

# **ALL INDIA DEMOCRATIC WOMEN'S ASSOCIATION**

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**Date: 4 November 2022**

To,

Sushil Kumar Modi,

Member of Parliament, Rajya Sabha

Chair, Parliamentary Standing Committee on Personnel, Public Grievances, Law & Justice

Dear Sushil Kumar Modiji,

We are writing to you on behalf of the All India Democratic Women's Association (AIDWA), a women's organization with a membership of about a crore across the country regarding the review of personal law which is sought to be undertaken by the Committee. Our organization, apart from dealing with issues of personal law for the last 40 years, is actively engaged in each State in dealing with personal law cases of women in their various Legal Cells.

We were surprised to see the Press Communiqué issued on behalf of the Committee on 11 October 2022, asking for memoranda concerning the entire gamut of personal law within a short period of 21 days. This gives an impression that the entire exercise of asking for memoranda is not a serious attempt to get the opinions of various organizations and people working on the issue, but is just a formality. If it were serious in eliciting views and in getting Memoranda, the Committee would have allotted far more time for this purpose. It is unacceptable and absurd that suggestions for such wide-ranging reforms can be given in three weeks.

We are also perplexed about the reasons why this review is being undertaken. We do not think it has been done at the instance of the women's groups and organizations and others working with the issue. We would like to point out that it is the women of our country who have to suffer the brunt of patriarchal personal laws. However, despite several demands to reform some of the Hindu personal laws, no action has been taken by the Government to change these laws to bring about gender justice as pointed out later.

AIDWA is opposed to a Uniform Civil Code and states that uniformity cannot be equated with equality. The 21<sup>st</sup> Law Commission to whom the Modi Government had referred the question of the UCC had clearly stated that "a Uniform Civil Code is neither necessary nor desirable". It had further recommended reform in different personal laws and tolerance of plurality and differences in the different personal laws. AIDWA advocates reform in different personal laws in consultation with the concerned community particularly with the women of the

community. However, we have seen that various states led by the BJP like Uttarakhand and Himachal Pradesh have declared their intention to bring about a UCC and have set up committees to draft this.

Some of the key aspects identified for review are vague and no particulars have been given under the topics to clearly delineate the areas under the topic which the Committee are thinking of reforming. It has been mentioned in the Communique that the Committee will explore the possibility of codifying different personal laws. This can only mean codifying Muslim personal law and perhaps laws which come under the Sixth Schedule, pertaining to the tribal areas. First of all, we see no merit in mere codification of the law as mere codification does not give equal rights to women. Secondly, in keeping with the democratic norms, this can only be done after extensive discussions with the communities involved.

We have seen how Muslim have been targeted for exercising their choice to wear a Hijab, and how this has affected their fundamental right to education. Also, the Central Government without protecting the rights of divorced Muslim women, initiated the law to put Muslim men in jail with an obvious communal intent for a practice that the Supreme Court had already declared null and void. Muslim youth who have been in consensual relationships have been targeted and jailed in several fictitious cases of 'Love Jihad'.

In these circumstances, we are fearful that on the pretext of reviewing of personal law, the effort may be to bring in uniform laws which will be majoritarian laws, and not laws which give substantive equal rights to women. Uniformity of law by itself will not result in substantive equal rights for women, and in fact will probably result in duplicating Hindu laws and its gender biases on all communities

Even women belonging to the majority in our country have suffered because they do not have equal guardianship rights over their children, and they do not have equal rights over marital property. This is property which is acquired by either party during the subsistence of a marriage, and several countries recognize that women have an equal share in this property. However, despite several women's organizations and groups asking for this, nothing has been done to initiate the demand.

Another law which our organization and others have been demanding is a stand-alone and comprehensive law to deal with crimes and killings in the name of honour. This law was envisaged to punish both members and extended members of the family as well as community panchayats, who torture and harass young couples and deny them their choice in marriages and relationships. Though AIDWA gave proposals for such a law in 2005, nothing has been done.

Similarly, Hindu and other women do not have equal land rights in agricultural property in some states, including Uttar Pradesh and Uttarakhand. Both these states exclude married daughters from inheriting these properties on specious grounds. Though the Hindu Succession Act was amended in 2005 to remove an exception which exempted agricultural land from the purview of the HSA, the inheritance to agricultural land continues to be governed by some state laws which actively stop women from this inheritance. In fact, these laws have been placed in the Ninth Schedule of the Constitution with the intention of keeping them outside the purview of courts.

Similarly, we had suggested that the Special Marriage Act be amended to remove the one-month notice and waiting period for a marriage to take place under it. This would facilitate more secular marriages and marriages by choice. It is well known that the one-month notice period in fact gives time to all sorts of objections by members of a girl's or boy's family, who do not want the marriage to take place.

These are some of the suggestions that have been made for several years by us and other women's organizations to bring about equal rights for women. However, previous and the current Government has consistently ignored these demands. On the other hand, the Government has raised the bogey of Love Jihad and brought about draconian anti-conversion laws to stop inter-faith marriages by choice and are now seeking to bring about a Uniform Civil Code for the sake of uniformity, per se. There is also talk of a law for divorce on the ground of irretrievable breakdown of marriage. However, this would leave most women without any means of survival unless they have an equal right to marital property and proper maintenance laws.

India has a rich tradition of both plural family laws and uniform laws in areas in which family laws don't exist. Thus, for instance, the Dowry Prohibition Act, the Commission of Sati (Prevention) Act, the Prohibition of Child Marriage Act, the Protection of Women from Domestic Violence Act are uniform laws which apply to all communities, as can a law on the crimes and killings in the name of 'honour' and a law on equal rights to marital property. Simultaneously, reforms within personal laws should take place at the behest of women of the concerned community and the women's movement.

We request the Committee to make its position on UCC clear so that we are assured that the present exercise is not a step towards bringing about a Uniform Civil Code. We therefore urge the Committee not to embark on this mammoth task in such a short period and withdraw the three weeks deadline. We also urge the committee to have hearings in centres throughout the country as has been done in the past on women related Laws.

Given our experience in the field, we would also like to give oral evidence to the Committee when it calls us. We feel that women's organizations and groups and others concerned with the issue must be widely consulted by the Committee before it decides.

Yours sincerely,

Malini Bhattacharya  
President

Adv Kirti Singh  
Legal Advisor

Mariam Dhawale  
General Secretary

All India Democratic Women's Association (AIDWA)