



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

## **UNIFORM CIVIL CODE AND INDIAN JUDICIARY**

AUTHORED BY - NAVDEEP KOUR<sup>1</sup> & KHUSHALI BASHISHT<sup>2</sup>

### **ABSTRACT**

*"The separation of religion and law is essential. Secularism will be reinforced, much of the current division and hostility between the nation's numerous religious groups will vanish, and India will become a far more united and integrated society with the adoption of the Uniform Civil Code".*

*India is the second most populous and largest democracy in the world. India is a very diverse country with many different languages, cultures, and faiths. The Preamble of the Indian Constitution states that India is a secular nation. One of the Indian Republic's many future goals, the Directive Principle of State Policy, is outlined in Article 44 of the Constitution. It calls for the State to transcend religious and communal boundaries and work toward ensuring that all Indian citizens are subject to a uniform civil code. It is hoped that the Parliament will quickly draft a Uniform Civil Code, which would separate religion from the realm of social relations and personal law, as it has been correctly noted that "different treatment for any religious group is also violating the UN Covenant on Civil and Political Rights and the Declaration on the Rights to Development adopted by the world conference on the principle of Human Rights." The judiciary has taken some positive or affirmative action by interpreting personal laws differently from some secular laws in a way that helped implement the idea of "Equality and Equal Protection to everyone," even though the legislatures have not passed laws for the Uniform Civil Code's effective implementation. The concept of a Uniform Civil Code is derived from the Civil Law Code. It proposes that citizens, regardless of their position, religion, or other characteristics, could have equal or similar arrangements that specify common guidelines. Additionally, the goal of a Uniform Civil Code is to support the idea of national unification by resolving inconsistencies in light of religious belief systems.*

*This book chapter will provide the balance between the role of legislature and judiciary in addressing the concern of Uniform Civil Code. It also examines the feasibility and timeliness*

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*of putting such a reform into effect.*

**Key words:** Uniform Civil Code, Directive Principle of State Policy, Political Rights, Indian Constitution, Religion

• **INTRODUCTION (GENERAL OVERVIEW OF UNIFORM CIVIL CODE)**

Creating an equal legal system for all individuals, regardless of their religious convictions, is the aim of the Uniform Civil Code (UCC). This is a step in the direction of combining the various religious traditions of India<sup>3</sup>. According to Renny Thomas<sup>4</sup>, a unified civil code basically entails combining all personal laws into a single collection of secular laws that address a variety of topics, such as divorce, inheritance, and marriage. Leila Seth<sup>5</sup> continued by explaining that a unified civil code, which is a holdover from Portuguese rule in the majority of nations, is a body of personal laws that pertain to matters such as guardianship, succession, maintenance, marriage, divorce, and adoption that are applicable to all individuals, irrespective of their religious beliefs. Emerging multicultural realities and ambitions are not taken into account by Indian personal laws. Three words—"uniform," "civil," and "code"—combine to produce the phrase uniform civil code. Therefore, to be uniform means to constantly have the same form, method, or degree and to not fluctuate or change. Despite the fact that Article 44 of the Indian Constitution refers to "uniform" rather than "common," the terms have been used interchangeably in discussions on the Article. However, there is no clear definition for the Uniform Civil Code notion. As of yet, its ambit and scope have not been established. In India, it is therefore a contentious topic. A number of critics have noted that although the terms "uniform" and "common" are commonly used interchangeably, uniform is a different concept in that the former refers to the same thing in all situations, whereas the latter refers to the same thing in similar situations. However, in the current work, we have used both terms interchangeably. The term "civil" is a fairly elastic concept that can be used in a variety of contexts. When this word is used as an adjective to the term "law," it refers to a citizen's private rights and remedies, as opposed to criminal, political, or other issues<sup>6</sup>.

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<sup>3</sup> Jagdev, "Uniform Civil Code: Need of the Hour," 45(1-2) Journal of Constitutional and Parliamentary Studies, 28-39, 28 (2011).

<sup>4</sup> Renny Thomas, "Uniform Civil Code for National Integration: A Sociological Analysis," 7(7) South Asia Politics, 17-19, 17 (2008).

<sup>5</sup> Leila Seth, "A Uniform Civil Code: Towards Gender Justice," 31(4) India International Centre Quarterly, 40-54, 46 (2005).

<sup>6</sup> The Shorter Oxford English Dictionary: Volume 1, 34 (Oxford University Press, Oxford, 2019).

When the National Planning Committee demanded such a code in 1940, the idea of a uniform civil code was put into the national political discourse.<sup>7</sup> Following that, the notion of a UCC was constitutionally proposed in India's Constituent Assembly<sup>8</sup>. When the UCC was debated as Article 35 in the Constituent Assembly, certain members of the Assembly were vehemently opposed. Shri Mohamad Ismail Sahib proposed to amend Article 35 to include the following proviso:

*“Provided that the personal law of any community which has been guaranteed by the statute shall not be changed except with the previous approval of the community ascertained in such manner as the Union legislature may determine by law”<sup>9</sup>.*

Article 19 of the draft Constitution, which establishes the Fundamental Right to Religion, is a positive provision that is justiciable, meaning that anyone can bring a case to the court to have it enforced. In contrast, Article 35 gives the State considerable flexibility, allowing it to overlook the right to freedom of religion. It also seems to encourage the Government to violate the guarantees outlined in Article 19. In the 175 years of British rule, many uniform civil laws have fought against personal law, but they have never interfered with marriage and inheritance law, Shri Ahmed raised the possibility of a conflict between Article 35 and Article 19. Lastly, he suggested that creating a UCC should be the ultimate goal, but that it be done gradually and with the approval of those who will be affected. He continued by saying that we should exhibit caution, knowledge, statesmanship, and empathy rather than hurrying<sup>10</sup>.

Shri Mahmood Ali Baig Sahib Bahadur proposed an additional amendment to Article 35 during the discussion, adding the following clause:

*“With the caveat that nothing in this article will impact citizens' own laws”.*

According to him, some civilizations' personal laws are entirely founded on their religious beliefs<sup>11</sup>. He continued by saying that people from all communities must be free to practice their religion, even in a secular state. The following proviso was proposed by another member, Shri B. Pocker Sahib Bahadur, who supported the motion made by Shri Mohamed Ismail Sahib:

*“With the exception that if a group, sector, or community of people has its own personal law, it is not required to give it up”.*

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<sup>7</sup>Archana Parashar, *Women and Family Law Reform in India: Uniform Civil Code and Gender Equality* (Sage Publications, New Delhi, 1992).

<sup>8</sup> BShiva Rao, *The Framing of India's Constitution*, 128 (Indian Institute of Public Administration, New Delhi, 1968)

<sup>9</sup> Constituent Assembly Debates: Volume 7, 540 (1948).

<sup>10</sup> Ibid., at p. 543

<sup>11</sup> Ibid., at p. 543.

A few Constituent Assembly members publicly endorsed UCC. Therefore, according to Shri K. M. Munshi, Article 19 permits the state to regulate secular activities and implement social reform and welfare, so Article 35 is not in conflict with it.

He asserts that this article's sole goal is to give the Parliament the authority to try to harmonize the nation's personal laws whenever it deems appropriate. According to Dr. Ambedkar, India already had a single law that addressed almost every facet of interpersonal interactions. He claimed that India was governed by uniform law in terms of criminal law, procedure law, property law, and so forth, with the exception of marriage and succession.

He emphasized that the majority of interpersonal relationships in India were already subject to accepted norms. The assertion that Indian personal law was unalterable was then denied by Dr. Ambedkar. "He said,

*“Article 35 which merely proposes that the State shall endeavour to secure a civil code for the citizens of the country, it does not say that after the code is framed the State shall enforce it upon all citizens merely because they are citizens. The future Parliament may make a provision by way of making a beginning that the code shall apply only to those who make a declaration that they are prepared to be bound by it so that in the initial stage the application of the code may be purely voluntary”.*<sup>12</sup>

Dr. Ambedkar opposed the members' suggested amendments because he believed they had no value in light of these facts. After the debate, Article 35 was approved without amendments and renumbered as Article 44, which now reads as follows.

*“Uniform civil code for the citizens.-The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India”.*

An analysis of these arguments demonstrates the differences in viewpoints among Assembly members regarding the feasibility of passing such a law. It is evident that the adoption of a UCC, which supporters say is the cornerstone of the nation's contemporary secular society and is hence essential to the development of such a new secular social order, was first delayed on the grounds that it would be foolish to do so right now<sup>13</sup>.

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<sup>12</sup> Ibid., at p. 551.

<sup>13</sup> Rajkumari Agrawala, “Uniform Civil Code: A Formula Not a Solution,” in Tahir Mahmood (ed.) Family Law and Social change, 79 (N. M. Tripathi Pvt. Ltd., Bombay, 1975).

It should be highlighted, meanwhile, that the State is required by Article 44 of the Indian Constitution to work toward ensuring that all Indian people have access to a unified civil code. According to the Court, Article 44 cannot be enforced. According to Article 12 of the Constitution, the "State" refers to all local or other authorities operating within Indian territory or under the jurisdiction of the Government of India, as well as the Government and Legislature of each State, the Government of India, and the Indian Parliament. This definition is used in the chapter on Directive Principles. Article 44's mandate was not exclusive to the legislature. In **Pannalal Bansilal Patil v. State of Andhra Pradesh**<sup>14</sup>, the Supreme Court of India stated that while a uniform law for everyone may be ideal, enacting it all at once could work against the country's unity. Hindu, Muslim, and Christian personal laws, among others, govern marriage, divorce, maintenance, adoption, and inheritance in India. Consequently, the universal civil code/law in India becomes contentious when it comes to marriage, divorce, maintenance, adoption, and inheritance.

In terms of human rights, all people are equal. On December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. "All human beings are born free and equal in dignity and rights," according to the Universal Declaration. Following that, the General Assembly adopted the Declaration on Elimination of Discrimination against Women in 1967, which said that discrimination against women, including denying or restricting their equality of rights with men, is essentially unfair and a violation of human dignity. In a similar vein, the Indian Constitution guarantees equal rights to all Indian people. The initial purpose of the equality principle was to eradicate human discrimination. Equality is at the heart of the Indian Constitution.

In actuality, the inclusion of the Uniform Civil Code in the list of essential rights was required since India could not be considered a single, cohesive country without it. People from different castes and religions make up Indian society. Both the food they consume and the attire they don exhibit diversity. Though the deeply ingrained religious traditions and rituals are distinct, this kind of diversity is appealing. Religions differ in their views on the Uniform Civil Code, divorce, maintenance, and marriage age. As a result, women of all faiths had to deal with the sadness. Inequality and disparities exist even among women's sorrows. India has not adopted the Uniform Civil Code because of several inconsistencies in personal laws. The Hon'ble

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<sup>14</sup> AIR 1996 SC 1023; (1996) 2 SCC 498.

Supreme Court of India has occasionally ordered the government to apply the Uniform Civil Code in a number of cases, but this has not been accomplished because of a lack of political will. It is important to remember that the demand for a uniform civil code was frequently expressed before independence as well, yet even after 75 years of independence, it was still unfulfilled. Therefore, we must ask whether India is prepared to adopt the Uniform Civil Code in order to meet the needs of the contemporary world and its people. In the legal, social, and political spheres, it is widely acknowledged that the Uniform Civil Code is urgently needed and should be implemented in India. The question is whether this should be done gradually by raising awareness of it or if it should be done firmly. The issue of India's modern secularism is essentially related to the Uniform Civil Code idea. Because secularism can be construed in a variety of ways, it is necessary to examine it in considerable detail. Understanding the spirit of the Indian Constitution, which discusses the vibrant artistic, social, and religious liberties of Indian citizens, reflects the goal of the country's founders. The principles of democracy, equality, and justice are enshrined in the Indian Constitution. In this context, it is crucial to realize that the Uniform Civil Code must be implemented in order to provide women with protection in specific areas. All Indian people, regardless of their caste, religion, or color, are subject to the same criminal code, but this is not the case in private affairs. India's personal laws are derived from religious and cultural traditions. Religion has no place in today's secular society, particularly when it comes to public affairs. Modern civilization is founded on the rule of law, however in India, this is a far-reaching ideal since Indian society primarily uses religion to resolve conflicts involving personal rules.

Since 1950, there has been ongoing discussion on the possibility of creating a Uniform Civil Code. The state is required by Article 44 of the Constitution, which is a directive principle, to ensure that all Indian citizens have access to a uniform civil code. It is evident from a simple reading of the article that the state has an obligation to try in this area. The Central Government and the State Governments are required to accomplish specific economic and social objectives outlined in the Directive Principles of State Policy. The state is required under these guidelines to take proactive measures in specific directions to further the welfare of the populace. These are "non-justifiable" ideas, but the state is required to follow them because they are constitutional directives. The moral rights embodied in part IV of the Constitution are equally essential to its structure, as Justice Mathew has correctly noted<sup>1</sup>. The only distinction is that, although they are not specifically enforceable against the state by citizens in a court of law in the event that the state fails to carry out its duty, they are nonetheless fundamental to the nation's

government and all branches of the government, including the judiciary, are required to uphold these directives. However, this has not materialized despite the passage of the Constitution fifty years ago. This duty has not been fulfilled with any real effort. This has prompted the Supreme Court to remind lawmakers of their duties under the aforementioned article. The need to establish a Uniform Civil Code for all Indian residents has been underlined by the courts, which have expressed concern over inconsistencies in the personal laws of different tribes.

Similar codes created in European nations in the late 19th and early 20th centuries, particularly the French code of 1804, which eliminated all statutory or customary laws in place at the time and substituted a uniform code, historically influenced the concept of UCC. More broadly, it was an effort to "civilize" the country as a component of a broader colonial endeavor that followed the West. But the First War of Indian Independence in 1857 gave the British a clear warning not to change India's social structure and to uphold the customs pertaining to marriage, divorce, child support, adoption, and succession. Following independence, the UCC was adopted as a guiding principle as previously mentioned due to the effects of Partition, which caused communal discord and opposition to the repeal of personal laws. Despite their best efforts, the authors of the Constitution were unable to pass a Hindu Code Bill that would have contained progressive provisions such as equal inheritance rights for women. The discriminatory clauses pertaining to property rights in the Hindu Succession Act, 1956 were only eliminated on September 5, 2005, when the President of India signed the Hindu Succession (Amendment) Act, 2005.

In the case of Mohammad Ahmed Khan v. Shah Bano Begum, also referred to as the Shah Bano case, the Supreme Court of India initially ordered the Parliament to draft a standard civil code in 1985. After receiving triple talaq from her husband, a poor Muslim woman in this instance filed a maintenance claim against him under Section 125 of the Code of Criminal Procedure. According to the Supreme Court, a Muslim woman is entitled to maintenance from her husband under Section 125.

According to the Supreme Court, a Muslim woman is entitled to maintenance from her husband under Section 125. The Court further ruled that the Constitution's Article 44 is still a dead letter. "A common civil code will help the cause of national integration by removing disparate loyalties to law which have conflicting ideologies," noted Y.V. Chandrachud, the Chief Justice of India at the time.

- **JUDICIAL APPROACH TOWARDS UNIFORM CIVIL CODE**

Adopted in 1950, the Indian Constitution is the "supreme law of the land"<sup>15</sup> and lays forth the foundation for the legal system, fundamental rights, and governance. It imagines a pluralistic society in which many linguistic, cultural, and religious groups live side by side, each with its own traditions and practices. Personal laws, which govern matters like marriage, divorce, inheritance, and adoption across diverse religious communities, are a key component of this plurality. Although India's historical and cultural diversity is reflected in these personal laws, they also make it difficult to achieve equity and justice for all of its residents.

India's constitutional framework strikes a careful balance between upholding social fairness and protecting religious freedom. The Constitution emphasizes equality, non-discrimination, and secularism while granting citizens the freedom to follow their religion. Due to this dual duty, a uniform set of secular laws that apply to all citizens regardless of their faith coexist with a number of personal regulations that are all based on religious principles.

In essence, calling for a single set of laws that apply to all Indian residents, regardless of their religious beliefs, is what the uniform civil code movement is all about. Although the precise details of such a universal code have not yet been established, it should probably combine the most advanced and contemporary elements of all current personal laws while eliminating the more archaic ones. The Supreme Court and other courts have cited Article 44 and the idea of the Uniform Civil Code in a number of cases, mostly to draw attention to the Executive and Legislature's poor attitude in carrying out directives. In light of the subsequent significant cases for the Uniform Civil Code's adoption, the Indian judiciary's stance has been examined under this chapter.

The judiciary has often called for the establishment of a uniform civil code in India. In the Shah Bano case<sup>16</sup> in 1985, the Supreme Court strongly urged the Parliament to create a universal civil code. Following a triple divorce from her Muslim husband, the impoverished Muslim woman in that instance sought maintenance from him under s.125 of the Code of Criminal Procedure. The Supreme Court ruled that she was entitled to this, noting that even the Quran requires a Muslim husband to provide for his divorced wife. A unified civil code will aid in the

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<sup>15</sup> The Constitution of India.

<sup>16</sup> AIR 1985 SC 945.

cause of national unity by eliminating divergent legal allegiance that have competing ideologies, according to Justice Chandrachud, the Chief Justice of India at the time, who lamented that Article 44 of the Constitution had remained a dead letter. This ruling was met with a swift, forceful, and reactive response. Disturbances broke out nationwide, protesters took to the streets, and Muslim leaders declared that they would stop at nothing to defend their own laws. Prime Minister Rajiv Gandhi's administration acted swiftly, and the Muslim Women's (Protection of Rights in Divorce) Act, 1986 was passed by Parliament, essentially overturning the Supreme Court's ruling in Shah Bano's case. In *Sarla Mudgal v. Union of India*<sup>17</sup>, the Supreme Court examined four cases with comparable facts, serving as the second instance in which it strongly reminded the government of the issue. The court was asked to decide whether a husband could convert to Islam and take a second bride without ending the first marriage after entering into a Hindu union. The Bench, led by Justice Kuldip Singh, ruled that a negligent Hindu spouse would be held accountable for bigamy under the Indian Penal Code and could not do so in order to get around the rules of Hindu law. In a somewhat long ruling, the judge mentioned the need for a uniform civil code at least twenty times and bemoaned the following: Up to now, successive governments have completely failed to carry out their constitutional obligation under Article 44.

On the contrary, a unified legislation created in this way and applied to everyone would strengthen national cohesion. The Common Civil Code was criticized at the time for violating the fundamental right to freedom of religion as stated in Article 25 and for being a tyranny to the minority. The first criticism is misguided as religiously related secular activities are not covered by this guarantee, and personal laws—as stated from this perspective—apply to secular activities and fall short of the state's regulating authority. In reference to the second issue, nowhere in developed Muslim nations has the personal law of any minority been acknowledged as being so sacred that it precludes the adoption of a civil code. Two types of prejudice are fostered by communalism: one between individuals of different religions, and another between the sexes. This harmful and destructive consequence ought to be eliminated, maybe by the implementation of a Uniform Civil Code. The Uniform Civil Code guarantees equity and justice in Indian courts for women, who make up about half of the country's population, regardless of their religion in cases involving marriage, divorce, maintenance, child custody, inheritance rights, adoption, and other issues. Despite strong opposition, the codification of

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<sup>17</sup> AIR 1995 SC 153

Hindu law was the only step in this direction. However, because of its politicization, codifying Muslim law or passing a Common Civil Code is a delicate matter. On the other hand, enlightened Muslims support codification.

### **1. STATE OF BOMBAY VS. NARSU APPA MALI<sup>18</sup>**

According to Article 13, the Bombay High Court ruled in State of Bombay against Narasu Appa Mali<sup>164</sup> that personal law is neither "law" nor "laws in force." The Supreme Court never heard a challenge to this 1951 ruling. "Laws in force cannot exclude custom or usage." Additionally, the Narasu ruling held that personal law is exempt from constitutional examination. This undermines the idea that no set of customs can supersede the Constitution and its goal of upholding the sanctity of equality, liberty, and dignity. Chandrachud, the justice, wrote. Citizens were essentially left to the mercy of uncodified personal laws by the Bombay High Court. A false equivalency between the existence of minority rights and the unnatural prolongation of diverse personal laws was perpetuated when the Bombay High Court adopted a gradualist approach to the enactment of the UCC as enshrined in Article 44, conforming to the outcome of the Constituent Assembly Debates (CAD) on the Uniform Civil Code. This approach ultimately prevailed and revitalized the doctrine of legal pluralism in Indian constitutional jurisprudence. Therefore, the court's ruling confirming the Bombay Prevention of Hindu Bigamous Marriage Act, 1946's constitutionality is reasonable and just.

### **2. MOHD. AHMED KHAN VS. SHAH BANO BEGUM<sup>19</sup>**

The issue of "Triple Talaq Verdict" was addressed in the historic case of Mohd. Ahmad Khan v. S. Shah Bano Begum<sup>171</sup>. The term "Shah Bano Case" is typically used to refer to this case. In India, it is regarded as a highly contentious and troublesome legal fight. This case has proven to be a turning point in Muslim women's fight for freedom and rights. It all comes down to Shah Bano's courageous and fearless fight against the Triple Talaq system. She endured the humiliations of her husband and the community rather than writing a history or tale of a lady who was silenced. In spite of the extreme circumstances in her life, she chose to battle against her husband and the world, where everyone supported him. More importantly, she courageously chose to oppose the male-dominated culture. She battled against the Triple Talaq

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<sup>18</sup> AIR 1952 Bom 84, (1951) 53 BOMLR 779, ILR 1951 Bom 775  
<https://indiankanoon.org/doc/54613/> (Visited on 2 October 2025).

<sup>19</sup> 1985 AIR 945, 1985 SCR (3) 844  
<https://indiankanoon.org/doc/823221/> (Visited on 2 October, 2025).

system, and finally her efforts paid off; she got what she wanted and permanently changed the system. The two naked truths that were revealed in this case made it a landmark judgment case. The first was that the spirituality of religious personal laws was criticized, and then it was questioned whether the Uniform Civil Code applied to all religions and their adherents. The second was whether the Code of Criminal Procedure applied to personal religious laws. The Supreme Court's verdict was similar to the previous lawsuits as well. This case involved a Triple Talaq ruling, which was historic since it upholds the public's belief in the judiciary and states that "Justice and equality have overcome religion." Due to its brave, audacious, unbiased, and distinctive ruling, this case marked a turning point in the history of the legal system. The significance of maintenance, which should be given to divorced Muslim women who are unable to support themselves financially, has been highlighted by this ruling. Despite the Supreme Court's ruling in the Shah Bano case rejecting the Muslim Women Act 175 endorsement, the court affirmed in subsequent rulings that divorced Muslims were still legal. Women can request maintenance or alimony from their ex-husbands under Section 125 of the Code of Criminal Procedure. In addition, divorced Muslim women may request a certain sum of money under the Muslim Women Act. Even after shady politics, the Supreme Court rendered an unbiased ruling and, finally, preserved public confidence in the legal system.

### **3. DANIEL LATIFI AND ANOTHER VS. UNION OF INDIA<sup>20</sup>**

The Act attempted to limit the divorced Muslim woman's claim to maintenance to the Iddat period exclusively, while also invalidating the Shah Bano ratio. The Act's constitutionality was contested on the grounds that it violated Articles 14, 15, and 21—a typical illustration of how political factors can erode the rights of a segment of the population. Right-wing groups primarily questioned whether it was necessary to pass legislation that would totally separate a segment of the population when Section 125 of the Code of Criminal Procedure already provided a secular remedy. In the Daniel Latifi v. Union of India case, the Supreme Court addressed this raging dispute took a moderate stance and maintained that fair and reasonable arrangements do not just apply during the Iddat term but also cover the divorced wife's future, including support. Additionally, the Act's constitutionality was maintained.

The same was confirmed by the Shah Bano court. Nonetheless, the Shah Bano ruling was

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<sup>20</sup> 7 SCC 740 on 28 September, 2001  
<https://indiankanoon.org/doc/410660/> (Visited on 3 October 2025).

declared invalid by the legislature through the Act, which the court upheld in Daniel Latifi. But in Daniel Latifi, the court has ignored certain controversial concerns. It no longer follows the ratio specified in Shah Bano. Although the court upheld the Act's constitutionality, it did not address why Section 125—a step toward the nation's Uniform Civil Court—should not take precedence over other personal laws. Furthermore, it hasn't explained why the Wakf board and family members should be required to support women rather than their husbands. Additionally, the court has disregarded the Act's parliamentary objective as well as the historical context of the nation. The court's decision might have been different if it had taken the aforementioned arguments into account.

#### **4. SARLA MUDGAL VS. UNION OF INDIA<sup>21</sup>**

The freedom to practice and profess any religion, including the freedom to convert to any other religion that was not ascribed to a person by birth, is guaranteed by our Constitution. However, this clause is occasionally abused due to the variety of religions and personal rules. With the exception of tribes or societies whose own laws, like Muslim law, allow polygamy, bigamy is illegal under the Indian Penal Code. A person only needs to convert to Islam and give up his religion in order to engage in bigamy. It is not unusual for males to act in this way. If a party's first marriage is already in effect under the Parsi Marriage and Divorce Act or the Special Marriage Act, their second marriage is null and void. Stated differently, a second marriage following a conversion to a different religion that permits bigamy is invalid. However, the status of a person marrying after conversion has not been specified under the Hindu Marriage Act, 1955. It states that if a Hindu couple's partner is still alive and they haven't divorced by then, their subsequent marriage is null and void. The Supreme Court thoroughly examined this matter in the seminal case of Sarla Mudgal & Ors. v. Union of India, which resolved the uncertainty around the rights, responsibilities, and duties of those who convert to another religion in order to circumvent the law. The court ruled that a person cannot violate the law and commit bigamy only because they change their religion. Chief Justice of India V.N. Khare, Justice S.B. Sinha, and Justice A.R. Lakshmanan make up the bench, which invalidated the section and ruled it to be unconstitutional. According to Chief Justice Khare, we would like to emphasize that Article 44 mandates that the State work to ensure that all Indian citizens have access to a consistent civil code across the country. The fact that Article 44 of the Constitution

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<sup>21</sup> 1995 AIR 1531, 1995 SCC (3) 635  
<https://indiankanoon.org/doc/733037/> (Visited on 3 October 2025)

has not been implemented is deeply regrettable. Parliament has yet to take action to establish a national civil code. By eliminating ideological inconsistencies, a unified civil code will support national integration.

## CONCLUSION

Even after six long decades of independence, Parliament has failed to pass appropriate legislation in this area because there is insufficient support for the move within the Parliament. Since this calls for significant modifications to the current personal laws, the reform movement would be more effectively shaped by internal pressure from India's diverse communities than by a single, comprehensive piece of legislation. Furthermore, the call for a universal civil code has taken on communal and political implications due to historical and other factors, thereby overshadowing the law's inherent benefits. Given that a number of other "guiding stars" of the Indian Constitution have also not yet been put into practice and that Article 44 is not a singular example of a state policy directive principle that has not yet been realized. such as the Indian rule that forbids the use of intoxicating substances and that was put into effect to ensure that men and women receive equal compensation for equal labor.

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