

Letter to PM Demanding Codification of Muslim Family Law

Posted by [BMMAINDIA](#) on [NOVEMBER 27, 2015](#)

To
The Prime Minister of India

Dear Sir,

Greetings.

We write to you to register our concern for justice and equality for Indian Muslim women. From Shah Bano case in 1985 till date Muslim women have never been heard in matters concerning their lives thanks to the politics in our country. Certain orthodox and patriarchal males have dominated the debate on rights of Muslim women and have stone-walled any attempt towards reform in Muslim personal law. In the process the Muslim women have been denied their Quranic rights as well as their rights as equal Indian citizens. Almost all Muslim countries world over such as Morocco, Tunisia, Turkey, Egypt, Jordan and even Bangladesh and Pakistan in our neighbourhood have codified personal laws governing marriage and family matters. Thanks to the self-appointed conservative leaders, Indian Muslims are denied this opportunity. As a result, we see instances of triple talaq and polygamy in our society.

We are aware that the Supreme Court bench of Justice Anil Dave and Justice Adarsh Kumar Goel have asked the National Legal Services Authority of India to reply by 23 November whether gender discrimination suffered by Muslim women should not be considered a violation of the fundamental rights under Articles 14, 15 and 21 of the Constitution and international covenants. We too believe that the legal discrimination faced by Muslim women is in clear violation of the above Articles of the Indian Constitution. We have just published a national research with a primary sample of 4710 muslim women across 10 states. An overwhelming 92.1% women want a total ban on oral/unilateral divorce and 91.7% are opposed to polygamy. 83.3% woman said that codification of Muslim family law will help Muslim women get justice. In our ground level work across different states we have come to realise that just as Hindus, Christians and Parsis have their own personal laws, Muslims too must have their own codified Muslim personal law which ensures equality and dignity to Muslim women.

The BMMA is a national coalition of Muslim women, led by Muslim women which fights for the citizenship rights of the whole community and particularly Muslim women in India. It works for all the rights and duties emanating from the Holy Quran as well as from the Constitution of India. In its ninth year, the BMMA's membership has crossed 70,000 members across 13 states. It strives to build a progressive voice of the Muslim community. It shares the values of justice, democracy and secularism enshrined in the Constitution of India and fights for the rights given to Muslim women as per the Quranic tenets.

Justice for Indian Muslim women can be enabled either through amendments to the Shariat Application Act, 1937 as well as the Dissolution of Muslim Marriages Act, 1939 or a completely new enactment of Muslim personal law. BMMA has over the last several years through multiple consultations involving thousands of Muslim women, lawyers, religious scholars prepared a draft Muslim Family Law based on Quranic tenets concerning age of

marriage, mehr, talaq, polygamy, maintenance, custody of children etc. These are in consonance with the Constitution of India. Given below are some of the important provisions of this draft law:

1. Minimum age of marriage of girl to be 18 and boy to be 21 years
2. Consent of both parties must be obtained without force or fraud
3. Minimum *mehr* to be equivalent of one full annual income of the groom to be paid at the time of nikaah
4. Talaak-e-Ahsan to be method of divorce requiring mandatory arbitration over a 90 day period; Oral unilateral divorce to be declared illegal.
5. Maintenance during marriage is the responsibility of husband even if wife has an independent source of income
6. Maintenance after divorce as per the Muslim Women's Protection on Divorce Act, 1986
7. Polygamy to be declared illegal
8. Both mother and father are natural guardians of the child
9. Custody of children based on best interest of the child and the decision of the child
10. Halala to be made an offence
11. Muta marriage to be made an offence
12. In property matters Quranic shares to be applied after making will and clearing debts
13. Daughters to get equal share as sons through hiba or gift-deed or will
14. Compulsory registration of marriages
15. Qazi to be held accountable for violations during talaq, polygamy and such other matters

Attached with this letter is the copy of the full draft for your perusal. This draft reflects the aspirations and demands of the Muslim women and accepting its provisions would help Muslim women lead a life of dignity.

We urge you Sir, to take into account the Constitutional rights of Muslim women as well as their opinions towards equality and justice in any further legal measures that your government may decide to pursue.

Thanking you,

Sincerely,

Noorjehan Safia Niaz, Zakia Soman, Co-Founders, BMMA

Copies being sent to:

1. Mr Sadanand Gowda
Hon Law Minister
2. Ms Maneka Gandhi
Hon Minister for WCD
3. Mr Mukhtar Abbas Naqvi
Hon Minister of State for Minorities Affairs
4. Dr Lalitha Kumaramangalam
Chair, National Commission for Women
5. Dr Nasim Ahmed
Chair, National Commission for Minorities
6. Chair, Law Commission of India

This document has been taken from the website of Bhartiya Muslim Mahila Andolan (BMMA): <https://bmmaindia.com/2015/11/27/letter-to-pm-demanding-codification-of-muslim-family-law/>