

# UNITED KINGDOM



## Equality in the Family is Necessary

- ▶ **No marriage records:** Commonly *nikahs* are unwritten or record minimal details, and mosques keep poor records. Wives in Muslim marriages often have trouble proving their status and lack protection upon divorce.
- ▶ **Polygamy:** In the case of *nikahs*, a husband often already has or acquires another legal wife. Women in *nikahs* have no protection because legally, they are not married. Women's groups regularly handle cases in which men have several recognised and unrecognised wives, but community leaders and the state make little effort to tackle this abuse.
- ▶ **Forced marriages:** The official Forced Marriages Unit sees about 400 cases a year, many involving Muslims, mostly women. Forced marriages can entail abduction abroad, rape, unwanted pregnancy, and have high rates of domestic violence, divorce or abandonment. They usually take place to prevent a young woman from marrying someone 'unsuitable' (in terms of class, race, ethnicity, religion or sect); to fulfil a betrothal to a relative; to 'fix' sexual orientation (where either of the spouses is not heterosexual); or to provide a carer for a disabled husband. Girls are being sent at an ever younger age to the family's 'home country' and only returned to Britain once they have been married and become pregnant.
- ▶ **Divorce:** Women are increasingly approaching self-appointed 'Sharia councils' to seek a 'religious divorce', even though this is not a requirement for civil marriages and may not be recognised by Muslim laws in other countries. 'Sharia councils' have extremely conservative views about divorce. The process is lengthy, distressing and disempowering for women. Men often withhold a 'religious divorce' to secure concessions from a wife in the civil process, or as a means of emotional harassment.
- ▶ **Inequality in the family and marital breakdown:** Young Muslim women consistently outperform their male peers in education and are rapidly becoming visible in professional employment and business. This has not been matched by a change in patriarchal attitudes among men and older women, who continue to expect the husband to be the 'head of household'. Increasingly in British society women's unpaid domestic labour is valued and men share domestic responsibilities, but this has not been matched by a change in attitudes in the Muslim community. The result is increasing levels of marital breakdown in the Muslim community and growing numbers of young women who are unable to find a suitable match.

Sources: *She Who Disputes*, Women's National Commission/Muslim Women's Network, 2006; Sohail Warraich and Cassandra Balchin, *Recognising the Un-recognised: Inter-Country Cases and Muslim Marriages and Divorces in Britain*, Women Living Under Muslim Laws, London, 2006; <http://www.muslimmarriagecontract.org.uk>.

About 3 per cent of the population in Britain is Muslim. Most trace their origins to Bangladesh, India and Pakistan, but there are sizeable Somali, Turkish and Kurdish communities and converts to Islam. Civil marriage is the only legally recognised form of marriage. The same procedural laws and common law principles regarding maintenance, divorce, child custody and property apply to everyone in a legally recognised marriage. There is no bar to religious marriage; Muslim couples have the same rights and responsibilities as all other couples if the marriage is conducted in a mosque registered as a place of civil ceremony.

However, probably many thousands of women are in unregistered *nikahs*—'Muslim marriages' conducted in Britain. Contrary to popular perception about 'common law marriages', these women have few legal rights. Husbands may convince a woman to conduct the *nikah* and go through the civil process later—which then never happens—and imams may assist by not demanding the couple's civil marriage certificate.

## Equality in the Family is Possible

- ▶ Women and men have equal rights and responsibilities in marriage and divorce under British law. Polygamy is illegal, custody is based on the welfare of the child, and division of property upon divorce recognises women's unpaid contributions to the family. Legally, women in Muslim families can have all the same rights as other women.
- ▶ In 2008 a proposed model Muslim marriage contract was launched that provides space to record any negotiated conditions to the marriage; requires details designed to protect the rights of both spouses in the event of disputes; confirms that the marriage will not be polygamous; does not require a *wali's* approval; and makes *talaq-i-tafwid/esma* the default form of divorce for women.
- ▶ The Forced Marriage (Civil Protection) Act 2007, which came into force in November 2008, enables courts to prevent forced marriages and order those responsible for forcing another into marriage to change their behaviour or face jail. It also provides recourse for those already forced into marriage.
- ▶ A women's movement is emerging in the Muslim community which is increasingly linked with women's movements in Muslim contexts abroad. Women's groups are demanding recognition of rights in Islam and changes in the attitudes of 'Sharia councils' and families in line with present-day realities. This call is supported by some male scholars and community leaders.

### Key Challenges

- ▶ The influence of conservative religious groups and women's lack of knowledge mean that many believe that an unregistered *nikah* is more 'Islamic'. Greater knowledge about Muslim and British laws and contact with women's movements in other Muslim contexts is needed.
- ▶ Out of thousands of working mosques in Britain, less than a dozen are registered to conduct civil marriage ceremonies. A campaign to register more mosques is underway, but most mosques lack the capacity or interest to get registered.
- ▶ The Government tends to prioritise the views of conservative male community leaders and is keen to save state resources by privatising family disputes. Religious arbitration is possible under the 1996 Arbitration Act, but it is very difficult to challenge exploitative arbitrated agreements that women may have agreed to due to social pressure and ignorance of their rights.
- ▶ Many Muslims in Britain are potentially governed by the Muslim laws of another country because they have dual nationality or were married abroad. There are many possible conflicts of laws, including 'limping marriages' (marriage/divorce recognised under one system but not the other). British officials and lawyers are ignorant about the problems; nothing is being done to find solutions.