

## **STATEMENT: Muslim MPs betray MMDA Reforms: Justice for Sri Lankan Muslim women under threat**

In a letter dated 8 June 2023, 18 Muslim Members of Parliament (MPs) [submitted recommendations](#) in response to the Draft Bill on MMDA Reforms to Minister of Justice Wijeyadasa Rajapakshe. The MPs' recommendations categorically oppose all progressive reform reflected in the draft Bill presented by the Ministry of Justice based on the recent report of the 2021 Advisory Committee on MMDA Reforms. They even regress on progressive positions that were unanimously agreed on by all members of the previous 2009 committee headed by Justice Saleem Marsoof.

The signatories to the MPs' letter were A H M Fowzie, Rishad Bathiudeen, Kabir Hashim, A L M Athaulla, Naseer Ahamed, M S Thowfeek, Ishak Rahuman, Imtiaz Bakeer Markar, S M Marikkar, Marjan Faleel, A H M Abdul Haleem, K Cader Masthan, S M M Muszhaaraff, Faizal Cassim, Ali Sabri Raheem, Imran Maharroof and M Muzzamil.

### **MPs' proposals amount to no reform**

The recommendations submitted by the MPs take **astoundingly regressive** positions on reforms to the MMDA. Some of the most egregious recommendations include:

1. The bride's signature on the marriage register to have **no value without** a male guardian signing, denying women their autonomy.
2. Muslim women continue to be excluded from holding public office under the MMDA, which will have **only male** registrars. Inclusion of women Quazis (judges) has not been specified.
3. Maintain the Quazi system without any changes, including criteria and process for appointing Quazis.
4. Exceptions to minimum age of marriage to allow under 18 year-olds to marry.
5. Rejection of equal divorce procedures and retaining the current highly discriminatory divorce system and procedures.
6. Rejection of new provisions (introduced in the draft Bill) for sharing of matrimonial property and securing the best interests of children.
7. Maintaining the discrimination between different sects and *madhabs* (schools of jurisprudence) of Muslims in Sri Lanka.

These positions fly directly in the face of progress made in recent years, both in terms of discourse within wider society and more specifically the formal legal process initiated by the Ministry of Justice.

### **Politics Not Principles: Lack of consistency in Muslim MPs' positions**

The MPs' views expressed in their recent letter directly contradict the positions taken by many of the very same MPs publicly on 11 July 2019 in Parliament, when 12 Muslim MPs agreed that 18 would be the minimum age of marriage without exceptions; that the positions of Quazi and marriage registrar be open to Muslim women; that maintenance be decided by the regular courts; and that Quazis would have a minimum professional qualification of Attorney-at-Law.

The new recommendations also contradict the endorsement by 13 Muslim MPs of the [positions submitted by the predominantly male Muslim Civil Society Alliance](#), including the All Ceylon Jamiyyathul Ulama (ACJU) to the Ministry of Justice on 18 November 2022. Again, there was agreement that minimum age

of marriage be 18 years, that women may be appointed as Quazi, that signature of *wali* (guardian) be optional, thereby not invalidating a marriage simply because the *wali* does not sign, and that Quazis have at minimum the qualification of Attorney-at-Law.

It appears that the Muslim MPs' recent change of heart and mind has been facilitated by highly-private, exclusive deliberations that took place between the MPs and the ACJU in June 2023.

### **MPs' recommendations ignore decades of work towards MMDA reforms**

Building on decades of research, consultation and debate about MMDA by Islamic scholars, legal experts and concerned members of the community, the June 2021 Advisory Committee (comprising academics and lawyers and Islamic scholars including those from the ACJU) submitted a report to the Minister of Justice. This report outlined proposals for amendment of the MMDA that were in line with Shari'ah and Islamic jurisprudence, the Constitution of Sri Lanka, and the documented harmful impacts of the MMDA in its current form.

While [MPLRAG is not in agreement](#) with all the recommendations of the committee's report, we recognise that this represents a legally, socially and theologically acceptable formulation that will significantly benefit Muslim citizens of Sri Lanka.

The extremely conservative and discriminatory positions taken by the Muslim MP signatories undermine **decades of work** of women activists working under the harshest of conditions to bring to light the serious and harmful injustices that have occurred under the cover of the MMDA. It also flippantly dismisses the work of **six state-appointed committees of experts spanning a period of over 60 years**. The failure to respond to the real issues affecting the intimate lives of Muslim citizens is a reflection of narrow political self-interests rather than the wellbeing of Muslim communities. It is a disservice to the representative responsibility the MPs bear, especially to those most affected and suffering injustice, who are still waiting for relief.

### **Fear-mongering within Muslim communities**

Some MPs are resorting to cheap scare tactics, such as claiming that the recent Bill will undermine the identity of the Muslim communities in Sri Lanka. The allegation that the word 'Muslim' has been removed in the 2021 Advisory Committee-based Amendment Bill and replaced with the words "persons professing Islam" is being touted as evidence for this – despite the fact that all "persons professing Islam" are by definition Muslims.

In fact, the very same use of language was unanimously agreed upon in the Justice Marsoof Committee report of 2018, which included two representatives of the ACJU, Ash Sheik M I M Rizwe Mufti and Ash Sheik M M Ahmed Mubarak, as well as President's Counsel Faisz Musthapha and several others who had taken dissenting positions on several other issues. It is also consistent with the legal definition of who is a Muslim, as it emphasises the religion of Islam and is consistent with other laws that refer to Muslims in Sri Lanka.

**There is a concerted effort to tarnish progressive reforms as being unIslamic.** This deliberate arousal of anti-Muslim and anti-reform sentiment with the use of scare tactics is very unfortunate as it misdirects the public discourse from the long-standing need of comprehensive MMDA reform to secure the wellbeing of Muslim families and communities.

## The way forward

We urge the Muslim MP signatories:

- To recognise the long term damage that regressive positions on MMDA Reform will cause;
- To review and reverse their decision to support these regressive proposals; and
- To publicly support affected Muslim women and girls.

We further urge the MPs to represent the broad interests of building a positive Muslim identity in this country's plural society and to preserve truly Islamic values in Sri Lanka.

We urge the Minister of Justice:

- To centre and build on the legislative process of reform adopted thus far and not allow for these efforts to be railroaded;
- To move ahead with progressive reforms that will make a significant positive impact on the lives of Muslim women and children; and
- To refrain from conceding to the egregious proposals by all male Muslim MPs as it betrays the decades long advocacy by Muslim women on MMDA reforms.

We condemn the ulterior motives of narrow political self-interest driving these proposals, the failures of accountability and due process in derailing the reform process, and the lack of responsibility of those in public office reflected by the 8 July 2023 recommendations.

Unless comprehensive reforms are made to the MMDA, the Act will remain **the most discriminatory and regressive Muslim family law globally**. Muslim majority and minority countries have significantly better and more fair provisions for women in their respective legislations.

**The recommendations made by Muslim MPs on 8 July 2023 are a categorical betrayal of Muslim women and girls. It is a deliberate attempt to prevent all Sri Lankan Muslim communities from achieving non-discrimination, justice and dignity in Sri Lanka. The MMDA must be comprehensively reformed; it is the only way forward.**

End.

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Muslim Personal Law Reform Action Group (MPLRAG) is an independent and volunteer-led lobby group consisting of Muslim women lawyers, advocates, activists and researchers working towards advancing Muslim women's rights and access to justice in Sri Lanka.

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