interpreted as all kinds of provisions relating to food, clothing, home, education, medical treatments, and special needs.

Essential Conditions for Solemnising or Contracting Marriages

Certain essential conditions for solemnizing or contracting marriage are provided under Chapter 1 of Part-I of the Code. Accordingly, for solemnization or entry into a marriage contract, a man and woman shall fulfill the following five conditions:¹⁶ Firstly, at the time of marriage, neither party should have a spouse living. Secondly, at the time of marriage, neither party to the marriage should be of unsound mind to make them incapable of giving valid consent or suffering from such mental disorder to enable them to be fit for marriage or subject to recurrent attacks of insanity. Thirdly, the man must be twenty-one years old, and the woman must be eighteen years old. Fourthly, the parties to the marriage should not be within the prohibited degree of relationship unless customs permit them to do so. Fifthly, the said marriage should not be prohibited under any law for the time being in force.

Registration of Marriages or Divorce

There are provisions regarding marriage and divorce registration under Chapter 2 of Part I of the Code. There are provisions regarding compulsory registration of marriages that are solemnized or contracted after the commencement of the Code.¹⁷ The marriages

¹²Id. Section 3(1) (e).

¹³ Id. Section 6.

¹⁴Id. Section 3 (1) (n).

¹⁵Id. Section 3 (1) (o).

¹⁶Id. Section 4.

¹⁷ Id. Section 6.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

solemnized or contracted between 26th March 2010 and the commencement date of the Code are compulsory to be registered.¹⁸It is the first time in the legislative history of Bharat that there are statutory provisions regarding the registration of divorce. There are provisions regarding compulsory registration of decree of divorce or nullity which the Court of competent jurisdiction has granted after commencement of the Code.¹⁹The decree of divorce or nullity which the Court of competent jurisdiction has granted before commencement of the Code may be registered.²⁰ There is a penal provision for non-registration of marriages, divorce, or nullity of marriage. Accordingly, the defaulter persons shall be liable to be punished with a fine which may extend to a maximum of twenty-five thousand rupees.²¹However, non-registration of marriage would not invalidate such marriages.²²

Restitution of Conjugal Rights and Judicial Separation

There are provisions regarding the Restitution of Conjugal Rights and Judicial Separation under Chapter 3 of Part I of the Code. When either husband or wife has withdrawn from another society without any reasonable excuse, the aggrieved party may file a petition before the Court of competent jurisdiction. After verifying the truth and falsity of the case, the Court may issue a decree for restitution of conjugal rights, and the burden of proving such reasonable excuse lies with the spouse who has withdrawn himself from the society of another spouse.²³Either party to the marriage may file the petition for judicial separation before the Court on the same grounds as may be sought for divorce.²⁴ After the decree for judicial separation, it shall not be obligatory for the spouses to live together until the decree for judicial separation is under force. It may be rescinded through a separate petition in the Court, and during such separation, the martial tie shall remain intact.²⁵

Nullity of Marriage and Divorce

There are provisions regarding the Nullity of Marriage and Divorce under Chapter 4 of Part I of the Code. Any marriage solemnized or contracted by violating conditions

¹⁸ Id. Section 7.

¹⁹ Id. Section 8.

²⁰ Id. Section 9.

²¹ Id. Section 18 (2).

²² Id. Section 20.

²³ Id. Section 21.

²⁴ Id. Section 22 (1).

²⁵ Id. Section 22 (2).

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

specified under clauses (i), (ii), (iv), and (v) of Section 4 of the Code shall be null and void and may be declared by decree of nullity after filing a petition before the Court.²⁶

Any marriage solemnized or contracted shall be voidable by a decree of nullity on any one of the following grounds claimed by the petitioner: that due to impotence of the respondent, the marriage could not be consummated; or that the marriage was solemnized or contracted in contravention of the condition specified in the clause (iii) of Section 4; or, that the consent of the petitioner was obtained by force, fraud, or coercion and the petition has been presented within one year, when such force or coercion had ceased to operate and also the petitioner was not living with the respondent with his/her full consent after such cessation of the force or coercion; or, that the wife was pregnant by a man other than the husband, or the husband had impregnated a woman other than his wife but subject to the condition that the petitioner was ignorant of the alleged fact.²⁷

Any marriage solemnized or contracted may be dissolved by a decree of divorce on any one of the following grounds claimed by the petitioner: (1) that the respondent had voluntary sexual intercourse with any person other than petitioner; or, (2) that the respondent treated the petitioner with cruelty; or, (3) that the respondent deserted the petitioner for more than two years before filing the petition; or, (4) that the respondent has converted to another Dharma/religion than that of the petitioner; or (5) that the respondent has been incurably of unsound mind; or that the respondent has been suffering from communicable venereal disease which is of incurable nature; or, (6) that the respondent has renounced the world by entering any religious order or otherwise; or, (7) that the respondent has not been heard alive by any person for more than seven years; or, (8) that the respondent has solemnised or contracted another marriage in contravention of clause (i) of Section 4; or (9) that the respondent has failed to comply with maintenance order issued by the Court of competent jurisdiction.²⁸

A decree for dissolution of the marriage may also be granted on the ground that (a) there has not been a resumption of cohabitation between spouses to the marriage for more than one year since the issuance of the decree of judicial separation or (b) there has not been

²⁶ Id. Section 23.

²⁷ Id. Section 24.

²⁸ Id. Section 25 (1).

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

restitution of conjugal rights between spouses to the marriage for a period more than one year since the issuance of the decree of restitution of conjugal rights.²⁹

The wife may also present a petition for the dissolution of marriage on the ground that (a) the husband has been held guilty of the offense of rape or any other unnatural offense of sexual assault since the solemnization or contracting of the marriage; or (b) the husband had more than one wife from marriages solemnized or contracted before the commencement of the Code.³⁰

The marriages solemnized or contracted may be dissolved by mutual consent on the grounds that parties to a marriage have been living separately for one year or more and cannot live together anymore. There should be a mutual agreement to dissolve the marriage by mutual consent between such parties.³¹

SUCCESSION

Part II of the Code deals with the succession. This part of the Code has dealt with Intestate Succession under Chapter; Testamentary Succession under Chapter 2; Protection of Estate of the Deceased under Chapter 3; Representative Title to Estate of Deceased on Succession under Chapter 4; Probate, Letters of Administration and Administration of Assets of Deceased under Chapter-5; Succession Certificates under Chapter-6; and Miscellaneous provision relating to succession under Chapter-7 of the Code.

Intestate Succession

A person who is dying intestate means the deceased had not made any testamentary arrangement relating to his estate, his/her interest in the estate shall be devolved in the following order of preference: Firstly, the heirs specified in Class-1 of Schedule-2 of the Code shall have preferential entitlement over any class of heirs; Secondly, the heirs specified in Class-2 of Schedule-2 of the Code shall be entitled to inherit, if there is no qualified heir in Class-1; Thirdly, the other relatives would be entitled to inherit, if there is none qualified heir

²⁹ Id. Section 25 (2).

³⁰ Id. Section 25 (3).

³¹ Id. Section 27.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

is found in both Class-1 and 2; Finally, the estate shall escheat upon the Government, if there is no qualified heirs found in the aforesaid clauses.³²

The List of Class I heirs for Succession is as follows: Son; Daughter; Widow; Mother and Father; Son of predeceased son; Daughter of predeceased son; Son of predeceased daughter; Daughter of predeceased daughter; Widow of predeceased son; Son of predeceased son of a predeceased son; Daughter of predeceased son of a predeceased son; Widow of predeceased son of a predeceased son; Son of a predeceased daughter; Son of a predeceased daughter of a predeceased son; Son of a predeceased daughter; Daughter of a predeceased daughter; Daughter of a predeceased son of a predeceased daughter; and Daughter of a predeceased son.³³

The List of Class II heirs for Succession is as follows: Entry I: Brother and Sister; Entry II: Brother's Son, Sister's Son, Brother's Daughter, Sister's Daughter; Entry III: Father's father, Father's mother; Entry IV: Father's widow (Stepmother), Brother's widow; Entry V: Father's brother, Father's sister; Entry VI: Mother's father, Mother's mother; Entry VII: Mother's brother, Mother's sister.³⁴

Other relatives mean such other persons who are related to the intestate but not specified under Class-1 or Class-2 heirs as mentioned above.³⁵

The distribution of the estate of the intestate among Class-1 heirs, who shall inherit simultaneously, shall be as follows: every surviving spouse shall take one share each;³⁶ Every surviving child shall take one share each;³⁷ The heirs in the branch of each predeceased child shall take one share each;³⁸ the share apportioned to each branch of the predeceased child under rule 3 shall be equally divided among the surviving spouse and child;³⁹ The share devolving upon each branch of the predeceased shall be equally divided among all members.⁴⁰ Surviving parents of the intestate shall take together one share.⁴¹

³²Id. Section 49.

³³Id. Schedule-2.

³⁴Id.

³⁵Id.

³⁶Id. Section 51; Rule 1.

³⁷Id. Rule 2.

³⁸Id. Rule 3.

³⁹Id. Rule 4.

⁴⁰Id. Rule 5.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

The estate distribution amongst Class-2 heirs shall be as follows: the heirs of the first entry shall be preferred over heirs under the rest of the entries of Class-2.⁴² All heirs under any entry shall inherit equally and simultaneously.⁴³

The nearest degree relatives of the intestate shall be preferred over the other relatives.⁴⁴ The Code has made no distinctions between a born child and a child in the mother's womb. The child born alive of the intestate is equally entitled to inherit the estate.⁴⁵

The widow or widower of the intestate shall be disqualified to inherit the estate who has married during the lifetime of the intestate.⁴⁶ A person who murders any person whose estate such person is entitled to inherit shall be disqualified to succeed the estate of the murdered intestate.⁴⁷ The persons disqualified from inheriting the estate shall be deemed dead before the intestate under the Code.⁴⁸

Testamentary Succession

Chapter 2 of Part 2 of the Code deals with testamentary succession, which provides laws relating to Wills and Codicils.⁴⁹; Execution of Wills⁵⁰; Attestation, Revocation, Alteration and Revival of Wills⁵¹; Construction of Wills⁵²; Void Bequests⁵³; Vesting of Legacies⁵⁴; Onerous Bequests⁵⁵; Contingent Bequests⁵⁶; Conditional Bequest⁵⁷; Bequests to an Executor⁵⁸; Specific Legacies⁵⁹; Demonstrative Legacies⁶⁰; Ademption of Legacies⁶¹;

⁴¹ Id. Rule 6.

⁴² Id. Section 52; Rule 1.

⁴³ Id. Rule 2.

⁴⁴ Id. Section 53.

⁴⁵ Id. Section 55.

⁴⁶ Id. Section 57.

⁴⁷ Id. Section 58.

⁴⁸ Id. Section 59.

⁴⁹ Id. Sections 61 to 63.

⁵⁰ Id. Sections 64 & 65.

⁵¹ Id. Sections 66 to 69.

⁵² Id. Sections 70 to 106.

⁵³ Id. Sections 107 to 112.

⁵⁴ Id. Sections 113 to 115.

⁵⁵ Id. Sections 116 & 117.

⁵⁶ Id. Sections 118 & 119.

⁵⁷ Id. Sections 120 to 134.

⁵⁸ Id. Section 135.

⁵⁹ Id. Sections 136 to 143.

⁶⁰ Id. Sections 144 & 145.

⁶¹ Id. Sections 146 to 160.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

Payment of Liabilities in respect of the Subject of Bequest⁶²; Bequest of Things described in General Terms, Bequests of the Interest or Produce or Fund, Bequest of Annuities and Legacies to Creditors and Portioners⁶³; Election⁶⁴.

Protection of Estate of the Deceased & Representative Title to Estate of Deceased on Succession

Chapters 3 & 4 of Part 2 of the Code have dealt with the laws relating to the Protection of the Estate of the Deceased & Representative Title to the Estate of the Deceased on Succession.⁶⁵ This chapter mainly deals with provisions relating to the right of any person claiming succession to the estate of the deceased; the provision regarding inquiry made by the Judge and its procedure; the appointment of the curator and his powers; the character and estate of the executor or administrator; proof of representative title a condition precedent to recovery etc.

Probate, Letters of Administration, and Administration of Assets of Deceased

Chapter 5 of Part 2 of the Code has dealt with the laws relating to the Probate, Letters of Administration, and Administration of Assets of the Deceased.⁶⁶ All grants of probate and letters of administration with the Will and the administration of the assets of the intestate deceased shall be carried out by the provisions provided under Chapter 5 of Part 2 of the Code. In this Chapter of the Code, there are provisions regarding Grants of Probate and Letters of Administration, Limited Grants, Grants for particular purposes, Alteration and Revocation of Grants, Powers of Executor or Administrator, Duties of an Executor or Administrator, etc.

Succession Certificates and Miscellaneous

Chapters 6 & 7 of Part 2 of the Code have dealt with the laws relating to Succession Certificates and Miscellaneous provisions about Succession.⁶⁷

LIVE-IN RELATIONSHIP

⁶² Id. Sections 161 to 164.

⁶³ Id. Sections 165 to 173.

⁶⁴ Id. Sections 174 to 185.

⁶⁵ Id. Sections 186 to 207.

⁶⁶ Id. Sections 208 to 358.

⁶⁷ Id. Sections 359 to 377.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

Part III of the Code deals with the Live-In Relationship.⁶⁸ This is the relationship between a man and a woman who live together in a shared household through a relationship like marriage.⁶⁹ Such a man and a woman who live in a relationship are called partners to live in a relationship.

The existing partners in a live-in relationship or persons intending to enter into a relationship must submit a statement to the concerned Registrar in the prescribed format. After examination and summary inquiry, the Registrar may register such entries in the specified register or refuse to register within 30 days of the statement's submission.⁷⁰

The Registrar may refuse to register the statement above submitted by the partners to a live-in relationship, where the partners are within the prohibited degree of relationship, or one of the persons is already married or living in a live-in relationship, or at least one of the persons are minor; or where the consent of one of the partners is obtained unlawfully.⁷¹ The persons who are living in a live-in relationship for more than one month without submitting the statement above to the Registrar shall be liable to punishment with imprisonment for a term which may extend to three months or with a fine not exceeding ten thousand rupees on conviction by a Judicial Magistrate.⁷² The woman shall be entitled to a maintenance allowance if deserted by her live-in partner.⁷³

CONCLUSION

The Uniform Civil Code of Uttarakhand, 2024, is a historic and unprecedented legislation enacted by the Uttarakhand Legislative Assembly in Bharat. The Code deals with provisions relating to marriage and divorce, maintenance, succession, intestate and testamentary, and live-in relationships. The law regarding live-in relationships is a unique feature of the Code and its first-ever legislation in any State of Bharat. Registration for marriage, divorce, and live-in relationships has been made mandatory under the Code. After conducting analytical research on the Code, it may be concluded that very lovely and progressive legislation has been enacted that covers all aspects of civil life, including marriage and divorce,

⁶⁸ Id. Sections 378 to 389.

⁶⁹ Id. Section 4 (b).

⁷⁰ Id. Section 381.

⁷¹ Id. Section 380.

⁷² Id. Section 387.

⁷³ Id. Section 388.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

maintenance, succession, and live-in relationships. This Code would be a model for Bharat to fulfill the Constitutional mandate regarding the Uniform Civil Code.



For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>