
BEYOND THE VEIL OF FAITH: AN ANALYSIS OF SARLA MUDGAL V. UNION OF INDIA

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INTRODUCTION

When more than one personal law operates in the same nation, justice itself becomes a matter of identity, not equality.”

Sarla Mudgal v. Union of India was a landmark case for the Supreme Court of India that greatly influenced the discussion about personal law, conversion, and the Uniform Civil Code (UCC) through judicial intervention. The Court was faced with a question that involved constitutional morality, religious freedom, and gender justice at once. Is it possible for a man who has made a Hindu marriage and is already married according to Hindu law to become a Muslim just to marry the second time and, thus, escape the restriction of monogamy that his original faith had imposed? At its heart, the Sarla Mudgal case revealed a significant structural tension between two constitutional principles. The first being freedom of religion (Article 25) and the promise of a uniform civil code (Article 44). The former guarantees a person's individual religious autonomy, whereas the latter is about the cold, objective uniformity of civil law without regard to religion. The case thus became a touchstone for India's continuing battle to balance pluralism with equality and to protect women from exploitation justified by their supposed religious freedom.

The question presented in Sarla Mudgal is circumscribed not only to matters of faith or a personal choice. It turns rather on the abuse of faith as a legal tactic. A kind of exit strategy to evade the ramifications of statutory monogamy imposed through Section 494 of the Indian Penal Code. In Indian law, marriage among Hindus is governed by the *Hindu Marriage Act, 1955*, which is based on the concept of monogamy. However, Muslim law allows a man to have more than one wife (up to a maximum of four wives) as long as he does justice among all of the wives. Therefore, when some men who were Hindu chose to convert to Islam, it was not out of an intermediary spiritual awakening but rather to shield themselves from criminal responsibility for polygamy.¹ The case moved beyond the boundaries of personal morality and entered the realm of legal opportunism. The Court was required to face two core issues: whether such a conversion could dissolve the first marriage and whether the second

¹ (Towards a uniform civil code: Judicial vicissitudes [from Sarla Mudgal (1995) to Lily Thomas (2000)] on JSTOR) <<https://www.jstor.org/stable/43953817>> accessed 16 January 2026

marriage that occurred after the conversion could be classified as bigamy.

This commentary examines the Sarla Mudgal judgement in four dimensions. First, it provides a recount of the facts and issues that are central to the dispute. Second, it provides a basis for the decision against the backdrop of the larger legal and constitutional framework of personal laws and the UCC debate. Third, it undertakes a critique of the Court's reasoning, critical to thinking about whether the judgement remained doctrinally consistent, promoted gender justice, and upheld the constitutional tension between the right to religious freedom and uniformity in law. Finally, it provides observations on the case's significance and ongoing limitations.

Facts

The petitioners in the case were four Hindu women. Sarla Mudgal, who was the President of a women's rights NGO, Kalyani along with three other women namely, Meena Mathur, Geeta Rani, and Sushmita Ghosh. All four women had their own but interrelated grievance flowing from a single thread, that their Hindu husbands had converted to Islam in order to contract second marriages while their original or first marriages were still legally subsisting. In the leading petition, *Meena Mathur v. Union of India*, the husband of the petitioner, Jitender Mathur, had converted to Islam and contracted a second marriage without dissolving the first marriage under Hindu law. Meena argued that in this case, Jitender had committed the offense of bigamy under the provisions of Section 494 IPC, and that Jitender had converted to Islam to avoid the prohibition against polygamy found in the Hindu Marriage Act. Similarly, Geeta Rani argued that her husband had converted to Islam and contracted a marriage to another woman, while subjecting her to harassment and subsequently abandoning her. Sushmita Ghosh, on the other hand, sought an injunction against her husband to prevent him from contracting another marriage after converting to Islam, arguing that the husband had converted his religion not in good faith but rather in convenience. The petitioner, Sarla Mudgal, sought for a larger constitutional remedy, a finding that such conversions undertaken for the purpose of entering a second marriage were legally invalid and a direction to the Government of India to take measures to have a Uniform Civil Code implemented as sought under Article 44 of the Constitution. The petitions were combined and heard by a Division Bench of the Supreme Court made up of Justice Kuldip Singh and Justice R.M. Sahai. The Court reserved its judgment to respond not only to the individual petitions but also to the broader constitutional and policy questions involved. The majority ruling was given in 1995, and Justice Kuldip Singh was the author of the main opinion. The Court stated that a Hindu spouse who entered into a second marriage under the Muslim law could not escape the ramifications of bigamy by converting his religion to Islam. This is because the first wedding, which was voidable under the HMA, would still be considered valid till it was terminated under section 13 of the Act. Therefore, the second wedding was

void and subject to the sanction of punishment under section 494 IPC.²

Issues before the Court

- Whether it is permissible for a Hindu husband, who has married under the Hindu Marriage Act, 1955, to remarry before the dissolution of his first marriage under the HMA.
- Whether the conversion to Islam solely for the purpose of avoiding the monogamy provision of Hindu law is valid in law.
- Whether the second marriage contracted after the conversion will be void under Section 11 of the HMA and be punishable under Section 494 of IPC.
- Whether the lack of a Uniform Civil Code allows for such conflicts between personal laws, and whether the Court should direct the State to legislate one.

Court's Reasoning

In a strongly worded judgment, the Supreme Court ruled against the misuse of religion for personal benefit and emphasized the supremacy of constitutional principles over religious subterfuge. Justice Kuldip Singh ruled that conversion to Islam does not, in itself, lead to the dissolution of a prior Hindu marriage solemnised under the HMA. The Supreme Court opined that, "The marriage solemnised under the Hindu Marriage Act can only be dissolved on any of the grounds mentioned in Section 13 of the said Act. By merely changing one's religion, a person cannot escape the consequences of the law under which he has been married." Thus, while a Hindu husband has converted, he is still bound by the HMA unless the marriage is duly annulled. If he marries a second time prior to the dissolution of the primary Hindu marriage, then the second marriage would be null and void under Section 17 of the HMA and would amount to the offence of bigamy under Section 494 of the IPC. The Court thus clarified that a husband who converts to Islam, irrespective of the motives behind such conversion in order to evade legal obligations, would not thereby benefit from the protection of conversion. A bona fide conversion would be protected by Article 25, whereas a mala fide conversion for the purposes of committing an offence would not. The Court acknowledged that the freedom of religion cannot prevail over the rights of others or amount to injustice, especially against women.

³Justice Singh noted, "Article 25 is subject to Article 15 which prohibits discrimination on grounds of religion, race, caste, sex or place of birth. Thus, a man who converts to Islam only to commit bigamy

² *Sarla Mudgal v Union of India* (1995) 3 SCC 635 (SC).

³ 'Uniform Civil Code in India: A Binding Obligation under International and Domestic Law' (JSTOR) <https://www.jstor.org/stable/43951938> accessed 10 October 2025.

cannot claim that Article 25 protects him." Justice Sahai in his concurrence said more eloquently, "The second marriage of a Hindu husband after embracing Islam, without having his first marriage dissolved according to law, would be void and punishable for bigamy." Perhaps the most impactful part of the judgment was the strong advocacy for a Uniform Civil Code. Justice Kuldip Singh regretted the inaction on the part of the State in moving toward contrary Article 44 and stated, "When more than 80% of the citizens of the country have already been brought under the codified personal law, there is no basis for keeping in abeyance the introduction of a Uniform Civil Code in the country any longer." The Court drew an important difference between genuine conversion, protected under Article 25, and conversion undertaken for an ulterior motive. It held that a genuine change of faith involves "a real change of belief," whereas conversion for convenience is a "deception in the eyes of law."⁴

Holding

The Supreme Court held:

1. A marriage between Hindus that has been duly performed according to the provisions of the Hindu Marriage Act, 1955 can only be dissolved based on the reasons mentioned in Section 13 of the Act.
2. When a Hindu man changes his religion to Islam for the purpose of marrying again, such a marriage does not dissolve the first one, and consequently, it would be declared void as per Section 11 of the HMA.
3. He would be party to the crime of bigamy under Section 494 IPC.
4. The Government of India was instructed to review Article 44 and take steps to put in place a Uniform Civil Code.

Critical Analysis

The verdict in *Sarla Mudgal v. Union of India* is among the most noteworthy interactions of family law with constitutional interpretation and gender justice in India. The Supreme Court's judgment focused on bigamy and fraudulent conversion, but raised larger questions about the tension between individual religious liberties and uniformity of civil law. The Court could legally and morally hold the husband liable for a criminal charge under Section 494 of the IPC.⁵ Bigamy is a crime under the Penal Code

⁴ 'Sarla Mudgal and Ors v Union of India (1995) 2 SCC 635' Lawful Legal <https://lawfullegal.in/sarla-mudgal-and-ors-v-union-of-india-1995-2scc-635-writ-petition-civil-no-1079-of-1989/> accessed 10 October 2025

⁵ The Indian Penal Code 1860, s494

pursuant to Section 17 of the Hindu Marriage Act, 1955.⁶ A change of religion does not terminate a marriage that was solemnized under any other personal law, which follows from continuity of legal order. When a marriage has been solemnized under a statute, that marriage cannot be terminated by an act outside that legal system, unless the legal system says so.

I. Conformity with Existing Law and Precedent

The ruling in *Sarla Mudgal* was based on prior judicial opinions that strongly discouraged the exploitation of religious conversion as a means to avoid legal obligations. After *Sarla Mudgal*, in *Lily Thomas v. Union of India* [(2000) 6 SCC 224], the Supreme Court re-iterated that a conversion to Islam for the sole purpose of remarrying is nullified, and the first marriage continues to exist. The Court noted that "a person cannot be permitted to enter into a second marriage, by adopting another religion, to avoid the consequences of the first marriage."⁷ However, prior to *Sarla Mudgal*, Indian jurisprudence was decidedly inconsistent. In *Ramesh v. Rajani* [AIR 1991 MP 149], the Madhya Pradesh High Court had ruled that the conversion to Islam resulted in the automatic dissolution of a Hindu marriage. This illustrated a disjointed interpretation of personal law which created a lack of clarity.⁸ *Sarla Mudgal* seeks to eliminate that inconsistency and establish a single judicial approach, conversion without bona fide faith, and without formal dissolution does not end the first marriage. Additionally, the ruling aligns with Section 494 IPC which denounces bigamy for all individuals whose personal law provides no allowance for polygamy.

II. Adequacy of Judicial Reasoning and Interpretation-

The reasoning in the judgment was certainly rigorous in its legalistic logic but also passionate in its moral tone. Justice Kuldeep Singh analysed deliberatively, in terms of the constitution, and logically, whilst also situated in social realism. His comment that "those who enter into a marriage under one personal law cannot be permitted to dissolve it by another personal law" highlighted the matrimonial law's sanctity and the need for coherence across personal law regimes. Nevertheless, some academic scholars have chastised the judgment for judicial activism, noting that, in this liberalization, the Court's attention to the Uniform Civil Code (UCC) was obiter dicta, since the constitutional directive set out in Article 44 is non-justiciable, and so the exhortation of the Court to the legislature arguably breached the doctrine of separation of powers. This combination of doctrinal consistency and moral reasoning rendered *Sarla Mudgal* both a legal and a moral milestone.

⁶ Hindu Marriage Act 1955 (India) s 17

⁷ *Lily Thomas v Union of India* (2000) 6 SCC 224

⁸ *Ramesh v Rajani* AIR 1991 MP 149

III. Policy Implications and Gender Justice-

The policy implications of Sarla Mudgal were transformative, especially in relation to women's rights in marriage. The judgment recognized an avenue for Hindu men to legitimize polygamy by converting to Islam, with the first wives left with no remedy. By recognizing such actions as voidable and punishable the Court altered significant loopholes in enforcement of Family Law. This interpretation catered to substantive equality for gender as protected under Articles 14, 15, and 21. In effect, the judgment acknowledged that is unmonitored, personal laws could create patriarchal hierarchies that frustrate women's dignity, autonomy and personhood. Additionally, by conceptualizing statutory interpretation in line with constitutional morality, the Court stressed all religious practices must surrender to social reform and gender justice.

IV. Opposing Perspectives and Critiques-

Although Sarla Mudgal displays a strong interest in the agenda of gender-justice, it has been critiqued on a number of grounds. To begin with, the judgment has been charged with equating fraudulent conversion with genuine conversion. While the Internal Court stated that bona fide conversion is protected by Article 25, it provides no clear guidance on differentiating valid belief from fraudulent conversion, and consequently engages a subjective interpretive aspect for the courts in later instances. Secondly, feminist scholars such as Flavia Agnes have argued that Sarla Mudgal inadvertently installed patriarchal presumptions about women as dependents of marriage.⁹ Sarla Mudgal's emphasis on male misconduct and the reference to the UCC risk obscuring women's agency and religious autonomy. Finally, while the Court's moral rhetoric is strong, it is bordered on didacticism. The significant moral reasoning, as opposed to pure legal reasoning required by the Court, raises questions about the objectivity in constitutional adjudication.

The Sarla Mudgal Case, has often been relied upon in cases dealing with inter-faith marriages, conversion, and women's rights in marriage. Its key principles were reiterated in Lily Thomas v. Union of India, and in Seema v. Ashwani Kumar [(2006) 2 SCC 578] which made the registration of all marriages compulsory, leading to more transparency and legal accountability. This case has also begun to shape academic debate about judicial activism in family law and the constitutional vision of secularism. Sarla Mudgal established gender justice in conversation with questions of personal law reform, transforming the discourse around women's rights within religious frameworks.

⁹ Flavia Agnes, *Family Law: Volume I — Family Laws and Constitutional Claims* (Oxford University Press 2011) 38

CONCLUSION

The Sarla Mudgal decision stands out as a turning point in Indian family law. It is a combination of judicial activism and constitutional idealism. The case challenged the exploitation of religion for individual gain, affirmed women's rights within marriage, and reopened the discussion on the Uniform Civil Code. While some aspects of the Court's rationale, in particular the Court's failure to address the position of second wives, and somewhat excessive reliance on Article 44 were flawed, it nonetheless represents a jurisprudential milestone. The main lesson derived from the case was the principle that personal law is subservient to the rights of equality and justice that form the foundation of the Indian Constitution. In sum, Sarla Mudgal was not solely a matter of bigamy, it was a matter about the constitutional conscience of a secular state. India was reminded that there could be no gender-based discrimination even based on legal plurality and that the guarantee of equality is worthless if it does not extend to the closest sphere, that is the family. By doing this, it not only protected personal freedoms but also recognized legal obligations and reiterated the constitutional principle of equality and secularism. It acts as a marker of the ability of the judiciary to intervene when the inaction of the legislature leaves its citizens, specifically women, vulnerable. It remains a leading case in the area of Indian family law jurisprudence demonstrating personal liberties and freedoms whether religious or not, cannot be exercised to the detriment of the legal and moral rights of others.