

# **DRAFT OF CODIFIED MUSLIM FAMILY LAW**

**MUSLIM WOMEN HAVE WAITED  
TOO LONG**

**NOT ANYMORE !!**

**REVISED VERSION – FEBRUARY 2025**

# **Bharatiya Muslim Mahila Andolan [BMMA]**

## **My Struggle My Leadership**

BMMA is an autonomous, secular, rights-based mass organization led by Muslim women which fights for the citizenship rights of the Muslims in India. BMMA was formed in January, 2007.

### **VISION:**

To create conditions within the Indian society where the Muslim community and especially the Muslim women are able to eradicate their own poverty and marginalization and live a life of equality, justice and with respect for human rights.

### **BMMA BELIEVES IN:**

Values of democracy, secularism, equality, non-violence, human rights and justice as enshrined in the Constitution of India. These are our guiding principles in our struggle for justice.

### **OBJECTIVES:**

- To work towards understanding and ameliorating the marginalization of the Muslim community and Muslim women.
- To work towards empowering Muslim women and take steps to ensure their social, economic, political, civil, legal and religious rights.
- To work to uphold the Constitutional principles like equality, liberty, secularism, social justice and democracy.
- To undertake and propagate positive and liberal interpretations of religion which are in consonance with principles of justice, equality, fairness and protection of human rights.
- To take forward the process of legal reforms within the Muslim personal law
- To oppose fascism, exploitative capitalism, communalism, imperialism in all its forms and to support peace, justice and uphold human rights
- To collaborate and build alliance with other movements and networks that are fighting for social equality and human rights.
- To understand the caste hierarchies within the Muslim community and raise the issues of Dalit Muslims. To create an alternative progressive voice within the Muslim community.

The BMMA works for all the rights and duties emanating from the Constitution of India. Over the 17 years, the membership has increased to 100,000 in 15 states. Our membership is open to all, including men, who share our vision and mission and are secular.

**REFORM THE MUSLIM FAMILY LAW**  
**MUSLIM WOMEN HAVE WAITED TOO LONG**  
**FOR GENDER JUSTICE**

We see the discussions around UCC a critical time for Muslim women to demand legislative reforms. While the whole country debates around UCC, Muslim women must get legislative protections around issues of polygamy, child marriage, halala/muta/misyar, equal inheritance rights, equity in custody/guardianship rights and right to adopt legally.

For the Muslim community, the first set of reforms so to say began close to a century back in 1937 in the form of the Shariat Application Act. Followed by another quick codified law in 1939 [Dissolution of Muslim Marriage Act]. For the next 50 years no reforms happened and for the worse, the 1986 MWA, removed the Muslim women from the ambit of the criminal law of maintenance and brought in a law that gave a free reign to the Muslim men to run away from their responsibility of paying post-divorce maintenance. The fight for a law against triple divorce [2019] was also a long drawn one with many religious groups opposing any disruption in the practice that had rendered scores of Muslim women homeless and destitute.

It is high time that Muslim women get a gender just law protecting her rights within the family in the form of a comprehensively codified Muslim family law. The community which began earlier [1937] than the others on the road to reforms lagged behind so much that today in 2023 the second largest minority in the world is deprived of protection within the family. Its women have suffered the most at the hands of discriminatory practices imposed on her in the name of Islam.

### **Codify the MPL based on our draft**

BMMA has been demanding a codified Muslim family law since 2007 and has even prepared a draft of the same. This process enabled BMMA to bring the issue of law reform out of the closet into an open debate and has also rendered the Muslim clerics exposed with their blatant sexism and misogyny.

The fact that Muslim women continue to suffer from other discriminatory practices, the need of the hour is legal protection to Muslim women on issues of polygamy, child marriage, inheritance rights, adoption and custody of children.

Please attached the full draft of the law prepared by BMMA, which covers all issues under family law, which

need reforms. A community that has been deprived of a codified law [a privilege enjoyed by all others], it would be happier if its own law is codified and made gender just.

### **Include Muslim community in the laws against polygamy and child marriage**

In the last 3-4 years, BMMA has also been demanding piece meal reforms by including Muslim community into the fold of existing laws on polygamy and child marriage. All non-religious laws related to family issues are without exception applicable to all citizens. However, within and outside the Muslim community and within the judiciary, there is an understanding or rather a misunderstanding that these laws are not applicable to the Muslim community. As a result, Muslim women are deprived of their right to legal protection through the laws of the land. While all women including the minority Christian and Parsi women enjoy the provisions of IPC 494 against polygamy, Muslim women have been kept out of its ambit. Various High Court judgments on child marriage too, give an ambiguous picture. If not a fully codified family law, at least allow the laws against polygamy and child marriage applicable to the Muslim community. BMMA has been demanding that Muslim community must come under the ambit of the Prohibition of Child Marriage Act, 2006 and 494 IPC.

## **Uniform Civil Code**

While BMMA understands the ruling government's push for UCC to achieve gender justice, portraying the Muslim community as the main hurdle to it serves no one. Many groups like the Sikhs and the Tribals and political parties have also shown their apprehension. It also means that the government must have more in-depth consultations with all religious and ethnic groups, going beyond the submissions to the Law Commission. UCC must not be a polarizing issue, especially when its intent, as stated by the government, is national integration. Government must also not make UCC another stick to beat the Muslim community with since UCC is not a Muslim issue but concerns all citizens.

Communities, including the Muslim community will not be open to any Code if it appears to polarize the society or to be targeting any specific community. Whatever the final look of the UCC would be, if at all, it must reflect the needs of each community. The process of arriving at a Code must be inclusive and collaborative.

Muslim women will not benefit from any uniform law if it does not provide her with legal protection against discriminating practices. For e.g. If the Code does not

prohibit halala, muta, misyar practices then it does not help Muslim women. There are many practices of the Muslim community, which are empowering like the mehr, express consent of bride, out of court arbitration structures etc., which should to be retained for the benefit of women.

After assimilating the suggestions from the Law Commission if a UCC is truly what all communities want then the draft must be shared with all and with open possibilities of further changes and amendments. If the government is truly concerned about gender justice, then the UCC must be inclusive of all voices of women across caste, community and ethnicity, and it must not be a rushed affair for political benefits.

Please see attached the 25-point provisions, which highlight the crucial demands of Muslim women, which must be included and reflected in any reforms process.

**THE MUSLIM FAMILY LAW, 2017**  
**Draft of the Bill**  
**Third Amendment**

A Bill to consolidate, clarify and codify the provisions of Muslim family law and related procedure regarding marriage, divorce, maintenance during marriage, maintenance after divorce and widowhood, custody and maintenance of children, adoption and inheritance.

**A. STATEMENT OF OBJECTS AND REASONS**

a) The Muslim Personal Law (Shariat) Application Act, 1937 was to ensure that customary law does not take the place of Sharia. The attempt at codifying the provisions of the Sharia or the Muslim Personal Law began with the passing of the Dissolution of the Muslim Marriage Act in 1939. However, the process stopped to the passing of the Protection of Women on Divorce Act, 1986. Barring these two legislations the other aspects of Muslim Personal Law has remained uncoded. In the absence of a codified law, customary practices, which are divergent from the values and principles of the Quran have emerged. Globally, new codes have been introduced in Muslim countries with the hope that they will introduce the rule of law in family matters and end arbitrariness and variances in judicial decisions. In India, there is a need to have a comprehensive codified family law for



Muslims to ensure justice within the family. This Bill is a step towards that end.

- b) Based on the Constitutional provision, just as personal laws of other religious communities have been codified, the Muslim personal law must also be codified in a way that it is in consonance with the Fundamental Rights enshrined in the Constitution.
- c) Based on the values, principles and injunctions of the Quran, this Bill should be based on the spirit of equality and justice, which are the basic premise of an Islamic law.
- d) Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by United Nations in 1979 and ratified by India in 1993. CEDAW requires that all forms of discrimination against women are to be condemned and it is the responsibility of the state to take the initiative to make appropriate legislative laws and measures, to prohibit all forms of discrimination against women and establish legal protection of their rights on an equal basis with men.
- e) It is imminent that India joins the league of other nations, which have codified their family law in order to bring uniformity and certainty in the application of personal laws without infringing on the right of communities governed by their own personal laws.

## **B. PRELIMINARY**

### **a. Short title and extent**

- i. This Act may be called The Muslim Family Law.
- ii. It extends to the whole of India and applies to all Muslim citizens of India.
- iii. It shall come in to force on such date as the Central Government may appoint by notification in the Official Gazette.

### **b. Application of the Act**

- i. This act applies to all Muslims as per the definition given in this Act.
- ii. For matters concerning Muslim marriage, divorce, maintenance during marriage, maintenance after divorce and widowhood, custody and maintenance of children, adoption and inheritance between parties married according to Muslim Law, the provisions of this Act shall apply notwithstanding anything contained in any other law for the time being in force.
- iii. A marriage solemnized between Muslims before the commencement of this Act, which was otherwise valid, shall not be deemed to be invalid by reasons rendering the marriage invalid under this Act. This Act shall have a prospective effect only.
- iv. Nothing contained in this Act shall be deemed to effect the provisions contained in The Special Marriage Act, 1954 with respect to marriages between Muslims

solemnized under that Act, whether before or after the commencement of this Act.

**c. Overriding effect of Act**

- i. Any other law or any custom or usage as part of that law in force immediately before the commencement of this Act, shall cease to have effect in so far as it is inconsistent with any provision contained in this Act.
- ii. Any other provision of uncodified shariah law, which is in contravention to the provisions of this law, hereby stands cancelled.

**Notes**

- a) Amended Dissolution of Muslim Marriage Act, 1939 has been incorporated in this Act.
- b) The Muslim Women's Protection Act, 1986 will continue to apply to the Muslim community except those provisions, which are in contravention of the provisions of this Act.
- c) The Muslim women will continue to take advantage of the other laws of the land like The Dowry Prohibition Act, 1961, Protection of Women from Domestic Violence Act, 2005, Juvenile Justice [Care and Protection of Children] Act, 2000, Prohibition of Child Marriage Act, 2006 and other laws as deemed fit.

## **C. DEFINITIONS**

### **a. Arbitrators:**

Individuals in welfare agencies registered under the relevant government Act as well as registered under this Act according to the Rules. A Qazi can also act as an Arbitrator provided she/he is registered as an Arbitrator under this Act.

### **b. Court:**

In any area where there is a city civil court, that court, and in any other area the principal civil court of original jurisdiction and includes any other civil court, which are to be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act.

### **c. Halala:**

It is a practice where a woman needs to do a consummated nikaah with another man in order to go back to her former husband.

### **d. Iddat:**

It is period of waiting for a woman who is being divorced or whose husband has died, upon the expiry of which a remarriage is permissible. In this period, no other restrictions are enforceable except marriage and the woman is free to continue with all her activities.

- i. This period is three menstrual courses after the date of divorce, if she is subject to menstruation.
- ii. It is three lunar months after her divorce, if she is not subject to menstruation.

- iii. This period of waiting is 4 months and ten days after the date of death of the husband.
- iv. If she is pregnant at the time of the death of her husband, the period extends between the death of the husband and the delivery of her child.

**e. Marriage:**

Marriage or Nikah is a solemn pact or mithaq-e-ghaliz' between a man and a woman, soliciting each other's life companionship, which in law takes the form of a contract or aqd. [Ref: Section 2 of Muslim Women (Protection of Rights on Divorce) Act, 1986]

**f. Maintenance:**

Maintenance includes an entitlement to food, clothing, residence, educational and medical expenses and all other personal expenses of woman according to the lifestyle the parties have enjoyed during their marriage and the economic status of the husband.

**g. Mehr [Dower]:**

It is the Quranic right of every Muslim women who constituting a consideration for marriage. It is meant for the financial security of the bride in terms of a sum of money or other property or both to be paid to the bride by the bridegroom at the time of the nikaah as a condition precedent for solemnization of their marriage as specified in the Nikaahnama.

**h. Muslim:**

Any person by birth or by conversion who professes the religion of Islam, in other words accepts the unity of God

and the prophetic character of Mohammed. [Ref:Amir Ali]

**i. Nikaahnama:**

The enforceable written marriage contract wherein the consent of the parties and other terms and conditions of marriage are stipulated and signed by both parties, qazi as well as four witnesses, two from each party of either sex. [Annex 1]

**j. Prohibited Degrees:**

Degrees of prohibited relationship as specified within which marriage is not permissible. [Annex 2]

**k. Registered Qazi:**

Qazi of either sex undergone training in Islamic law by a registered organization and registered under this Act as per the Rules.

**l. Registered Welfare Organizations**

After coming into force of this Act any organization, registered under any law for the time being in force in India, and working for the welfare of men, women, children, youth, aged, disabled and the likes, and providing counselling services and other psycho-social support in their day-to-day activities, and is also registered under this Act.

**m. Unsound Mind:**

A person of unsound mind is an adult who from infirmity of mind is incapable of managing himself or his affairs. [Ref: Black's Law Dictionary]

**n. Witness:**

Adults of either sex with address and identity proof.

**D. SOLEMNIZATION AND REGISTRATION OF MUSLIM MARRIAGES**

**a. Conditions relating to Solemnization of Muslim Marriage**

Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two Muslims may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled, namely:

- i. Every marriage solemnized under this Act shall include payment of Mehr as specified in this Act.
- ii. Express and unambiguous consent of both parties is necessary before a marriage contract becomes valid. Qazi needs to ensure that the consent obtained is without undue influence, coercion and fraud.
- iii. The bridegroom has completed the age of twenty-one years and the bride has completed the age of eighteen years authenticated from reliable proofs or records of the date of birth.
- iv. The parties are not within the degrees of prohibited relationship as mentioned in the Annex no. 2 of this Act.
- v. In the subsistence of one marriage a man cannot marry another woman.

## **b. Procedure for Solemnization of Muslim Marriage**

- i. For the solemnization of the marriage, the parties have to approach a qazi
- ii. The parties have to send a letter of application to a qazi 30 days before the date of solemnization where either bride or groom is residing for the last 30 days.
- iii. The procedure of solemnization would include ijaab [proposal of the marriage] and qubool [acceptance of the proposal]. Both the proceedings of ijaab and qubool must happen in the same sitting in the presence of witnesses and the qazi.
- iv. Nikaahnama must be filled up and original, true copies of the same is to be provided to both the parties.

## **c. Responsibilities of the Qazi**

- i. The qazi must take separate application from both the parties asking the said qazi to solemnize the said marriage.
- ii. The said qazi shall ensure that both parties have fulfilled the conditions related to the solemnization of marriage as specified in this Act.
- iii. The said qazi shall demand from both parties' authentic proofs pertaining to dates of birth and their place of residence and retain copies of the same after having them personally authenticated.
- iv. The qazi must ensure that the bride knows and consents to marry the bridegroom, if his previous



wife has been divorced or deceased and has children from the said marriage.

- v. The qazi solemnizes the said marriage by filling up the nikaahnama as annexed to this Act. The nikaahnama, shall be signed by the said qazi, both the contracting parties and two witnesses from each party. They all should present at the time of marriage.
- vi. A copy of the certified nikaahnama shall be a conclusive proof of the solemnization of that marriage.
- vii. The qazi shall maintain a proper record of the marriage and give duly certified true copies of the nikahnama to both the parties.
- viii. A qazi can act as an Arbitrator if they are registered under this Act as an Arbitrator.
- ix. The qazi must ensure that the parties submit the divorce papers of previous marriage if divorced and death certificate in case of the death of the previous spouse. In case where the party is marrying for the first time, it must submit to the qazi affidavit stating that it is his/her first marriage.
- x. The qazi must meet the parties to the marriage separately as well as together to ensure that the parties know about each other's background and he will also ensure their willful and free consent to the said marriage.

#### **d. Mehr**

- i. The minimum amount of mehr shall not be less than his one full annual income which could be his income from property, business, agricultural or commercial land and salary. The groom may give Mehr either in the form of cash/gold/kind.
- ii. If income/salary cannot be determined then the mehr can be fixed based on the minimum wages of his occupation where he is residing.
- iii. The mehr must be prompt and must be paid to the bride at the time of the marriage.
- iv. The mehr is the wife's exclusive property. It is to be used by her at her absolute discretion without any manner of interference from parents and relatives of both parties.
- v. The wife, cannot be forced or compelled or emotionally pressurized to forego/return the mehr anytime during the subsistence of marriage or after divorce or widowhood.
- vi. The groom/husband and his family cannot demand dowry nor can they casually and innocently express their desire for dowry before or during the subsistence of marriage.

#### **e. Registration of Muslim Marriages**

- i. Immediately on solemnization of the marriage the signed nikaahnama should be registered by the

parties at the local state bodies like the Panchayat, Block Office, District office, Ward Office or Marriage Registrar Office under the relevant marriage registration Act.

- ii. The parties must ensure that they each have true, original copies of the registration certificate.
- iii. The qazi may take additional responsibility of registration of the said marriage if the parties wish so.

**f. Responsibility of the Witness:**

The witnesses must sign the relevant documents and ensure that the party to which they are supporting as witness must have the relevant documents, which is;

- i. Death certificate if the spouse of the party has died
- ii. Divorce papers if the party has been divorced
- iii. Whether the party they are supporting is previously married.

**E. TEMPORARY PROHIBITIONS IN MARRIAGE**

**a. Irregular Marriage (Fasid Nikaah)**

Any marriage solemnized shall be considered irregular:

- a. If two adult witnesses are not present at the time of nikaah.
- b. If the marriage has been solemnized during the period of iddat.
- c. If the marriage has been solemnized without the qazi

- d. If the marriage is not registered as mentioned in this Act
- e. If the amount of mehr is not paid

### **b.Regularization of Irregular Marriage**

All marriages termed irregular in this Act can be regularized. The rights of women and children accruing from the said marriage shall not be affected if the marriage is not regularized. The regularization process would include:

- i. Approaching a qazi along with witnesses and attaching affidavits from all witnesses affirming the said marriage.
- ii. Approaching a qazi after which the parties will give an affidavit stating that the period of iddat is over deeming their marital status legal under this Act.
- iii. Approaching a qazi and re-solemnize the marriage with a fresh nikhanama
- iv. The parties themselves should take their filled up nikhanama along with an affidavit and register it with the authority as specified in this Act.
- v. Payment of mehr as promised.

## **F. INVALID MARRIAGE**

Any marriage solemnized under this Act shall be an invalid marriage:

- i. If the consent of either party to the marriage contract has been obtained by force, coercion, undue influence or fraud.
- ii. If the bride and groom are within the prohibited degrees as specified in Annex 2 of the Act.
- iii. If the bride and groom have not completed 18 and 21 years of age respectively
- iv. If the husband has entered into another marital contract in the subsistence of a marriage contract, the second marriage will be an invalid marriage.

**F.1** In case of underage marriage, the provisions of The Prohibition of Child Marriage Act, 2006 will apply.

**F.2** In any of the above four incidents of invalid, marriage the qazi who has solemnized the said marriage will be penalized.

**F.3.** The rights of women in any of the above four incidents of invalid marriage must be protected.

## **G. DIVORCE**

- a. This Act recognizes 3 forms of separation between husband and wife:
  - i. Demand for divorce by wife [Khula/faskh]
  - ii. Demand for divorce by husband [Talaak]
  - iii. Divorce by mutual consent [Mubarah]

- b. In the event of Talaak, Khula/Faskh and Mubarah, the parties will follow the Talaak-e-Ahsan method of divorce.
- c. No rights of the wife, are forfeited in the event of Khula.
- d. The wife has the right to refuse to stay under the same roof during iddat if she fears physical and emotional harm.
- e. The demand of khula by wife is not dependent on the consent of the husband. The Arbitrators can terminate the marriage in the absence of consent of the husband in case of khula [faskh-e-nikaah].
- f. The procedure of Talaak-e-Ahsan also signify restitution of conjugal rights.
- g. In the event of divorce by mutual consent i.e. mubarah;
  - i. Both the parties to the marriage present a joint application to for the dissolution of their marriage on the ground that they have mutually agreed to dissolve the marriage.
  - ii. After the joint application is submitted, the period of iddat follows. After 3 months or 3 monthly courses the divorce is finalized. Since this iddat period is required to ensure absence of pregnancy, medical test may be considered for verification or absence of pregnancy.
  - iii. The rights of women are to be ensured in the event of mubarah

## **H. PROCEDURE OF DIVORCE**

A Muslim marriage can be dissolved either in the court or outside the court.

### **H.1. Dissolution of Marriage Through Court:**

#### **H.1.1. Grounds for decree for dissolution of marriage by wife:**

A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage from the court on any one or more of the following grounds, namely that the:

- a. Whereabouts of the husband, have not been known for a period of two years;
- b. Husband has neglected or has failed to provide for her maintenance for a period of two years;
- c. Husband has failed to perform, without reasonable cause, his marital obligations for a period of two years
- d. Husband has been, sentenced to imprisonment for a period of two years or upwards;
- e. Husband was impotent at the time of the marriage and continues to be so;
- f. Husband has been of unsound mind for a period of two years or has been suffering from leprosy or a virulent venereal disease;
- g. Husband has, after the solemnization of marriage, treated her with cruelty; that is to say:

- i. Habitually assaults her or makes life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or
  - ii. Associates with persons of evil repute or leads an infamous life, or
  - iii. Attempts to force her to lead an immoral life, or
  - iv. Disposes of her property or prevents exercising of legal rights over it, or
  - v. Obstructs in the observance of religious profession or practice, or
- h. Husband has maintained, after solemnization of marriage, sexual relations with persons other than his own wife;
- i. That due to irretrievable breakdown of marriage, life together has become impossible or intolerable;

**I. Provided that,**

- i. The woman may be permitted to file a petition for divorce, within such reasonable time period which is shorter than the time periods provided in clause (H.1.1), (a), (b), (c), (d) and (f) of this section, if the court is satisfied that the same is expedient in the interest of justice and equity;
- ii. No decree shall be passed on ground H.1.i(d) until the sentence has become final;
- iii. A decree passed on ground of H.1.1(a) shall not take effect for a period of six months from the date of such



decree, and if the husband appears either in person or through an authorized agent within that period and satisfies the court that he is prepared to resume conjugal relations, the court shall set aside the said decree; and

- iv. Before passing a decree on the ground of H.1.1(e) the court shall, on application by the husband, make an order requiring the husband to satisfy the court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the court within such period, no decree shall be passed on the said ground.

### **H.1.2. Grounds for decree of dissolution of marriage by husband:**

A man married under Muslim law shall be entitled to obtain a decree for the dissolution of his marriage from the court on any one or more of the following grounds, namely that the:

- a) Whereabouts of the wife have, not been known for a period of two years;
- b) Wife has been, sentenced to imprisonment for a period of two years or upwards;
- c) Wife has been incurably of unsound mind for a period of two years or has been suffering from leprosy or a virulent venereal disease;
- d) Wife has, after the solemnization of marriage, treated him with cruelty;

- e) Wife has maintained, after solemnization of marriage, sexual relations with persons other than her own husband;
- f) That due to irretrievable breakdown of marriage, life together has become impossible or intolerable;

**I. Provided that,**

- i. A man may be permitted to file a petition for divorce, within such reasonable time period which is shorter than the time periods provided in clause H.1.2(a), (b) and (c) of this section, if the court is satisfied that the same is expedient in the interest of justice and equity;
- ii. No decree shall be passed on ground H.1.2.(b) until the sentence has become final;
- iii. A decree passed on the ground H.1.2.(a) shall not take effect for a period of six months from the date of such decree, and if the wife appears either in person or through an authorized agent within that period and satisfies the court that she is prepared to resume her conjugal relations, the court may set aside the said decree.

**II. Notice is to be served on heirs of the spouse, when the spouse's whereabouts are not known.**

- i. The names and addresses of the persons who would have been the heirs of the spouse under Muslim law if they had died on the date of the filing of the complaint shall be stated in the complaint,

- ii. Notice of the suit shall be served on such persons, and
- iii. Such persons shall have the right to be heard in the suit.

### **III. Procedure to be followed before granting decree of divorce.**

Upon receiving the application for decree of dissolution of marriage from either of the party to marriage on any of the grounds mentioned above, the court shall:

- i. Appoint three Arbitrators - one Arbitrator each from the family of both parties as nominated by the parties themselves and one member from a welfare organization registered as per the provisions of this Act for the purpose of attempting reconciliation between the parties within 30 days of the date of application, provided that at least one Arbitrator should be a woman;
- ii. Direct the parties to attend and fully participate in the reconciliation proceedings. It is to be commenced by Arbitrators within two weeks of their appointment;
- iii. Direct the Arbitrators to conduct their duties in a fair, just and impartial manner;
- iv. Direct the Arbitrators to submit their report to the court within a period of 3 months from the commencement of reconciliation proceedings

- indicating the conclusion of the reconciliation process and the reasons for reaching that conclusion;
- v. After receiving the report of the Arbitrators, send a copy each to both the parties;
  - vi. Direct both parties to submit objections, if any, to the report within a period of 30 days from the date of receiving the report;
  - vii. If the parties have reached an agreement and differences are resolved, dismiss the suit or if the parties fail to reach an agreement, continue the procedure for the suit for decree of dissolution of marriage.

IV. Provided that the court may make such interim orders, notwithstanding anything contained in any other law for the time being in force, for maintenance of the wife and children, if any, as appropriate for the whole or part of the duration of the procedure laid down in this section.

- V. Settlement of rights of the parties before final decree
- i. Notwithstanding any proceeding initiated under this Act, every woman shall have the right to institute any proceeding, simultaneous or on conclusion of proceedings under this Act, under any or all of the following legislations:
    - a. Muslim Women (Protection of Rights on Divorce) Act, 1986.

- b. Protection of Women from Domestic Violence Act, 2005.
  - c. S.125 of the Code of Criminal Procedure, 1973.
  - d. Any other law for the time being in force, applicable to her.
- ii. Provided that it shall be the duty of the court to ensure that the woman is aware of this right.
- iii. The court may pass such interim orders or make such provisions in the decree as may deem just and proper, when so petitioned, related to maintenance, inheritance, custody and education of children, consistent with their wishes wherever possible. The court may, even after the decree, upon application by petition for this purpose, make from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as may deem just and proper to the court. The court may also from time to time vary any such orders and provisions previously made.

Provided that the application with respect to the interim maintenance and education of the children, pending the proceeding for obtaining such decree, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the respondent.

## **H.2. Dissolution Of Marriage Outside Court**

The grounds on which either party is seeking divorce are the same as mentioned in H.1.1 and H.1.1

### **Procedure**

Dissolution of marriage proceedings, by whatever name called, initiated by either or both the parties to a marriage without the intervention of a court, to be concluded through the following procedure only:-

#### **i. STEP 1**

As a first step, when there is a marital discord, the husband/ wife will reason out with each other through discussions.

#### **ii. STEP 2**

If differences persist, then as a next step, the parties sexually distance themselves from each other in the hope that this temporary physical separation may encourage them to unite.

#### **iii. STEP 3**

And if even this fails, they will once again discuss the seriousness of the situation and try to bring about reconciliation.

#### **iv. STEP 4**

If the dispute is still remains unresolved, as a fourth step, the parties to the dispute must place their matter before two Arbitrators nominated by the family, one from the family of each spouse, for resolution. The family Arbitrators must approach Arbitrators of a

registered organization, as mentioned in this act, for the resolution of their marital discord.

- a) It is only after the failure of the aforementioned four attempts at reconciliation that the first talaq is to be declared by the Arbitrators in the presence of two witnesses and both the parties. This declaration of divorce is to be followed by a waiting period called the iddat. Not more than two divorces can be pronounced within this period, the duration of which is three monthly courses.
- b) For women who have attained menopause or suffer from amenorrhea the period of iddat is three months, and in the case of pregnant women it is till the termination of pregnancy.
- c) And if the parties are unable to unite during iddat, the second and the final irrevocable talaq can be pronounced by the Arbitrators but only after the expiry of the iddat. Once the second and the final talaq has been invoked the marital bond is severed and the parties cease to be of any relation to each other.
- d) However, even after iddat has lapsed and before the pronouncement of the second and final talaak by the Arbitrators, the contending parties have a chance to reunite by re-contracting the marriage, provided the final talaq has not been declared.

- e) In other words, after the expiry of iddat, the parties are given the options of remarriage or permanent separation.
- f) All decisions taken before the witnesses and Arbitrators must be recorded. The final divorce at the end of iddat must also be recorded in a talaaknama by the Arbitrators.
- g) The rights of the women on divorce must be safeguarded by the Arbitrators and must be mentioned in the talaaknama.
- h) Original copies of the same must be provided to both the parties.

**NOTE:**

- I. The pronouncement of final talaak should be during the period of tuhr
- II. The four steps mentioned above signify restitution of conjugal rights
- III. The parties can also approach the Indian courts directly for the dissolution of their marriage
- IV. Before making the second and final pronouncement of divorce, the Arbitrators must ensure that all matters related to dower, jewelry, household items, maintenance of the women and children, inheritance, custody, education of children, residence of divorced women has been amicably and fairly settled.
- V. Once the second and final pronouncement of dissolution of marriage has been made, the parties are no longer married to each other.



### **H.3. Rights of women not to be affected**

- i. Notwithstanding that the dissolution of marriage proceedings have been initiated at the behest of the wife (khula), it will not affect any of the rights to dower and maintenance and all rights as mentioned in Note (iv) that the wife is otherwise entitled to.
- ii. Notwithstanding the dissolution procedure, the wife shall be entitled to institute any proceeding in the appropriate court under any or all of the following legislations -
  - a. Muslim Women (Protection of Rights on Divorce) Act, 1986.
  - b. Protection of Women from Domestic Violence Act, 2005.
  - c. S.125 of the Code of Criminal Procedure, 1973.
  - d. Any other law for the time being in force, applicable to her.

### **H.4. Dissolution of marriage outside court through any other procedure to be invalid**

After coming into force of this Act, dissolution of marriage, by whatever name called, initiated outside court shall be concluded only through the procedure mentioned in this Act. Dissolution of marriage concluded through any other procedure, in contravention of the procedure mentioned shall be invalid and without any legal effect.

## **H.5. Refusal of spouse to cooperate**

If in a proceeding initiated by one spouse, the other spouse refuses to cooperate or refuses to participate in the reconciliation or dissolution of marriage proceedings initiated at the behest of one spouse, it may amount to cruelty of conduct and may be a ground for approaching the court for dissolution of marriage.

## **H.6. Decree of dissolution of marriage concluded outside court**

- a) If the parties married under Muslim Law have concluded a dissolution of marriage by following the procedure provided, then they shall approach the court for a decree of dissolution of marriage.
- b) Each of the party will submit to the court an application asking for a decree of dissolution of marriage. Along with the application the parties will submit the Arbitrators' report which states the procedure followed for divorce and the confirmation that the parties have settled all issues fairly and amicably;
- c) After satisfying itself of the veracity of the affidavits and that the procedure outlined in this Act has been followed, the court shall either pass a decree of dissolution of marriage, in accordance with the other provisions of this Act, or dismiss the petition directing the parties to first comply with the requirements of this Act.

- d) Provided that if any party objects to any settlement related to dower and maintenance of wife and/or maintenance, custody, inheritance, education of children, the court may deem such an objection as non-fulfillment of procedure outlined and may dismiss the petition, requiring the parties to reach a settlement first and then file a fresh application for decree of divorce.

### **H.7 Effect of conversion to another faith**

- a) The renunciation of Islam by a married Muslim woman or man or her/his conversion to a faith other than Islam shall not by itself operate to dissolve her/his marriage;
- b) Provided that after such renunciation, or conversion, the woman or man shall be entitled to obtain a decree for the dissolution of their marriage on any of the grounds mentioned in Section H.1.1 and H.1.2;
- c) Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

### **H.8. Remarriage between parties who have concluded dissolution of marriage**

- a) Parties who have concluded dissolution of marriage either before or after the coming into force of this Act and who intend to remarry each other without any compulsion, force or threat can do so by contracting a

fresh marriage after the waiting period as prescribed under this Act is over.

- b) No woman can be compelled through coercion, force, threat or by any other means to undergo a consummated marriage and subsequent dissolution of that marriage before she can remarry a man with whom she was married earlier but that marriage was dissolved.
- c) Any person who compels a woman through coercion, threat, fraud or by any other means to undergo a consummated marriage and subsequent dissolution of that marriage in order to remarry a man with whom she was married earlier but that marriage was dissolved shall be punishable with an imprisonment of six months or fine or both.
- d) Any person who solemnizes or acts as a witness to a marriage knowing that the marriage is being contracted for the sole purpose of consummation and subsequent dissolution in order to compel a woman to remarry a man she was earlier married to shall be punishable with an imprisonment of three months or fine or both.
- e) Any offence punishable under this Act shall be deemed to be bailable and non-cognizable, within the meaning of the Code of Criminal Procedure, 1973 and will be triable by a Magistrate, as provided in the Code.

## **H.9. Automatic dissolution of marriage after lapse of a certain period of time**

- a) Notwithstanding anything contained in any contract to this effect, any dissolution of marriage which takes place automatically after lapse of a certain period of time prescribed in the nikahnama or otherwise will be invalid and without any legal effect unless such dissolution follows the procedure laid down in this Act.
- b) Notwithstanding that a marriage is invalid or irregular any child of such marriage shall be deemed to be legitimate under this Act.

## **I. MAINTENANCE**

### **I.1. Maintenance during Marriage and Widowhood:**

Maintenance as per this Act, includes an entitlement to food, clothing, residence, educational and medical expenses and all other personal expenses of wife.

- a. The responsibility of maintaining the wife and children, even if she has an independent source of income is with the husband.
- b. During the process of arbitration, the maintenance of the wife and children will be the responsibility of the husband.
- c. During the subsistence of the marriage, if the custody of the child is with the mother, then the responsibility of maintenance of the child is with the husband.

b) Procedure for obtaining maintenance from the husband during the subsistence of marriage is the same as enlisted in Section 126 of the Code of Criminal Procedure, 1908.

a. The widow has a right to maintenance and right to stay in matrimonial home.

b. Maintenance during iddat period is the same as that provided during the subsistence of the marriage

## **I.2. Maintenance after Divorce:**

- i. The provisions of maintenance after divorce are to be governed by the Muslim Women (Protection of Rights on Divorce) Act, 1986.

## **J. CUSTODY OF CHILDREN**

### **J.1. Natural Guardians:**

Both mother and father are considered natural guardians of the child.

### **J.2. Custody of children after divorce:**

- a. In the event of a divorce, regardless of who amongst the spouse initiates the divorce, the decision regarding the custody of all children (male and female) will reside with the mother until they reach the age of 10 when the child can decide for himself/herself. In any

case it is the responsibility of the father to provide maintenance for the child.

- b. After reaching the age of 10 the parent not having the custody can apply for custody of the child to an Arbitrator. The consent of the child will be sought by the Arbitrators.
- c. The parent who has lost the custody of the child will get fair visiting rights.
- d. Only if the child is not able to take a decision the Arbitrators shall take the decision based on the principle of the best interest of the child which includes the child's physical, emotional and economic security.
- e. In the event when the custody of the child is with the mother, it is the responsibility of the father to financially maintain the child.

### **J.3. Custody of the children of widows:**

The mother continues to be the natural guardian of the children after she becomes a widow.

### **J.4. In the event that the child is not able to take a decision the Arbitrators while making a decision should keep the following guidelines in mind:**

- a. Consider the quality of the upbringing of the child till date
- b. The health, education, physical and emotional safety of the child.

### **J.5. Custody of the child is not necessarily lost if:**

- a. Either parent change their respective religion
- b. Either of the parent remarries

### **K. INHERITANCE**

The issue of inheritance should not be linked to women's rights to mehr, dowry, gifts which a woman might receive in due course of her life.

- a. The distribution of property can be made as per the Quranic verses 4:11 and 4:12
- b. The portions mentioned in the Quran are to be allotted after making a will and clearing debts.
- c. To equalize the daughters share with the son, the parents can make a gift-deed or HIBA for their
- d. Daughters so that all offspring get equal share of the parent's property.
- e. The grandson or granddaughter can inherit from the grandfather/grandmother in case of the death of the intervening son
- f. The wife has right to receive part of husband's property and an additional specified share in lieu of her housework contributing to the conjugal home and property creation.

### **L. Adoption**

The Supreme Court judgment in 2014 has decreed that prospective parents irrespective of their religious background are free to adopt children after the prescribed



procedure. Child can be adopted by Muslim parents under the Juvenile Justice [Care and Protection of Children] Act, 2000 [as amended in 2006]

## **M. ARBITRATION**

The parties can choose to go for Arbitration in the event of a dispute.

### **M.1. Nature of Arbitrators**

- a. Arbitrators could be registered welfare agency, which is
- b. Also registered under this Act as per the Rules.
- c. Having at least 50% women members, preferable Muslim women
- d. Has an impeccable record of social justice

### **M.2. Duties and Responsibilities of the Arbitrators:**

- a. The Arbitrators can arbitrate on all matters mentioned in this Act.
- b. The Arbitrators must follow the rule of giving both the sides a chance to be heard.
- c. The Arbitrators are mandated to keep a record of all proceedings during this process as well as a record of all decisions taken.
- d. In case of a divorce, the Arbitrators should safeguard the rights of the women by listing them out on the divorce document and give true, original copy of the same to both the parties.

e. After following the principles of natural justice, a just and fair decision should be made by the Arbitrators on all matters mentioned in the Act.

**Annexures:**

Annex 1: Nikaahnama and Iqrarnama

Annex 2: Degrees of prohibited relationships

**Annex 1**  
**Bharatiya Muslim MahilaAndolan**  
**Nikaahnama and Iqrarnama**

**1. This Nikaahnama is in consonance with the Holy Quran.**

**2. This nikaahnama is entered into at \_\_\_\_\_[City] and \_\_\_\_\_[State] on \_\_\_\_\_[date, month, year] between \_\_\_\_\_[bride] and \_\_\_\_\_[bridegroom]**

**3. This Nikaahnama is subject to the exclusive jurisdiction of court where bride resides at any future date.**

**4. Personal details of the Bride:**

a. Full name of the bride: \_\_\_\_\_

b. Date of Birth: \_\_\_\_\_

c. Educational Qualification: \_\_\_\_\_

d. Photo ID and Aadhar Card No: \_\_\_\_\_

e. Mother Name: \_\_\_\_\_

f. Fathers Name: \_\_\_\_\_

g. Permanent address: \_\_\_\_\_

h. Temporary Address: \_\_\_\_\_

i. Marital Status:(Single/Widow/Divorcee): \_\_\_\_\_

**5. Personal details of the groom:**

- a. Full name of the groom : \_\_\_\_\_
- b. Date of Birth: \_\_\_\_\_
- c. Educational Qualification: \_\_\_\_\_
- d. Photo ID and Aadhar Card No : \_\_\_\_\_
- e. Mother Name: \_\_\_\_\_
- f. Fathers Name: \_\_\_\_\_
- g. Permanent address: \_\_\_\_\_  
\_\_\_\_\_
- h. Temporary Address: \_\_\_\_\_  
\_\_\_\_\_
- i. Marital Status:(Single/Widow/Divorcee): \_\_\_\_\_

**6. Date of the Nikaah [English]:** \_\_\_\_\_

**7. Date of the Nikaah [Islamic]:** \_\_\_\_\_

**8. Full address of the place of Nikaah:** \_\_\_\_\_  
\_\_\_\_\_

**9. Time of Nikaah:** \_\_\_\_\_

**10. Brides Witness No. 1**

- a. Name: \_\_\_\_\_
- b. Date of Birth: \_\_\_\_\_
- c. Photo ID and Aadhar Card No: \_\_\_\_\_
- d. Address: \_\_\_\_\_  
\_\_\_\_\_
- e. Relation to the bride: \_\_\_\_\_

**11. Brides Witness No. 2**

- a. Name: \_\_\_\_\_
- b. Date of Birth: \_\_\_\_\_
- c. Photo ID and Aadhar Card No: \_\_\_\_\_
- d. Address: \_\_\_\_\_
- \_\_\_\_\_
- e. Relation to the bride: \_\_\_\_\_

**12. Bridegrooms Witness No. 1**

- a. Name: \_\_\_\_\_
- b. Date of Birth: \_\_\_\_\_
- c. Photo ID and Aadhar Card No: \_\_\_\_\_
- d. Address: \_\_\_\_\_
- \_\_\_\_\_
- e. Relation to the groom : \_\_\_\_\_

**13. Bridegrooms Witness No. 2**

- a. Name: \_\_\_\_\_
- b. Date of Birth: \_\_\_\_\_
- c. Photo ID and Aadhar Card No: \_\_\_\_\_
- d. Address: \_\_\_\_\_
- \_\_\_\_\_
- e. Relation to the groom : \_\_\_\_\_

- 14. Mehr** of Rs. \_\_\_\_\_ [in Figure \_\_\_\_\_]  
\_\_\_\_\_]  
has been paid by the groom.

**15. Mehr in kind** which includes \_\_\_\_\_

\_\_\_\_\_ is been gifted to the bride. [For eg. Gold, silver, fixed deposits, land, demand draft, any other. Please mention the exact quantity of mehr given in kind]

**16. Other Details of the Groom:**

a. Present Occupation: \_\_\_\_\_

b. Address of Place of Employment: \_\_\_\_\_

c. Annual Income: \_\_\_\_\_

d. Particulars of Property [self-acquired and inherited both]: \_\_\_\_\_

**17. Documents Enclosed of Both Parties:** [Please Tick]

a. 4 Passport size photos [mandatory] : \_\_\_\_\_

b. Wedding card [optional] : \_\_\_\_\_

c. Copy of passport/PAN card/voter ID/Adhar card/Light Bill/MTNL Bill:

{Any one residence proof and age proof mandatory} \_\_\_\_\_

d. Proof of employment [mandatory if available]: \_\_\_\_\_

e. Divorce papers if divorced [mandatory]: \_\_\_\_\_

f. Death certificate in case of death of previous spouse [mandatory]: \_\_\_\_\_

**18. Annexures:**

- a. Gifts received by bride from bride's parents and her relatives
- b. Gifts received by bride from groom's parents and relatives
- c. Gifts given by bride to the groom's parents and his relatives

**19. Declaration:**

The bride and groom confirm that each of them have read this nikaahnama, understood its content and have given their consent to this marriage. Nothing has been hidden or concealed by either of them.

**Signatures:**

- a. Signature of bride: \_\_\_\_\_
- b. Signature of the groom: \_\_\_\_\_
- c. Signature of Witness 1 of bride: \_\_\_\_\_
- d. Signature of Witness 2 of bride: \_\_\_\_\_
- e. Signature of Witness 1 of groom: \_\_\_\_\_
- f. Signature of Witness 2 of groom: \_\_\_\_\_

**20. Documents for witnesses from both sides**

Copy of Passport/PAN card/Adhar Card/Light Bill/  
MTNL Bill: \_\_\_\_\_

(Any one proof of residence and age mandatory)

**21. Details of the Qazi:**

a. Name of the Qazi: \_\_\_\_\_

b. Signature of the Qazi: \_\_\_\_\_

c. Address of the Qazi: \_\_\_\_\_

d. Seal of the office of the Qazi:



## **IQRARNAMA**

1. The bride and the groom shall give their express and unambiguous consent for the marriage contract to become valid. This consent must have been obtained without undue influence, coercion and fraud.
2. The age of the bride shall be 18 years and that of the groom 21 years.
3. Mehr
  - Since mehr is the right of the bride at the time of nikaah, the amount has to be paid at the time of the solemnization of the nikaah. The groom has agreed to pay the mentioned amount at the time of nikaah.
  - Minimum mehr of the bride is one annual income of the groom
  - The bridegroom undertakes through this Nikaahnama that he or his relatives or any one on his behalf, shall not in any manner apply any physical, social, emotional, psychological, or economic pressure on the bride to forego the Mehr or to decrease the Mehr amount.
  - Mehr is non-refundable and non-negotiable and shall be the absolute property of the bride and under her exclusive control and power.
4. The husband shall not be entitled to and shall not enter into a second marriage during the subsistence of this first marriage as monogamy is the stated ideal in the Quran.

5. The bride and the groom are not within the degrees of prohibited relationship
6. The said solemnised marriage must be registered under the relevant state Act.

## **7. Divorce**

- The bride and bridegroom agree that in case of marital discord neither party has the right to terminate the marriage unilaterally.
- The right to divorce is shared equally by both the bride and the groom in keeping with the spirit of justice in Islam.
- Unilateral divorce will invite the provisions of The Muslim Women [Protection of Rights on Marriage Act, 2019]
- If matrimonial discord occurs, then the parties shall follow the method given below. No dissolution shall take place while the arbitration process is ongoing and until it is finally concluded.

## **8. Procedure of Dissolution Of Marriage**

Dissolution of marriage proceedings, by whatever name called, initiated by either or both the parties to a marriage without the intervention of a court, to be concluded through the following procedure only:

## **STEP 1**

As a first step, when there is a marital discord, the husband/ wife will reason out with each other through discussions.

## **STEP 2**

If differences persist, then as a next step, the parties sexually distance themselves from each other in the hope that this temporary physical separation may encourage them to unite.

## **STEP 3**

And if even this fails, they will once again discuss the seriousness of the situation and try to bring about reconciliation.

## **STEP 4**

If the dispute still remains unresolved, as a fourth step, the parties to the dispute must place their matter before two arbiters nominated by the family, one from the family of each spouse, for resolution. The family Arbitrators can also approach Arbitrators of a registered organization for the resolution of their marital discord.

a) It is only after the failure of the aforementioned four attempts at reconciliation that the first talaq is to be declared by the Arbitrators in the presence of two witnesses and both the parties. This declaration of divorce is to be followed by a waiting period called

the iddah. Not more than two divorces can be pronounced within this period, the duration of which is three monthly spans.

- b) For women who have attained menopause or suffer from amenorrhea the period of iddah is three months, and in the case of pregnant women it is till the termination of pregnancy
- c) And if the parties are unable to unite during iddah, the second and the final irrevocable talaq can be pronounced by the Arbitrators but only after the expiry of the iddah. Once the second and the final talaq has been invoked the marital bond is severed and the parties cease to be of any relation to each other.
- d) However, even after iddah has lapsed and before the pronouncement of the second and final talaak by the Arbitrators, the contending parties have a chance to reunite by re-contracting the marriage, provided the final talaq has not been declared.
- e) In other words, after the expiry of iddah, the parties are given the options of remarriage or permanent separation.
- f) All decisions taken before the witnesses and Arbitrators must be recorded. The final divorce at the end of iddah must also be recorded in a Talaaknama by the Arbitrators.

- g) The rights of the women on divorce must be safeguarded by the Arbitrators and must be mentioned in the talaaknama.
- h) Original copies of the same must be provided to both the parties.

**NOTE:**

- 1) The pronouncement of final talaak should be during the period of tuhr
- 2) The four steps mentioned above signify restitution of conjugal rights.
- 3) The parties can also approach the Indian courts directly for the dissolution of their marriage
- 4) Before making the second and final pronouncement of marriage, the Arbitrators must ensure that all matters related to dower and maintenance of the woman as well as inheritance, custody, education of children, have been amicably and fairly settled.
- 5) Once the second and final pronouncement of dissolution of marriage has been made, the parties are no longer married to each other.

**9. In the event of divorce initiated by either party the husband shall be bound to comply with the following financial rights of the wife.**

- Mehr (if not paid)
- Gifts received by her at the time of and during the subsistence of the marriage.
- Right to reside in the matrimonial home.

- Equal share of all property acquired during subsistence of the marriage.
- A reasonable and fair provision (matkaa) for the future sustenance

**10. Either party can go to the court directly to settle their dispute.** The bride and bridegroom undertake to follow these terms and conditions and respect each other from this day on.

**11.** The bride and the bridegroom may insert any other provision provided it does not violate the provisions of this Nikaahnama.

The bride and the groom agree to the above conditions of the marriage.

Name of the bride: \_\_\_\_\_

Signature of the bride: \_\_\_\_\_

Name of the groom: \_\_\_\_\_

Signature of the groom: \_\_\_\_\_

## **Annex 2:**

### **DEGREE OF PROHIBITED RELATIONSHIP**

#### **Part I**

On grounds of Consanguinity

1. Mother and all female ascendants
2. Daughter and all female descendants, how low so ever
3. Sister and all female descendants, how low so ever
4. Brothers' daughter, how low so ever
5. Father's sister (but not her daughter or any other descendants)
6. Mother's sister (but not her daughter or any to other descendants (Sisters full, consanguine or uterine by valid or invalid marriage or adulterous connections are forbidden))

On grounds of Affinity

1. Mother-in law how high so ever
2. Wives' daughter, how low so ever
3. Son's wife how low so ever
4. Step mother or any other woman with whom the father or any other ancestor has had a physical relationship

#### **PART II**

On grounds of Consanguinity

1. Father and all male descendants
2. Son and all male descendants how low so ever
3. Brother and all male descendants, how low so ever

4. Brothers' son, how low so ever
5. Father's brother (but not his son or any other descendants);
6. Mother's brother (but not his son or any other descendants); (Brothers full, consanguine or uterine by valid or invalid marriage or adulterous connections is forbidden)

### **On grounds of Affinity**

1. Father-in law how high so ever
2. Husbands' son, how low so ever
3. Daughter's husband how low so ever Step father or any other man with whom the mother or any other ancestor has had a physical relationship



## **25-POINT TO BE INCLUDED IN**

### **THE UNIFORM CIVIL CODE**

#### **MARRIAGE**

1. Without the express CONSENT of bride, the marriage cannot be considered to be solemnised
2. A marriage must be considered CONTRACT between two adults and not a sacrament
3. All Muslim marriages must be REGISTERED.
4. The NIKAAHNAMA/IQRARNAMA must be a mandatory document [refer to BMMA's Nikaahnama/Iqarnama at page 33 of the draft]
5. Groom's annual income must be given to her as MEHR at the time of the nikaah. It should not be deferred to a later date or event in the woman's life.
6. REGISTRATION OF QAZI is to be made mandatory. Only registered qazi can solemnise a marriage.
7. WOMEN QAZIS must be given priority to register themselves as Qazis.
8. RESPONSIBILITIES OF THE QAZI must be clearly laid down [ see BMMA draft, Page 12]
9. Procedure of the SOLEMNISATION of nikaah must be laid down clearly [see BMMA draft, pg11]
10. WITNESSES to the marriage must be adults with verifiable documents of age and residence.

11. There must be provisions for REGULARIZATION OF IRREGULAR MARRIAGES, i.e. marriage which has happened without witnesses, without qazi, or if the mehr is not paid. [see BMMA draft, page 14/15]
12. POLYGAMY to be made illegal under the 494IPC
13. CHILD MARRIAGE to be made illegal with application of provision of PCMA, 2006
14. HALALA, MISYAR AND MUTA marriages must be declared illegal [see BMMA draft page 27 and 28]

## **DIVORCE**

15. The form of divorce favoring women, FASKH/KHULA/MUBARAH must be included
16. TALAAK-E-AHSAN must be the method of divorce for both women and men.
17. DIVORCE in the court and outside the court must be regularized [see BMMA draft pg. 17-26]
18. The RENUNCIATION of Islam by a married Muslim woman or man or their CONVERSION to other faith by itself cannot dissolve the marriage
19. During IDDAT there should be no other restrictions to be enforced on the woman except marriage. She is free to continue to do all her activities within the family and in public place.

## **ADOPTION, CUSTODY AND GUARDIANSHIP**

20. Muslim woman is A NATURAL GUARDIAN [irrespective of the fact of her being a divorcee or a widow] of her children and all issues related to custody must consider best interest and the consent [see BMMA draft, pg. 29]
21. CUSTODY of the child is not necessarily lost on conversion or remarriage of the parent.
22. ADOPTION to be allowed under the JJ Act

## **MAINTENANCE AND INHERITANCE**

23. MAINTENANCE within marriage to be governed by the Cr.PC 125/126
24. Gender parity in INHERITANCE RIGHTS including share in the marital property
25. QAZI/ARBITRATOR/MEDIATOR has to be recognized by the state to carry out the proceedings of all matters, which fall under the family law. [see BMMA draft, page 31-32]

