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INDIA: Muslim Law Board's stand sought on controversial short term marriages

INDIA: Muslim Law Board's stand sought on nikah halala

The controversial short-term marriage forms are not practiced commonly in India, says the AIMPLB; with regard to minimum age, it adds that Islam allows marriage when boys and girls come of age.

By ZIYA US SALAM

The Hindu (25.08.2023) – The Law Commission has asked the All India Muslim Personal Law Board (AIMPLB) to unambiguously state its position on *nikah halala* and *muta*, two controversial forms of marriage. The Commission has also sought clarification on Islamic law regarding the minimum age for marriage.

These queries were posed by Law Commission chairman Justice (retired) Ritu Raj Awasthi in a two-hour long meeting on Thursday with an 11-member delegation of the AIMPLB, led by its president Maulana Khalid Saifullah Rehmani.

These questions assume significance as petitions against *nikah halala* and *muta* have been filed in the Supreme Court by several Muslim women, who have sought a prohibition on both forms of marriage.

Short-term marriages

Muta is a consensual short-term marriage with a specific time frame for matrimony and divorce. *Nikah halala* is often forced upon a woman who has been thrice divorced by her husband, after which the spouses seek a reunion. It is intimately linked with instant triple *talaq*, which was invalidated by the top court in 2017.

The Board members voiced their opposition to *nikah halala* the way it is often practiced in the country, calling it “a mockery of religion”, according to a member of the delegation who did not wish to be named. A woman who has received three instant divorces is at times asked by some clerics to undergo *halala*, which is a short-term marriage to another man followed by divorce, before being eligible to resume marital life with her erstwhile husband.

The AIMPLB delegation also felt that the Commission was making “an issue out of a non-issue” with regard to *muta*. “It is not practised in our country. An attempt is being made to turn a rare instance into a popular practice,” the delegation member

said, adding, "At a time when the Supreme Court has allowed extra marital relations, talking of *muta* is incongruous."

Minimum marriage age

On the minimum age for marriage being raised to 21 years by the government, the Board reiterated that the Muslim community had been following the law on the subject. "Islam allows marriage when boys and girls come of age, to avoid premarital relations," the delegation told the Commission, according to the member, who added, "However, in modern times, early marriage is usually linked to socio-economic parameters. A poor family wants to marry off the daughter quickly so there is one less mouth to feed. It cuts across religions. In Islam, there is no specific age for marriage. If the spouses are in a position to fulfil the obligations of marriage, they can marry."

The AIMPLB delegation, which included women members as well, reiterated that, "if anybody has a problem with the personal law, then he or she can solemnise marriage under Special Marriage Act, which is a secular law. For such marriages, Indian Succession Act will be applicable."

'Muslims are target of UCC'

The delegation reiterated the AIMPLB's strong opposition to the proposed Uniform Civil Code, insisting that no debate can be conducted on Shariah. "The Shariah law (Muslim Personal Law) has two components, one is based on the Quran and Sunnah (Prophet's words and actions) and the other is Ijtehad (Islamic scholars' opinions). The first part is unalterable, even Muslim *ulemma* cannot make any change in it. Ijtehad can differ with time and situations. Therefore, for us, even a minute change in the basic format of Shariah will not be acceptable. It is non-negotiable," said Board spokesman S.Q.R. Ilyas.

The Muslim leaders also asked the Commission if it had

undertaken any survey or had any data on the basis of which the UCC was being proposed. “We asked the Commission why only Muslims were not being exempted from the proposed Uniform Civil Code when the government is ready to exclude tribals and Christians of northeastern States. It means that only Muslims are the target of UCC,” Mr. Ilyas concluded.

File image of a child bride from Hyderabad used for representational purpose only. | Photo Credit: NAGARA GOPAL

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