

Sri Lanka: 'We sign everything else except our own marriage document'

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This is the rallying cry of Muslim women who want their voices heard and a speedy reform to Sri Lanka's Muslim Marriage and Divorce Act (MMDA)

A few weeks before Yasmin's *nikah* ceremony, there was a flurry of news articles announcing reforms to Sri Lanka's Muslim Marriage and Divorce Act (MMDA). For a while, Yasmin got her hopes up, wondering if she would have a chance to be present at her own *nikah* ceremony and sign her own marriage documents. Her mother, Minna, who married in 1990, was unable to sign her marriage documents. Yasmin's maternal grandmother married in 1963 and did not sign her marriage documents either.

When it was Yasmin's turn to get married this year - the third generation of the family - the laws which govern Muslim marriage and divorce in Sri Lanka remained unchanged.

Yasmin's was a pandemic wedding in March. While she was not required to be physically present at her *nikah* ceremony, Yasmin insisted on seeing it so her fiancé arranged for it to be live-streamed over Zoom. Her father, uncle, cousins, husband and husband's family attended her marriage ceremony which was held in their hometown. She watched her own *nikah* ceremony projected on a wall from Colombo, a one and a half hours' drive from where it was taking place. Her mother, grandmother, sisters, aunts and cousins - all the women in her family - gathered around her to watch as Yasmin's father signed the marriage documents on her behalf and her fiancé segued into husband.

"It was so nice. In one second I was not married, and in the other second, I was married. I was able to see that transition. Alhamdulillah, I don't think a lot of women in my family have gotten that chance and I was able to. So that was a big privilege for me," says Yasmin.

Yasmin's 78-year-old grandmother, Marzooka, has a mix of joviality and blunt pragmatism characteristic of many women her age. For Marzooka, this was the first *nikah* ceremony she ever saw. Reflecting on her own *nikah* 58 years ago, the inability to sign for herself still remains a source of contention which marred her wedding ceremony and an otherwise blissful marriage. Her father passed away when she was three years old. The wali (male guardian) who was asked to sign on her behalf was a relative from her father's side who paid no attention to her family when her dad died - a relative she was not close to. "I didn't like it," she says emphatically. "I am saying the girl must sign. Even if the father is alive - the girl must have the right to sign."

Over the past two weeks Sri Lankan Muslim women have galvanized under the hashtag #LetHerSign on social media, sharing their thoughts on being unable to sign their marriage documents. The digital campaign, launched by the Muslim Personal Law Reform Action Group (MPLRAG), advocates for the rights of Muslim women in Sri Lanka to sign their marriage documents while also drawing attention to issues in need of reform in the MMDA.

“As a doctor, my signature is used for prescriptions, death certificates and discharges. Without it nothing is valid. However, I was not required to sign my own marriage certificate,” observes a Muslim doctor on Instagram. “Everyone was present at my nikkah [sic] except for me! About time we changed it!” says another woman on Twitter.

Minna, Marzooka’s daughter, is glad the conversations around these issues are happening and feels more people should be educated about this. Her father also passed away when she was young and her marriage documents were signed by her brother, who was appointed as her *wali*.

“Sometimes you feel, why should somebody else be signing for you? Because you’re also important,” says Minna. “Your importance was not given – somebody else was signing on your behalf. In Sri Lanka, it’s a citizen’s right. And that’s all we are asking because it shows the woman’s importance. If a woman is not there, what’s the point of a *nikah*? What’s wrong in changing it? Why do you want to stick to things that are not in the religion? Religion doesn’t tell women not to sign.”

A 2016 study “Unequal Citizens”, authored by Hyshyama Hamin and Hasanah Cegu Isadeen, examines the impacts of the MMDA on Muslim women in Sri Lanka and points out that two communities in Sri Lanka – Kandyan Sinhalese and Sri Lankan Muslims – have separate Acts for marriage and divorce, on the basis of ethnicity (with a geographic qualifier), and religion respectively.

The MMDA of 1951 in its current incarnation draws from a code of law on marriage and divorce derived from Indonesia (previously Batavia) in 1770 during Dutch rule. The study points out that while the law includes provisions based on Islamic legal practices it has also accrued cultural provisions which have no basis in Islamic law. For instance, while dowry is considered forbidden in Islam, it is a prevalent practice among Moor Muslims and is recognized in the MMDA. “Kaikuli is a form of dowry practiced among primarily Sri Lankan Moors that is unknown to Islamic law and rather is a customary practise presumably influenced by extant Sinhalese and Tamil marriage practices,” notes the report.

MPLRAG notes from Islamic scholarship that Islamic jurisprudence (*fiqh*) is developed by human interpretation of sources of Shariah (the Quran and practices of the Prophet) and Muslim family laws around the world are often products of male jurists, influenced by the contexts of a specific time and place. They also highlight the diversity of Islamic juristic opinion on the question of wali (male guardianship) – one of the issues that many Sunni jurists do not have a clear consensus on.

Due to a lack of consensus, the MMDA allows for ‘sect law’ to apply. “...Sunni women belonging to the Hanafi school of thought (e.g. Memon community of Sri Lanka) and Bohra women, who belong to the Shia sects, are able to sign their official marriage forms – in accordance with their juristic traditions, a woman is able to contract her own marriage. But because the official marriage documents do not require or recognize a woman’s signature, the majority of Sri Lankan Muslim women do not sign,” notes MPLRAG via email.

Sri Lanka is also one of the few Muslim family laws around the world which exclude Muslim women from the *nikah* process to a large extent.

“In Islamic law, marriage is a binding contract, therefore the consent of a bride is a prerequisite to a Muslim marriage. According to Musawah – an organisation that researches Muslim family laws globally – we know that Muslim family laws in multiple Muslim contexts make it mandatory for consent of brides to be obtained during the *nikah*. Countries like Algeria, Bahrain, Brunei, Egypt, Indonesia, Iraq, Jordan, Lebanon, Morocco, Oman, Pakistan, Palestine, Qatar, Singapore, Tunisia, Turkey and United Arab Emirates ensure that regardless of their age, both prospective brides and

grooms must consent to the marriage,” notes MPLRAG.

The group explained that a signature signifies consent and intent – which is why the laws of these countries make it mandatory for adult brides to physically sign their marriage forms. A denial of the autonomy of Muslim women at the beginning of a marriage can translate into a denial of rights during the marriage or at the time of divorce, they explain.

While recognizing the diversity and richness of Islamic jurisprudence and legal tradition, the goals for reform should take into account fairness, dignity, equality and justice as well as the current context and lived experiences of Muslims in Sri Lanka emphasizes MPLRAG.

Faiza’s* absence at her *nikah* ceremony had dire consequences. Twelve years ago, a man approached Faiza’s relatives asking for her hand in marriage. Thirty years old at the time and living in the Ampara district, Faiza had had disillusioning experiences in finding a marriage partner. Without making inquiries about the man and brushing aside Faiza’s deep reluctance, her relatives proceeded to get her married. The *nikah* was fixed within six days of the proposal.

As she was absent at the mosque, Faiza only discovered the issues which cropped up during the *nikah* much later. The bridegroom-to-be did not have an Identity Card. He did not have the prerequisite letter from his neighbourhood mosque vouching for his character. He was a convert, new to the area and hence unknown. The mosque officials were hesitant and refused to register the marriage. But in their haste to finally get her married, Faiza’s relatives pressed them to continue.

“It was a forced marriage,” says Faiza. “I did not have a happy life.”

The marriage was short-lived and filled with violence. Even while she was pregnant, she was beaten and a doctor she sought treatment from refused to treat her, urging her to go to the police instead. Her daughter was born with a disability and remains bed-ridden. Later, she also discovered that her husband had been married multiple times in different villages.

“I would have lived on my own rather than have this violence,” says Faiza. “A woman should be there at the time of marriage. She should be given time to get to know a person and see if there is a connection before getting married. If only I were there, I could have understood what was happening and would have definitely said no. They didn’t know about him and his character. I was not given this opportunity. I am educated and I know about these issues – imagine what happens to people unaware of these?”

Faiza points out that many girls and women are affected by certain provisions and shortcomings in the MMDA, resulting in forced marriages and numerous divorces. Many villages for instance see short-term influxes of workers and labourers who come for a brief period, are wedded to girls who are given in marriage by their guardians and then disappear without a trace. Making the bride’s signature and physical presence mandatory would not necessarily stop forced marriages but it could act as a deterrent and would make a difference, she observes.

Sri Lankan Muslim women’s organizations such as Muslim Women’s Research and Action Forum (MWRAF) have advocated for reform to the MMDA for over three decades. Over the years, Muslim women’s activists have highlighted how the MMDA does not address the experiences of Sri Lankan Muslim women, flagging issues such as a lack of minimum age of marriage, the practice of polygamy without the consent of wife/s and women deemed ineligible to be appointed as Quazis and Marriage registrars and jurors.

Shabana is the owner and Creative Director of a clothing line. Her wedding was initially planned for June but postponed due to the resurgence of COVID in Sri Lanka. She designed her own *nikah* outfit

and wedding dress, both of which were sewn by her mother. Due to the pandemic, wedding plans have been whittled down to intimate gatherings and the focus is on the *nikah* ceremony. Having it in a mosque is important to the couple. The mosque authorities have allowed her to be present at her own nikah, but seated in a different floor.

The significance of signing for her own marriage struck Shabana and her fiancé only when they embarked on their wedding planning.

“In the 21st century, as women we sign for so many things. I run a business. I sign bank statements, salary slips, release forms, appointment letters. I feel like your signature is also your identity. It’s a no-brainer that it holds so much of significance and importance. It’s super important to me because we don’t choose the parents we are born to, we don’t choose our siblings, but we have the chance to choose our life partners. For me, signing my marriage document is symbolic of saying I made this decision,” says Shabana.

Shabana remains hopeful for positive change.

“Every woman should be able to enter into a marriage as equal partners with their significant others. We are the next generation of Muslim women. I really hope that I get to enter my marriage under a reformed, fair and just MMDA. That’s my biggest hope,” she says.

**Name changed to protect identity*

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The Sunday Times

<https://www.sundaytimes.lk/210704/plus/we-sign-everything-else-except-our-own-marriage-document-447726.html>