



# ALL INDIA MUSLIM PERSONAL LAW BOARD

آل انڈیا مسلم پرسنل بورڈ

Ref. No.....

Date..05/07/2023.....

## All India Muslim Personal Law Board's Response to Law Commission on UCC New Delhi, 5<sup>th</sup> July 2023

The All India Muslim Personal Law Board today registered its objections to the Law Commission's Notice dated 14.06.23 soliciting "views and ideas on uniform civil code" in the form of a Representation. "Our response to the Law Commission on UCC is based on 5 points," said Dr. SQR Ilyas, Spokesperson, All India Muslim Personal Law Board, "which includes I) Preliminary Issue, II) Response and Report of 21<sup>st</sup> Law Commission, III) Uniform Civil Code, IV) Existing Civil Laws, V) Conclusion."

In the first part of the Representation, the Board has detailed out the preliminary objections stating that the content set out in the captioned Notice is vague, too general, and unclear. The relevant portion has been placed as the following excerpt:

"The terms for the suggestions to be invited are missing. It appears that such a large issue has been floated in the public domain to seek a referendum as to whether the reaction of the general public also reaches the Commission in either equally vague terms or in a 'yes' or 'no'. We are making this submission for multiple reasons because this issue being a purely legal issue has also been fodder for politics and consumption of media-driven propaganda. This issue becomes further important because this Commission's predecessor had examined the very same issue and reached a conclusion that Uniform Civil Code is neither necessary nor desirable. Within such a short span of time, it is surprising to see the successive Commission again seeking public opinion without there being any blueprint as to what the Commission intends to do.

...the fundamental religious book of Muslims, being the Holy Quran, Sunnah and *Fiqh* (Islamic Law) in the form of religious texts, which are matters of Articles 25 & 26, mandate its believers to follow the injunctions as prescribed therein. The followers of Islam find themselves bound by those injunctions and the same are non-negotiable terms. Personal relationship of Muslims, guided by their personal laws, is directly derived from the Holy Quran and Sunnah (Islamic laws) and this aspect is linked with their identity. Muslims in India will not be agreeable to lose this identity of which there is space within the constitutional framework of our country. National integrity, safety and security and fraternity is best preserved and maintained if we maintain the diversity of our country by permitting minorities and tribal communities to be governed by their own personal laws."

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In the second part of the Representation, the Board has pointed out and annexed the detailed Response of AIMPLB to the 21<sup>st</sup> Law Commission on the same issue along with other communications.

The Representation, in the third part, delve in detail on our country's pluralistic principles, vast diversity and multiculturalism. It discussed, in detail, the issues of Secularism, Gender Justice & Principle of Equality, National Integration and Supreme Court Observations. The Representation reads:

“Prevalence of multiple personal laws by different communities is consistent with religio-cultural rights of the members of Indian communities flowing from conjoint reading of Articles 25, 26 and 29 of the Constitution. The application of such laws as per the religio-cultural norms of different communities / tribes should be celebrated as the shining example of a robust democracy in our beloved country.”

In the fourth part of the Representation, the existing legal paradigm has been discussed. The Representation states, “We are placing these facts to point out that the religious principles and customary and tribal exemptions that have been reflected in the existing statutes show the inalienable position of the dominant religious group and customs that cannot be dispensed with in such codes.

The exercise of analysing the scope and nature of a prospective Uniform Civil Code can only be done through analysing the existing family laws—both general and personal. There are two premises of such an analysis:

- a) Are the existing general/uniform family laws truly *uniform*?
- b) Are the existing codified community-based personal laws *uniform*?”

Then the AIMPLB draft analyzed the existing civil laws and came to the conclusion that existing general / uniform family laws are not truly uniform, even existing codified community based laws are also not uniform...It is stated that SMA, the closest and continuing model of a uniform family law in India, is not 'uniform'. SMA, not only has been designed as per the majoritarian morality but provides exceptions for customary laws.

The same is reflected below:



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Special Marriage Act, 1954  
[S. 19-21A]



Hindu Succession Act, 1956  
[Sections 3(b), (d), 7(3)]



*take us to un-codified customs of Hindus*

Special Marriage Act, 1954  
[S.27(1A) (ii)]



Hindu Adoption and Maintenance Act,  
1956  
[(S 3(a) r/w 10(iii)]



*take us to un-codified customs of Hindus*

In conclusion, the Board has submitted:

“What is a Uniform Civil Code? The answer seems simple but is entrenched with complexities. These complexities were realised by the Constituent Assembly back in 1949 when Uniform Civil Code was debated. A single day debate witnessed strong opposition from the Muslim community. It is relevant to remember the clarification of Dr. Ambedkar at the end of the debate, “It is perfectly possible that 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.

The most crucial document of our nation, the Constitution of India, is itself not uniform in nature, prudently and with the intention to keep the country united. Different treatment, accommodation, adjustment is the nature of our Constitution. Different territories of the nation have been given different treatments. Different communities have been made entitled to different rights. Different religions have been given different accommodations.

Another premise is based on questioning the bases of the celebration of the idea of uniformity in itself...Mere projection of ‘uniformity’ is not a valid ground for uprooting established systems of laws governing personal matters of different religious communities when even the established general and supposedly uniform laws are not entirely uniform in nature. The Goa Civil Code, as detailed out, is packed with diversity; even the Constitution of India has different provisions for different classes of persons and also for different regions. Even Code of Civil Procedure does not apply uniformly in the entire territory of India. Even the Hindu Marriage Act, specifically framed to regulate the



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personal laws of one community, does not apply uniformly on all the Hindus in India, as stated already above. The Special Marriage Act takes the parties to the Hindu Succession Act and dilutes customary laws qua prohibited degrees of marriage. These examples demonstrate just the tip of the iceberg. Majoritarian morality must not supersede personal laws, religious freedom, and minority rights in the name of a code which remains an enigma.

After the publication of the Consultation report prepared by the 21st Law Commission, the Government has been completely silent on whether it has accepted the same either as a whole or in part. Nor has the Government indicated what steps it has taken to interpret the findings of the 21st Law Commission. If it had rejected the whole or some findings of the 21st Law Commission, it has not disclosed its reason for such rejection."

Issued by

Dr. Mohd. Vaquar Uddin Latifi  
Office Secretary

