

Time to review the role of Britains' Moslem 'courts' in divorce cases

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The National Secular Society has backed calls for the government to withdraw divorce guidance which encourages women from minority religious backgrounds to turn to religious 'courts'.

NSS chief executive Stephen Evans has joined campaigners in signing an open letter to the Ministry of Justice which has been [published](#) on the website of Southall Black Sisters (SBS). SBS campaigns for the rights of women in minority communities.

The letter calls for "an urgent review into sharia and civil marriage and divorce laws and to guarantee access to justice for all".

The signatories, led by Gita Sahgal of the Centre for Secular Space and Pragna Patel of SBS, say the application form for a divorce undermines "the validity of a civil divorce under English law".

The form says: "If you entered into a religious marriage as well as a civil marriage, these divorce proceedings may not dissolve the religious part of your marriage. It is important that you contact the relevant religious authority and seek further guidance if you are unsure."

The signatories call on the government to withdraw this guidance.

"If the government is serious about gender equality and ending violence against women, why is it undermining the validity of a civil divorce under English law? Why is it pushing women towards religious courts?

"For decades, the civil divorce has been the valid certificate demanded by courts abroad, regardless of whether there is also a religious marriage such as a Sikh, Hindu or Muslim ceremony. This guidance undermines women's rights and the recognition of divorces awarded by British courts."

The letter says research has found that the "power and control of religious fundamentalist networks over Muslims has grown enormously over the last 30 years". This had led to "widespread" beliefs that civil marriage is unnecessary, women must have a divorce certificate issued by a sharia 'court' in an apparent judicial procedure and they must get this 'certificate' even if they already have a civil divorce.

The letter also calls on the government to "overhaul outdated marriage and divorce laws" and welcomes a recent High Court [decision](#) to declare a Muslim 'marriage' void, rather than a non-marriage.

The decision entitled Nasreen Akhter, who went to court to ask for a divorce, to a decree of nullity. This rules her marriage void and potentially entitles her to a financial relief. The judgment does not

recognise sharia 'law', as some media reports have misleadingly suggested.

The signatories said this decision should be "examined for its relevance to marital captivity, forced and child marriage".

The NSS campaigns to [protect the principle of one law for all](#) and calls for [reform of the marriage laws](#) to ensure greater equality and fairness.

Commenting on his decision to sign the letter Mr Evans said: "Given the adverse effect of sharia 'courts' on women's rights, it is important that the government examines its own complicity in keeping religious fundamentalists in business.

"By advising women from minority backgrounds to turn to these bodies when they get divorced, the government is indulging in the bigotry of low expectations.

"The state should treat marriage and divorce as civil processes, governed by what is best for the individuals involved and society as a whole. But the government's guidance leaves women at the mercy of religious authorities who do not share these priorities, endangering their rights.

"The best way to ensure marriage and divorce are handled fairly is to recognise the supremacy of civil law over the religious and secularise the marriage laws."

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Text of the letter

In the light of recent court decisions on marriage and divorce, today SBS and others have written to the Ministry of Justice, calling for an urgent review into sharia and civil marriage and divorce laws and to guarantee access to justice for all.

We welcome the recent High Court decision in [Akhter v Khan \[2018\] EWFC 54](#) in the UK, to declare that a Muslim marriage contract (nikkah) was 'void', rather than a 'non-marriage'. Shabaz Khan had refused to divorce Nasreen Akhter on the grounds that they did not have a valid marriage registered under English law. This had the effect of keeping Nasreen Akhter in marital captivity and denying her legal rights under English family law.

The outcome means that Nasreen Akthar is entitled to seek a decree of nullity, and hopefully, to obtain financial relief against Shabaz Khan. Even though the decision turned on the specific facts of the case, it is nevertheless significant for women trapped in unregistered marriages and should be examined for its relevance to marital captivity, forced and child marriage.

The judgment does not recognise 'sharia' laws as some in the media have misleadingly stated. It deals with the knotty problem of women who believe that they are married but find that they have an unrecognised religious marriage only. This case shows that they can turn to the formal legal system. In fact, the judgement deals a blow to those who justify the sharia 'courts' as the only recourse for women who have not registered their marriages.

Our research shows that the power and control of religious fundamentalist networks over Muslims has grown enormously over the last thirty years. This has led to a widespread belief that a civil marriage is not necessary, that women must have a divorce certificate issued by a sharia 'court' in an apparent judicial procedure; and that they must get this 'certificate' even if they already have a civil divorce.

While the judgement is a step in the right direction, the government urgently needs to examine its own complicity in keeping religious fundamentalists in business. Sharia 'courts' have been actively tolerated in Britain by being given charitable status and treated as partners by the police and local councils. While the government rejected the recommendation of the sharia review headed by Mona Siddiqui for regulation of the sharia councils; it has quietly ensured the continuing power of religious courts.

The application form for a divorce (Form D8) actively encourages women to turn to religious bodies. It states 'If you entered into a religious marriage as well as a civil marriage, these divorce proceedings may not dissolve the religious part of your marriage. It is important that you contact the relevant religious authority and seek further guidance if you are unsure.'

If the government is serious about gender equality and ending violence against women, why is it undermining the validity of a civil divorce under English law? Why is it pushing women towards religious courts? For decades, the civil divorce has been the valid certificate demanded by courts abroad, regardless of whether there is also a religious marriage such as a Sikh, Hindu or Muslim ceremony. This guidance undermines women's rights and the recognition of divorces awarded by British courts.

We call on the government to immediately withdraw this guidance from the divorce application form; to address the lack of access to justice brought about by cuts to legal aid; to overhaul outdated marriage and divorce laws and to take active measures to end religious courts and their control over women's lives.

Gita Sahgal, Director, Centre for Secular Space

Pragna Patel, Director, Southall Black Sisters

Yasmin Rehman, Women's Rights Campaigner

Maryam Namazie, Spokesperson, One Law for All

Afsana Lachaux, Women's Rights Campaigner

Ahlam Akram, Founder, Basira

Amina Lone, Women's Rights Campaigner

Diana Nammi, Executive Director, Iranian & Kurdish Women's Rights Organisation

Gina Khan, Spokesperson, One Law for All

Peter Tatchell, Director, Peter Tatchell Foundation

Rahila Gupta, Writer

Rumana Hashem, Spokesperson, Community Women Against Abuse

Sadia Hameed, Spokesperson, Council of Ex-Muslims of Britain and Critical Sisters Director

Stephen Evans, Chief Executive Officer, National Secular Society

The Secular Charter outlines 10 principles that guide us as we campaign for a secular democracy which safeguards all citizens' rights to freedom of and from religion.

National Secular Society

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<https://www.secularism.org.uk/news/2018/08/nss-backs-call-for-review-of-role-of-sharia-courts-in-divorce>