
THE UNIFORM CIVIL CODE AND THE KHASI TRIBE: A CASE STUDY IN LEGAL DIVERSITY AND INDIGENOUS RIGHTS

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ABSTRACT

Uniform Civil Code (UCC)¹, enshrined in the Article 44 of the Indian Constitution² is a part of the Directive Principles of State Policy which is a mirror to the society that mandates the State to secure an Uniform Civil Law³ for all its citizens. But India's laws are a blend of many traditions, where different religions and communities follow their own customs and personal laws. The UCC aims to unify personal laws of various communities to uphold the core constitutional ethos⁴. This paper delves deep into the various marriage related customs of the Khasi Tribe⁵ of North-East India, alongside succession, inheritance and its possible conundrums in adherence to the UCC. The matrilineal system which is prevalent in Khasi Tribe⁶ is quite opposite to the Mitakshara-School followed by the majority in India⁷. This paper critically analyses the effect of UCC in the Khasi Tribe after its implementation and seeks to draw an axis with the fundamental constitutional guarantees. It also underscores the importance of upholding the *erga omnes* obligations⁸ while implementing UCC in the Khasi Tribe and argues that a gender-just UCC must be implemented without eroding indigenous customs. This research combines a comparative legal study, ethnographic observations and thematic analysis of constitutional clauses, legal statutes and native traditions. It also proposes ways to address potential issues that may emerge and to integrate the unique indigenous traits of the Khasi Tribe with due consultation with the stakeholders. This paper focuses

¹ Uniform Civil Code (UCC), available at: <https://csic.org.in/uniform-civil-code/> (last visited on July 29, 2025)

² The Constitution of India, art. 44.

³ Uniform Civil Code (UCC), available at: <https://csic.org.in/uniform-civil-code/> (last visited on July 29, 2025)

⁴ Is UCC the Unity we aspire for in our Diversity, available at: <https://jajharkhand.in/wp-content/uploads/2024/09/Is-UCC-the-Unity-we-aspire-for-in-our-Diversity.pdf> (last visited on July 29, 2025)

⁵ Mebabyntha Mylliemngap, "Inheritance, Identity, and Power: The Role of Women and Maternal Uncle in Khasi Matrilineal Lineage Systems" 6 *International Journal for Multidisciplinary Research* 1 (2024)

⁶ Sibani Sarmah, "Customary Inheritance Practices of the Khasi Community of Meghalaya" 12 *International Journal of Creative Research Thoughts* g102 (2024)

⁷ Schools of Hindu Law, available at: <https://www.dhyeyalaw.in/school-of-hindu-law> (last visited on July 29, 2025)

⁸ Ardit Memeti and Bekim Nuhija, "The Concept of Erga Omnes Obligations in International Law" 14 *New Balkan Politics* 31 (2013)

on inclusivity in accordance with constitutional tenets rather than following the majoritarian impulses. Finally, a truly inclusive Uniform Civil Code⁹ must uphold the values of the constitution while respecting India's legal diversity.

Keywords: Uniform Civil Code, Khasi Tribe, Mitakshara School, Erga Omnes, North-East India, Matrilineal System

Introduction

Uniform Civil Code or the UCC¹⁰ is a proposed set of common laws that would apply to all the citizens of India irrespective of their religion, caste, creed, ethnicity, etc. It is also incorporated in the Article 44 of the Indian Constitution, which states, "The state shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."¹¹ India, being a pluralistic democracy, accommodates multiple personal laws from different communities under its broader constitutional framework which facilitates for the peaceful co-existence of several distinct personal laws pertaining to various religions as well as customary practices of different tribes, particularly in matters such as marriage, divorce, inheritance and adoption. In the state of Uttarakhand¹² and Goa¹³, UCC is codified and can be challenged through PILs¹⁴ if there is any violation of the fundamental rights. The term "Uniform Civil Code" contains three distinct words, viz, "Uniform", "Civil" and "Code". While all of them having their separate meanings in their respective contexts, here "Uniform"¹⁵ denotes a consistent structure or form for all, irrespective of their circumstances and background. Etymologically, the term "Civil" is derived from the Latin word "civilis", meaning a citizen. According to the dictionary meaning when employed as an adjective in conjunction with "law", specifically both Oxford¹⁶ and Cambridge Dictionary¹⁷, it means personal or private legal matters which are not pertaining

⁹ Uniform Civil Code (UCC), available at: <https://csic.org.in/uniform-civil-code/> (last visited on July 29, 2025)

¹⁰ Uniform Civil Code (UCC), available at: <https://csic.org.in/uniform-civil-code/> (last visited on July 29, 2025).

¹¹ The Constitution of India, art. 44.

¹² Analysing Uttarakhand's UCC Bill, available at: <https://www.drishtiias.com/daily-updates/daily-news-editorials/analysing-uttarakhand-s-ucc-bill> (last visited on July 29, 2025).

¹³ Apurva Vishwanath, "Goa is the only state with a Uniform Civil Code. Here's what it looks like", *The Indian Express*, August 18, 2023, available at: <https://indianexpress.com/article/india/goa-is-the-only-state-with-a-uniform-civil-code-heres-what-it-looks-like-8894824> (last visited on Aug 02, 2025).

¹⁴ Narendra Sethi, "Uttarakhand's UCC faces legal challenge: Four writ petitions filed against new law", *THE NEW INDIAN EXPRESS*, 12 February 2025, available at: <https://www.newindianexpress.com/nation/2025/Feb/12/uttarakhards-ucc-faces-legal-challenge-four-writ-petitions-filed-against-new-law> (last visited on July 31, 2025).

¹⁵ Uniform, available at: <https://www.merriam-webster.com/dictionary/uniform> (last visited on July 31, 2025).

¹⁶ Definition of civil adjective from the Oxford's Advanced Learner's Dictionary, available at:

<https://www.oxfordlearnersdictionaries.com/definition/english/civil> (last visited on July 31, 2025).

¹⁷ Meaning of civil in English, available at: <https://dictionary.cambridge.org/dictionary/english/civil> (last visited on July 31, 2025).

to criminal law. Basically, it encompasses areas such as family related laws, as well as other legal matters that do not involve penal laws. Similarly, the term “Code” originated from the Latin word “Codex” signifying a book. In a legal context, “code” refers to a collection or system of laws. The compilation of laws and constitutions commissioned by Emperor Justinian is notably recognized as ‘The Code’ due to its prominence. The historical examination of law codes in Europe indicates that the term ‘code’ has been applied not only to various ancient legal frameworks but also to the bodies of laws known as ‘Barbarian’ or ‘Germanic’ law, as well as to the collection of maritime customs and practices widely acknowledged across Europe.¹⁸ In contemporary usage, the term ‘code’ denotes a comprehensive legislative work that systematically regulates a substantial portion of law, based on uniform principles. According to the definition provided in Section 2(1)¹⁹ of the Code of Civil Procedure (CPC), 1908, “code” encompasses rules. Consequently, the term ‘civil code’ pertains to laws related to civil matters, with “civil code” specifically referring to the complete codification of civil legislation. When the adjective ‘uniform’ is applied to ‘civil code’, it denotes a code uniformly applicable to all its citizens. Thus, the term “Uniform Civil Code” refers to a collection of legal rules uniformly applied to all citizens.

Historical Background

The history of such a uniform set of law can be traced back to the British government report submitted in 1835²⁰, by the First Law Commission headed by Lord Thomas Babington Macaulay²¹. The aim of the report was to codify Indian laws related to matters other than personal laws. Later, with the continuous efforts for carrying out the universal codification of Hindu personal laws pushed the British Government to constitute the B N Rau Committee in 1941²², with the aim to provide equal rights and dignity to women.

With the formation of the Constituent Assembly on Dec 9, 1946²³, till the end of 1948, many

¹⁸ Siddharth Singh, ‘Unraveling the Uniform Civil Code (UCC): Evolution, implications, and challenges in contemporary India’ 4(1) *International Journal of Criminal, Common and Statutory Law* 45 (2024).

¹⁹ The Code of Civil Procedure, 1908 (Act No. 5 of 1908), ss. 2, 1.

²⁰ Macaulay’s Minute on Education, February 2, 1835, *available at*:

<https://home.iitk.ac.in/~hcverma/Article/Macaulay-Minutes.pdf> (last visited on July 31, 2025).

²¹ Early Beginnings, *available at*: <https://lawcommissionofindia.nic.in/about-department/early-beginnings/> (last visited on July 31, 2025).

²² Uniform civil code, *available at*: <https://www.ksgindia.com/blog/uniform-civil-code-2.html> (last visited on July 31, 2025).

²³ CONSTITUENT ASSEMBLY DEBATES, *available at*: Constituent Assembly Debates - Constitution of India (last visited on Aug 2, 2025).

women leaders like Hansa Mehta²⁴ RajKumari Amrit Kaur²⁵ and Dakshayani Velayudhan²⁶ strained on “establishing a single Indian identity over multiple religious identities”²⁷. On the other hand, leaders like M. Muhammad Ismail²⁸, Naziruddin Ahmad²⁹ and Mahmood Ali Baig³⁰ viewed UCC as “tyrannical”³¹ i.e a law that neglects cultural or religious diversity, thereby infringing upon the rights of certain communities under the pretence of uniformity. After 1950’s the early Congress rule initiated many reforms in the form of Hindu Code bills³² to liberalise the Hindu personal laws and to improve the condition of women. It was a kind of uniform code only meant for the Hindus. However, despite such revolutionary alterations made in the Hindu personal laws, the Muslim laws were left untouched. During a parliamentary discussion around UCC in 1954, Prime Minister Nehru stated “I do not think that at the present moment the time is ripe in India for me to try to push it through”³³. While Nehru personally endorsed the concept of UCC, he recognised the sociopolitical constraints of his era. He perceived the implementation of the UCC as politically unfeasible in the immediate aftermath of independence and the partition.

Subsequently, in the case of Mohd. Ahmed Khan v. Shah Bano Begum³⁴ (1985), popularly known as the Shah Bano case, Justice Y.V. Chandrachud³⁵ held that “It is a matter of regret that Article 44 of our constitution has remained a dead letter... The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India”. In this case, the Hon’ble Supreme Court ruled in the favour of Shah Bano Begum and held that a divorced muslim woman is also equally entitled to get maintenance from their husbands if she is not

²⁴ Smt. Hansa Mehta, *available at*: The Maharaja Sayajirao University of Baroda (last visited on Aug 2, 2025).

²⁵ Rajkumari Amrit Kaur, *available at*: Rajkumari Amrit Kaur - Constitution of India (last visited on Aug 2, 2025).

²⁶ Dakshayani Velayudhan, *available at*: Dakshayani Velayudhan - Constitution of India (last visited on Aug 2, 2025).

²⁷ Ilika Trivedi, “Reading the thoughts of the first generation of Independent India’s women political leaders” *Scroll*, Mar. 8, 2021, *available at*: <https://scroll.in/article/988700/reading-the-thoughts-of-the-first-generation-of-independent-indias-women-political-leaders> (last visited on Aug 2, 2025).

²⁸ Muhammad Ismail Sahib, *available at*: Muhammad Ismail Sahib - Constitution of India (last visited on Aug 2, 2025).

²⁹ Naziruddin Ahmad, *available at*: Naziruddin Ahmad - Constitution of India (last visited on Aug 2, 2025).

³⁰ Mahoob Ali Baig Sahib Bahadur, *available at*: Mahboob Ali Baig Sahib Bahadur - *Wikiwand* (last visited on Aug 2, 2025).

³¹ Maneesh Chhibber, “Uniform Civil Code debate is not new, divided Constituent Assembly as well” *The Indian Express*, Oct. 17, 2016, *available at*: <https://indianexpress.com/article/explained/in-fact-uniform-civil-code-debate-is-not-new-divided-constituent-assembly-as-well-3086583/> (last visited on Aug 2, 2025).

³² Significance and Controversy of Hindu Code Bills, *available at*: <https://iaspoint.com/significance-and-controversy-of-hindu-code-bills> (last visited on Aug 2, 2025).

³³ Uniform Civil Code, *available at*: https://en.wikipedia.org/wiki/Uniform_Civil_Code (last visited on Aug 2, 2025).

³⁴ *Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945.

³⁵ Y.V. Chandrachud, *available at*: Y.V. Chandrachud - Supreme Court Observer (last visited on Aug 2, 2025).

capable of maintaining herself.

Later on, in another case, which was another reminder to the government of its constitutional duties, the Supreme Court invalidated Section 118 of the Indian Succession Act³⁶ in *John Vallamatten vs Union of India*³⁷, arguing that it discriminated against Christians. Chief Justice V.N. Khare³⁸ was joined on the bench by Justices S.B. Sinha³⁹ and A.R. Lakshmanan⁴⁰. However, they didn't stop with the verdict; they took advantage of the occasion to remind the parliament of its violation of its Article 44⁴¹ commitment. By bridging ideological divides, they emphasized that a UCC would go beyond simple legal housekeeping and represent a step towards national unification.

History of Meghalaya and the Khasi Tribes

The historical narrative of Meghalaya is intricately linked to its distinctive topography and the resilient identity of its indigenous hill communities. Located in the north eastern frontier of India, the region was traditionally inhabited by the Khasi, Jaintia and Garo tribes⁴², each possessing unique cultural and political systems. In the pre-colonial period, these tribes were self-governed through autonomous chieftainships and clan-based institutions grounded in customary law.⁴³ The onset of British colonialism in the 19th century disrupted this balance, particularly following the Anglo-Khasi War (1829 to 1833), during which the Khasi leader Tirot Sing⁴⁴ mounted a formidable resistance against British encroachment. Following India's independence in 1947, Meghalaya was administratively merged with Assam, a decision that incited widespread dissatisfaction among the hill tribes due to cultural and linguistic

³⁶ The Indian Succession Act, 1925 (Act 30 of 1956), s. 118.

³⁷ *John Vallamatten vs Union of India*, AIR 2003 SC 2902.

³⁸ Justice V.N. Khare, *available at*: <https://www.sci.gov.in/judge/justice-v-n-khare/> (last visited on Aug 2, 2025).

³⁹ Justices S.B. Sinha, *available at*: <https://www.sci.gov.in/judge/justice-s-b-sinha/> (last visited on Aug 2, 2025).

⁴⁰ Dr. Justice A.R. Lakshmanan, *available at*: <https://www.sci.gov.in/judge/dr-justice-a-r-lakshmanan/> (last visited on Aug 2, 2025).

⁴¹ *Supra* note 2, art. 44.

⁴² About Meghalaya, *available at*: <https://meghalaya.gov.in/22429-sq-km> (last visited on Aug 2, 2025).

⁴³ Historical Background, *available at*: https://khadc.nic.in/archive/historical_background.html (last visited on Aug 2, 2025).

⁴⁴ Hiya Seb, "Tribe-British relations: The Anglo-Khasi War" *The Hills are Alive*, Dec. 17, 2023, *available at*: <https://thehillsarealivessc.wordpress.com/2023/12/17/tribe-british-relations-anglo-khasi-war/> (last visited on Aug 2, 2025).

disparities.⁴⁵ This discontent led to the Hill State Movement⁴⁶, a peaceful yet resolute campaign advocating for self-determination. In response to sustained pressure, the Indian government accorded Meghalaya autonomous status in 1970, with full statehood being granted on 21 January 1972⁴⁷.

Among Meghalaya's indigenous communities, the Khasi tribe is notable for its antiquity and its rare socio-cultural institutions. As members of the Austroasiatic⁴⁸ ethnolinguistic family, the Khasis trace their mytho-historical origins to *Lum Sohpetbneng*⁴⁹, the sacred "navel of heaven," from which the ancestral *Hynniewtrep*⁵⁰ clans are believed to have descended. The Khasi social structure is distinctively matrilineal, with lineage, inheritance and clan identity transmitted through the maternal line, a system that endows women, particularly the youngest daughter or *ka khadduh*⁵¹, with both symbolic and material authority. Despite the significant transformations introduced by colonialism and Christian Missionary activities, including widespread conversion to Christianity, the Khasi community continues to preserve its traditional customs and religious beliefs through organisations such as the Seng Khasi movement⁵². The resurgence of cultural practices serves as a resistance to homogenization, affirming a steadfast identity anchored in ancestral values. Consequently, Meghalaya, viewed through the lens of its Khasi majority, exemplifies a region where indigenous modernity coexists with constitutional democracy, effectively navigating the tensions between customary autonomy and the imperatives of the nation-state.

Personal Laws and Marriage-related Customs of Khasi Tribe

The Khasi tribe, primarily located in Meghalaya, India, adheres to a distinctive matrilineal

⁴⁵ Meghalaya's Journey from "State Within the State" to Full Statehood, *available at*: <https://polsci.institute/india-political-process/meghalaya-journey-to-full-statehood> (last visited on Aug 2, 2025).

⁴⁶ The Hill State Movement: Quest for Political Autonomy in Northeast India, *available at*: <https://banotes.org/democracy-development-northeast/hill-state-movement-political-autonomy-northeast-india> (last visited on Aug 2, 2025).

⁴⁷ History of Meghalaya, *available at*: <https://www.emeghalaya.com/meghalaya/history> (last visited on Aug 2, 2025).

⁴⁸ Khasi people, *available at*: https://en.wikipedia.org/wiki/Khasi_people (last visited on Aug 2, 2025).

⁴⁹ U LUM SOHPETBNENG- CRADLE OF KHASI CIVILISATION, *available at*: <https://eastermpanorama.in/index.php/tidbits/213-2019/february-2019-issue/4214-8thfebruary2019pilgrimage> (last visited on Aug 2, 2025).

⁵⁰ Khasis offer obeisance to god at 'navel of heaven', *available at*: https://www.business-standard.com/article/pti-stories/khasis-offer-obeisance-to-god-at-navel-of-heaven-113020300311_1.html (last visited on Aug 2, 2025).

⁵¹ Matrilineal society of Meghalaya, *available at*:

https://en.wikipedia.org/wiki/Matrilineal_society_of_Meghalaya (last visited on Aug 2, 2025).

⁵² Seng Khasi Movement, *available at*: https://en.wikipedia.org/wiki/Seng_Khasi_Movement (last visited on Aug 2, 2025).

system that significantly shapes their personal laws, including those related to succession, inheritance, adoption and marriage and divorce.⁵³ Within this system, lineage, identity and authority are passed down through the female line. The term “Khasi” is believed to originate from ‘Kha,’ meaning “born,” and ‘Si,’ meaning “ancient mother,” thus signifying “born of the mother.”⁵⁴ The first ancestress is referred to as “*Ka lawbei*,”⁵⁵ and her descendants adopt her surname.

1. Khasi Marriage Customs

Khasi marriage customs are shaped by a matrilineal system, where kinship and identity follow the maternal line.

- a. **Matrilocal Residence-** In Khasi matrimonial customs, the groom is traditionally expected to reside with his wife, thereby leaving his parental home. Should he marry the youngest daughter, known as ‘*Ka Khadduh*,’ he resides with her parents, adhering to a matrilocal residence pattern. Conversely, if he marries an elder or middle daughter, they typically establish an independent house. Upon the formation of a new household (Iing), the father assumes the role of executive leader and is held in high esteem within his wife’s clan, being referred to as “*u nongbet symbai ia ka kur*” (the one who provides seed to the clan in reproduction). His descendants and successors consistently regard him with great respect.⁵⁶
- b. **Prohibitions and Clan Relations-** Marriages within the same clan (kur) are strictly prohibited and deemed a transgression (sang), strictly adhering to exogamy⁵⁷. Intermarriage is forbidden among “*Shibakha*”⁵⁸ (offspring of a

⁵³ Meghalaya’s Matrilineal Societies: The Khasis, Garos, and Jaintias, *available at*: <https://banotes.org/democracy-development-northeast/meghalaya-matrilineal-societies-khasis-garos-jaintias> (last visited on Aug 2, 2025).

⁵⁴ Rakesh Ranjan, “*Khasis, Origin and History*”, April 15, 2023, *available at*: <https://rakeshr.net/blogs/khasis/> (last visited on Aug 2, 2025).

⁵⁵ Dr. Roopleena Banarjee, “The Khasi Society of Meghalaya: The New Dimensions of Gender Paradigm” 11 *IJFANS International Journal of Food and Nutritional Sciences* 368 (2022).

⁵⁶ Sibani Sarmah, “Customary Inheritance Practices of the Khasi Community of Meghalaya” 12 *International Journal of Creative Research Thoughts* g102 (2024).

⁵⁷ Sarabha Kharbangar, “Khasi Marriage System”, *Vivekananda Kendra Institute of Culture*, *available at*: <https://www.vkic.org/Khasi-Marriage-System> (last visited on Aug 2, 2025).

⁵⁸ Khasi Hills Autonomous District Council, The Khasi Hills Autonomous District (Khasi Social Custom of Clan Administration) Bill, 2020, *available at*:

sister and offspring of a brother) and “*Shipara Kha*”⁵⁹ (offspring of brothers) up to three generations. An endogamous couple is not permitted to remain within the clan (shah kyntait kur) and is ineligible to receive any property or gifts.⁶⁰ A fundamental custom of marriage is predicated on the principle of “*Tip Kur Tip Kha*.”⁶¹ “*Tip Kur*”⁶² signified the acknowledgement and maintenance of the consanguinity of one’s own clan, while “*Tip Kha*”⁶³ denotes the recognition and respect for the blood and progeny relationship with the paternal mother (Meikha)⁶⁴ and her children’s siblings. “*Teh Kur*”⁶⁵ represents a form of established relationship between two or more clans where inter-marriage among them is prohibited. However, Khasi individuals are generally prohibited from adopting or acquiring their clan title from the father or spouse, except for “*Shaw-Bhoi*”⁶⁶ or “*Ring-Bia*”⁶⁷ cases.

c. Traditional Practices- Historically, Khasi traditional marriage encompassed three forms: *Pynhiarsynjat*, *Lamdoch* (considered respectable) and *Iadih-Kiah* (often adopted by economically disadvantaged families). A distinctive customary practice involved “breaking eggs”⁶⁸ to examine the entrails of fowl to ascertain favorable omens; if the omens were deemed unfavourable, the marriage would be discontinued due to beliefs that such unions could result in untimely death, childlessness or poverty. The maternal uncle (U Kñi)⁶⁹ holds a pivotal role in marriages, as it is their duty to approach the parents of the prospective bride or groom.

[https://khadc.nic.in/acts_rules_regulations_bills/Acts_Rules\(awaiting/Khasi-Social_Custom_of_Clan_Adminstration_Bill_2020.pdf](https://khadc.nic.in/acts_rules_regulations_bills/Acts_Rules(awaiting/Khasi-Social_Custom_of_Clan_Adminstration_Bill_2020.pdf) (last visited on Aug 2, 2025).

⁵⁹ *Ibid.*

⁶⁰ Mebabynta Mylliemngap, “Inheritance, Identity and Power: The Role of Women and Maternal Uncle in Khasi Matrilineal Lineage Systems”, 6 *International Journal for Multidisciplinary Research (IJFMR)* 1 (2024).

⁶¹ Donna Clarissa Syiemr, “Formation of descent system in “Kur” (Clans) among the Khasi” 6 *International Journal of Sociology and Humanities* 43 (2024).

⁶² *Supra* note 49.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ Pulak Symon, “CUSTOMARY MARRIAGE IN KHASI TRIBE: DECONSTRUCTION OF THE DISSOLUTION”, 9 *NUJS Journal of Regulatory Studies* 2 (2024).

⁶⁹ Angelica Queenie Lyngdoh and A.K. Nongkynrih, “Mother’s Brother in Matrilineal Societies: A Study of Khasi Matriliney”, 13 *The NEHU Journal* 33 (2015).

d. Modern Context and Legal Framework- The rich traditions of Khasi marriages and their dissolution remains largely uncodified, having been transmitted orally. The Sixth Schedule of the Indian Constitution⁷⁰ grants the Autonomous District Councils (ADCs) in Meghalaya, including the Khasi Hills Autonomous District Council (KHADC), the authority to identify customary practices and integrate cultural traditions into mainstream laws, including those governing marriage. The Khasi Social Custom of Lineage Act, 1997⁷¹ is the sole codified legislation directly pertaining to marriage, primarily addressing the criteria for offspring to be recognized as Khasi. The Compulsory Registration of Marriage Act, 2012⁷² was introduced to formally recognize marriages, as the lack of registration had previously impeded women from claiming maintenance.

2. Khasi Divorce Customs

The practice of divorce, traditionally termed as “ka pynlait tnga” or “ia pylliat san shyieng”⁷³ within the Khasi Tribe is more a customary practice rather than something which is governed by a codified law.

- a. Grounds of Divorce-** The typical grounds for divorce include instances of adultery, infertility and habitual intoxication. A notable aspect of Khasi customary law is the requirement of mutual consent in the formalisation of the divorce,⁷⁴ highlighting the bilateral nature within the community’s socio-legal framework.
- b. Restitution of conjugal rights-** In Khasi customary law, the idea of restoring conjugal rights is mostly non-existent. After marriage ends, cultural norms prevent the former partners from reconciling, although they are allowed to remarry within each other’s extended kinship network. The traditional divorce ritual includes a symbolic exchange where both individuals give each other five

⁷⁰ Constitution of India, Sixth Schedule, *available at*: <https://www.mea.gov.in/Images/pdf1/S6.pdf> (last visited on Aug 2, 2025).

⁷¹ Khasi Social Custom of Lineage Act, 1997, ss. 3, 1.

⁷² The Compulsory Registration of Marriage Act, 2012 (Act 13 of 2012), s. 3.

⁷³ *Supra* note 48 at 7.

⁷⁴ Thangzakhup Tombing, “Marriage and Divorce Law among Indigenous North East Tribes of India: Comparative Study of Mizoram and Meghalaya”, 2 *NLUA Law Review* 38 (2017).

pieces of either coins or belet nute, which are then ceremonially thrown to the ground. Following this, the divorce is publicly announced by a village crier who beats drums, marking the communities recognition of the separation⁷⁵.

- c. **Child custody and maintenance-** In cases of marital separation, child custody generally goes to mothers who raise the children. Maintenance has been viewed as a moral duty rather than a legal right. Children rarely request financial support from fathers, as marital income is usually kept by wives and children. When fathers provide aid, termed as “ai bai bam,”⁷⁶ it is voluntary rather than legally mandated.
- d. **Maintenance-** To address maintenance claim difficulties, especially for unregistered marriages, the government introduced the Compulsory Registration of Marriage Act, 2012⁷⁷ to ease the process of claiming maintenance for women. The prevalence of informal relationships and lack of marriage registration have increased single mothers’ vulnerability.

3. Inheritance and Succession

The Khasi tribe follows a matrilineal system for inheritance, where property is passed down through the female line.

- a. **Role of the Youngest Daughter (Ka Khadduh)-** The youngest daughter (Ka Khadduh)⁷⁸ inherits all the ancestral property. She is considered the custodian of the ancestral house and property (Ka Nongri Ka Nong Sumar). If the youngest daughter has only sons or is childless, the ancestral property passes to her elder sister’s youngest daughter. Inheritance of ancestral property (Ka Nongtymmen) is strictly in the female line⁷⁹. While she inherits the bulk of the

⁷⁵ P.R.T. Gurdon, “The Khasis”, *Read Central*, available at: <https://www.readcentral.com/massappealnews/chapters/P-R-T-Gurdon/The-Kasis/005> (last visited on Aug 2, 2025)

⁷⁶ *Supra* note 59 at 7.

⁷⁷ The Compulsory Registration of Marriage Act, 2012 (Act 13 of 2012), ss. 2, j.

⁷⁸ *Supra* note 59 at 7.

⁷⁹ Gitanjali Ghosh, “Gender Preference in Customary Inheritance Laws of the Khasi Tribe in India– Myth or Fact?”, 2021, available at:

https://www.researchgate.net/publication/349588802_Gender_Preference_in_Customary_Inheritance_Laws_of_the_Khasi_Tribe_in_India-_Myth_or_Fact (last visited on Aug 2, 2025).

family property, she is not an absolute heir but rather a limited heir or custodian. She is responsible for parental care, supporting dependent relatives, conducting religious rites and performing death rituals.⁸⁰ She cannot dispose of ancestral property without the unanimous consent of her sisters and consultation with her uncles and brothers⁸¹.

- b. Types of Property-** Ancestral Property (Ka Nongtymmen) is inherited through generations, including cash, ornaments, fields, houses and land. While, Self-acquired Property (Ka Nongkynraw)⁸² is earned during a person's lifetime. This property can be gifted to elder siblings to help them establish separate households, depending on the parents' financial situation. Specific rules apply to the inheritance of self-acquired property of females (before and after marriage) and males (before and after marriage)⁸³. Jointly, earned property by husband and wife is taken by the wife by survivorship if there are children.
- c. Role of the Maternal Uncle (U Kñi)-** The maternal uncle (U Kñi) plays a crucial role and wields substantial authority over family matters, making key decisions regarding resources, social obligations and the family's future. He acts as a guardian and decision-maker, moderating the woman's power as a custodian. He is responsible for carrying out the household's religious rites and ceremonies. He grants permission to sell family assets like land and houses. The management of the property is vested in his hands and after him, the eldest nephew⁸⁴.
- d. Inheritance by Males-** In absence of a female successor, self-acquired property may be inherited by the son, but ancestral property must go to the nearest matrilineal kin. If all female members of a family stock die, a surviving male can take the property. However, he holds it only for his lifetime.⁸⁵ His children do not inherit from him as they belong to their mother's clan, not his. He must keep the property intact and cannot sell it. The profits from his labor on the

⁸⁰ Jyoti Shukla, "Matriliney without Matriarchy: A Descriptive Study of the Khasi Tribe of Meghalaya" 3 *International Journal of Global Research Innovations & Technology (IJGRIT)* 127 (2025).

⁸¹ *Supra* note 70.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

landed property can be used for his wife and children. Among males, the brother is preferred over the son for inheritance.⁸⁶ The Meghalaya Succession to Self-Acquired Property (Khasi and Jaintia Special Provision) Act, 1984⁸⁷, was passed to allow Khasi parents to bequeath their self-acquired property by will to any of their children, regardless of gender. However, this Act is limited to self-acquired property and does not apply to ancestral property

4. Customs related to Adoption

The Khasi practice of “Rap-iing” allows the family with no female heirs to adopt a female child from either within their “kpoh” (matrilineal relatives with common ancestors) or “kur” (clan). Later, the adopted girl assumes the position of the head of the family (ka trai iing)⁸⁸. She performs many vital rituals and protects the family from getting ceased. This customary practice is codified in section 2(m) of the Khasi Hills Autonomous District Council (Khasi Social Custom of Lineage) Act, 1997⁸⁹.

Within the Khasi cultural tradition, women enjoy the sole rights related to family and property, which is totally a contrast with the Mitakshara School of the Hindu Law which is followed by the majority in India⁹⁰. Under the Mitakshara school, the patrilineal system of lineage is followed and sons get the coparcency right by birth⁹¹. This contrast poses a significant implication in the enforcement of the UCC within the Khasi tribe.

Anticipated Challenges and Potential Impacts arising from Implementation

The implementation of UCC in the context of Meghalaya and the Khasi tribe is perceived as potentially exerting several direct and significant impacts on their personal laws and way of life.

1. Disruption of Distinctive Matrilineal Norms and Identity: Khasi society is

⁸⁶ *Supra* note 70 at 10.

⁸⁷ The Meghalaya Succession To Self Acquired Property Khasi and Jaintia Special Provision Act, 1984 (Act 8 of 1986), s. 4.

⁸⁸ *Supra* note 70 at 10.

⁸⁹ The Khasi Hills Autonomous District (Khasi Social Custom of Lineage) Act, 1997, ss. 2, m.

⁹⁰ Schools of Hindu Law, *available at*: <https://www.dhyeyalaw.in/school-of-hindu-law> (last visited on July 29, 2025).

⁹¹ Aishwarya Agrawal, “Schools of Hindu Law” *LawBhoomi*, 15 April 2023, *available at*: <https://lawbhoomi.com/schools-of-hindu-law/> (last visited on Aug 2, 2025).

fundamentally characterized by unique and cherished matrilineal norms, where membership is determined through the maternal line. The youngest daughter (Ka Khadduh) inherits the full share of ancestral or clan property. The UCC, by establishing a common set of laws, is perceived to potentially disrupt these distinctive matrilineal societies. Concerns have been widely raised that the UCC might undermine the cultural identity and customs of the Khasi-Jaintia people.⁹² It is feared that the enforcement of the UCC could eradicate the matrilineal custom of lineage that is unique to the Khasi people⁹³. Khasi customary laws are deeply rooted in the socio-cultural fabric of Meghalaya, governing various aspects of civil life and are distinct from the broader legal framework in India⁹⁴.

2. Conflict with Customary Marriage and Divorce Practices: Khasi customary laws govern marriage, which involves the union of two different clans (kur) and strictly prohibits marriage within the same clan ('ka snongsang') due to concerns of incest. The maternal uncle (kñi) holds significant responsibility in marriage proposals. Divorce, while not socially encouraged, is allowed in specific situations, such as when a couple fails to have children, expressed as "Bar pyniar ia tnum en tyndai" (for procreation and family expansion). This separation, 'Ka ia-pyllait san shying,' is conducted in the presence of senior community members. Divorce can also occur by mutual consent, requiring legal approval from representatives from both sides, similar to the marriage process. Neither party can remarry until the divorce is finalized, under penalty ('Bai mynrain Khmat'). The UCC seeks to replace personal laws based on customary practices, which would directly conflict with these established Khasi marital and divorce customs⁹⁵.

⁹² Jaideep Mazumdar, "Why Tribals Should Be Kept Out Of Purview Of Uniform Civil Code (UCC)", *Swarajya*, July 04, 2023, available at: <https://swarajyamag.com/politics/why-tribals-should-be-kept-out-of-purview-of-uniform-civil-code-ucc> (last visited on Aug 2, 2025).

⁹³ Sushanta Talukdar, "Uniform Civil Code: Tribal communities fear erosion of customary laws, cultural heritage", *Frontline*, July 27, 2023, available at: <https://frontline.thehindu.com/the-nation/uniform-civil-code-tribal-communities-in-north-eastern-india-fear-erosion-of-customary-laws-cultural-heritage/article67105854.ece> (last visited on Aug 2, 2025).

⁹⁴ The Hindu Bureau, Meghalaya tribal council resolves to oppose UCC, *The Hindu*, June 25, 2023, available at: <https://www.thehindu.com/news/national/other-states/meghalaya-tribal-council-resolves-to-oppose-ucc/article67007735.ece> (last visited on Aug 2, 2025).

⁹⁵ Uniform Civil Code might undermine cultural identity & customs of Khasi Jaintia people: JSU, *Syllad*, July 5, 2023, available at: <https://www.syllad.com/uniform-civil-code-might-undermine-cultural-identity-customs-of-khasi-jaintia-people-jsu/> (last visited on Aug 2, 2025).

3. Infringement on Unique Inheritance and Property Rights: Within Khasi tradition, the youngest daughter, known as the 'Ka Khadduh', is entrusted with the entirety of ancestral or clan property, serving as its "custodian" and bearing all related responsibilities. Notably, the 'Ka Khadduh' is restricted from selling the ancestral property without obtaining consent from her maternal uncle, through whose lineage descent is traced.⁹⁶ This custom is specifically applicable to ancestral or clan/community property. In contrast, self-acquired property is eligible for equal distribution among siblings. In scenarios where there are no daughters, the ancestral property is allocated to the wife's elder sister and her daughters; in the absence of sisters, the clan generally assumes control. The implementation of a uniform set of laws under the UCC could potentially disrupt these established customary laws regarding inheritance and property, which are distinct from the broader legal framework in India.⁹⁷
4. Impact on Traditional Governance and Women's Participation (despite Matrilineal Structure): Despite the matrilineal system, patriarchal influences are deeply entrenched in the social structures of Northeast communities. Women's participation in traditional leadership systems governed by customary practices is severely limited, resulting in minimal representation of women's rights. In Meghalaya, traditional village councils, referred to as Durbars or Dorbar Shnongs are composed of adult males and led by an elected headmen, overseeing welfare and customary practices. The Khasi political system, through the matri-clan(kur), appoints the maternal uncle (kñi) as the exclusive decision-maker in the clan assembly (Dorbar Kur), with no representation for women. Village councils and elders consistently interpret customary laws to favor men, with women often relegated to the role of custodians of property without ultimate decision-making authority regarding land use or disposal. Although the UCC seeks to advance gender equality and eradicate discriminatory practices, there is a significant concern that a uniform code would conflict with the deeply ingrained social and political structures that characterize the Khasi way of life⁹⁸.

⁹⁶ *Supra* note 59 at 7.

⁹⁷ *Supra* note 85 at 12.

⁹⁸ UCC will eradicate matrilineal custom of lineage unique to the Khasi people: KJCLF, *Syllad*, July 14, 2023, available at: <https://www.syllad.com/ucc-will-eradicate-matrilineal-custom-of-lineage-unique-to-the-khasi-people-kjclf> (last visited on Aug 02, 2025).

5. Constitutional Safeguards and Strong Opposition from Khasi Bodies: The Northeast states, particularly those within the Sixth Schedule areas, benefit from constitutional protections under Article 371, which confers a special legislative status. The discourse surrounding the Uniform Civil Code (UCC) in this region frequently revolves around these entrenched customary rights. Numerous tribal councils representing the Khasi and Meghalaya communities have formally expressed their opposition to the UCC through resolutions⁹⁹. Legal professionals have articulated opposition to the UCC on behalf of Meghalaya tribes, underscoring the importance of preserving the rich cultural heritage of these tribal communities. An appeal has been made to the Law Commission to refrain from implementing the UCC in the scheduled areas of Meghalaya. Organisations such as the Khasi Students' Union (KSU) and the Khasi Jaintia Christian Leaders Forum (KJCLF) have raised concerns that the UCC could undermine their customary laws and distinct identity¹⁰⁰.

UCC and *Erga Omnes* Obligations

Although India maintains a global stance of “Vishwaguru”¹⁰¹, but the main question remains unanswered, whether implementing the UCC would affect its *erga omnes*¹⁰² obligations or not. *Erga Omnes* obligations¹⁰³ are the legal responsibilities that states have to the entire international community, not just to individual nations. Regardless of whether they have directly harmed another state, these duties are referred to as being so fundamental that any state can be held responsible for their violation. But, as *erga omnes*¹⁰⁴ obligations are not codified, they can't be legally enforced in this context. Khasi subjects being the indigenous tribe can be considered under the purview of UNDRIP¹⁰⁵, where it is clearly visible that the implementation of UCC might violate certain UNDRIP¹⁰⁶ provisions. But, as legally it is merely endorsed, not ratified, India doesn't need to follow it wholly.

⁹⁹ *Supra* note 85 at 12.

¹⁰⁰ *Supra* note 89.

¹⁰¹ Kate Sullivan de Estrada, “What is a vishwaguru? Indian civilizational pedagogy as a transformative global imperative” 99 *International Affairs* 433-455 (2023).

¹⁰² THE CONCEPT OF ERGA OMNES: OBLIGATIONS IN INTERNATIONAL LAW, available at: *THE CONCEPT OF ERGA OMNES: OBLIGATIONS IN INTERNATIONAL LAW* | Law column (last visited on Aug 02, 2025).

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (Sep. 13, 2007).

¹⁰⁶ *Ibid.*

Solutions to foster a legally viable and morally healthy implementation

Proposed remedies, based on our understanding, various jurisprudential theories and core constitutional ethos are as follows-

1. By making it clear that places where the Sixth Schedule¹⁰⁷ (along with Article 371¹⁰⁸ protections) grants Autonomous District/Regional Councils the power to control their own customary law, inheritance and land will not be subjected to a national UCC. As a national dialogue continues, this preserves local sovereignty.¹⁰⁹
2. By adopting customary law within the UCC's framework, unless a particular custom violates non-degradeable fundamental rights (such as overt gender discrimination), the UCC should be draughted to explicitly recognise customary rules¹¹⁰ (such as matrilineal succession) as valid laws for communities that choose to follow them. This results in the least amount of harm while producing legal plurality.
3. Prior to making any changes; organised, documented consultations with local leaders, civil society organisations (KSU, KJCLF), and Khasi institutions (Dorbar, Kur, ADCs) should be done to secure community consent and free, prior, and informed consultation¹¹¹. Numerous Khasi organizations have publicly opposed the UCC's implementation; their backing is necessary from a political and moral standpoint¹¹².
4. Use of experimental programs and a phased opt-in approach, rather than a nationwide sweep. Giving states and communities a model so they can decide whether to apply specific UCC provisions after local enactments and capacity building. In order to identify lessons learned, Goa's UCC is often used as an example of a state-level uniform

¹⁰⁷ *Supra* note 61 at 8.

¹⁰⁸ The Constitution of India, art. 371.

¹⁰⁹ Constitution of India, Sixth Schedule, arts. 244(2) and 275(1), as amended by The Sixth Schedule to the Constitution (Amendment) Bill, 2007 (Bill No. 164 of 2007), available at:

https://prsindia.org/files/bills Acts/bills_parliament/2007/bill164_20080318164_SIXTH_SCHEDULE_with_amendments_1.pdf (last visited on Aug 2, 2025).

¹¹⁰ Abhik Bhattacharya, "Adivasis And Uniform Civil Code: Beyond The Civil Codes", *Outlook*, 6 February 2024, available at: <https://www.outlookindia.com/national/beyond-the-civil-codes> (last visited on Aug 2, 2025).

¹¹¹ Consultation and free, prior, and informed consent (FPIC), available at:

<https://www.ohchr.org/en/indigenous-peoples/consultation-and-free-prior-and-informed-consent-fpic> (last visited on Aug 02, 2025).

¹¹² *Supra* note 89 at 14.

code¹¹³.

5. Upon reiterating the Law Commission's earlier emphasis on amending *specific discriminatory* laws, rather than immediately enforcing a single, uniform law¹¹⁴. Particular modifications to discriminatory practices (not outright abolition) aims to address gender inequality in personal and customary laws by enacting parity measures and carefully crafted amendments¹¹⁵.
6. By reinforcing impact assessments and gender equality safeguards, which mandates unbiased social, cultural and gender effect evaluations before new laws are passed¹¹⁶. When customary laws disadvantage women in practice (not just in theory), any legal change should be accompanied by affirmative measures like economic support, legal aid, women's representation in Dorbar/ADC decision-making and access to land titles¹¹⁷.
7. To improve fairness and reduce the need for outside intervention (UCC), local institutions must be strengthened such as ADCs and Dorbars to make decisions as well as invest in training, transparent processes and legal aid for the local council. This will enable them to resolve family conflicts based on gender justice and customs.¹¹⁸
8. By including an “interplay clause” in the UCC draft to state that it will follow the special provisions of the Constitution, specifically Articles 371¹¹⁹, 244¹²⁰, and the Sixth

¹¹³ *Supra* note 4 at 1.

¹¹⁴ Krishnadas Rajagopal, “Uniform civil code neither necessary nor desirable at this stage, says Law Commission”, *The Hindu*, November 28, 2021, available at: <https://www.thehindu.com/news/national/uniform-civil-code-neither-desirable-nor-necessary-at-this-stage-says-law-commission/article61498390.ece> (last visited on Aug 02, 2025).

¹¹⁵ Flavia Agnes, “Law Commission’s report on Uniform Civil Code – undesirable and unnecessary”, *The Indian Express*, Jun 23, 2023, available at: <https://indianexpress.com/article/opinion/columns/law-commissions-report-on-uniform-civil-code-undesirable-and-unnecessary-8680821> (last visited on Aug 02, 2025).

¹¹⁶ Simeon Djankov, “The gap between law and practice in gender rights”, *Centre For Economic Policy Research*, 8 Jun, 2023, available at: <https://cepr.org/voxeu/columns/gap-between-law-and-practice-gender-rights> (last visited on Aug 02, 2025).

¹¹⁷ Role of Women in Governance and Administration, available at: <https://meghalaya.pscnotes.com/meghalaya-polity/role-of-women-in-governance-and-administration> (last visited on Aug 02, 2025).

¹¹⁸ Meghalaya pressure group appeals to KHADC for empowerment of traditional institutions, *India TodayNE*, Mar 08, 2025, available at: <https://www.indiatodayne.in/meghalaya/story/meghalaya-pressure-group-appeals-to-khadc-for-empowerment-of-traditional-institutions-1180950-2025-03-08> (last visited on Aug 02, 2025).

¹¹⁹ *Supra* note 99, art. 371

¹²⁰ The Constitution of India, art. 244.

Schedule¹²¹. If necessary, it should allow Parliament to enact laws that provide exceptions for areas protected by the Constitution. This approach will lead to fewer legal disputes and conflicts.

9. Any transitional statute should include sunset reviews¹²² (e.g., every five years) and a mandatory examination by a commission under judicial supervision¹²³ to ensure that the customs protected do not actually result in egregious abuses of fundamental rights.
10. As a part of education; dialogue and confidence-building efforts, supporting community law clinics, civic education and multilingual outreach, so that it informs people of their rights and options, including how a UCC would or would not alter current Khasi practices. Transparency lowers anxiety and false information.

Conclusion

Although the Uniform Civil Code (UCC) is envisioned in Article 44¹²⁴ of the Indian Constitution as a tool to promote equality and national integration, there are significant challenges when applying it to groups with distinct socio-legal systems, such as the Khasi tribe of Meghalaya. The Khasi matrilineal structure; which governs marriage, divorce, inheritance and adoption, embodies a deeply rooted cultural identity and an autonomous legal system safeguarded by the Sixth¹²⁵ Schedule and Article 371¹²⁶ of the Constitution. A widespread application of the UCC might threaten these indigenous traditions by overturning community-specific governance structures, clan-based marriage prohibitions, and lineage-based inheritance.¹²⁷

Women already have significant custodial rights over property under Khasi customary law, albeit in a patriarchal political system, despite the UCC's efforts to end discrimination and promote gender equality. The continuous opposition from tribal councils, civil society groups

¹²¹ *Supra* note 61 at 8.

¹²² Sunset Clause in India - Indian Polity Notes, available at: <https://prepp.in/news/e-492-sunset-clause-in-india-indian-polity-notes> (last visited on Aug 2, 2025)

¹²³ Kalpana, "COMPARATIVE STUDY OF APPLICATION OF JUDICIAL REVIEW UNDER THE INDIAN CONSTITUTION AND THE U.S. CONSTITUTION", 2 *International Journal for Legal Research and Analysis* 5

¹²⁴ *Supra* note 2, art. 44.

¹²⁵ *Supra* note 61 at 8.

¹²⁶ *Supra* note 99, art. 371

¹²⁷ *Supra* note 83 at 12.

and Khasi institutions shows that imposing a uniform system without considering these nuances runs the risk of undermining culture and inciting resistance. While they may not impose legally binding requirements, India's *erga omnes*¹²⁸ commitments and UNDRIP¹²⁹ principles underscore the moral imperative to protect indigenous self-determination and cultural preservation on a global scale.

A legally and morally sound approach would require a pluralist version of the UCC that expressly permits customary rules that are protected by the constitution, with the proviso that no custom may violate non-derogable fundamental rights. Phased implementation, impact assessments and organised consultations must come before this to guarantee informed community participation. A balance between national legal coherence and cultural autonomy would be achieved through special constitutional measures, interplay clauses and periodic review procedures¹³⁰.

In summary, the UCC's legitimacy in the Khasi context depends more on its capacity to strike a balance between the preservation of traditional legal customs and the equality enshrined in the constitution than it does on its capacity to impose uniformity. A sophisticated, dialogic, and flexible framework is the most sustainable way to reconcile cultural pluralism and changes to national laws.

¹²⁸ *Supra* note 93 at 14.

¹²⁹ *Supra* note 95 at 15.

¹³⁰ Is UCC the Unity we aspire for in our Diversity, *available at*: <https://jajharkhand.in/wp-content/uploads/2024/09/Is-UCC-the-Unity-we-aspire-for-in-our-Diversity.pdf> (last visited on July 29, 2025).

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