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## IMPACT OF UTTARAKHAND UNIFORM CIVIL CODE ON INHERITANCE LAWS IN INDIA

~ *Sanika Dehury*

### Abstract

In 2024, the Government of Uttarakhand enacted the Uniform Civil Code (UCC), which represents an important advancement for succession law in India by creating one set of rules for all individuals regardless of their religion or any other classification. The purpose of this paper is to highlight the effects that the UCC will have on current laws regarding succession under the Hindu Succession Act, Muslim Personal Law, and the Indian Succession Act, including its stated goal of achieving gender equity in inheritance, that all individuals who die without a valid will (intestate) will have their cases handled the same way; and that it will eliminate the use of different religions as a basis for determining the distribution of property rights following an individual's death. This paper also discusses potential issues regarding the constitutionality of the UCC, including those concerning legislative authority and jurisdiction under Articles 44 and 254 of the Constitution of India.

### Introduction

Uttarakhand is now the first state in India to have a uniform civil code (UCC) that regulates all aspects of the family and succession laws. This means that, regardless of religious affiliation, families in Uttarakhand can expect to have access to the same set of rules regarding marriage, divorce, child support, and inheritance. Before Uttarakhand passed the UCC, each religion had its own set of personal laws regulating inheritance. Hindus were governed by the Hindu Succession Act of 1956<sup>1</sup>, while Christians were governed by the Indian Succession Act of 1925<sup>2</sup>. The principles of Muslim Personal Law governed Muslims. These differing systems created inequality among individuals regarding their ability to inherit from family members

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<sup>1</sup> Hindu Succession Act, 1956, No. 30 of 1956, INDIA CODE (1956)

<sup>2</sup> Indian Succession Act, 1925, No. 39 of 1925, INDIA CODE (1925)

and to share equally with those family members who were able to make an inheritance claim against their deceased loved one<sup>3</sup>.

Under the Uniform Commercial Code (UCC), there is a single intestate succession rule that applies to all individuals covered by this particular legislation. The UCC also provides a structured heirship system that classifies heirs into three categories: Class I, Class II, and all other heirs. Perhaps the most significant change to existing inheritance laws introduced by the UCC is the introduction of equal rights of inheritance for men and women. Additionally, the UCC eliminates the distinction between ancestral and self-acquired property under Hindu law by abolishing fixed shares that were previously established by Muslim inheritance laws and modifying the inheritance rights of widowers and parents under Christian law. Finally, the implementation of the UCC raises important questions of both constitutional and legislative nature with regard to the compatibility of the UCC with the other central law on succession as well as the distribution of legislative powers under the Concurrent List of the Constitution of India.

### **Identification Of the Legal Issue(S) Involved**

Issue 1: Is the Uttarakhand “Uniform Civil Code (UCC)” able to replace or have priority over religion based personal laws dealing with inheritance in India; has succession historically been governed by a variety of different personal laws which were built up over time by each religion community; this is the question of whether religion specific succession rules can be properly superseded by a single succession law established by a state under the Constitution?

Issue 2: Do any provisions of the UCC contradict or otherwise infringe upon provisions of current Central laws, such as “the Hindu Succession Act, Indian Succession Act”?

Issue 3: Has the legislature of the State been given constitutional authority from the Concurrent List in any regard to enact a uniform governing law for intestate succession for individuals from differing religious communities in both provisions of the Constitution; if so, what are these provisions?

### **Applicable Statutory Provisions**

(a) Hindu Succession Act, 1956.

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<sup>3</sup> Uniform Civil Code and Gender Justice in India: Constitutional Aspirations, Gender Justice, and Implementation Challenges, Lex Scripta Magazine (2025)

Before the UCC was enacted in Uttarakhand, inheritance for Hindus was governed by the Hindu Succession Act, which defined the rules of succession as applicable to members of four different religions: Hinduism, Buddhism, Jainism, and Sikhism, and provided a means by which the property of a deceased person who died intestate would be transferred under the law. The succession of property was based upon the type and category of property as well as the type and category of heirs.

“The general rules of succession for a male Hindu dying intestate are contained in Section 8 of the Act. The deceased's property is to devolve first to his Class I heirs (i.e., widow, sons, daughters, and mother) and then, if there are no Class I heirs, the deceased's Class II heirs; thereafter, the deceased's relatives (agnates and cognates) in that order will inherit the remainder of the deceased's estate. Moreover, Section 10 establishes the method by which Class I heirs will share in an intestate male Hindu's property, so that the respective Class I heirs will share equally in his estate<sup>4</sup>.

The Hindu Succession Act 1956 has provisions that deal with female Hindu succession. Section 15<sup>5</sup> provides that on the death of a female Hindu who dies without a will (intestate), the order of inheritance will be in the following order: The first heirs of a female Hindu are her children and her husband. The second heirs are the heirs of her husband. The third heirs are her parents. In addition, Section 6 makes provisions for the succession of coparcenary property governed by the Mitakshara system of Hindu law and defines what a coparcenary is<sup>6</sup>. A coparcenary consists of members of a Joint Hindu family who have acquired a share in the ancestral property through birth. Traditionally, the coparcener had to be male, but this has changed under subsequent amendments to the Act, which have granted equal succession rights to female coparceners”.

Another distinguishing feature of Hindu law, as it relates to succession, is the difference between ancestral and self-acquired property. However, under the Uttarakhand UCC, this legal framework will no longer apply because there will no longer be any distinction between these two types of property, thereby implementing a uniform system of succession.

(b) Muslim Personal Law (Shariat) Application Act, 1937.

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<sup>4</sup> Hindu Succession Act, 1956, § 10, No. 30 of 1956, INDIA CODE (1956)

<sup>5</sup> Hindu Succession Act, 1956, § 15, No. 30 of 1956, INDIA CODE (1956)

<sup>6</sup> Hindu Succession Act, 1956, § 6, No. 30 of 1956, INDIA CODE (1956)

The “Muslim Personal Law (Shariat) Application Act of 1937”<sup>7</sup> governs matrimonial and interfamily matters among Muslims in India with respect to marriage, divorce, and inheritance. In matters of intestate succession, Muslims are subject to Islamic law, not custom. Muslims have no succession restrictions other than those provided by the Quran and traditional Islamic law.

Key Features:

- Fixed Shares System - Islamic inheritance is based on the concept of fixed shares that distribute a fixed portion of the estate to defined Quranic relations.
- Gender-Based Distribution - Under Islamic law, the male heirs receive twice as much as the female heirs of a comparable degree.
- Classification of Heirs - Heirs may be classified into three groups, namely: Quranic heirs (those entitled to fixed shares) are the first category, residuary heirs (those who inherit the estate remaining after the heirs are ascertained) are the second category, and distant relations (third category).
- Islamic succession law is mainly uncodified and based on religious texts and customs, whereas Hindu and Christian laws are codified.

(c) Indian Succession Act, 1925

“The Indian Succession Act (also referred to as the Act) is an all-encompassing piece of legislation that regulates the succession to property through both testate (Will) and intestate (no will) in relation to Christians and Parsis within India. The Act provides specific guidance regarding the disposition of Property upon the intestacy of a deceased person.

Key Provisions:

- Section 33 – Share of Widow: When a deceased person dies intestate, leaving behind a surviving widow and lineal descendants, then a share for a widow is one-third of the net estate of the husband, and two-thirds will be distributed equally amongst the surviving descendant/a descendant's estate.<sup>8</sup> In case no lineal descendants exist, then the widow will receive a half share or the entire estate, depending on whether or not there are any lineal relatives of the husband at the time of his death.

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<sup>7</sup> Muslim Personal Law (Shariat) Application Act, 1937, No. 26 of 1937, INDIA CODE (1937)

<sup>8</sup> Indian Succession Act, 1925, § 33, No. 39 of 1925, INDIA CODE (1925)

- Sections 31 to 49 – Distribution Among Lineal Descendants: The provisions contained within these sections outline how the property of a deceased person may be divided among their children and lineal descendants.
- Rights of Parents: According to the act, parents will only inherit in the absence of any lineal descendants, which is in keeping with the established hierarchy of succession outlined in this legislation”.

#### (d) Uttarakhand Uniform Civil Code

The Uttarakhand Uniform Civil Code (UCC) is the first major reform that provides a common set of laws governing marriages, divorces, and inheritance for all people in the state, regardless of their religion<sup>9</sup>. The UCC will create one law that applies to all religions and eliminate all religion-based personal laws.

#### Key Aspects:

- Common Successive Rights: The UCC creates one set of rules for all people in Uttarakhand to determine who is entitled to receive property when an individual dies, regardless of that individual's religion.
- Equal Successive Rights: The UCC will eliminate the gender-conflicting statement found within many of the current personal laws and ensure that there is the same economic impact for males and females when property is distributed after an individual's death.
- Classifying Heirs: The UCC provides for the classifications of Class I and Class II heirs, under which Class I heirs will get equal shares of an estate before any Class II heirs may inherit from an estate.
- Scope of the UCC: The UCC applies to all people who are permanent residents or domiciled in Uttarakhand, and includes other groups such as government employees who work within Uttarakhand and individuals who receive benefits under various government schemes. The UCC does not apply to members of Scheduled Tribes.
- Override of Inconsistent Practices: Any customary practice or uncoded law that is inconsistent with the provisions of the UCC will no longer be recognized in Uttarakhand.

#### (e) Constitutional Provisions

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<sup>9</sup> Uttarakhand Uniform Civil Code Act, 2024, Uttarakhand Act No. 3 of 2024, INDIA CODE (2024)

- “Article 44: The purpose of this Directive Principle of State Policy is to guide the State in establishing a Uniform Civil Code for all citizens, thereby replacing the laws based on religion with a common set of civil laws for all citizens<sup>10</sup> .
- Article 254: When there is a conflict between a State law and a Central law on a matter found in the Concurrent List of the Constitution, the Central law will prevail unless the State law has received the approval of the President<sup>11</sup> .
- Entry 5 of the Concurrent List (Seventh Schedule): The Concurrent List contains topics related to marriage, divorce, adoption, testamentary disposition, intestacy, succession, etc., which can be legislated by both the Union Government and the State Governments<sup>12</sup>”.

### **Reference to Relevant Judicial Decisions**

#### **Sarla Mudgal Vs Union of India (1995) 3 SCC 635**

Sarla Mudgal v. Union of India<sup>13</sup>, a historic decision that resulted in changes made because of the abuse of religious conversion to evade local marriage laws. The original plaintiffs were wives who all had the same problem; each of their husbands converted to Islam to take a second wife without getting a divorce from their first wife, whom they married in the Hindu faith. For example, one plaintiff, Meena Mathur, discovered that her husband converted to Islam and married another woman under Islamic law, claiming that Islamic law allows for multiple wives. The other plaintiffs, Geeta Rani and Sushmita Ghosh, also complained that their husbands converted to Islam simply to have a second marriage while maintaining their original Hindu marriages. One other person, Sunita Narula, converted to Islam and married. Her husband soon returned to Hinduism and did not pay her maintenance, but rather provided for his first wife.

The Supreme Court's majorly important case was on whether a Hindu man could marry again without an annulment from a prior Hindu marriage after changing his religion from Hindu to Islam. In a second marriage case, if the man had not previously had an annulment from a prior marriage, he was liable under Section 494 IPC for committing a criminal act of bigamy because there would have been no dissolution of a prior marriage under “Article 44 of the Constitution of India”. The Court also confirmed that converting to another religion without legally dissolving the prior marriage will also not legally dissolve the prior marriage formed under the

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<sup>10</sup> INDIA CONST. art. 44

<sup>11</sup> INDIA CONST. art. 254

<sup>12</sup> INDIA CONST. sched. VII, list III, entry 5

<sup>13</sup> Sarla Mudgal v. Union of India, (1995) 3 SCC 635 (India)

“Hindu Marriage Act of 1955”. Consequently, a second marriage formed after conversion will be void, and thus, a second marriage would be prejudicial to the principles of bigamy under “Section 494 of the IPC<sup>14</sup>”.

The Court expressed the importance of “Article 14 of the Constitution”, which mandates that the State work towards establishing a UCC for its citizens. The Court continues; if there is no UCC among India's citizens, this will allow them to abuse the laws corresponding to their religion to their own benefit. The Court believes that having one set of laws that would apply equally to all citizens of all religions will create a more equal society, eliminate discrepancies between personal laws, and facilitate national integration.

### **Mary Roy V. State of Kerala (1986) 2 SCC 209**

“Mary Roy v. State of Kerala <sup>15</sup>It is an important judgment that discusses the inheritance rights of women of the Christian faith and the need for a common set of succession laws for Christians. Before 1949, Travancore was a princely state governed by the “Travancore Christian Succession Act 1092”<sup>16</sup>. The rights granted to women under this Act were extremely limited. For example, widows and mothers only had a right to a life interest, and daughters were entitled to only a quarter of their brothers' share or 5000 rupees, whichever was less. Some daughters who received dowries were completely excluded from inheriting their father's property. After Travancore merged into India, the Part B States (Laws) Act 1951 extended many central laws, including the Indian Succession Act of 1925, to Travancore. Mary Roy challenged these unfair laws and successfully argued that the Travancore Act violated her rights under Article 14 of India's Constitution. After 1951, the Indian Succession Act should apply to succession between Christians.

Drawing on over 100 years of research, the Supreme Court ruled that, on and after 01-April 1951, the Indian Succession Act, 1925, applied to Travancore Christians and that the Travancore Christian Succession Act was repealed. Thus, the Court affirmed the Kerala High Court's ruling concerning 'Mary Roy' and acknowledged her right to a one-third interest in the deceased's estate. The ruling of the Court signified the continued evolution of gender equality under succession law. It established that the judiciary has an important function in abolishing discriminatory personal laws. The ruling bolsters the overall constitutional vision of equality,

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<sup>14</sup> Indian Penal Code, 1860, § 494, No. 45 of 1860, INDIA CODE (1860)

<sup>15</sup> Mary Roy v. State of Kerala, (1986) 2 SCC 209 (India)

<sup>16</sup> Travancore Christian Succession Act, 1092

and secondarily upholds the pursuit of common civil law as outlined in Article 44 of the Constitution”.

### **Critical Legal Analysis**

The proposal for the Uttarakhand UCC will bring about a significant change by allowing only one set of laws governing civil matters (such as inheritance) instead of the current systems that are based on religion. Examples of these systems include the “Hindu Succession Act”, the Indian Succession Act, and the principles of inheritance under the “Muslim Personal Law (Shariat) Application Act”; all of which have different guidelines for dividing property after someone dies based on religious customs and traditions. In addition, these three Acts create inequities in the treatment of women when it comes to receiving an equal share of inheritance from deceased parents or other family members; therefore, the UCC has been developed in part to address these disparities. It will establish one law that will apply uniformly to people of all faiths in determining how much property is inherited after a person dies, thereby eliminating many current inequities.

Nevertheless, there are significant issues regarding the legality and constitutional authority of state-wide UCCs. For example, “Entry 5 of the Concurrent List” provides that both Parliament and state legislatures can make laws regarding marriage, divorce, and succession (amongst other things). In situations where state laws conflict with central laws, there are provisions in Article 254 that determine which law takes precedence; this is determined by whether the state’s law is given Presidential approval.

Accordingly, the duration of the validity of the UCC of Uttarakhand may also rely on the relationship between that legislation and existing central laws regarding succession. The position taken by the courts concerning the need to reform personal law also shows the potential for the courts to accept UCCs for both men and women equally; for example, in the case of “Sarla Mudgal v Union of India”, the Supreme Court indicated that UCCs eliminate the opportunity for personal law to be used as a means of exploiting either women or men and similarly, in the case of “Mary Roy v State of Kerala”, the Supreme Court ruled that discriminatory practices regarding women as heirs were unconstitutional. The decisions of the court in these cases demonstrate that reform that promotes gender equality and legal uniformity is supported by the courts. However, while the UCC of Uttarakhand promotes legal uniformity and gender justice, its acceptance will also be determined by the extent to which the principles

of federalism, legislative competency, and cultural diversity are respected<sup>17</sup>. While most critics say a uniform inheritance framework approach may, by accident, ignore how different cultures or customs have historically governed relationships to family property<sup>18</sup>. Additionally, critics have raised concerns about whether or not a “uniform inheritance framework” can provide substantive equality in society, particularly in regions with significant social and economic inequities impacting women’s ability to inherit property. This is why balancing constitutional ideals with social realities will be an important factor in how well the Uttarakhand UCC functions in terms of meeting the needs of all people.

## **Conclusion**

The Uttarakhand Uniform Civil Code (UCC) is a landmark step forward towards the development of personal and succession law in India, establishing a single mechanism for determining who should inherit property regardless of the religion of the owner. The proposal to replace the existing laws of succession, which are based on the religion of the deceased, with a single, uniform system of law governing succession will serve to establish equality, gender justice, and certainty with respect to intestate succession. The proposed code will eliminate practices that discriminate against women, their right to inherit property under existing personal laws, and grant male and female heirs equal rights to inherit. There are, however, important constitutional and federal issues raised by the implementation of the Uniform Civil Code that relate to the relationship between State legislation and the existing Central statute governing succession. Entry 5 in the Concurrent List provides the State legislature with authority to legislate in respect of succession issues; any State legislation relating to succession must conform to the provisions of the “Constitution and Article 254”. The judicial decisions in ‘Sarla Mudgal v. Union of India and Mary Roy v. State of Kerala’ indicate a past willingness on the part of the judiciary to support legislative initiatives that foster equality and consistency in the administration of justice by way of personal law reforms. Ultimately, the success of the Uttarakhand UCC will be contingent upon striking a balance among uniform application of the law, adherence to constitutional principles, respect for cultural diversity, and maintenance of federal harmony.

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<sup>17</sup> Law Commission of India, Consultation Paper on Reform of Family Law (2018)

<sup>18</sup> Saumya Uma, *Between the Devil and the Deep Sea: Tribal Women’s Inheritance Rights in India*, 30 *Indian J. Gender Stud.* 309 (2023)