

Sri Lanka: roadblocks in the struggle for Muslim marriage law reform

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After spending nine years waiting for the Marsoof Committee to complete deliberations on reforming the regressive laws, Muslim women and activists brace for more delays as conservative Muslim organisations band together with politicians from the community to try and water down the Committee's recommendations for change. Nevertheless, legal experts say the ball is now firmly in the Government's court to amend the legislation and give Muslim women equal status



Long-delayed moves to reform the Muslim Marriage and Divorce Act (MMDA) hit further roadblocks this week, with members of the Committee appointed in 2009 to make recommendations on reforming the legislation, coming under pressure to withdraw support for a progressive report endorsed by exactly half of the Committee.

Nine members of the 18- member MMDA Reform Committee led by Justice Marsoof endorsed its final report, which called for progressive changes to the legislation that is considered deeply regressive and discriminatory to Muslim women in Sri Lanka. This report is also endorsed by the Chairman of the Committee, Justice Marsoof. Nine others backed a more regressive report that wanted the law left unchanged. This report is backed by Mufti Rizwe, President of the All Ceylon Jama'iythul Ullama (ACJU), a body of conservative Muslim clerics.

Enacted in 1951, the Muslim Marriage and Divorce Act is considered a regressive piece of legislation which discriminates against Muslim women, who under provisions of the law, have no right of consent or role in their marriage or on how they end it. The law also permits child marriage by allowing a girl as young as 12 years to be given in marriage by male relatives.

Activists say, the Committee had unanimously conceded to reforming the MMDA, and were only divided on what those reforms should be. Now some of the members who signed the progressive report endorsed by the Chairman of the Committee, are being pressured to withdraw their signatures, activists say.

Both recommendations agree on the vast majority of matters, but differ on crucial issues such as, age limit for marriage, registration of marriage and the role of sects in the act, with Justice Marsoof's report generally calling for more changes. The recommendations are published after nine years of deliberation. It took six months after the report was issued for it to be made public. Now further delays have cropped up over drafting a Cabinet Paper and sending the Bill to Parliament.

Govt responsibility now

Attorney at law, Ameer Faaiz explained that now the government has to take responsibility. "In some areas, they are divided on the recommendations and interestingly both sides quote 'Shariah' in support of their respective stand. It must be noted that no one could have a monopoly in interpreting the Quran and Sharia, for Islam accommodates the diversity of opinions." Therefore, he said "now it is the Government's responsibility to draft a Bill going by the sound justification and interpretations. The Government can also draw examples from other Islamic countries, while being mindful of our own constitutional provisions and our international obligation to reform discriminatory laws." Faaiz believes the Ministry of Justice itself is contributing to the delay in this. "The Ministry has asked for feedback from the public on the recommendations, with no timeline stipulated nor a procedure set out, thus contributing to the violations of rights intentionally or otherwise," he added.

Impact of delaying reforms

Women's Rights Activists explained the cost of the continued delay. Juwairiya Mohideen, a member of the Muslim Women's Development Trust based in Puttalam said that every day that there is a delay more and more women become victimised. "There was a case where a couple was married according to Nikah but were not registered. As a result her son's birth certificate carried the father's first wife's name as the mother, and not the child's real mother. There is no proof of marriage to claim otherwise or to claim maintenance" she said, "Every year there are hundreds of such cases, and multiply it by nine for the years it has taken for these reforms to come."

The problem, Mohideen explains, is that the ground level consequences of the MMDA's flaws are alien to politicians. As a result, they are in no hurry to push for reform.

According to government data there were over 1,700 marriages of females between 12 and 18 years in 2017 and 2018. That adds up to over 15,000 marriages in the last nine years during which the Committee was sitting. Mohideen explained that marriage at such young ages is bad for Muslim men too. "They do not have time to study and acquire experience in a job as they are already burdened with a family" she said, adding, "many of them abandon their wives."

Intimidation and smear campaign

Pushing for consensus has threatened the independence of the Committee and would influence the recommendations that make it to Parliament. "Members who signed Justice Marsoof's recommendations are being pushed to withdraw their signatures" says Shreen Abdul Saroor, founder of Women's Action Network. "The Minister of Justice is reportedly pressurising one of her employees to remove her signature from Justice Marsoof's recommendations" said Saroor, "they are delaying the due process to bully the Committee, so that the regressive recommendations have majority signatories." The pressure to only accept Rizwe Mufti's recommendations is not devoid of political interference either.

Mujeeb Ur Rahman, a local government politician and journalist says the ACJU and the Muslim politicians were working hand in glove. "The ACJU appoints Moulavis who promote certain politicians even in their sermons" he said, "so politicians support them."

Opposition to the Marsoof Committee report of progressive reforms have also been expressed in some mosques aligned with the ACJU.

At Friday prayers on August 3, Moulavi Mourshid, General Secretary of the ACJU accused the Saleem Marsoof report of being against Sharia law. "I am not trying to take sides" he said, "the

Faiszer Mustapha report only wants to make administrative changes but the Marsoof report is changing Sharia.” The Moulavi also discredited the Marsoof report for having four female signatories and three non-Muslims. While mentioning all the qualifications of the signatories of the Rizwe report, the Moulavi failed to mention the qualifications of the members of the Committee which signed Justice Marsoof’s recommendations, he said.

However, Justice Marsoof’s recommendations, over 150 pages long, have precedents in other Muslim countries and include interpretations of the Quran, Hadiths and the teachings of notable Imams, it is reported. “Yet, it is being accused as being an anti-Muslim document. Earlier, groups used to say that reforming the MMDA was anti-Muslim and against Sharia” said Juwairiya, “but now these groups have conceded to reform. They themselves have made recommendations. So how can they now level accusations at Justice Marsoof for making recommendations according to Islam?”

Support for MMDA reform and for women’s voices to be heard in the process of reforming the discriminatory legislation has come from far and wide. The Women’s coalition for Disaster Management, a network of 13 organisations based in the Eastern Province organised a protest in solidarity with Muslim women on August 1.

For Muslim women activists who are leading the charge on reforming the Muslim marriage laws, the process has been painfully slow and frustrating. With the Marsoof report now in the public domain, it is entirely in the Government’s hands to decide if it will grant Muslim women in Sri Lanka equal status as citizens, say activists like Saroor.

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