



AURAT

# EQUAL AND FREE?

## 50 Muslim Women's Experiences *of* Marriage in Britain Today

Research Report: December 2014

**Habiba Jaan**

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Aurat: Supporting Women

*“When I was going through a divorce, I went to a lawyer who told me I had no legal rights as I’m seen as a girlfriend and not a wife. I just sat there in shock.”*

Asifa, aged 47

*“I’m not too sure where I stand and what my legal rights are. I am scared if I ask questions what will happen. So I guess it’s best to stay quiet.”*

Ban, aged 18

*“...I found out afterwards that he had three more wives and he is still married to them. He lives with me but refuses to pay for anything. I live in his house that he bought but I claim benefits on it to pay his mortgage.”*

Ezzah, aged 32

*“I wasn’t allowed to have anything when I got divorced. He kept everything, yet I paid for everything... When I found out I was not able to get anything for me and the kids, I was suicidal.”*

Chandi, aged 43



House of Lords

**THE BARONESS COX**

## FOREWORD

I strongly commend this report, which highlights the difficulties and challenges faced by many Muslim women in our country today.

Although women from any faith tradition – or none – may suffer abuse and other problems associated with dysfunctional families, the plight of women in Islamic communities is exacerbated by the application of established Sharia law principles which inherently discriminate against women and girls.

The resulting suffering is worsened by the nature of the closed communities in which many of them live, where there is great pressure not to seek ‘outside’ professional help which might be deemed to bring ‘shame’ on the family.

The situations described in this report are just the tip of the iceberg. There are, literally, countless more women in similar predicaments. If there is any truth in any of the stories told (and I believe there is much truth, based on my own friendships with Muslim women in Britain today) then this initial report – written with courage but with limited resources – must be taken very seriously.

I hope that appropriate actions will result, including systematic investigation into the problems of all women in similar circumstances as well as implementation of legal provisions and policies to afford them the protection and the genuine access to the rights to which they are entitled as citizens of our country.

Habiba and the women who have told their stories have risked much. I hope that their courage and risk will not be in vain.

A handwritten signature in blue ink that reads "Caroline Cox".

*“...after he went and married a younger woman and had more children, he told me it was his right and I would have to accept it. I felt helpless as I had left my family for a man who has failed me in every way. He never supported me and the children.”*

Durdanah, aged 48

*“I got married. My parents arranged it. We then found out he had lied and had another wife. My parents told me to stay with him because it was my second marriage and what would people say?”*

Qamar, aged 32

*“I did bring up the issue of a civil marriage and I was told by my parents not to stir up trouble so I went quiet on the subject.”*

Ghayda, aged 25

*“When I questioned my family about a civil marriage they told me it wasn’t needed. When I separated from my husband he asked me: ‘Why do you think I didn’t have a civil marriage? I’m not giving you anything’.”*

Hiyam, aged 35

# INTRODUCTION

**'Aurat: Supporting Women'** is a West Midlands-based charity established in 2014 to provide support for female victims of honour and cultural-based abuse. It seeks to find long-term solutions to abuse and associated issues by conducting and promoting research.

Habiba Jaan is the founder of Aurat. Upon the breakdown of her own Islamic marriage (Nikah), she discovered that she was not entitled to the same rights afforded to other British divorcées. She had wrongly assumed that, because the Nikah ceremony had taken place in the UK, it did not need to be accompanied by a civil marriage in order for it to be recognised under English law. When later registering the birth of her child from the Nikah, Habiba received conflicting information from supporting authorities – including from the registrar who said that the Nikah did in fact constitute a legally-valid marriage.

She has conducted this report in order to identify what preventative steps can be made to protect others from similar deeply-humiliating and distressing situations.

Aurat would like to thank all those who have assisted with the report including Baroness Cox, Tahira Mirza, the Trustees and each of the women who shared their stories.

# METHODOLOGY

This qualitative research seeks to expose the vulnerability of women who are in marriages which are not legally recognised by English law or in what are effectively polygamous households. It has been conducted with the understanding that Muslim women in the UK can often be misled as to their legal status and can also face pressure not to seek advice from non-Muslim professionals or civil courts.

The evidence for its findings is drawn from 50 case studies. The chosen sample consisted of Muslim women living in the West Midlands area. The women were Aurat service users and friends of the women living within the same community. Aurat conducted face-to-face interviews between August and September 2014 which were broadly structured on an identical questionnaire so as to follow the same pattern in all the case studies.

The summary findings below are predominantly based on the sample of women who identified as currently being married. However – as case studies 2 and 6 help to show – that is not to say that the remaining women, who are no longer ‘married’, have not been deeply affected by some of the concerns raised.

Since initiating this report, many others outside of the sample of 50 women have come forward to speak of their suffering. What is clear from the outset is that the problems acknowledged in this report are more widespread than originally anticipated.

# REPORT FINDINGS

- Women who are married in Islamic ceremonies (Nikah) but are not officially married under English law can suffer significant disadvantages because they lack legal protection. The report reveals cases of Muslim women living in the West Midlands who are in such 'marriages'.
- Most of the women interviewed [46 of 50] identified as currently being married. Only around ten per cent of these women [five of 46] are in marriages which are legally recognised by English law.
- Moreover, Muslim women may be unaware of their inferior legal status. Of the women interviewed whose marriages are not recognised by English law, over half [23 of 41] were not aware they experience fewer legal rights.
- Of this same sample of women, two thirds [29 of 41] had their Nikah ceremony in the family home. Some assumed that, because the ceremony had taken place in the UK, it automatically counted as a valid marriage.
- Women were asked if they would receive support from the Muslim community if, in the event of a dispute, they sought an Islamic divorce (Talaq) from their husband. Nearly half of the 'married' women [22 of 46] said they would not receive support from the community.
- A similar proportion [20 of 46] said their family would not provide support if they sought a Talaq.
- In mainstream Islam, a husband does not have to undertake the same process as the wife when seeking a Talaq. He merely has to say "I divorce you" three times, whereas a wife must meet various conditions and pay a fee.

- None of the 'married' women interviewed said their husband would be responsible for bearing the financial cost of seeking a Talaq within a mosque. Over half [28 of 46] felt that they would have to pay, while the remainder of women either did not know or did not answer. Estimates of how much a Talaq would cost ranged from £100-350.
- Of all the women interviewed, four did not identify as currently being married. They are now separated from their ex-'husband' but had previously undertaken a Nikah ceremony in the UK without also having a civil marriage. Three of these women – when speaking of their Talaq proceedings – specifically referred to their lack of legal protection after discovering that their Nikah did not constitute a valid marriage under English law.
- Two thirds of those who identified as being married [31 of 46] said their husband has more than one wife.
- Four of these women said their husband has **two** more wives (three 'wives' in total), while three women said their husband has **three** more wives (four 'wives' in total). A significant majority of these women [22 of 31] said their husband lives with his other wife/wives part or full-time.
- Islamic law requires that a man who chooses to have more than one wife must be able to support all of his wives. However, of the women who said their husband has more than one wife, nearly all [27 of 31] said their husband does not support them financially. Of these women, three quarters [21 of 27] rely on state benefits.



# EXAMPLE CASE STUDIES

*Given the sensitive nature of the report, Aurat has guaranteed the anonymity of participants. For this reason, the women's names have been changed.*

## Case Study 1

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For years Madiha's husband prevented her from seeing her in-laws. When she began to ask why, she discovered that he already had another wife. It transpired that her husband purposefully avoided solemnising the Nikah with a civil marriage. She knows that if she were to seek a Talaq, the community would not provide any support. So her husband now shares his time living with both his 'wives'. It is up to Madiha to provide for herself and her children.

## Case Study 2

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For five years, Rafa and her husband enjoyed a happy marriage. Although she never really had the full backing of her own family, she was well loved by her husband. He supported her financially, and together they invested in a family home for each other and their child. However, when her husband decided to walk out on her, Rafa realised she had no rights to the family home. Her husband had made sure the property was in his sole name. She had no recourse to recompense from the property because their marriage was not legally recognised in this country.

## Case Study 3

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Naaz's husband takes it in turns to live with all four of his wives. Naaz is his third wife and they celebrated their Nikah ceremony at a friend's house. Her community is aware how important it is to Naaz that her children were not born out of wedlock. But as she has never really thought about the legality of her marital status, she struggles to comprehend the notion of having to solemnise their Nikah at a registered mosque.

#### Case Study 4

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Daneen is in her early twenties. She and her husband have two children. Daneen has always assumed that, because her Nikah ceremony was conducted in the UK, it is automatically legally recognised. Should it ever come to it, she knows her family would not provide any support if she sought a Talaq.

#### Case Study 5

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Bahia's Nikah ceremony took place nearly two decades ago at her family's home in the West Midlands. She is the second wife to her husband, and they have four children. Bahia thinks that her Nikah certificate is a legally binding document because it was stamped by the local Mosque. Naturally, she assumes that she is entitled to the same legal rights as any other married woman in the UK.

#### Case Study 6

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Thashin's husband always knew the law of the land but he had no intention of undertaking a civil registration. It meant that when he eventually decided to divorce his wife, he didn't have to give her anything. She and her three children would have to provide for themselves. Thashin was completely oblivious to her legal status and it is only thanks to the support of her family that she gets by today.

# RECOMMENDATIONS

While this short report is comprised of a relatively small sample of women, the individual cases are nevertheless deeply alarming. What's more, they are preventable.

- A lack of understanding regarding their marital status under English law leaves many women vulnerable. Mosques, community leaders and public bodies should have a responsibility to inform families that women have fewer rights if their marriage is unrecognised by the law of the land.
- It has been claimed by some that family issues relating to Sharia law are not matters for the authorities but matters for the community. The report shows that Muslim women may not feel they will receive adequate support from their communities, especially when seeking a Talaq which might invoke 'shame' or 'dishonour'. More should be done to improve the visibility and accessibility of non-Muslim professional and public bodies who are able to provide support to women who may feel pressured not to seek outside advice.
- With limited resources, it was never the intention of this qualitative report to garner the exact number of women suffering unjust discrimination within British Muslim communities. Clearly, more systematic research is needed to understand the sheer scale of the concerns raised as well as the social, political and cultural implications for the wider society.
- If further research presents similar conclusions on a broader scale, the Government will need to look for remedies to safeguard vulnerable women and introduce mechanisms to protect them and their children from the discrimination our democracy claims to protect.

# EQUAL AND FREE?

There is a growing concern that many Muslim women in Britain today are suffering severe gender discrimination but lack knowledge of their rights under British law. Moreover, seeking help from non-Muslim professional and legal sources may be strongly discouraged as it may be deemed to incur 'shame' on Muslim families and communities. As such, vulnerable women are often inhibited from getting the help they really need.

The findings of this short report provide a glimpse into this reality and show that much more needs to be done to protect many British Muslim women from systematic gender discrimination and intimidation.

- **Women in polygamous marriages**

Two thirds of those who identified as being 'married' said their husband has more than one wife. Some 'husbands' have as many as four 'wives'.

- **Husband's provision of financial support**

Nearly all of the women in polygamous marriages said their husband does not support them financially.

- **Asymmetric cost of divorce**

In many Islamic traditions, a man only has to say "I divorce you" three times in order to obtain a divorce (Talaq), whereas a woman must meet various conditions and pay a fee. Over half of the 'married' women felt they would be responsible for bearing the financial cost of a Talaq.

- **Lack of community support**

Almost half of the 'married' women also said the Muslim community would not support them if they sought a Talaq.

- **Legal status of marriage**

Of the women who identified as being married, 90 per cent are in Islamic marriages which are not legally recognised by English law. Over half of these women were not aware they do not have the same rights as they would have with a civil marriage.