



BRIEFING by Aina Khan OBE, Solicitor 1 December 2019

Our Vision

“To see a world where all religious marriages are legally registered”

WHAT is “Register Our Marriage” (ROM)?

We are a two-pronged campaign:

- (1) Raising awareness of the lack of legal protection in rapidly rising unregistered religious marriages and
- (2) Lobbying for Reform of the Marriage Act 1949 for all religious marriages to be legally registered

WHO is leading the ROM campaign?

Aina Khan OBE, Founder & Director of ROM, specialises in International Family Law and is one of the world’s leading experts in Islamic and Asian marriage & divorce. Aina received an OBE from Her Majesty the Queen in the 2018 New Year’s Honours List for ‘Services to the Protection of Women and Children in Unregistered Marriages’.

Aina launched the ROM campaign in 2014 running it on a voluntary basis, with nationwide road shows.

WHY is the Marriage Act 1949 out of date (70 years without reform)?

English marriage law is no longer “Fit for Purpose” for our society. It requires only 3 faiths to register their religious marriages:

- Anglicans (Church of England and Wales), Jews, Quakers

All other faiths can volunteer to register. But if this is not done, the marriage will not be recognised under English law.

In contrast, in most developing countries, it has been mandatory since the 60s to register a religious marriage. So a religious marriage registered abroad is recognized worldwide.

In the 21st century, ROM believes a fair and equal marriage law must cover all faiths – or none.

English law is confusing and even Judges disagree on it. The Court of Appeal is due to give judgment by early 2020 on an appeal brought by the Attorney-General in the case of *Akhter v Khan* [2018] EWFC 54. In this case, Justice Williams created a ‘flexible approach’, incorporating principles of fundamental human rights, to declare a marriage void (as opposed to a ‘non-marriage’) after an unregistered Islamic Nikah ceremony. This enabled the wife to apply for financial relief.

ROM’s position is that it is against public policy for the law to be unpredictable and case specific – this means 10,000s have no access to justice. Most cannot afford court battles. This leads to lack of financial rights, exploitation and coercion.

There is chaos, injustice and confusion about why faiths are treated differently. What possible defence can there be not to reform this outmoded law, which was last changed before mass migration began in the 60s?

WHICH faiths are affected?

Smaller faith groups with a strong leadership mostly register their marriages under English law. In sheer numbers it is young British Muslims who do not register their Islamic marriage, the *Nikah*. The numbers have grown dramatically, whilst it was

assumed by the government that registration would become the norm. Young Muslims are unknowingly - but now often deliberately - acting against the Islamic requirement that a marriage is an enforceable contract, which requires the husband to financially support his wife and children. UK Muslims are from over 30 diverse countries and communities, with no one leader. Amongst converts to Islam, unregistered religious marriages have become the norm. Some African churches, Hassidic Jews, Sikh and Chinese are increasingly not registering. Therefore, ROM is an Interfaith campaign.

WHAT ARE THE REPERCUSSIONS OF UNREGISTERED RELIGIOUS MARRIAGES?

- Overnight homelessness and financial reliance on family/friends/Benefits system
- Being evicted by in laws after death of 'spouse'
- Not "next of kin" so cannot bury body without family's consent
- No Pension rights/ losing substantial savings invested in "matrimonial" home or business
- Husband remarries in a legally registered marriage, while first 'wife' and children suffer destitution
- 'Triple Talaq' divorce given by husband – which is illegal in most Muslim countries
- Conversely, wives kept in 'marital captivity' and refused a divorce
- Higher rates of relationship breakdown
- Rapidly rising Polygamy, secret and part-time marriages
- If only an oral ceremony, cannot claim even religious financial rights
- British women imprisoned abroad and children taken away for illegitimacy

REASONS for RISING FIGURES:

- complacency – "We'll get around to it soon"
- fear of commitment/desire to test relationship – "Let's see how it goes"
- widespread ignorance of the law – "Living together gives the same rights"
- desire of one party/their family to avoid divorce courts, maintenance and sharing assets
- belief that marriages registered by a faith leader are legally recognised
- increased religiosity and avoidance of secular system – "religious ceremony is all that matters"
- fear of losing a partner who will not marry legally
- misplaced trust that spouse will treat them fairly should marriage ever fail
- desire for polygamous, secret, 'part time' marriage – not committing Bigamy as not legally recognised
- chosen venue does not register marriages
- confusion because a religious ceremony registered overseas is valid but the same ceremony conducted in England or Wales would not be recognised unless legally registered

ROM MILESTONES

2019: National campaign delivery

The Ministry of Housing, Communities and Local Government (MHCLG) asked ROM to run awareness-building training with a focus on 3 target cities - Birmingham, Leicester and Bradford. ROM has been warmly welcomed by the grassroots of each community, including faith leaders who were resistant till now to the topic. They, along with local women administrators, have pledged to become marriage registrars and to take the ROM message out far and wide.

1. 3 local Launches held from 7 – 15 November 2019 during Interfaith Week
2. Legal Surgeries being set up in these areas
3. Faith leaders’ training “
4. Launch of our new logo, website, flyers, posters and downloadable materials
5. Nationwide speeches and stalls run at large community events
6. Our Parliamentary launch was postponed till Spring 2020 because of the 12 December General Election

2014 – 2018: International and National campaign delivery:

- **Council of Europe Report 2019** - endorsed the 2-pronged approach taken by ROM
- **UN’s CEDAW Report 2019** - “
- **‘Integrated community strategy’ Green Paper 2018** “
- **Sharia Review by Home Office January 2018** “
- **Evidence** given to Parliamentary Select Committees and Parliamentarians
- **Law Commission on Marriage Law** cited ROM in its Scoping Report of **17 December 2015**, clause 1.35
- **Law Commission on Weddings 2019 Consultation Paper**

QUESTIONS

- Should there be penalties for conducting unregistered ceremonies? (as in most Muslim countries)
- Are Cohabitation rights the answer?
- Trusts law the answer? (prohibitively expensive, risky, slow, hard to win)

FACTS & FIGURES

There is no data. We invite those who seek statistics to raise finance for this so ROM can commission research. Failing this, ROM must rely on anecdotal evidence, rather than watch as suffering increases.

The only research so far is a survey carried out by the *‘The Truth about Muslim Marriage’ TV documentary on Channel 4* which aired on 21 November 2017. It followed Aina Khan’s work with ROM for over a year. Channel 4 commissioned an independent quantitative survey of 1,000 British Muslim women.

KEY FINDINGS:

- 80% of under 25s had a *Nikah* only ceremony, without legal registration
- 60% of over 25s had a “ “
- 78% want a legally recognized marriage
- 28% did not realize that an unregistered *Nikah* ceremony did not give the protection of the law
- Nearly 90% were not advised that there was no legal status to the *Nikah* ceremony

Aina Khan’s own experience with Muslim families reflects these statistics, with the numbers rising amongst certain communities:

- 90%+ of Mosques are not legally registering religious marriages
- 80%+ of young British Muslims are not registering their religious marriages
- Over 100,000 Muslims do not have legally recognised marriages

(based on 3.3 million UK Muslims. There were 2.7 million Muslims at the last Census in 2011, 1/3 of them young).

ROM Steering Groups nationwide are comprised of lawyers, faith leaders, women's groups, academics, Parliamentarians and other influencers. ROM's strength is that we are a truly diverse group of individuals representing the cross-section of British society – men, women, young, old, of all faiths and secular and of all political hues.

Join us now in changing lives!

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Twitter: <https://mobile.twitter.com/regourmarriage>

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