



KAMARAJ IAS ACADEMY
Only IAS Academy by Grandson of "Perunthalaivar Kamarajar"

Supreme Court Reviews Constitutional Status of Muslim Polygamy, Raising Questions on Equality, Personal Law and Uniform Civil Code

Published On: 23-08-2026

Recent Developments:

- The **Supreme Court of India** has sought the Union Government's response to a fresh petition challenging the constitutional validity of **polygamy among Muslims**, bringing the relationship between personal law, gender equality and fundamental rights back into constitutional scrutiny. A Bench comprising **Chief Justice Surya Kant, Justice Joymalya Bagchi and Justice V. Mohana** issued notice on 31 July 2026 and tagged the matter with pending cases concerning Muslim personal law.
- The petition seeks abolition of polygamy among Muslims, recognition of such marriages as **void from inception**, and uniform application of the criminal law relating to bigamy.
- The petition also seeks compulsory registration of **Muslim marriages and divorces**, linking registration with greater legal protection and accountability.
- The controversy involves the constitutional relationship between **Articles 14, 15, 21 and 25**, the Muslim Personal Law (Shariat) Application Act, 1937, and the State's power to undertake **social reform**.
- The issue is significant for **GS Paper II** because it brings together fundamental rights, personal laws, gender justice, religious freedom, judicial review and the debate surrounding **Article 44 and the Uniform Civil Code**.

Understanding Polygamy:

Meaning and Forms:

- **Polygamy** refers to a marital arrangement in which a person has more than one spouse simultaneously.
- **Polygyny** refers to one man having multiple wives, whereas **polyandry** refers to one woman having multiple husbands.
- **Bigamy** specifically refers to contracting another marriage while an earlier legally valid marriage is still subsisting, although its criminal liability depends upon whether the subsequent marriage is legally void under the applicable law.
- The distinction between **polygamy and bigamy** is important because polygamy may be permitted under a personal law, whereas bigamy generally describes a second marriage prohibited by the applicable marriage law.

Prevalence in India:

- **NFHS-5 (2019–21)** recorded multiple-spouse marriages among different religious communities, demonstrating that polygamy is not exclusively associated with one religious group. The reported proportion was approximately **2.1% among Christians, 1.9% among Muslims and 1.3% among Hindus** in the relevant NFHS measure.

Kamaraj IAS Academy

Plot A P.127, AF block, 6 th street, 11th Main Rd, Shanthi Colony, Anna Nagar, Chennai, Tamil Nadu 600040

Phone: **044 4353 9988 / 98403 94477 / Whatsapp : 09710729833**

- The available data also indicate that prevalence varies across **States, communities and tribal populations**, making regional and socio-economic context important when interpreting the phenomenon.
- Therefore, constitutional policy should distinguish between the **legal status of a practice** and its actual prevalence in society.

Historical and Socio-Cultural Context:

Economic Factors:

- In traditional agrarian societies, larger households could sometimes provide additional labour for **agriculture, livestock management and domestic work**.
- Such economic arrangements were historically influenced by local production systems and cannot automatically justify continuation of the practice under contemporary constitutional standards.

Patriarchal and Lineage Considerations:

- **Patriarchal social structures**, preference for male heirs and concerns regarding continuation of family lineage historically contributed to plural marriages in some communities.
- In certain societies, infertility or absence of male children could become a social reason for subsequent marriage.

Religious and Customary Traditions:

- Personal laws and customary practices have historically regulated marriage and family relations among different communities.
- However, the mere existence of a practice within personal law does not necessarily establish that it constitutes an **essential religious practice** protected absolutely by Article 25.

Social Protection:

- In some historical societies, subsequent marriages were also associated with **economic security and social protection** for widows or vulnerable women.
- Such historical explanations must nevertheless be assessed against contemporary standards of **gender equality, autonomy and dignity**.

Constitutional Framework:

Article 14 — Equality Before Law:

- **Article 14** guarantees equality before the law and equal protection of the laws.
- A constitutional challenge to polygamy can therefore examine whether permitting one religious community to contract plural marriages while prohibiting the practice for others creates an **arbitrary or constitutionally impermissible classification**.
- The crucial question is whether differential treatment is supported by a constitutionally legitimate basis and whether it satisfies the applicable equality test.

Article 15 — Non-Discrimination:

- **Article 15** prohibits discrimination by the State on specified grounds, including sex and religion.
- A gender-justice challenge may argue that a legal regime permitting men to have multiple wives while not providing equivalent marital autonomy to women creates **sex-based inequality**.
- The relationship between personal law and Article 15 remains an important constitutional question because the jurisprudence concerning direct application of fundamental rights to uncodified personal law has

historically been complex.

Article 21 — Dignity and Personal Autonomy:

- **Article 21** protects life and personal liberty and has been interpreted to encompass **human dignity, decisional autonomy and personal liberty**.
- Critics of polygamy argue that unequal marital arrangements can adversely affect women's **dignity, security, autonomy and family life**.
- The constitutional assessment therefore extends beyond the formal validity of marriage to its impact upon the rights and substantive equality of affected individuals.

Article 25 — Freedom of Religion:

- **Article 25** guarantees freedom of conscience and the right freely to profess, practise and propagate religion, subject to **public order, morality, health and other provisions of Part III**.
- Article 25 also expressly permits the State to enact laws for **social welfare and reform**.
- Therefore, even where a practice has a religious or customary association, its constitutional protection is not absolute.
- The central question is whether polygamy constitutes an **essential religious practice** or merely a practice permitted within a particular personal-law framework.

Article 44 — Uniform Civil Code:

- **Article 44**, a Directive Principle of State Policy, directs the State to endeavour to secure a **Uniform Civil Code for citizens throughout India**.
- The polygamy debate directly intersects with this provision because a common marriage law could establish uniform rules concerning **monogamy, marriage registration, divorce and succession**.
- However, Article 44 is a **Directive Principle**, not an independently enforceable fundamental right, and its implementation must therefore be reconciled with fundamental rights and constitutional pluralism.

Existing Legal Framework:

Hind Marriage Act, 1955:

- The **Hind Marriage Act, 1955** establishes monogamy as a condition of a valid Hind marriage.
- Section 17 makes a subsequent marriage during the subsistence of a valid earlier marriage subject to the criminal-law consequences relating to bigamy.
- The Act applies to **Hindus, Buddhists, Jains and Sikhs** within its statutory scope.

Special Marriage Act, 1954:

- The **Special Marriage Act, 1954** provides a secular statutory framework for civil marriage irrespective of religious identity.
- Its conditions of marriage require that neither party have a living spouse, thereby establishing **monogamy** for marriages solemnised under the Act.

Parsi Marriage and Divorce Act, 1936:

- The **Parsi Marriage and Divorce Act, 1936** expressly penalises a Parsi who contracts another marriage during the lifetime of a spouse without lawful divorce, nullity or dissolution.

Indian Christian Marriage Act, 1872:

- The statutory framework governing Christian marriages contains safeguards against solemnising a marriage where an existing marriage creates a legal impediment.
- Consequently, **monogamy is the general statutory norm** under the principal central marriage laws.

Bigamy Under the Bharatiya Nyaya Sanhita:

Section 82 of the Bharatiya Nyaya Sanhita, 2023:

- **Section 82 of the Bharatiya Nyaya Sanhita, 2023** criminalises marrying again during the lifetime of a husband or wife where the subsequent marriage is legally void because of the subsisting earlier marriage.
- The ordinary punishment under Section 82(1) is **imprisonment up to 7 years and fine**.
- Section 82(2) provides **imprisonment up to 10 years and fine** where the former marriage is concealed from the person with whom the subsequent marriage is contracted.
- Importantly, Section 82 does not independently make every second marriage criminal; the subsequent marriage must first be **void under the applicable marriage law**.
- This legal structure is central to the present controversy because Muslim Personal Law has historically recognised a Muslim man's capacity to contract multiple marriages, meaning the statutory ingredients of bigamy may not ordinarily be satisfied in such cases.

Muslim Personal Law:

- The **Muslim Personal Law (Shariat) Application Act, 1937** provides for the application of Muslim personal law to specified matters, including marriage and related family-law questions.
- Muslim personal law has historically permitted a Muslim man to have **up to four wives**, subject to the principles recognised within Islamic jurisprudence.
- However, permissibility under personal law does not by itself establish that the practice is an **essential religious practice protected by Article 25**.
- The Supreme Court has previously recognised that a practice being permitted by religious law does not necessarily make it constitutionally immune from regulation or social-reform legislation.

State-Level Developments:

Uttarakhand:

- The **Uniform Civil Code, Uttarakhand, 2024** establishes a common statutory framework concerning marriage and related civil matters and prohibits plural marriage within its applicable scope.
- The Code expressly excludes **Scheduled Tribes** and persons or groups whose customary rights are protected under Part XXI of the Constitution.
- Uttarakhand therefore represents an important contemporary example of **state-level experimentation with uniform family-law regulation**.

Assam:

- Assam has pursued legislative measures aimed at prohibiting polygamy, reflecting the State's stated objective of addressing plural marriage through statutory regulation.
- The proposed framework envisages stringent punishment, including imprisonment of up to **7 years**, with enhanced punishment in cases involving concealment of a previous marriage.
- The interaction between such legislation, **tribal customary practices and constitutional protections** remains an important federal and constitutional issue.

Goa:

- **Goa** has historically followed a relatively uniform civil-law framework derived from its Portuguese-era civil code.

- The Goan civil-law system has nevertheless contained historical exceptions and community-specific provisions, demonstrating that a common civil code does not automatically mean complete uniformity in every substantive rule.
- The Goa experience is therefore relevant to the UCC debate but should not be treated as a perfect model of complete legal uniformity.

Supreme Court Jurisprudence:

Sarla Mudgal v. Union of India, 1995:

- In **Sarla Mudgal v. Union of India, 1995**, the Supreme Court held that a Hindu husband cannot convert to Islam merely to contract another marriage while the first marriage remains legally valid.
- Such conversion does not automatically dissolve the existing Hindu marriage, and the subsequent marriage can attract criminal liability for bigamy.
- The judgment therefore prevents **religious conversion from being used as a device to circumvent an existing marriage law**.

Lily Thomas v. Union of India, 2000:

- In **Lily Thomas v. Union of India, 2000**, the Supreme Court reaffirmed the principle that a fraudulent conversion cannot be used to defeat the legal consequences of an existing marriage.
- The judgment reinforced the distinction between **genuine religious conversion and conversion undertaken merely to evade matrimonial obligations**.

Khursheed Ahmad Khan v. State of Uttar Pradesh, 2015:

- In **Khursheed Ahmad Khan v. State of Uttar Pradesh, 2015**, the Supreme Court observed that Muslim law permits plurality of marriages but also recognised that the practice may be **regulated by law** in appropriate circumstances.
- The judgment is particularly relevant because it indicates that permission under Muslim personal law does not necessarily prevent statutory regulation.

Abdul Khader v. K. Pechiammal, 2015:

- The Madras High Court observed that the Muslim personal law provision permitting multiple marriages does not make polygamy a mandatory religious obligation.
- It emphasised that a practice merely being **permitted by religion does not automatically become an essential religious practice** protected from social-welfare legislation.

Current Constitutional Questions:

Equality versus Personal Law:

- The central constitutional tension lies between **individual equality and religiously differentiated personal laws**.
- A prohibition on polygamy could be defended as a measure promoting **gender justice and substantive equality**, while opponents may argue that reform must respect religious freedom and constitutional pluralism.
- The Court must therefore determine the appropriate constitutional standard for reviewing personal-law practices.

Essential Religious Practice Doctrine:

- The **Essential Religious Practices doctrine** asks whether a particular practice is fundamental or essential to the religion concerned.

- If a practice is not essential, its regulation may be easier to justify through laws concerning **social welfare, reform, morality and public order**.
- The doctrine itself remains controversial because courts may be required to determine questions involving religious doctrine and practice.

Gender Justice:

- Critics argue that polygyny creates an **asymmetrical marital structure** because Muslim men may contract multiple marriages while Muslim women do not enjoy a corresponding right to multiple husbands.
- The debate consequently concerns **substantive equality**, rather than merely formal equality between religious communities.
- A gender-justice approach must also consider economic dependency, maintenance, inheritance, child welfare and access to effective legal remedies.

Personal Autonomy:

- A constitutional evaluation must balance women's protection against exploitation with the broader principle of **individual autonomy in intimate and family relationships**.
- The State therefore needs to demonstrate that restrictions are directed towards a legitimate constitutional objective and are appropriately designed to protect vulnerable persons.

Arguments in Favour of Prohibition:

Gender Equality:

- Prohibition can promote **equal marital status** by establishing a common monogamous standard for all citizens.
- It can reduce the structural inequality created when one gender is legally permitted a marital option unavailable to the other.

Protection of Women:

- Critics associate plural marriages with potential **emotional distress, economic insecurity, neglect and intra-family conflict**, particularly where household resources are limited.
- Regulation may strengthen women's bargaining power and legal protection within marriage.

Child Welfare:

- Multiple households can create challenges concerning **financial allocation, maintenance, inheritance and parental responsibilities**.
- A uniform framework could establish clearer legal duties towards spouses and children.

Constitutional Reform:

- Prohibition may be viewed as part of the broader constitutional project of **social reform and gender justice**.
- It could also advance the objective underlying **Article 44**, although Article 44 itself does not mandate immediate implementation of a UCC.

Arguments Requiring Caution:

Religious Freedom:

- A prohibition must be carefully designed so that it does not unnecessarily interfere with **freedom of conscience and religious practice**.

- Article 25 expressly permits reasonable regulation and social reform, but constitutional adjudication must still identify the precise scope of protected religious activity.

Tribal and Customary Rights:

- India contains diverse customary marriage practices among tribal communities.
- A uniform prohibition must account for **Fifth and Sixth Schedule contexts, customary law and Article 371-related protections** wherever applicable.

Legislative Competence:

- Marriage and divorce fall within **Concurrent List, Entry 5**, allowing both Parliament and State Legislatures to legislate subject to constitutional limitations and the rules governing repugnancy.
- State-level experiments therefore raise questions concerning **federalism, legislative competence and harmonisation of family laws**.

Implementation:

- Legal prohibition alone may not eliminate the social practice.
- Effective reform requires **marriage registration, legal awareness, accessible family courts, economic empowerment and effective enforcement mechanisms**.

Way Forward:

Evidence-Based Reform:

- Parliament should consider comprehensive empirical evidence on the **prevalence, socio-economic consequences and gender impact** of polygamy before adopting nationwide reform.
- Policymaking should distinguish between isolated instances, customary practices and legally recognised plural marriage.

Strengthening Marriage Registration:

- **Compulsory registration of all marriages** can substantially improve legal certainty concerning marital status, maintenance, inheritance and matrimonial rights.
- Registration can also make fraudulent second marriages easier to detect and prosecute.

Gender-Sensitive Personal Law Reform:

- Reform should focus on **equality, dignity, autonomy and protection from exploitation** rather than targeting any religious community.
- Consultations with affected women, religious scholars, legal experts and civil-society organisations can improve legitimacy and implementation.

Balanced Constitutional Approach:

- The Supreme Court should reconcile **Articles 14, 15, 21 and 25** through a rights-based framework that protects both individual dignity and legitimate religious freedom.
- Any eventual prohibition should be supported by clear legislative standards, reasonable classification and effective safeguards against discriminatory enforcement.

Value Addition for UPSC:

Kamaraj IAS Academy

Plot A P.127, AF block, 6 th street, 11th Main Rd, Shanthi Colony, Anna Nagar, Chennai, Tamil Nadu 600040

Phone: **044 4353 9988 / 98403 94477** / Whatsapp : **09710729833**

Constitutional Provisions:

- **Article 14:** Equality before law and equal protection of laws.
- **Article 15:** Prohibition of discrimination on specified grounds, including religion and sex.
- **Article 21:** Protection of life, personal liberty, dignity and decisional autonomy.
- **Article 25:** Freedom of conscience and freedom to profess, practise and propagate religion, subject to constitutional limitations.
- **Article 44:** Directive to endeavour to secure a **Uniform Civil Code**.
- **Concurrent List, Entry 5:** Marriage and divorce fall within the concurrent legislative domain.

Important Cases:

- **Sarla Mudgal v. Union of India, 1995:** Conversion cannot be used to circumvent an existing marriage and contract another valid marriage.
- **Lily Thomas v. Union of India, 2000:** Fraudulent conversion does not dissolve an existing marriage or immunise a subsequent marriage from bigamy law.
- **Khursheed Ahmad Khan v. State of Uttar Pradesh, 2015:** Muslim law permits plurality of marriages, but such practices may be regulated by law.
- **Abdul Khader v. K. Pechiammal, 2015:** A practice merely permitted by religion does not automatically become an essential religious practice.

Contemporary Judicial Context:

- The **2026 Supreme Court proceedings** are significant because the Court is examining the interaction between Muslim personal law, constitutional equality and the criminal-law framework governing bigamy.
- A related constitutional challenge concerning the **Muslim Personal Law (Shariat) Application Act, 1937** is also pending before the Supreme Court, involving questions under **Articles 13, 14, 15 and 21**.
- The **2026 Madhya Pradesh High Court decision** illustrates the continuing importance of the distinction between a second marriage that is legally void and a plural marriage recognised under the applicable personal law