
LOVE, LAW, AND CONVERSION: THE POLITICS OF MARRIAGE IN SARLA MUDGAL V. UNION OF INDIA

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I. INTRODUCTION

Marriage, considered to be a sacred institution in India, is not just a contract between 2 people but is also deeply intertwined with social, religious, and legal expectations. The *Sarla Mudgal v. Union of India* (1995)¹ case resulted in large public debates, primarily about the exploitation of religious conversion for the purpose of escaping legal restrictions placed under personal laws.² The question that was debated upon in *Sarla Mudgal* was whether a Hindu man, who was already married under Hindu law, could convert to Islam and marry again without legally dissolving his first marriage.

This case not only questioned the sacredness of marriage and the treatment of women, but also showed light on the various inconsistencies in India's personal laws. These inconsistencies are often exploited by those who are looking for legal loopholes in such situations as posed in the *Sarla Mudgal* case.³

This commentary will discuss the background, procedural history, critically analyze the ratio, and finally evaluate the impact this case had on family law, including the need for a Uniform Civil Code (UCC).

A. Facts

The lead petitioner, Smt. Sarla Mudgal ("petitioner") was the president of Kalyani, an NGO that was created for the support of distressed women. This case came before the Supreme Court

¹ *Sarla Mudgal v Union of India* AIR 1995 SC 1531

² Sumati Narayana, 'Case Comment: Sarla Mudgal v. Union of India: Bigamous Marriages through Religious Conversion and the Need for UCC in India' (2022) *Jus Corpus Law Review* <https://www.juscorpus.com/wp-content/uploads/2022/07/59.-Sumati-Narayan.pdf> accessed 17 October 2025;

A Parashar, 'Religious Personal Laws as Non-State Laws' (2013) *International Journal of Law in Context* <https://www.tandfonline.com/doi/full/10.1080/07329113.2013.773804> accessed 17 October 2025

³ Kashika Goel, 'Bigamy: Law v Social Reality' (2024) *International Journal for Multidisciplinary Research* <https://www.ijfmr.com/papers/2024/5/27957.pdf> accessed 17 October 2025

through 4 combined writ petitions under Article 32 of the Constitution. Petitioner Meena Mathur found out that her husband, Jitender Mathur, converted to Islam to marry Sunita Narula alias Fatima, without dissolving his first marriage under Hindu law. In another instance, Geeta Rani found out that her husband, Pradeep Kumar, converted to Islam to get married for the second time. Sushmita Ghosh also suffered the same fate, when her husband, G.C. Ghosh, converted to Islam to marry Vinita Gupta.

These cases all faced the same problem, where Hindu men converted to Islam not because of their beliefs but because it was a legal loophole for them to practice polygamy.⁴ These cases brought forth questions about the institution of marriage, justice for the wives who were abandoned, and the limits of religious freedom.

Legal Context

Under the Hindu Marriage Act, 1955, Section 17 and Section 82 BNS strictly penalize bigamy and make any ensuing marriage during the lifetime of the spouse as void and punishable. Hindu law does not recognize automatic dissolution of marriage after conversion. However, Muslim law allows polygamy, letting a man have up to 4 wives, thus giving an apparent way out from monogamy for those who are willing to convert.⁵

This highlights a recurring abuse: where people convert solely for the purpose of legal ease, hence resulting in hardship for the first wife, who was deprived of both her legal rights and social standing without the benefit of a legal and formal divorce.

Procedural History

These petitions were heard together before the Supreme Court of India, with Justices Kuldip Singh and R.M. Sahai giving the judgment. The case arose through writ petitions that were directly filed before the Supreme Court under Article 32, and seeking to get remedies under the Constitution. Since these cases were concerned with the interpretation of constitutional

⁴ Sumati Narayana, 'Case Comment: Sarla Mudgal v. Union of India: Bigamous Marriages through Religious Conversion and the Need for UCC in India' (2022) *Jus Corpus Law Review* <https://www.juscorpus.com/wp-content/uploads/2022/07/59.-Sumati-Narayan.pdf> accessed 17 October 2025;

M Tulsian, 'Sarala Mudgal v Union of India (AIR 1995 SC 1531): A Jurisprudential Analysis' (2022) *Indian Journal of Law and Legal World* https://heinonline.org/hol/cgi-bin/get_pdf.cgi?handle=hein.journals%2Finjlolw9§ion=80 accessed 17 October 2025

⁵ A Parashar, 'Religious Personal Laws as Non-State Laws' (2013) *International Journal of Law in Context* <https://www.tandfonline.com/doi/full/10.1080/07329113.2013.773804> accessed 17 October 2025

provisions and personal laws, it was not an appeal from a lower court but an original jurisdiction that took place before the apex court.

B. Issues

The primary issue before the court was whether a man, who was already married under Hindu law, could convert to Islam solely for the purpose of taking advantage of the validity of multiple marriages under Islamic law. Further, the question was centered upon whether such conversion could be used as a legal defense against the prosecution for bigamy when the first marriage wasn't legally dissolved or declared as void under the Hindu Marriage Act.

Another important legal question is whether converting from Hinduism to Islam automatically dissolves a marriage that was solemnized under Hindu law. The court had to decide if the act of converting to another religion could alone put a stop to the marital obligations towards the first spouse.⁶

The Court also had to decide whether a Hindu man who converted and remarried without getting a legal divorce for his first marriage could be held criminally liable for bigamy under Section 82 of the Bharatiya Nyaya Sanhita (BNS), especially considering the fact that his first marriage was still seen as a valid marriage in the eyes of the law.⁷

Lastly, the Court also had to analyze how the right to freedom of religion under Article 25 can be enforced while also enforcing the constitutional guarantee of equality under Article 14 and 15. The bigger challenge here was to define the boundary between personal faith and the misuse of religion as a way to escape legal repercussions.

II. CRITICAL ANALYSIS

Arguments by the Parties

The petitioners argued that conversion was being misused as a legal loophole to evade the legal restrictions that have been placed for bigamy. They emphasized that allowing such acts would

⁶ Sumati Narayana, 'Case Comment: Sarla Mudgal v. Union of India: Bigamous Marriages through Religious Conversion and the Need for UCC in India' (2022) *Jus Corpus Law Review* <https://www.juscorpus.com/wp-content/uploads/2022/07/59.-Sumati-Narayan.pdf> accessed 17 October 2025;

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⁷ *Bhaurao Shankar Lokhande v State of Maharashtra* AIR 1965 SC 1564

take away the legal protections that have been offered under Hindu law for the Hindu wives, and hence leave them vulnerable.⁸ They argued that the act was not a bona fide exercise of religious freedom but was a well thought out ploy to escape the responsibilities of marriage under Hindu law. They highlighted the need for legal intervention in such cases to prevent abuse and ensure that justice is provided to the affected women.

The respondents, including the All India Muslim Personal Law Board, argued that religious conversion gives the party new legal rights under Muslim personal law and that Article 25 protects freedom of religion, including the right to convert.⁹ They stated that, once a party has converted, the legal rules of the new religion should apply, including the permissibility of polygamy under Muslim law. They were against criminal prosecution, stating that it violated the religious rights of those who have converted.

Judicial Reasoning and Holding

The Supreme Court held unequivocally that converting to another religion does not dissolve a marriage that has been solemnized under Hindu law. Section 17 of the Hindu Marriage Act and Section 82 BNS criminalize bigamy, thus the first marriage is legally binding until it is formally dissolved by a court order.¹⁰

Justice Kuldeep Singh highlighted that allowing conversion as a way to practice monogamy would be contrary to the law. The freedom of religion as stated under Article 25 of the Constitution, is subject to morality and the basic rights of others. The conversion was hence declared a sham if it was done solely for the purpose of remarrying without dissolving the marriage with the first wife.

The court observed that the range and inconsistencies in personal laws leads to confusion and injustice. Article 44 of the Constitution calls upon the State to secure a Uniform Civil Code, and the judgment recommended legislative action towards it.¹¹

⁸ Kashika Goel, 'Bigamy: Law v Social Reality' (2024) *International Journal for Multidisciplinary Research* <https://www.ijfmr.com/papers/2024/5/27957.pdf> accessed 17 October 2025

⁹ A Parashar, 'Religious Personal Laws as Non-State Laws' (2013) *International Journal of Law in Context* <https://www.tandfonline.com/doi/full/10.1080/07329113.2013.773804> accessed 17 October 2025

¹⁰ M Tulsian, 'Sarla Mudgal v Union of India (AIR 1995 SC 1531): A Jurisprudential Analysis' (2022) *Indian Journal of Law and Legal World* https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals%2Fijnjlaw9§ion=80 accessed 17 October 2025

¹¹ SSRN Working Paper, 'Uniform Civil Code in India: A Comprehensive Review' (2024)

Justice Singh stated, “Personal laws cannot be invoked to defeat rights conferred by statutory law, nor can religious freedom become an excuse for breaching constitutional guarantees.”¹² The judgment cited *John Vallamattom v. Union of India* and *Lily Thomas v. Union of India*¹³ in later years for reasserting the law.

Strengths of the Judgment

Firstly, the ruling upholds the virtue of the law, making sure that conversion does not become a method for legal evasion. It closes the loophole where men could exploit religion to practice bigamy. Secondly, by protecting the first wife’s rights, the judgment gave priority to concrete justice over technicalities, hence setting a precedent for future matrimonial disputes that involve conversion and second marriages.¹⁴ Thirdly, the Court’s suggestion to implement Article 44 restarted conversations on the need for a common set of laws governing marriage, divorce, and succession, highlighting the disadvantages and the confusion that comes with various personal laws. Lastly, the Court’s interpretation of Article 25 creates a balance between religious freedom and the harm that is caused by artificial conversions, restating that the right to maintain religion does not include the right to commit acts that are prohibited by the law.

Weaknesses and Critiques of the Judgment

The judgment has also been criticised because it does not discuss the standing of the second wife or the legitimacy of the children that were born from such relationships, hence ignoring real life issues that do occur in practice. Secondly, the push for a Uniform Civil Code created panic amongst some people, especially those from minority communities, who were worried of losing their cultural and religious recognition.¹⁵ The argument about whether different

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4926570 accessed 17 October 2025

¹² Sumati Narayana, ‘Case Comment: Sarla Mudgal v. Union of India: Bigamous Marriages through Religious Conversion and the Need for UCC in India’ (2022) *Jus Corpus Law Review* <https://www.juscorpus.com/wp-content/uploads/2022/07/59.-Sumati-Narayan.pdf> accessed 17 October 2025

¹³ *John Vallamattom v Union of India* (2003) 6 SCC 611;
Lily Thomas v Union of India (2000) 6 SCC 224

¹⁴ Sumati Narayana, ‘Case Comment: Sarla Mudgal v. Union of India: Bigamous Marriages through Religious Conversion and the Need for UCC in India’ (2022) *Jus Corpus Law Review* <https://www.juscorpus.com/wp-content/uploads/2022/07/59.-Sumati-Narayan.pdf> accessed 17 October 2025;
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¹⁵ A Parashar, ‘Religious Personal Laws as Non-State Laws’ (2013) *International Journal of Law in Context* <https://www.tandfonline.com/doi/full/10.1080/07329113.2013.773804> accessed 17 October 2025;

SSRN Working Paper, ‘Uniform Civil Code in India: A Comprehensive Review’ (2024) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4926570

personal laws are the solution or a uniform civil code is, is still an ongoing debate. Finally, there is still some confusion with determining who wants to sincerely convert because of their beliefs rather than for their personal gain. This question of how to differentiate between a person who wants to sincerely convert versus a person who is trying to convert for the purpose of their personal gain is still uncertain and needs to be addressed.

Significance of the Judgment

The Sarla Mudgal judgment posed a new benchmark in matrimonial law, highlighting justice for women and defending the constitutional order of equality. The Supreme Court's reminder under Article 44 of the Constitution brought attention towards new legal reforms but also brought critiques from those groups that prefer religious autonomy.

Following this case, *Lily Thomas v. Union of India (2000)* reaffirmed the judgment that conversion does not safeguard the party from penal laws, and the state should limit this misuse.

Social Consequences

This judgment highlights the deeper social challenges that are faced by Indian women. For many women, marriage is not just a legal relationship but is also a way of feeling secure. The exploitation of religious conversion to practice bigamy leaves many women legally vulnerable and marginalized by society. This case also shows us the rift that sometimes arises between secularism as guaranteed by the constitution and personal laws relating to religion. India's values prioritise both freedom of religion and equality as well, however as stated in the Sarla Mudgal case, these may sometimes clash. The Supreme Court's judgment highlights the need to interpret freedom of religion within the bounds of the constitution and its morals.

Moreover, this case has also reignited discussions about the enforcement of Article 44 of the Indian Constitution, which calls on the States to adopt a Uniform Civil Code (UCC). Although the UCC continues to face criticism, mainly from minority communities, Sarla Mudgal highlighted its potential to reconcile different personal laws, hence preventing exploitation and promoting gender justice.

Impact on Family Law Jurisprudence

The Sarla Mudgal judgment clarified that the personal law under which the marriage was solemnized, will continue to hold the parties of the marriage accountable even after conversion, hence bringing certainty to matrimonial issues. Secondly, by announcing that such conversions are a ploy, the judgment aimed to help the Hindu wives, and also set a precedent for future initiatives that are focused on protecting women's rights. Thirdly, this case set a precedent for future cases that have a mix of personal laws, conversion, and the penalisation for bigamy. Lastly, by pushing for legislative action and Article 44, the Supreme Court's suggestion brought back the debate on UCC. This also brought concerns on secularism because of India's unique and complex structure. With its various personal laws, this push towards UCC is a tricky concept.

III. CONCLUSION

The *Sarla Mudgal v. Union of India* case is an extremely crucial case in family law and involves a mix of gender justice, religion, and constitutional values in India. It revealed how the judiciary acts as a protector of women's rights against such instances of exploitation that are committed under the ruse of freedom of religion. Through their judgment, the Supreme Court stated that the constitutional guarantee of religious freedom must not defeat the rights that have been guaranteed by statutory law.

Further, the judgment talks about how important it is to bridge the personal laws through a UCC. The objective of the UCC is to curb the abuse of personal laws while also promoting gender equality. As India continues to grapple with the issues surrounding the balance of secularism and freedom of religion, Sarla Mudgal acts as a reminder that it is possible to reconcile both without impairing the guarantees of the Constitution.

Therefore, the case calls both lawmakers and civil society to work together in developing a legal framework that honours the religious faiths of an individual while also protecting the rights of everyone.