



Men Welfare Trust
(Regd.)

MEN WELFARE TRUST

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www.saveindianfamily.in

[SIF One: Helpline for Men](tel:8882498498)

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To,
The Member Secretary,
Law Commission of India,
Delhi, India

Date: 13th July 2023

SUBJECT: Recommendations w.r.t. 22nd Law Commission's solicit views on Uniform Civil Code (UCC)

Respected Sir/Ma'am,

Registered NGO in New Delhi, Men Welfare Trust (MWT), works for safeguarding the interests of those Men who have been implicated in false cases because of the gross misuse of gender biased laws. MWT has been involved in several intervention petitions on issues such as Marital Rape. NGO, which is managed by India's leading Men's Right Activists, provides free and selfless help to Men and their families who are victimised by the misuse of gender biased laws such as false IPC 498A, rape, sexual harassment, domestic violence, and other cases of similar nature. We have provided brotherhood support to lakhs of Men & families in distress who have been victims of false cases which are filed by many women to cash in and extort from a failed relationship, defame and shame the Men and settle personal scores. Members of MWT are also actively engaged in various other activities like research, documentation and publication on men's rights issues, and regularly appear on India's leading national news channels.

We, hereby, wish to submit our important and serious recommendations w.r.t. UCC. In absence of any draft of UCC in the public domain, and without any common knowledge about the proposed changes in the relevant matters, we would refrain from touching upon the religion based personal laws and we are hereby submitting our critical inputs on the various family law reforms that are required in the interest of fairness and justice to all citizens.

We are hereby giving our below recommendations across various major points w.r.t. UCC.

MARRIAGE AND DIVORCE

1. NO FAULT DIVORCE:

A new ground for divorce should be introduced where in spouses who do not want to enter any long fault base litigation and wish to part ways can seek divorce in a speedy manner.

- No Fault Divorce, the proceedings need to be time-bound:
Cases to be finalized within 6 months of filing of a divorce petition by either party
- **ELIGIBILITY:** No other cases should be filed by the petitioning party. If any party has filed any criminal/ civil/ other matrimonial cases on the spouse, then he/she may seek divorce on other grounds but not under No Fault Divorce ground.
- Custody to follow - Shared Parenting Guidelines by default or if a different plan is mutually agreed. As soon as the petition is filed for divorce, visitation orders must be decided at the outset followed by shared parenting plan to make sure that the child has access to both parents after the divorce.

2. OTHER GROUNDS DIVORCE:

Apart from the No Fault Divorce, other grounds such as Cruelty, desertion, mental illness, adultery etc may remain as such as per the present personal laws as option to the parties.

- Divorce proceedings needs to be time bound.
- Divorce cases to be decided expeditiously
- Custody and Visitation Applications to be decided as primary priority

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3. VOID MARRIAGE OR VOIDABLE MARRIAGE:

Present provisions available in the existing personal laws be followed.

- Cases to be decided within 6 months of filing of the petition.

4. REGISTRATION OF MARRIAGE:

Marriage registration to be mandatory for all purposes.

CUSTODY AND GUARDIANSHIP

- In the best interest of the child out of a marriage, in-case of a separation between parents, priority of the interim custody should be given to the parent, who is not seeking support from the other parent for maintaining the child and at the same time other parent's visitation rights should be decided along with this interim order. Exception be considered if custody seeking parent is prima facie found to be in Adultery.
- A separate law other than GWA/HAMA/HMGA should govern child Custody/Visitation rights. The provisions should be gender neutral and simple in nature leading to the disposal of the custody/ visitation matters within 90 days of application presented to the court.
- Custody/ visitation matters must be decided before any other financial decisions w.r.t. maintenance, alimony etc.
- In any matrimonial case filed by either party, whether in Family Court or District/Criminal Court, Custody/Visitation should be taken up suo-motto by the respective court and shared parenting should be encouraged in all cases, unless it may turn against the welfare of the child on a prima-facie basis.
- Child maintenance should be primary responsibility of the biological parent & should not be forced upon the non-biological parent, excluding the cases where the child is an adopted child.

ADOPTION OF CHILD:

- Law governing adoption should be gender neutral and equal for both sides, the one adopting and the one being adopted.

MAINTENANCE FOR SPOUSE, CHILDREN & PARENTS

- To avoid multiple litigation & unnecessarily burdening the judiciary there should be a single Maintenance law applicable for spouses, children, parents, the provisions of which should be gender neutral, Maintenance laws such as CrPC 125, DV Act, HMA 24, HAMA 18 be repealed to make way for a comprehensive, gender neutral single maintenance law.
- Following Points to be considered for Maintenance/interim/ad-interim/pend-elite:
 1. Duration of cohabitation
 2. Age of both the parties
 3. Conduct of the parties – cruelty/adultery/blocking child access
 4. Current Earnings
 5. Earning Capacity
 6. Earning Ability
 7. Financial Obligation
 8. Educational Qualification
 9. Liabilities of Parties



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10. Spousal Maintenance order to be time bound, maximum for:

- i. 1 year (0-5 Years of Marital Cohabitation)
- ii. 2 year (5-10 Years of Marital Cohabitation)
- iii. 3 years (10-15 Years of Marital Cohabitation)
- iv. 4 Years (15-20 Years of Marital Cohabitation)
- v. 5 years (>20 Years of Marital Cohabitation)

11. Any other Spousal Maintenance order for maximum 3 months

- Interim maintenance awarded to the spouse, specially the educated, able bodied one, should be awarded for a period of 3 months or any such short period where in person should be encouraged to gain employment and the period may be extended depending on circumstances so that every able bodied, educated, skillful person is encouraged to not sit idle and depend on maintenance by the spouse but to have respectful earnings for themselves.
- Child Maintenance to be a responsibility of both parents equally and valid till final decision of the maintenance case or if the child reaches 21 years of age (irrespective of their gender) and then as per final decision.
- The party that receives Child Maintenance, to submit Quarterly details to establish responsible use of child maintenance/childcare money for child only and not for other purposes.

ALIMONY

- Alimony to be decided with Final Divorce decree only.
- Alimony and Maintenance not to co-exist.
- Points to be considered while deciding Alimony:
 1. Duration of cohabitation
 2. Age of both the parties
 3. Conduct of the parties – cruelty/adultery/blocking child access
 4. Current Earnings
 5. Earning Capacity
 6. Earning Ability
 7. Financial Obligation
 8. Movable/Immovable asset purchased by one spouse in name of other spouse
 9. Educational Qualification
 10. Liabilities of Parties
 11. Spousal Alimony order to consider as per the duration of the Marital Cohabitation.

SUCCESSION AND INHERITANCE

- Succession, inheritance and compensation to be completely Gender Agnostic.

We would hereby also wish to express our serious intent to make in-person representation if given an opportunity by the Hon'ble Law Commission of India.

Yours Faithfully,

Amit Lakhani

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