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Dear Lord Chancellor,

**LEGISLATIVE SOLUTIONS TO PREVENT DISCRIMINATION
AGAINST MUSLIM WOMEN IN MARRIAGE AND DIVORCE**

I am writing to you on behalf of Muslim Women's Network UK to bring to your attention the disadvantage faced by Muslim women in marriage and divorce. We regularly receive requests for help from Muslim women who face financial difficulties when their relationship ends because they were in marriages that are not recognised under English law. Even when Muslim women are in legally valid marriages (e.g. have had a civil marriage or a religious marriage conducted abroad in accordance with the laws of that country), they are pressurised to settle for a less favourable divorce settlement in return for being able to have a religious divorce through Shariah Councils.

I would like to come and meet with you to discuss how you can help protect Muslim women through the British justice system. My colleagues and I met with researchers from the Law Commission today and put forward solutions that could be provided through English law so Muslim women no longer have to be solely dependent on religious institutions such as Shariah Councils, thus making them redundant in the future.

The UK has an obligation under an international agreement that it has signed to prevent discrimination against women in marriage and divorce. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations. States ratifying the Convention are required to enshrine gender equality into their domestic legislation and enact new provisions to guard against discrimination against women. Article

16 requires measures to eliminate discrimination against women in all matters relating to marriage and divorce. In 2013, the CEDAW committee went further and issued a recommendation that all member states adopt legislation to

eliminate the discriminatory aspects of family law regimes, whether civil code, religious law, ethnic custom, or any combination of laws and practices regulates them. One recommendation (no. 28) says that state parties should take all legislative and policy measures to abolish polygamous marriages. Another recommendation (no.26), says that state parties should establish a legal requirement of marriage registration and conduct effective awareness-raising activities to that effect. By accepting CEDAW, the UK has committed itself undertake measures to end discrimination against women and must submit a national report to the Committee at least every four years indicating the measures that have been adopted to give effect to the provisions of the Convention.

It is clear that Muslim women are extremely vulnerable to discrimination on matters of marriage and divorce and the UK government should intervene and put into place mechanisms to safeguard them. Solutions that could help end discrimination faced by Muslim women when trying to obtain their religious divorce include making a civil wedding compulsory and by amending the Divorce (Religious Marriages) Act 2002. These are discussed below in detail.

Making Civil Wedding Compulsory

Despite unverified claims in the media of 100000 Muslim couples in unregistered marriages, there are no credible statistics to show how many Muslim do not have legally valid marriages. However, it is clear from enquiries we receive and feedback from our members across the UK, that significant numbers are in such marriages i.e. those who conduct their religious ceremony in the UK but do not have an additional civil marriage. Although some actions can be taken increase the number of Muslims having civil marriages such as campaigns to have more Muslims to get their marriage registered, more buildings (such as mosques and functions halls) becoming registered for the purposes of civil marriage, and more imams registering to be an 'authorized person' to register marriages (conducted in the registered places of worship or other authorised premises), they are only a partial solution. These actions will only help facilitate civil marriages for those couples who want to be in a legally recognized marriage. According to our findings, most couples who only choose to have the religious ceremony, do so because one party (in most cases the man) refuses to have the civil marriage to protect assets such as finances and property. When women raise concerns, they are usually pressurised into agreeing with such a set up. Many fear that it will reduce their chances to get married if they refuse.

To avoid these situations, we recommend that this matter be taken out of the hands of couples and we follow France and make it illegal for anyone to conduct a religious wedding ceremony without a prior civil marriage. In France, a religious ceremony may be performed after (never before) the civil ceremony. The person conducting the religious marriage will require the certificate of civil marriage as proof that the civil ceremony has taken place.

Making a civil marriage compulsory would also reduce and eventually eliminate child marriages and polygamous marriages. Such a law would also help to resolve the many problems Muslim women face when trying to obtain a religious divorce at Shariah Councils, which place many barriers in their way, keeping them in so called 'limping marriages' while allowing the man to remarry and move forward with his life. Having a civil marriage would mean having to obtain a civil divorce should the relationship breakdown. Some Islamic scholars regard civil divorces as valid Islamic divorces particularly when the husband has initiated the divorce or when the wife has initiated it and the husband willingly signs the divorce papers. This is why we advise women to obtain their civil divorce first and then take their 'decree absolute to the Shariah Council as evidence. Upon seeing these documents, Shariah Councils usually issue the religious divorce automatically. This indicates they have no choice to agree to the religious divorce and perhaps are going through the motions to retain their importance and authority while continuing to earn an income for their services. It is clear that making a civil marriage compulsory and therefore a civil divorce compulsory accompanied by awareness raising about the validity of civil divorce in Islam, would reduce the need for Shariah Councils, especially if the Divorce (Religious Marriages) Act 2002 was also amended.

Amending Divorce (Religious Marriages) Act 2002

Like Muslim women, Jewish women in legally recognised marriages, would be pressurised by their husbands in agreeing to unfair custodial and financial demands during the civil divorce in return for the husband giving the wife a religious divorce. To remedy the unbalanced bargaining power of the husband, the UK passed the Divorce (Religious Marriages) Act in 2002. This means that the judge can withhold finalising the civil divorce until the woman receives her religious divorce from the husband. The Divorce Act has been successful within the Jewish community and it could also be utilised to help Muslim women who are in similar situations. If the Muslim husband wanted his civil divorce, he would have no choice but to give the religious divorce, which he could do so without involvement of a Shariah Council. A signed written statement would suffice and be given to the court. If civil marriages are also made compulsory, it would be more difficult for Muslim men to move forward with their lives with another religious marriage (while forcing their wives to remain married to them) as is happening now. However, currently the Act does not apply to Muslim communities. It explicitly mentions the "usages of the Jews," and "any other prescribed religious usages." Although, any other religious group e.g. Muslims may also subject itself to the Act, it can only do so by asking the Lord Chancellor to prescribe the religious group for that purpose. The Muslim Women's Network UK therefore would like to make an application requesting such recognition.

I look forward to meeting with you to discuss these proposals further and hope that you can help empower Muslim women by agreeing to these solutions put forward and help facilitate making these a reality during your time as Lord Chancellor.

Yours sincerely



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Chair of Muslim Women's Network UK