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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

Hon. Harshana Nanayakkara
Minister of Justice and National Integration
Ministry of Justice and National Integration
19, Sri Sangaraja Mawatha,
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Hon. Minister,

Observations on Reforming the Muslim Marriage and Divorce Act

We write to you in terms of section 10(d) of the Human Rights Commission of Sri Lanka (HRCSL) Act, No. 21 of 1996 with reference to the Muslim Marriage and Divorce Act (MMDA) of 1951. Section 10(d) of the HRCSL Act mandates the Commission 'to make recommendations to the Government regarding measures which should be taken to ensure that national laws...are in accordance with international human rights norms and standards'. We are also in receipt of the letter sent to the Chairman of the HRCSL on 13 January 2026 by the Additional Secretary (Legal) of your Ministry inviting the Commission to share its feedback on reforms to the MMDA. The Commission reiterates its position articulated in its statement dated 25 August 2025 (attached) and wishes to offer the following further observations in response to the Ministry's invitation:

1. The legal minimum age of marriage

Article 3(1) of the Convention on the Rights of the Child (CRC) provides: 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.' Additionally, section 5(2) of the International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007, which incorporates certain provisions of the International Covenant on Civil and Political Rights into Sri Lanka's domestic law, provides: 'In all matters concerning children, whether undertaken by public or private social welfare institutions, courts, administrative authorities or legislative bodies, the best interest of the child shall be of paramount importance.'

The Commission observes that the MMDA is incompatible with the best interests of the child standard, as it does not contain a minimum age of marriage.

The Commission recommends that the minimum age of marriage of persons marrying under the MMDA be stipulated as eighteen (18) years.

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It additionally recommends that section 363(e) of the Penal Code be amended to delete the phrase ‘unless the woman is his wife who is over twelve years of age and is not judicially separated from the man’.

2. Signature of wali on the marriage registration form

The MMDA does not require the signature of the bride as an indicator of the bride’s consent to marriage. The wali’s signature is, however, mandatory.

The Commission recommends that the marriage registration form should make it mandatory for the bride’s consent to be recorded in the form of a signature. It also recommends that the wali’s signature not be made a mandatory requirement for the registration of a marriage under the MMDA.

The Commission observes that providing an *additional* space for the wali’s signature, i.e., where the bride signs the form, but additionally opts for her wali to sign the form as well, may be considered, provided that the wali’s signature is entirely optional and is not a prerequisite for a valid marriage under the MMDA.

3. The practice of polygamy

Section 24 of the MMDA permits the practice of polygamy. The Commission observes that the practice violates the women’s right to non-discrimination as guaranteed in the Constitution. It also recalls that the CEDAW Committee, in General Recommendation No. 21: Equality in Marriage and Family Relations, observes that ‘[p]olygamous marriage...ought to be discouraged and prohibited’.

Accordingly, the Commission reiterates its recommendation that the MMDA be reformed to remove provision for the practice of polygamy.

4. Judicial forum for divorce

The Commission observes that the legal system governing family law in Sri Lanka should embody the principles of legal pluralism while ensuring compliance with articles 12(1) and 12(2) of the Constitution. It is possible to conceive of a family court system wherein specially trained judicial officers can be allocated depending on the law applicable to the litigants. It is anticipated that the salutary aspects of the quazi system could be retained through the divisions of courts established throughout the country under such a court system. For example, family courts in a particular district could have special divisions specialising in the application of the MMDA. Accordingly, specially trained judicial officers with knowledge and expertise in the MMDA may be assigned to such divisions throughout the country.

The Commission accordingly recommends that a system of family courts, which is adequately resourced, accessible, cost effective, and subject to meaningful oversight of the Judicial Service Commission (JSC), should be introduced to enable litigants to access appropriate legal remedies under the MMDA.

Should the quazi court system be retained in the interim, the Commission is of the view that the Ministry’s proposal for a hybrid court system (i.e., to confine the jurisdiction of the quazi courts to uncontested divorces and related matters and for district courts to have jurisdiction over contested divorces and related matters) may be appropriate.

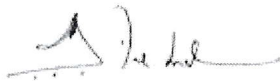
The Commission also recommends that the MMDA be reformed to specifically require that the JSC prepares strict guidelines and monitors the procedure of quazi courts (where such courts are retained in the interim), and that official premises are designated for quazi courts where court proceedings can be conducted.

5. Women quazis

The Commission recalls that articles 12(1) and 12(2) of the Constitution require that all citizens of Sri Lanka, regardless of their sex, race or religion, be treated with equality and without discrimination. However, the MMDA stipulates that only male Muslims may be appointed as registrars, temporary registrars, special registrars, quazis, and special quazis.

The Commission recommends that the eligibility criteria for the appointment of judicial officers are non-discriminatory on the basis of gender.

If the quazi court system is retained in the interim in anticipation of the introduction of a new family court system, the Commission recommends that the MMDA be amended to include the appointment of women quazis, and that clear eligibility criteria for quazis be stipulated.



Justice L.T.B. Dehideniya,
Judge of the Supreme Court (Retired),
Chairman,
Human Rights Commission of Sri Lanka.

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Cc: Ms. Piyumanthi Peiris
Additional Secretary (Legal)
Ministry of Justice and National Integration