

## The law is still punishing Muslim women who leave Sharia marriages

Because traditional Islamic ceremonies are legally considered ‘non-qualifying’, vulnerable spouses are being trapped in marriages — or left destitute, write Charles Hale QC and Michael Edwards



Thousands of Muslim women in the UK in Sharia marriages remain vulnerable to financial hardship or destitution if they leave their husbands.

Almost two years on from [Akhter v Khan](#) — the case which campaigners hoped would lead to a fundamental change in the law — Muslim women continue to be treated differently to virtually all other women in society.

The scenario is commonplace: a Muslim couple hold a Nikah ceremony, officiated by an imam, held in a local venue with their friends and family present. They live as husband and wife and maybe have children. They consider themselves married, as does their community.

But the couple will not be officially married under English law unless they comply with the formalities of the 1949 Marriage Act. This is uncontroversial — most people agree that some basic requirements have to be met for a marriage to be a marriage. If the ceremony does not take place in a registered venue, if the imam is not authorised to conduct weddings and if notice is not formally given, it will not be a valid marriage.

What is controversial — and this was the issue in *Akhter v Khan* — is whether unregistered Sharia marriages are void marriages or “non-qualifying ceremonies”. If void, on separation each party — particularly the vulnerable party, usually the woman — can apply to a court for the same orders as if they had been married, a lump sum payment, for example, or a property transfer, or spousal maintenance.

But if it is a non-qualifying ceremony, none of this applies.

The Court of Appeal put the ceremony in *Akhter v Khan*, and many others like it, in the non-qualifying category. The requirements had not been complied with, as the parties were aware. It does not matter that they lived as a married couple thereafter — according to the court, doing so cannot perfect an imperfect ceremony.

Legally, it is hard to disagree — the old statutes say what they say and the court at least made clear that they need updating urgently. But until that happens the consequences for many Muslim women remain dire. They are shut out from applying for the financial remedies that they thought they were entitled to.

As the civil society organisation Southall Black Sisters, which intervened in the case, pointed out, many women will stay in abusive relationships rather than face the poverty of living and raising children alone. This is not a choice they should have to make.

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The Law Commission is looking at marriage reform, though this takes time. For Muslim women caught in this trap, reform cannot come soon enough.

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