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### I. Voices from the Field

Most of the respondents participating in the survey were in registered marriages, as well as having undergone a *nikāh* by holding two separate ceremonies. Out of the total of 88 respondents 39 respondents were married in the UK: of these, 11 had their civil ceremony followed by *nikāh*; and 24 respondents had a *nikāh* ceremony followed by a civil ceremony. Only four couples had marriages at a registered mosque. Most respondents found registration procedures at the registry office more complicated and time consuming. Respondents also emphasised the importance of registration for protecting women and provide them security in case of divorce.

The main reason given for conducting marriage in a registered mosque was that conducting the two ceremonies together will save time; will be more convenient and cost effective; and most importantly, the marriage will also be registered and legally recognised under the law of the United Kingdom. To quote one participant:

*“holding it in a registered mosque allows me to practice my religion fully and the law of the land under same roof, don’t have to do two ceremonies . . . Save time and money”.*

Another respondent commented:

*“Beneficial to conduct both ceremonies in one place as it would be economical too.”*

A third remarked:

*“This would be a beneficial route and a time saver in view of conducting two ceremonies”.*

Information in the surveys also reflected awareness of the legal requirement of registering a marriage among professional men and women. At the same time, they were keen to maintain their religious tradition; hence the response from majority of the respondents of having undergone both civil ceremony as well as *nikāh*.

Amongst our respondents, we also found women who had been married overseas. 13 respondents were married in Pakistan; five had marriages registered in Pakistan, while eight had *nikāh* in Pakistan but were not sure if the marriage was registered there. One respondent was married in Kenya. All 14 in their comments mentioned that it was important to have their marriages registered and wanted their children’s marriages to be registered in the UK.

We also distributed questionnaires to unmarried young men and women between the ages of 18–35. The data shows that they wanted their marriages to be registered and also to have a *nikāh* ceremony. Out of 17 respondents in the unmarried category six wanted *nikāh* in a mosque with registrar in attendance; and wanted *nikāh* in a registered mosque with authorised person in attendance; and two participants preferred to have only civil ceremony in the registry office. It is also interesting to note that of all the respondents in this category, only two were content with a *nikāh*-only marriage (with no registration) to take place at home or in a mosque. They considered *nikāh* to be the only appropriate way “according to their faith and to seek Allah’s blessings”.

One of the respondents commented:

*“it’s important to have the ceremony in a holy place, I will feel more comfortable and it will be easier to attend. I also trust mosques more”.*

A similar response was given by another respondent from Manchester who was also in favour of conducting the marriage ceremony in the mosque. He commented:

*“would be a blessing to conduct the wedding in a mosque. It will be a simple ceremony. The Islamic way of marriage would be more appropriate”.*

In our data sample, we had 18 respondents who had a *nikāh*-only marriage in the UK. Four out of 18 were divorced. They regretted that their marriage was not registered, due to which they were unable to receive any support from the former husband and could not claim their share in the property of the husband. They could also not claim any child support from the former husband. The reasons given by respondents for having a *nikāh*-only marriage included lack of awareness (11 respondents), personal preference (two respondents), and to fulfil parents desire of conducting a *nikāh*-only ceremony (one respondent). The data also indicates that it was chiefly women who were not aware of the legal requirement of registering marriage. This was visible clearly from the responses of housewives, those who were married in Pakistan, and single mothers. It was also interesting to note that women who were in *nikāh*-only marriages wanted more information and awareness from the researchers about the legal requirements of a valid marriage in the UK. Another surprising finding was that very few have used registered mosques for marriage purposes.

An important fact emerging from the data brings into question the perception that young educated Muslim men and women do not want a registered marriage and want non-interference from the state and the right to exercise their personal choice. Responses from the field – contrary to the claims made in some of the studies quoted above – also suggest that the trend is in fact *towards* registering marriages. Muslim men and women are registering their marriage either through separate civil ceremonies or by conducting the *nikāh* and civil ceremony in one place. Our data shows that having a civil ceremony or registering marriage is more than just a ‘tick box’ exercise, and our respondents want to follow the law of the land. This is a sign of integration and adaptation to the socio-legal norms of the country that is now their home, while maintaining their religious values.

In summation, some questions and reflections arose from respondents’ conversations with us beyond the survey as well as from responses provided in the questionnaire itself: For instance, why is it that despite the fact that some mosques are authorised to register, the number of marriages held at such mosques is very low? Should the law on marriage be amended to recognise Muslim marriages in the same way as Jewish or Christian marriages? To what extent is the perception that younger Muslims do not want to register their marriages a widespread emerging trend and reflective of reality on the ground?

## II. Voices from a women's only group in Bolton and 'dars' group in Manchester: An inter-generational collage

Conscious of the diversity and inter-generational understandings and practices of British Muslims relating to marriage, we also reached out to Muslim communities in north-west England including those in Bolton and Manchester.<sup>18</sup> Two groups were identified for focus group discussions, one in each city. *Shaheen Sardar Ali* was aware of, and had met some members of these groups from as far back as 1990 when she was a postgraduate law student at the University of Hull.

In 2018, the all-women group in Bolton invited *Shaheen* to their monthly meeting. Set up as an informal women's only group over two decades ago, this inter-generational group included women from Bolton, Preston, Standish, Wigan and Manchester who met every month at different members' homes to catch up on social and family events. At times, they would meet to read the *Qur'an* for some special occasion, and every now and again they would go for a picnic or go to the cinema together. These lunchtime meetings included generous spread of food contributed by the group.<sup>19</sup>

Most of the women had met *Shaheen* on several previous social occasions and were pleased to see her at their meeting. They had already been made aware of the research questions, as the survey was shared with them both in its English and Urdu versions. The inter-generational dynamic was very interesting, particularly in how they engaged with the question of whether or not to register a Muslim marriage.

Views across the generations were almost unanimous. As voiced by the 75 year old grandmother:

*"of course: marriages should be registered! How else would the wife get her rights within marriage in Britain?"*

Another woman, a mother whose daughter was in a *nikāh*-only marriage, said:

*"It is so unfair when the bride-groom's family insist on a nikāh-only marriage, saying they will register it shortly after the wedding, [when] they actually don't have any intention of doing so. Look at the case of our own daughter. Born and raised in England, she knew it was important to register her marriage, but we all conceded to the groom's family and left it at nikāh only. After a while their relationship became quite rocky and still is. We asked them to register the marriage but they wouldn't. We now know why. They did not want my daughter to have any share in her husband's assets. She left her job to look after the family and her children but, if the marriage ends, she will be left penniless. I will say to all parents: make sure the marriage of your children is registered."*

<sup>18</sup> This access was made possible through the good offices of *Shaheen's* paternal uncle, *Dr Mift-ullah* and his wife, *Iffat* who have lived in that part of the country since 1969. We gratefully acknowledge their facilitation and support.

<sup>19</sup> 32 women were present on the day. Ages of group members ranged between 25–75; educational levels were quite varied with most women having obtained high school qualifications or below. A few were university graduates; most were home-makers; a couple of the younger were in employment.

Only one out of the 32 women in the group was of the view that marriage need not be registered and that a *nikāh*-only marriage is sufficient. Shaheen says that:

*“I noticed that beyond making this statement she was not prepared to elaborate, so I went up to her and sat next to her to broach the subject further”.*

In a one to one whisper she said:

*“I say this because my son was married and upon his divorce, we feared his (ex) wife would take away everything. Thank God we realised that if you don’t register the *nikāh*, then that is fine, as it is only in a civil marriage that the wife gets a share of the matrimonial property. Why should she (wife) take away my son’s hard earned money? That is why I am not in favour of registering a *nikāh*.”*

In our discussion, whether those in *nikāh*-only marriages do so due to their religious conviction believing that being married in the eyes of God and the community is all that counts, women were unanimous in their understanding that:

*“Our religion (Islam) wants us to follow the law of the land which we have made our home, and make all parties to the marriage safe. So even though *nikāh* means that we know the couple is married, registering is equally important. There is no contradiction between Islam and civil registration of marriage. In fact one supports the other.”*

The general mood of the meeting led Shaheen to infer that this group of women were clear in their views regarding the importance of civil registration of a *nikāh*. They appeared aware of developments in their country of origin (Pakistan) declaring that: “people in Pakistan fill out marriage forms and have certificates that are recognised by law, so what is the difference between those marriage registrations and the one in England?”

On a Monday evening, the ‘Manchester *dars* group’ of men and women meet at members’ homes to listen to recitation of the *Qur’an* and its translation and explanation; hence the name of the group.<sup>20</sup> This group too, was formed several years ago and served as an opportunity for members of the British Muslim communities to collectively understand their religious tradition, seek responses to questions from scholars invited to these events, and expand their networks.<sup>21</sup> Shaheen’s uncle introduced her to the group, and encouraged them to engage with her research theme and offer their insights and views on the subject.

Of the over 40 men and women present, not a single one doubted the necessity of registering a marriage. Neither did any person present show any sign of resistance to a civil marriage. In fact, Shaheen was questioned about what they thought was self-evident:

*“Why are you asking us whether *nikāh* ought to be registered? Of course it has to. How else would the couple be married in the eyes of the law in this country?”*

<sup>20</sup> Describing it as the ‘Manchester *dars* group’ was due to the fact that it had been set up by those living in Manchester but with membership from surrounding towns.

<sup>21</sup> Ages of members ranged from 35–80 years. Most members were over 60 although younger membership was being encouraged.

When asked why some did not wish to register their marriage, a 75 year old gentleman who said he had lived in the country for over 50 years remarked:

*“bad-nyatee (bad intentions), what else? They want to hide some ‘wrong doing’ of course ... let me give you an example. The imam of a mosque in our city already has more than one wife. Last weekend, he married yet another wife. Why would he register his marriage with the state? To go to jail!!!”*

The *dars* session too offered a unanimous opinion regarding the importance as well as acceptance of registering a Muslim *nikāh*-only marriage; they believed it to be a religious obligation, and not simply something required by law. Interestingly, while our surveys and conversations with *imams* and others in Muslim communities were aware of, and raised the matter of ‘trial’ relationships and ‘halal dating’, neither the Bolton women’s group nor the Manchester *dars* group appeared to be aware of it. It may also be that they were not comfortable in raising it as a reason for *nikāh*-only marriages.

### III. Keeping their ear to the ground? Reporting some community leaders’ voices on Muslim marriage practices in Britain

The third source of data for the present study comes out of a thought-provoking panel discussion at the international conference held at the University of Oxford, ‘Reformulating matrimony in Islamic law’, organised by *Justin Jones* and funded by the Arts and Humanities Research Council (AHRC) in 2018. The panel, chaired by *Shaheen Sardar Ali*, brought together speakers from a range of vocations: –*imams*, members of *shari‘ah* councils, and Muslim community activists and lawyers. All the panellists were asked to reflect from their personal experience upon the matrimonial lives of British Muslims: the kinds of marital and divorces practices that they follow, and the implications of these for the relations between religious and civil laws. The panellists selected for this event were all deeply involved with Muslim communities in their various roles, and their words reflected their vast experience of actual practice among Muslim communities. It was a lively session, engaging and frank, with panellists sharing their knowledge and opinions openly and honestly. The question and answer session too, brought into relief the rich canvass of views, perspectives and practices prevalent among Muslim communities in Britain regarding Muslim family law, and in particular, the question of Muslim marriage registration.<sup>22</sup>

A number of participants affirmed that significant numbers of Muslim women in *nikāh*-only marriages believe mistakenly that their *nikāh* is (legally) recognised under the law in England and Wales. *Aina Khan*, the barrister and activist cited above, identified a lack of awareness as the central reason for the prevalence of unregistered

<sup>22</sup> For a full transcript of the panel and more detailed commentary than is possible here, see the blog on ShariaSource available in seven parts at: <https://islamiclaw.blog/2019/11/20/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-1-introduction/>; <https://islamiclaw.blog/2019/12/06/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-7-conclusions-and-further-observations/> (2020/7/20).

marriage. Many women, she argued, believe their *nikāh* marriages to have official recognition, whether through their ignorance or through misplaced trust in the word of their husbands to handle the registration process. The situation, she powerfully argued, is giving rise to an unknown number of what she calls ‘*nikāh* horror stories’, referring to cases of women being ejected from their homes, deprived of inheritance or their fair share of marital assets, or abandoned internationally by men that they considered their ‘husbands.’ She argued that women without civil marriages are also leaving themselves open to the possibility of extortion or black-mail, whether by their ‘husbands’, in-laws, or community bodies such as *shari‘ah* councils. She also noted that unregistered *nikāhs* can cause further problems for British Muslim women outside of the UK, where legal documentation alone is considered the authoritative indicator of marital status. Significantly, she also noted that the cuts to legal aid since the Legal Aid, Sentencing and Punishment of Offenders Act (2012) has withdrawn funds from family law litigation, depriving victims of legal assistance and thus rendering many women even more vulnerable. They are put into weaker positions vis-à-vis family, and possibly, forced to seek intervention by unregulated community bodies, such as *shari‘ah* councils.<sup>23</sup>

*Khan’s* statement reflected the common surprise – both within Britain’s Muslim community and also internationally – that British law has adopted so few legal measures to promote civil registration of *nikāh* marriages. This is contrary to the laws implemented both in other Western European nations, like France and Germany, but also in most Muslim-majority nations. These countries, she argued, have done more to put an end to the existence of the kinds of ‘clandestine marriages’ that still exist in the UK.

As well acknowledging the prevalence of unregistered, marriage, many panellists were alert to an assortment of other problems that it creates. One example is *Bana Gora*, president of the Muslim Women’s Council, a community organisation based in Bradford.<sup>24</sup> She noted a range of startling cultural practices which are, in different ways, by-products of unregistered *nikāhs*, many of which violate the rights of women especially. These include polygamous and underage marriages; the withholding of alimony after divorce; the unequal distribution of inheritance; and instant triple-*talāq* divorce. All of these practices exist as a consequence of unregistered *nikāhs*.

Other panellists, however, indicated a body of other reasons for the choice to take out a *nikāh*-only marriage, some of which make for uncomfortable listening. Some confirmed that some members of the younger generation of Muslims as a form of ‘*halal* dating’, or a means of ‘testing’ a marriage before taking on the legal commitments of a registered marriage. Some also suggested that it often owed to carelessness on the part of young Muslims. *Ajmal Masroor*, one of Britain’s most

<sup>23</sup> [https://islamiclaw.blog/2019/11/22/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-2-aina-khan/\(2020/7/20\)](https://islamiclaw.blog/2019/11/22/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-2-aina-khan/(2020/7/20)).

<sup>24</sup> [https://islamiclaw.blog/2019/12/03/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-6-bana-gora/\(2020/7/20\)](https://islamiclaw.blog/2019/12/03/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-6-bana-gora/(2020/7/20)); Bana Gora has particular expertise in matters of social policy and engagement with marginalized communities in particular, and at present is involved in the MWC’s plans to build the first ever woman-led mosque in the UK.

high-profile *imams*,<sup>25</sup> blamed especially the ‘Bollywood’ influence in popularising glamour weddings, and the frequent use of *nikāh*-marriages as easy means of licencing sexual relationships. A culture of celebrity and ebullience, he argued, can cloud reflection and judgement, and incite young people to take out ‘DIY *nikāh* marriages,’ or ‘backstreet *nikāhs*’, with little consideration of the consequences. The pressure of *imams*, *khandans* (families) and *biradaris* (community bodies), he argued, also exacts unwelcome social influence in matrimonial matters.

All panellists acknowledged that sometimes one partner or the other might favour a *nikāh*-only marriage for their own personal benefit. Men might, by not registering a marriage, seek to escape sharing their assets with their wives. Some panellists were also open that some men desire to take out *nikāh*-only marriages to keep a door open for a second, polygamous marriage – something that is illegal under civil law. But it is easy to forget that sometimes women too have found favour in taking out unregistered marriage. *Bana Gora* and *Ajmal Masroor* alike spoke of women who had chosen not to register their *nikāhs*, so as to deny their husbands the ability to make a claim upon their own personal wealth.

Particularly instructive on this was a contribution by *Amra Bone*, a panellist on the Birmingham Shariah Council, who has often been known as Britain’s first female ‘*shari’ah* judge’.<sup>26</sup> She argued that women could be ‘surprisingly strong’, and rather contradicted the stereotype of the helpless Muslim wife. Some women, she said, wanted *nikāh*-only marriages to ensure their own financial independence. She also evoked some unexpected examples of Muslim women’s legal behaviour: for instance, women who willingly, and sometimes even by preference, share their husband in polygamous marriages, to provide them with a greater degree of personal freedom to build a career or avoid burdens such as having children. This was a strong call to question old assumptions about Muslim marriage and acknowledge the existence of alternative forms of ‘balance’ in Muslim society that depart from orthodox ideas of marriage. However, like other panellists, *Bone* was clear to say that she advises Muslim couples to register their marriages. She admitted that she cannot force them, but always tells them that they should at least be aware of the consequences of not doing so.

A different approach to the question came from *Musharraf Husain*, a scholar and *imam* based in Nottingham, and one of the leading Muslim community representatives of the Midlands.<sup>27</sup> Departing from the idea that *nikāh*-only marriages stemmed

<sup>25</sup> <https://islamiclaw.blog/2019/11/29/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-5-ajmal-masroor/> (2020/7/20). *Masroor* leads prayers in four London mosques, and has been a high-profile spokesperson and broadcaster for British Muslims. He has been a well-known proponent of reformist Islamic thought, including on issues of family values and laws, and has headed the Barefoot Institute, which handles matters of marriage, divorce and family mediation for British Muslims.

<sup>26</sup> <https://islamiclaw.blog/2019/11/27/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-4-amra-bone/> (2020/7/20); *Bone* has also worked as a Muslim leader and chaplain within the community in Coventry and Birmingham for some thirty years.

<sup>27</sup> <https://islamiclaw.blog/2019/11/26/muslim-marriage-and-divorce-practices-in-contemporary-britain-part-3-musharraf-husain/> ((2020/7/20)); Trained at al-Azhar in Cairo, he is a scholar of the *Qur’an* and Islamic sciences, and is a public community spokesperson and educator; he is also the chief executive of the Karimia Institute, an Islamic foundation that engages in nu-

chiefly from ignorance, he argued that it was often a proactive *choice*, made either by partners or their families. Despite having registered his mosque to conduct parallel religious and civil marriages, he argued that many of even his own congregation have refused to take out the latter, asking him to perform *nikāh*-only marriages. Muslim marriage in the UK, he suggested in a striking metaphor, has become like a ‘Drive Thru McDonalds’, with Islamic marriages and divorces being contracted and terminated with minimal planning or consideration.

While he reflected some similar explanations to the other panellists (e. g. avoiding legal obligations to a spouse; carelessness by the parties), he also noted that Muslims do not instinctively consider their mosque as a natural location for marriage, meaning that, unlike Christians, Muslim families often envisage their *nikāhs* as being solemnised in private settings, rather than a religious building that can be licensed for marriages. But he also argued that many *imams* and religious leaders in Britain, fearing the erosion of community values, have wanted to keep marriage ‘flexible . . . , feasible and easy’ as possible, and thus, they have avoided complicating the *nikāh* with legal conditions or baggage in order to bring people into marital unions.

Attitudes within the community are only part of the explanation, however. The state has also played a part: by refusing to legislate on *nikāh*-only marriages, it has allowed them to persist. Indeed, elaborating on the state’s role, *Husain* offered a striking interpretation of ongoing Muslim disengagement from marriage registration, which goes back to the initial migrations from South Asia in the 1950s–1960s. At this time, he argues, economic migrants from Pakistan and Bangladesh considered the UK to be merely a ‘transient home’: they remained focused upon ‘the myth of return’,<sup>28</sup> while the state offered little support for these new communities and merely ‘left’ them to integrate. This ‘*laissez faire* attitude’ on the part of the state towards the Muslim population served to foster an ethic of community self-reliance that has led to tendencies among Muslims towards community autonomy in handling personal and community affairs, and has meant that many Muslims have tended to see questions of state recognition as an irrelevance.

The views of the panellists, therefore, confirmed some of the same issues raised by respondents in other research elements of this study. Equally, they posited a range of possible solutions to the problem of unregistered Muslim marriages. *Aina Khan*, speaking of her ‘Register Our Marriage’ campaign, outlined a three-fold approach to addressing the issue. First is the call for reform of the law. She proposes that the Marriage Act of 1949 be widened to automatically register *all* religious marriages as civil marriages, rather than, as now, only the marriages of Anglicans, Jews and Quakers: a fair and equal marriage law, she argues, should either cover all faiths, or none. Second, she argues for a public awareness campaign to target the Muslim community, working through ‘roadshows’ and other large events, to communicate the benefits of registering marriage. This is something that her campaign has consistently embarked upon. Third, there is a call for further research and professional advocacy,

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merous activities of religious education and charity. He has been an important Muslim spokesperson on issues of integration and community cohesion in the UK.

<sup>28</sup> This is an allusion to *Anwar*, *The Myth of Return: Pakistanis in Britain*, 1979.