

# What's next for Sri Lanka's Muslim Women?

Saturday 29 September 2018, by [SAROOR Shreen Abdul](#) (Date first published: 28 July 2018).

**“Fear Allah! Do not do injustice to women and girls in your own community!” was the plea on placards held by many women who stood near Parliament last week, opposing the decision by male Muslim MPs discussing the Muslim Marriage and Divorce Act (MMDA) reform report with the All Ceylon Jamiyyathul Ulama (ACJU) on July 24.**



The ACJU is yet another male-only organization. Many of the women protesting last week knew the adverse effects of the MMDA because they had been victims of its provisions. For most women standing in demonstration last Thursday, it was a first. The first time they were protesting in public; the first time they were publicly questioning a religious body which had nominated itself as sole guardian and sole arbiter of Islamic affairs.

The MMDA reform report was handed over in January this year to Justice Minister Thalatha Atukorale. The 18-member Committee, headed by former Supreme Court Justice Saleem Marsoof had deliberated for nine long years before finally producing the report. It took nearly six months for the Ministry of Justice to release the report officially in its official website

When it came to offering recommendations for reforming the Muslim Marriage and Divorce Act, the Marsoof Committee could not achieve unanimity. The Committee split in two and each group offered its own set of recommendations. Since then there have been many arguments about which set of recommendations complied with Sharia principles and Islamic Jurisprudence.

Though the Committee did not reach unanimity on all recommendations, on some extremely important issues they were in complete agreement. For instance, all members agreed on making conditions to polygamy, seeking women's consent for marriage, compulsory compensation to women for unilateral Thalaq, etc. The four main areas on which the Committee failed to reach unanimity were (a) Ending child marriage and fixing the age of marriage as 18 as it applies currently to other women in this country; (b) Equal representation of women in the structures that implement the MMDA, especially, for women to be appointed as Quazi judges; (c) Compulsory registration of Muslim Marriages and (d) Taking out the reference to Sect or Madhab. So that all matters which fall under “Muslim Law” and opinions of all recognized schools of thought would be considered in making orders and decisions of the Quazi Court and the Appellate Courts.

Half the MMDA Reform Committee comprising nine, including the chairperson, have recommended all the above changes as part of their reform recommendations. However, the other half of the Committee, led by ACJU president M. I. M Rizwie, has not agreed on these key issues. This group submitted an eight page document with conservative recommendations, especially, taking the Shafi

Madhab stance. It is pertinent to note that the Holy Quran prohibits dividing religion into sects and depriving women of equality, justice and fair play.

Given this context, the ACJU's attempts to monopolise the conversation is worrying. The organization is being helped by a Cabinet Minister who has been opposing the MMDA reform. His opposition is based on the spurious argument that the MMDA is a divine law and therefore, must not be changed. On the contrary, the MMDA is part of our colonial legacy and no longer reflects current realities of Sri Lankan Muslims nor the advances made in the interpretation of Muslim Personal Law in Muslim communities and countries across the world.

The origin of the Sri Lankan MMDA stems from a Code of Law on Marriage and Divorce imported from Batavia (present day Indonesia) in 1770 during the Dutch rule. Between 1806 and 1951, this Code of Law went through a process of codification, review and modification, thus it is a combination of some aspects of Sharia and customs practised at that time.

Ironically, as it stands today, the MMDA accommodates features that are contradictory to Sharia stipulations. One such example is *kaikuli* (dowry given from bride's side to bridegroom) followed by the Sri Lankan Muslims then. Among certain religious schools of thought, *kaikuli* is considered forbidden in Islam.

In 2009, then Justice Minister, Milinda Moragoda would have had the same concerns as the current Justice Minister, Thalatha Athukorale. He would have regarded the MMDA as an issue that concerns a religiously identified community and therefore appointed mostly Islamic scholars, legal professionals and community representatives and two ACJU members (President and General Secretary) to look into the reform within the religious framework. The Committee has done exactly that.

The report provides Minister Thalatha Athukorale with a blueprint for action. She has a chance to correct a historic injustice, and turn the Muslim women of Sri Lanka into citizens in the full sense of the world.

Will Minister Atukorale follow due process? Will the draft she submits to the Cabinet and table in Parliament respond to the concerns of Muslim women and girls? Will she remember that the Lankan Constitution grants equal rights to all the country's citizens, and that, as Minister of Justice it is her responsibility to ensure that Muslim women are not excluded from this? Will she ensure that the MMDA reform is guided by the principles of equality and justice enshrined in our Constitution? Or will she give into the bullying of the ACJU and let down the Muslim women and girls of Sri Lanka?

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