

## THE PERCEPTION OF MUSLIM UNDERGRADUATES OF SRI LANKA ON THE PROPOSED AMENDMENTS TO THE SRI LANKAN MUSLIM MARRIAGE AND DIVORCE ACT

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**ABSTRACT:** *There has been a debatable situation in the society about the proposed amendments to the Muslim Marriage and Divorce Act which is applicable to Muslims living in Sri Lanka. Accordingly, this study has described the views held by the Muslim students studying in Sri Lankan universities about the particular debatable situations. This study has been conducted by obtaining the data required for this purpose from students studying in state and non-state universities. The objective of this study is to find the perception of the Muslim student studying in universities on the amendments to the Muslim marriage and divorce act. This research was conducted as an online survey. When the responses of the participants are reviewed, the main facts that appear are; that the majority of the students are aware of the current Muslim Marriage and Divorce Act and the theoretical issues in the marriage and divorce procedures under this Act and the quasi-judicial structure must be further revised. In this way, the facts that they have pointed out through this research about the amendments that should take place in this Muslim Marriage and Divorce Act are important for the process of amending this Act and this research shows that by making to implement their ideas at the practical level, the Muslim Marriage and Divorce Act in force in Sri Lanka can be taken to a more conclusive level.*

**Keywords:** Amendment, Divorce, Law, Marriage, Muslims, Quasi

### 1. INTRODUCTION

When looking at the social context of the whole world, the main thing that appears is that all the people who live there are people of different religions, non-religious and belonging to different races and tribes. All of them live their livelihood according to their own indigenous and unique policy. Similarly, it can be seen that the attempt to get a high recognition in their social system for their unique policy. Even if any country is in a state of representation of multiple nations, they also follow personal laws made individually in addition to the general law of the entire multiple communities. They can be identified as rules that are closely related to their faith and are highly sensitive. It is also a special status to implement and maintain such allotted personal laws without violating the general law of their state. Thus among the all the religions found in the world Islam can be known as a way of life beyond a religion when studying about its sources and the essence of Islam. When you look at all the Muslims living in the world, it is a common feature to see that they have made their lives according to the lifestyle as mentioned above. Sri Lanka is a multi-ethnic state. *Sinhalese, Tamils, Muslims, Burghers* and other races live there and a common law applies to all the people there (Herath, 2013). Meanwhile, as mentioned above, some ethnic groups living there establish and enforce their own rules based on their faith and affiliated to it, which are limited to a particular subject as a constitutional personal law in Sri Lanka. Moreover that personal law is maintained in a manner that does not conflict with the supreme law prevailing in Sri Lanka. Examples of such

personal laws are *Kandyan law*, *Thesawalame law* and *Muslim law* which are in force in Sri Lanka. Among these, in the daily life of Muslims in Sri Lanka, in addition to the general law, a personal law that applies to the Muslims living in Sri Lanka regarding marriage, divorce, property inheritance, and the administration of mosques has been established since the past and has been developing over time (Herath, 2013). At various times, this Muslim personal law has been forwarded by modifying and adapting to suit the foundations of the Islamic religion. It happened because the legal system needs such timely legal amendments due to the expansion of the society.

## 2. RESEARCH PROBLEM

While Sri Lankan Muslim personal law has evolved over the past, it has been unsteady in its amendments in recent decades. Therefore, currently various problems have been arisen due to this unsteadiness in the legal system of the society. Since then, various debatable occasions have been emerging in the society regarding this Muslim law. There is a need to examine the attitudes, opinions, suggestions and criticisms expressed by various parties based on the various debatable situations that have arisen in the society regarding the Muslim Personal Law. Thus, this study has been conducted based on the opinions expressed by the Muslim students studying under the University system of Sri Lanka regarding the amendments to the Muslim Personal Law.

## 3. LITERATURE REVIEW

Sri Lanka is a multi-religious country. As a result, 9.7% of the total population living in Sri Lanka is Muslims living with other races (Department of Census and Statistics, 2012). Although the *Buddhists* live as the majority (70.2%) in Sri Lanka, Sri Lanka has an established legal system that protects and enforces the rights of all religions (Wijeyeratne, 2017). It is confirmed in the Constitution of Sri Lanka itself. Meanwhile, there is one more peculiarity regarding the Muslims living in Sri Lanka. The Muslims live in Sri Lanka with different identities such as *Moor*, *Malay*, *Java*, *Bora*, *Memon* etc. The majority of them belong to the Denomination of *Sunni* who represents the school of *Shafii* (Dewaraja, 2015).

In the past, Arab settlements started in Sri Lanka and in the surrounding regions with the Arabs immigration to the South East Asian region and to the South Asian region including Sri Lanka who made their living from trade. Meanwhile, with the arrival of Islam the Arab people who settled in Sri Lanka became Muslims. Furthermore, beyond trade, they contributed to diplomatic affairs with trade relations established with foreign countries and supported the regime in Sri Lanka by supporting to the *Sinhala Buddhist* king (Shukry, 1986). Muslims have contributed a lot to the country's economy. Because of these contributions Muslims got an acceptance in the society of this country and thus their residence in the country became stable. The arrival of the *Portuguese* in this country was a big threat to the Muslim people who lived like this for decades (Dewaraja, 2015). As a result of their actions of disrupting the trade, large numbers of native Muslims from the coastal regions migrated to the Kingdom of *Kandy*. So the Muslim people who migrated to the Kingdom of *Kandy* had opportunities to live their religious life with maximum freedom while serving for the kingdom of the king who ruled the Kingdom of *Kandy*. Later, with the arrival of the *Dutch* in Sri Lanka, the *Malay* Muslims living in Indonesia were brought here and engaged in various services. And with appointment of the native Muslim community who lived in this country to their service need a conciliatory policy

was followed towards the Muslims. During the *Dutch rule*, there were no formal rules separated for Muslims in this country (Dewaraja, 2015).

The *Portuguese* during their rule (1505-1656 AD) allowed the Muslims to simply maintain the existing system of Muslim marriage and divorce according to Muslim customs then. But in court proceedings, the law was applied according to the existing law of *Goa* then. In this way, the marriage system that existed among Muslims at that time was known as *Kaduttan*. Later, the *Dutch* who ruled Sri Lanka also accepted this marriage system, but because of the difficulties they had to face in court proceedings regarding Muslims, during the 1770s, the Dutch governor Falack (*Iman Willern Falack*) brought the Muslim code of law held in *Batavia* to Sri Lanka and first he brought it to the attention of early *Gam-Mulaadeni* (Muslim leaders) who lived in Sri Lanka. But the local Muslims then, opposed the *Batavi law* brought in that way. But on the insistence of Governor Falack, they had to accept it and it was called the '*Bysondere wetten aangaande mooren mahometanen*' law in 1770 which applied to the Muslims living in the *Dutch* controlled areas including the coasts of Sri Lanka. Later, as long as the *Dutch* ruled the country, they acted according to the same law regarding the Muslims. Similarly, ending the Dutch rule, the British started to rule the country (Herath, 2013). When the British established the ruling power in this country, Dutch law had to be implemented for a while. Although the same Muslim law was implemented then, in 1801 British enacted a new charter making a code of law governing the law of property and succession among Muslims and treaties and transactions between Muslims. Later, the British set up a commission on 5 August 1806 to draft a code of law for Lankan Muslims, using the Dutch-imposed Muslim Code and the Charter of 1801 as a source of Islamic religious principles (Herath, 2013).

Then Sir Alexander Johnston the Chief Justice of Sri Lanka proceeded a code of rules named *Mohammedan Code of 1806* or *Charter No. 14 of 1806 (Mohammedan Code of rules)* to the British Governor while the Muslim rule and the Charter of 1801 imposed by the Dutch was not cancelled neither. But later the Charter of 1801 was repealed by the Judiciary Charter of 1833 and the Muslim law continued to apply as mentioned under the provisions of the Dutch Proclamation of 1799. It is further clearly affirmed the right of Muslims to be governed under the Muslim law. In addition, later the provisions about the registration of Muslim marriages were made by the *Mohammadan Marriage Registration Ordinance Act No. 8 of 1896* (Herath, 2013).

After the Kingdom of *Kandy* was surrendered to the British, the *Mohammadan Law Code of 1806* applied not only to the Muslim community of the lower country but also to the whole Muslim community throughout the country according to the provisions of the Civil Law Ordinance Act No. 5 of 1852, the Introducing English law to Sri Lanka then) Although the Muslim law was in force for an extent then, when certain legal issues arose in the judicial process, they had to be resolved according to the Muslim customs. But this was done only when the law was silent. At that time the existing *Mohammadan Code of 1806* also contained elements inconsistent with the Islamic law. (Examples such as adultery) is one of the included elements that are against the Islamic law. Due to such reasons as its principles not being based on Islamic principles the Muslim leaders in the early 21st century continued to work on this (Herath, 2013). Later, on the recommendations brought by the *Justice M.T. Akbar*, the *Muslim Marriage and Divorce Act No. 27 of 1929* was brought. Some of the (previous) aspects of the Muslim law were (abrogated.) And this new act established a quasi-judicial system in Sri Lanka, similar to the court system in Islamic Law, to (hear) cases under the Muslim law

regarding Muslims. Based on the facts presented by this new act, it was declared that Muslims should marry under the Muslim law (Herath, 2013).

Meanwhile, Muslims had to act under the Last Will *Ordinance No. 21 of 1844 in matters of property inheritance* under the law of property. Accordingly, the Muslim Mutual Succession and *Waqf Ordinance No. 10 of 1931* introduced a definite law on uncertain and unstable matters and enabled them to inherit and gift their property. Thus, this Muslim law was further developed and reformed again by the *Muslim Marriage and Divorce Act No. 13 of 1951*. That is, if you are not satisfied with the decisions made by the arbitral tribunal, it provides an opportunity to appeal High courts. This Act came into force from 1st August, 1954. Later a number of amendments in the provisions of the Act were made vide No. 31 of 1954, No. 22 of 1955, No. 01 of 1965, No. 05 of 1965, No.32 of 1969. But the problem is that this Act couldn't be able to amend in time to answer the social problems that arose later.

For that purpose, many committees such as *Farooq Committee* in 1972, *Kanagaratne Committee* in 1984, *Shahabdin Committee* in 1990, *Salim Marsuf Committee* in 2009 has shown how to amend this law, but it seems that the proposals mentioned in their committee reports have not functioned properly (Izzadeen, 2016). Through that, the society reported the further occurrence of injustices to women in the society and various irregularities in the quasi-judicial system, and also the mechanisms that could be taken to prevent them were also had been silent. By the year 2020, there has been no change even though there have been various conversations between civil organizations and in the electoral platforms including the legislature. But there is still a great debate in the civil society about the amendments to be made here.

#### **4. METHODOLOGY**

This is a research done by following the quantitative analysis techniques and the primary data collection was done based on the information of Muslim undergraduates studying in state and non-state universities of Sri Lanka. The data collection of the mentioned students was done by submitting an online questionnaire in *Tamil, Sinhala* and *English* languages. The next step in the research was to describe, examine and analyze the data as frequency analysis. For that, the obtained data were analyzed and discuss the responses with the main sources of Islamic studies; the *Holy Quran, Al-Hadith* books and the constitutional law *Muslim Marriage and Divorce Act No. 13 of 1951 of Sri Lanka* and the (subsequently amended acts) which were used as secondary data were discussed in accordance with the subject relevant to the theories and principles that led to the problem.

#### **5. RESULTS AND DISCUSSION**

Data analysis and interpretation is considered as one of the most important steps in conducting any sociological research. The primary objective of this study was to study the opinions of Muslim undergraduates studying in Sri Lankan universities regarding the proposed amendments to the Muslim Marriage and Divorce Act in Sri Lanka. Accordingly, in this research, conclusions are drawn based on the answers given to the questionnaire used to obtain the students' opinions, and important data are investigated and presented to prepare suitable proposals.

### **5.1 PEOPLE WHO PARTICIPATED IN THE RESEARCH**

The all of undergraduates used for this research are Muslim undergraduate students studying in established state and non-state universities in Sri Lanka. Therefore around 257 students including 22 state university students and 5 private university students have forwarded their opinions.

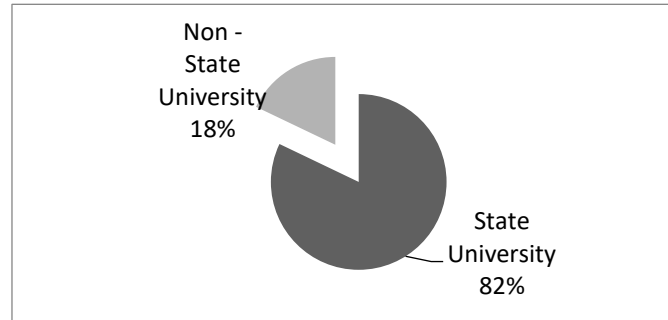


Figure 01 – University category of participants

### **5.2 UNIVERSITY STUDENTS' AWARENESS OF MUSLIM MARRIAGE AND DIVORCE LAW IN SRI LANKA**

When asked about the awareness of the students who participated in this research about the Muslim Marriage and Divorce Act in Sri Lanka, 82% of them were aware of this law and 18% of students said they don't know about it. Because the majority of the people know that, it shows that as (university students) they should also be connected in cases where this Muslim personal law in force in Sri Lanka needs to be amended and it is important to include the suggestions of the students studying higher education when amending the Muslim Marriage and Divorce Act. As they are going to take the leadership of the society after university education, it is important for them to solve many problems that may arise in the future. At the same time, another point that can be pointed out is that 18% were not aware of it when asked about the awareness of Muslim marriage law among Muslim (university students) studying in universities regarding this Muslim personal law. Being without any understanding of this law shows an imperfection in the education they have learned even being a student who came to a university to get the higher education.

### **5.3 OBTAINING THE WOMAN'S CONSENT FOR MARRIAGE**

According to its primary sources in the study of Islam, the family can be called as the foundation of that society. In this way, the family structure which is the foundation of that society is strengthened by bond of marriage. Muslims preach it as the way of the prophets. Accordingly, three essential requirements must be fulfilled for the so-called marriage to be approved. That is, the consent of the bridegroom and the bride, the identification of the bride's guardian (*wali*) and the guardian handing over the bride's guardianship to the groom (*Ijab and Kabul*). Therefore, as parties of the marriage it is a Muslim tradition from the past that the bridegroom and the guardian of the bride perform this marriage

through a verbal agreement. According to Islamic law, it is mandatory for the guardian to get the woman's consent to get the marriage done. It shows that Islam does not accept forced marriages for women who attended the age of puberty. There are precedents in the time of Prophet *Muhammad (SAW)* to annul such marriages in cases where it was done without the consent of the women (Al-Bukhari & Kathir, 1989). Today the society has been very complex by expanding day by day. That complex form is found in every field of the society today. That theory also has affected the marriage related with the family life.

Written agreements will be a great help in settling the complex nature of these marriages. Accordingly, making provisions to confirm the marriage with a written agreement helps to minimize problems. However, as per the current Muslim Marriage and Divorce Act, there are no provisions for obtaining a signature of the woman in relation to obtaining the woman's consent, so no arrangement has been made to obtain the signature of the women for a marriage contract. That is why this research questioned the willingness of higher education students to get the women's signature for marriage, taking into account the possible situations that may arise from it.

*Table 1 – Responses for the obtaining the woman's consent for marriage*

<b>Responses</b>	<b>Frequency</b>	<b>Percentage</b>	<b>Cumulative Percentage</b>
Women should sign	218	85%	85%
Women shouldn't sign	39	15%	15%
<b>Total</b>	<b>257</b>	<b>100%</b>	<b>100%</b>

85% of the respondents agreed in arranging for the woman to sign the marriage contract, while another 15% disagreed. Among the students who disagreed, when asked why they did not want the woman to sign the marriage contract, they said that they preferred to continue the marriage tradition and that it was difficult to get the woman to participate to the marriage registration place were the reasons. But due to the various complexities that arise in the society mentioned above, it is not a conclusive situation to show reluctance to get signatures of women for marriage to obtain the consent as one should be flexible in certain timely decisions to be made in the modern society. Discussing this further, their opinions were asked about the legal form of the marriage contract and they were also asked about the mandatory confirmation of the marriage between the two parties through a recognized registration. For that purpose, 90% of them were of the opinion that it should be mandatory to register the marriage contract between the two parties, while another 10% said that there is no need of a requirement. It should be emphasized here that even in Islamic law; there are precedents of the Prophet *Muhammad (SAW)* who said that the agreement must be kept in written when entering into an agreement (Al-Shafi, 1997). So there is nothing wrong with keeping an essential bond of life like marriage confirmed by a registration. And as it facilitates the judicial process, we should arrange opportunities to make provisions for the marriage to be confirmed by registration.

But when the people who did not agree with it were asked why they did not like it, they said that it's not necessary because only the verbal agreement made between the guardian of the marriage contract and the husband is sufficient enough and the Muslim marriage tradition should be maintained unchanged. Since entering into a marriage contract through a legal registration does not prejudice the Islamic society, it creates an opportunity to reduce social

problems, so it appears that looking at this issue from a positive angle and registering the marriage is a timely action.

#### **5.4 MINIMUM AGE FOR MARRIAGE FOR WOMEN AND MEN**

There is no minimum age for marriage under Islamic law. But Islamic law has always said that a woman or a man is fit for marriage only if he has attended the age of puberty and meets the physical and mental conditions required for marriage. Currently, the Muslim Marriage and Divorce Act of Sri Lanka states that the minimum age for a woman to marry is 12 years (Izzadeen, 2016). Meanwhile, women younger than that age are allowed to marry with the consent of the *Quasi*. But in the social system that is improving day by day, the system of marrying off girls under the age of 18 has created a certain debatable situations in the society at a time when students tend to focus on education more than in the past. Also, among those conversations, attention has been paid to the physical and mental problems that may arise when a girl enters the married life. While there is a discussion in the society about the minimum age for marriage, this research has also questioned about the opinions of Muslim undergraduates studying in universities.

*Table 2 – Responses for the minimum age for marriage for women and men*

<b>Responses</b>	<b>Frequency</b>	<b>Percentage</b>	<b>Cumulative Percentage</b>
Such restrictions should be imposed	205	79.6%	79.67%
Such restrictions shouldn't be imposed	52	20.33%	20.33%
<b>Total</b>	<b>257</b>	<b>100%</b>	<b>100%</b>

Accordingly, a majority of 79.6% of the people who participated in the research said that the minimum age clauses of the existing law should be amended. At the same time, another percentage of 20.33% indicates that the existing law should not be changed. According to the above comments, it seems that it is very appropriate to impose an age limit to prevent early marriages in order to avoid the harm that may be caused to female children by marrying at young age.

#### **5.5 POLYGAMY SYSTEM**

Islam has created as a way of life compatible with human nature, so those who live according to its teachings always try to maintain their lives accordingly. This is evident when studying the lives of Muslims throughout the history. Polygamy is when a man legally marries and feeds several wives at the same time. In this study can see it as inevitability in various situations caused by human nature and inevitable causes.

*“If you fear that you might not treat the orphans justly, then marry the women that seem good to you: two, or three, or four.<sup>4</sup> If you fear that you will not be able to treat them justly, then marry (only) one, or marry from among those whom your right hands possess.<sup>6</sup> This will make it more likely that you will avoid injustice.” (Holy Quran, 4:3)*

The above Quran verse is considered as the approval for polygamy. There is a criticism in the society that this type of marriage affects gender equality and that women are prejudiced by it. But when looking at the history, the idea which states polygamy was introduced by Islam is wrong. There are many examples of polygamy in early societies in history. Islam has worked to formalize polygamy, which was often arbitrary and informal. Islamic law formalized it and established polygamy as a system of marriage that prioritized the needs of the society and social justice by limiting the number of wives to four when necessary and if more than one wife cannot be maintained limited to only one.

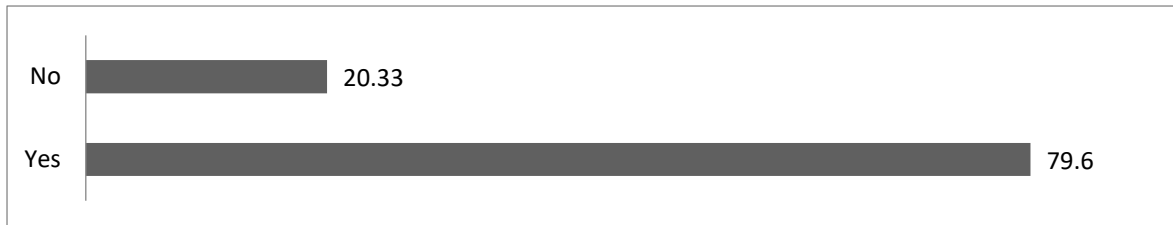


Figure 2 – Responses for the polygamy system

Accordingly, when asked whether polygamy should continue under the law, the majority said that it should continue under this law. And a minority has suggested no need to continue it. Among them, the reason for saying that polygamy should be abolished is that the right to polygamy is an absolute power of a man and its influence should no longer be on a woman. But the opinion of the majority of the undergraduates who commented on this is that polygamy should continue under this law. However, 78% of the people who thought that polygamy should exist under this law further said that legal provisions should be made to obtain the consent of the currently married wife or wives in order to perform polygamy.

### 5.6 ASPECTS OF DOWRY AND 'STHREE DHANAM' (Women's Wealth She Brings When Marrying in South Asian Countries)

Dowry from the female side is prohibited in Islamic law. But later, among the Muslim people who lived in the South Asian region, elements such as dowry and women's (alms) taken from the woman's side during marriage has been added to the Muslim culture from the Hindu culture. That is why Sri Lankan Muslim marriages and Divorce Act which was enacted in past has also included clauses in this regard. But there is no concept of dowry and *Sthree dhanam* in the holy Islamic law.

Table 3 – Responses for the aspects of dowry and 'Sthree Dhanam'

Responses	Frequency	Percentage	Cumulative Percentage
Such elements should exist	164	63.86%	63.86%
Such elements shouldn't exist	93	36.14%	36.14%
<b>Total</b>	<b>257</b>	<b>100%</b>	<b>100%</b>

Accordingly, when asked whether such elements should continue to exist in this Act or not, a high percentage of 88.5% who expressed their opinion said that such elements of this law



should no longer exist. When asked why, their opinion was that such elements are against the Islamic law and should no longer exist as they are outdated traditions. Likewise, a percentage of 11.5% means that such elements of this law should continue.

### 5.7 A FORMAL DIVORCE SYSTEM INCLUDED IN THIS LAW

Marriage is an important contract in any life. There, Islam has clearly preached separate duties and rights of husband and wife. But when disagreements arise and there is no alternative, divorce is permitted in Islam as an inevitable decision. There is a discussion in the society that there is informality in the divorce system existing in the constitutional Muslim marriage divorce law in Sri Lanka. Accordingly, when the people who participated in the research were asked whether this law should be amended and included in this law as a formal divorce system, a percentage of 71% said that this law should be amended. When asked the reasons for their opinion, they said that the main reason for their opinion is that there are many defects in the existing divorce system. Another 29% of them said that this law should not be amended.

### 5.8 ISSUES RELATED TO DIVORCE PROCEDURE

When asking further about the changes in the divorce system existing in the Muslim Marriage and Divorce Act in Sri Lanka, the people who participated in this research were asked whether the 'method of divorcing their wife by saying the *talaq* thrice at once' should be abolished or not, which has led to discussion at the moment.

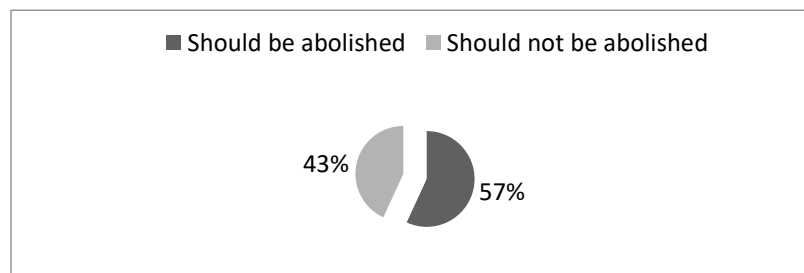


Figure 3 – Responses for the changes in the divorce system Existing in the Muslim Marriage and Divorce Act

From them a percentage of 56.86% expressed that the system of divorcing wife by saying the *talaq* three times at once should be abolished. They said as reasons that the system of saying the *talaq* three times at once should be abolished as it would be difficult for both of them to remarry their wives if the man said so while in a depressed state of mind. When asked whether there should be a change in the existing law regarding the payment of maintenance allowances paid in divorce of Muslims, which is another aspect of this divorce system, a high percentage of the respondents said that there should be an amendment. When asked the reasons for that, they said that the main problem is that women are not given a proper payment of maintenance in the existing system.

### 5.9 REPRESENTATION OF LAWYERS FOR QUASI-JUDICIAL PROCEEDINGS

Lawyers cannot appear for quasi-judicial proceedings under the existing Muslim Marriage and Divorce Act. There is a discussion in the society that this section should be amended. A representation of lawyers can be maintained in a quasi court by bringing the *quasi* court to the status of a civil court. Lawyers for both husband and wife can present their demands and complaints to the *Quasi* so that they can get justice. However, there is an opinion in the society that it is inappropriate to bring the *quasi* court to the status of civil court. They say that the reason for this is that *Quasi* tries his best to make the husband and wife live together as much as possible without allowing them to separate, and only in cases where this is not, they adopt the method of divorce and there an irreconcilable competition may occur between the spouses about the divorce to get clever lawyers.

Table 4 – Responses For the representation of lawyers for quasi-judicial proceedings

Responses	Frequency	Percentage	Cumulative Percentage
Representation of Lawyers is needed	227	88.26%	88.26%
Representation of Lawyers is not needed	30	11.74%	11.74%
<b>Total</b>	<b>257</b>	<b>100%</b>	<b>100%</b>

However, according to the Muslim Marriage and Divorce Law, the quasi-judicial court established as a separate court for Muslims, plays an important role in Muslim divorce cases. When the question was asked whether this court needs a lawyer's representation, a majority of 88.26% of them said that the *Quazi* court needs a lawyer's representation.

### 5.10 REPRESENTATION OF WOMEN IN POSTS OF REGISTRAR OF MARRIAGES, QUASI-JUDGE, QUASI-ADVISORY BOARD AND MUSLIM MARRIAGE AND DIVORCE ADVISORY BOARD

The Registrar General's Department works with the Ministry of Home Affairs under the Minister of Home Affairs of the Government of Sri Lanka. The main function of the Registrar General's Department is to register marriages and divorces. Registration of Muslim marriages and divorces is also done through this department. According to the Muslim Marriage and Divorce Act, the officers appointed as registrars must be Muslim men and their main function is to register the marriages of Muslims. But there's a discussion in the society that this condition is not acceptable and Muslim women should also be appointed to these positions. The study of Islamic law does not state that women are not capable of holding such positions. But according to that Islamic law, it is also stated that the primary responsibility of leading the society is assigned to the man. And some people in the Muslim community are of the opinion that the Muslim society does not approve of assigning the responsibility of this position to women due to the sufferings and difficulties women may face when holding such a position.

Table 5 – Responses for the representation of women

<b>Responses</b>	<b>Frequency</b>	<b>Percentage</b>	<b>Cumulative Percentage</b>
The Quasi Judge should be only men	116	45.2%	45.2%
The Quasi Judge shouldn't be only men	141	54.45.2%	54.8%
<b>Total</b>	<b>257</b>	<b>100%</b>	<b>100%</b>

The same situation goes with the appointments to be made as judges of the quasi courts. However, we obtained the opinions of the participants in this research and according to their opinions, it was found that 45.2% of the respondents stated that only men should be the judges of the Quasi court, while another 54.8% thought that it is not necessary to represent only the males as judges in the Quasi court. The Sri Lanka Muslim Marriage and Divorce Act have established quasi-court and quasi board to resolve issues arising in Muslim marriages and divorces. The both quasi-court and the quasi-board functions are under the full supervision of the Ministry of Justice. Through that the Quasis as who work in the courts act as judges when conflicts arise related to Muslim marriages and divorces. This quasi-appointment is done by the Judicial Service Commission. Only one quasi will be selected per division. The Act emphasized that the appointed Quasi should be a Muslim male. Also, when divorce claims are heard in a quasi-court, an advisory board consisting of three men nominated by the Quasi is appointed. Further, the act empowers to file an appeal challenging the decision of the quasi on the divorce to the quasi board for reconsideration. The Supreme Court of Appeal also has an all-male panel of judges. Thus, there has been a discussion in the society that the appointment of judges who are appointed to the quasi court and the quasi board only from the male side is an injustice to the female side. Accordingly, various women's organizations and parties of different opinions in the society has suggested that women should be members of the three-member panel appointed by the Quasi to assist the Quasi when hearing the divorce cases in the above quasi courts in the act and women should be also appointed as members of the Quasi board.

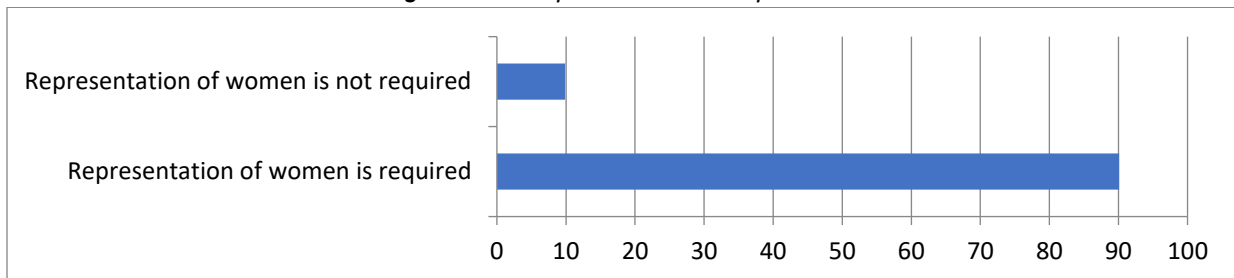
Table 6 – Responses for the Representation of both male and female

<b>Responses</b>	<b>Frequency</b>	<b>Percentage</b>	<b>Cumulative Percentage</b>
Representation of both male and female is required	233	90.83%	90.83%
Representation of both male and female is not required	24	9.17%	9.17%
<b>Total</b>	<b>257</b>	<b>100%</b>	<b>100%</b>

Accordingly, after asking the research participants about the appointment of judges for the research participants were female and male for the Half Court and the Half Panel. The both of groups are represented. Representation is required and another 9.17% said that such representation is not required. Accordingly, after asking the research participants about the appointment of female and male judges representing both women and men to the quasi court and the quasi board, a percentage of 90.83% of the research participants said that representation of both male and female is required for quasi court and the quasi board. And

another 9.17% said that such representation is not required. The Muslim Marriage and Divorce Act also established a Muslim Marriage and Divorce Advisory Board to provide advice on the Muslim Marriage and Divorce Act and to advise the Registrar General in the performance of its duties. The Registrar General shall be the authoritative member of the Board and the Advisory Board shall consist of not less than four and not more than nine Muslim male members to be appointed by the Minister concerned. Since the function of this Advisory Board is to give advice regarding the Muslim Marriage and Divorce Act, there has been a discussion in the society that woman members should also be appointed to this Advisory Board to inform the decisions and proposals to be given regarding women.

Figure 4 – Responses for the representation of women



Accordingly, we obtained the opinions of the participants in this research and according to their opinions, 90.1% of the respondents said that there should be a women representation in the quasi advisory board, and another 9.9% said such representation is not required.

#### **5.11 REASONS FOR ACCEPTING THAT THERE SHOULD BE TIMELY AMENDMENTS TO THE MUSLIM MARRIAGE AND DIVORCE ACT WHICH INCLUDES IN THE MUSLIM PERSONAL LAW APPLICABLE TO MUSLIMS LIVING IN SRI LANKA**

Considering all the above facts, Opinions were taken from the participants of this research, about the timely amendments of Muslim Marriage and Divorce Act which includes in the Muslim Personal Law applicable to Muslims living in Sri Lanka and according to their opinion, 67% of the respondents to the research said that there should be timely amendments to the Muslim Marriage and Divorce Act which includes in the Muslim Personal Law applicable to Muslims living in Sri Lanka.

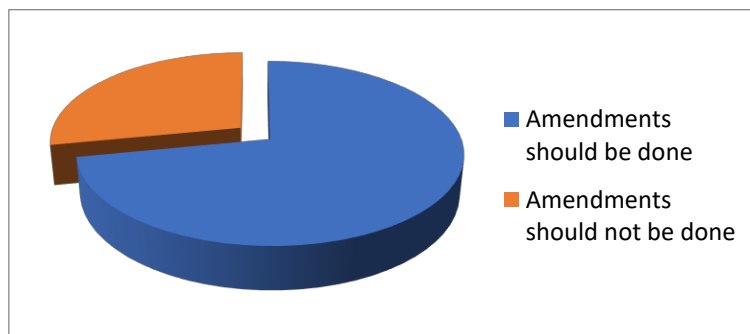


Figure 5 – Responses for the amendments

As reasons they have stated that timely amendments should be made to the Muslim Marriage and Divorce Act included in the Muslim Personal Law based on the Act contains matters that

are not included in the Holy Islamic Law, based on outdated laws that are not up to date, and that there is an imbalance in the implementation of the mentioned law for male and female.

## 6. CONCLUSION

On the revision of this research conducted focusing on the Muslim students studying in Sri Lankan universities clearly shows that majority of the students are aware of the Muslim Marriage and Divorce Act in force in Sri Lanka, and most of them agree that the Muslim Marriage and Divorce Act should undergo some amendments in due course. At the same time, the research clearly states that they believe that marriage between two parties should be confirmed by a legally recognized registration. It has also been revealed that there should be a minimum age limit for marriage to be common to both men and women. And a remarkable feature of this is, many people think that polygamy should continue under this law. At the same time, many are of the opinion that the existing divorce system should be amended and a formal divorce system should be included in this law. In the same way, it is clear from this research that representations of lawyers are necessary for the quasi-court. And they think that not only the men but also the women should be allowed as judges in the Quasi Court. And they think that institutions like Quasi Board, Quasi Advisory Board must be made not only with the male representation but also with the female representation.

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