

Muslim Mamas is a private 'invite only' online support group for Muslim mothers with over 7,000 members worldwide. It is run voluntarily by a team of six Muslim mums and now has eight subgroups covering areas such as Food, Lifestyle and Fitness. Muslim Mamas also has a public page on Facebook going by the same name: www.facebook.com/MuslimMamas

Muslim Mamas seeks to provide a service of benefit to its members by tackling real and relevant issues. Each month, Muslim Mamas holds a special expert clinic where members can get answers to the questions and issues that they are facing as women and mothers in the wider Muslim community.



**9.30 pm, Wednesday
16th Sept 2015**

Muslim Mamas monthly clinic

**With special guest expert, Aina Khan,
a mother and leading solicitor
specialising in English and Islamic law.**

"Is the nikah enough in the United Kingdom?"

**The vast majority of Muslim marriages in
the UK are unregistered i.e. couples have
their nikah, MashaAllah, but not a civil
ceremony. How serious are the risks
involved and what can we do about it?**

**Submit your questions in a comment
below and join Aina Khan here on MM
this Wednesday evening.**

PosterMyWall.com

One of the hottest topics on the forum has been that of unregistered marriages - couples who have a nikah but not a civil marriage, and so this month, we invited the esteemed Aina Khan to shed some light on the matter. Below is a copy of the Muslim Mamas Clinic with Aina Khan.

Note: Comments made by members have been omitted as members posted with confidence on a private group. Only admin comments remain.



FA (admin): Assalamualaikum!

TONIGHT'S Muslim Mamas
Clinic is with a very special
guest - renowned solicitor,

Aina Khan who is an expert on Islamic and English law. Aina has dealt with hundreds

of cases over the years, involving Muslim couples - and particularly, Muslim women, who have faced incredible difficulty when their marriages turned sour or when widowed. Thank you to those who submitted your questions.

Welcome Aina, salaams.



AINA KHAN: Salams Fareena and Muslim Mamas. Hope you are all well.



FA (admin): Waalaikum salaam. First of all, thank you for making time for us this evening. We are really happy to have you here.



AINA KHAN: Delighted to be here!



FA (admin): Let's kick off with Question 1: Some of us have been married for a while and we have children but we never registered our marriage. Is it worth doing it now? What are the exact benefits of registering your marriage compared to not registering? Are Islamic marriages not recognised by British law? Some men do not see the reason to have a civil marriage as they feel an Islamic one is sufficient. Is someone breaking the law by not registering their marriage? Other than the time of divorce, what are the benefits of registering one's marriage?

A big jumble of initial questions about the basics of the matter!



AINA KHAN: It is never too late to register a marriage. Only 1 in 10 mosques are authorised to register the Nikah, so the vast majority of marriages are not being registered. Sadly, if you are in an unregistered marriage you have no legal rights after divorce or husband's death. Since the Islamic marriage is not recognised in the UK, you are considered a cohabitee/girlfriend. Also, the husband often has multiple wives without any of them knowing about each other.

It is not illegal to be in an unregistered marriage. But because she has no rights on divorce, a man can walk out of the marriage or make his wife homeless overnight.



She will lose any income and savings put into the family home or business, unless she has strong evidence of her contribution and is prepared to spend a great deal of money on fighting a trust claim in court. Worse, women in Muslim countries are jailed and lose the children when the husband denies being married to them. If the husband dies without a will, the wife cannot inherit and is not recognised as the next of kin and ends up in a dispute with the mother-in-law over the man's body. These are all real life scenarios that I have dealt with daily

These are heavy issues and can also be so painful to take in, as we all know someone who is suffering or is at risk.



FA (admin): Aina, briefly before we move to the next question: how can couples register their marriages? Just call the local authority and make a query to begin with?



AINA KHAN: You can contact the local registry office and have a separate ceremony there, before you have the Nikah. Some Mosques will not register the Nikah without seeing the English marriage certificate. Others have registered to conduct recognised marriages, so you can have your marriage registered at the same time as the Nikah. Finally, you can have your marriage in a restaurant or banqueting hall or hotel etc which is registered to perform marriages, so you can do this at the same time as the Nikah. This saves having to have two ceremonies.



NJU (admin): It is astonishing the number of misconceptions we hold. I did not know most of this and I thought I was versed on the matter. The part about women being jailed when the husband denies the marriage has thrown me completely.



AINA KHAN: Do not be surprised. Many lawyers do not know this! It comes as an enormous shock eg One sister can be legally married because she married abroad or in Scotland, and the other completely unprotected after a religious ceremony in England or Wales.



FA (admin): Thank you Aina. Question 2: If a woman does a civil ceremony and becomes legally married how can she protect her assets which she had before marriage?



AINA KHAN: Answer 2: In the UK, prenups are now recognised. So it is important to enter into a simple agreement, stating that the wife's income and assets are to be kept by her. These terms are entered into an agreement which

must be signed well before the legal marriage. NB - Strict rules have to be followed in drawing up the agreement, so advice should be taken from a solicitor.

A prenup can be prepared with any terms e.g. The husband can say that his family properties or business are not to be divided up on divorce. Very importantly, a clause can be entered giving the wife 'Tafweed' which is an equal right to divorce, on the same basis as her husband.

The Nikah can also have any clause in it eg right to divorce or limit on polygamy.



FA (admin): Thank you Aina. Question 3: How about the people who got married in another country (such as Pakistan, Bangladesh, etc.) and came to UK later on? Do they also need their marriages to be separately registered in the UK? A friend of mine had her nikah done in Pakistan and when her husband came over she had her marriage certificate translated by her local borough. She had no registry but wants to know is her marriage recognised in the UK? And what happens if he divorces her? They have young children.

Another case where the couple had their nikaah done 21 years ago, MashaAllah and used the nikaah certificate which was all in English to change bank acts, passport and all other legal things. Does this mean their marriage was registered at the time of thenikah since it was recognised legally? It was done by the central mosque in Manchester.



AINA KHAN: Answer 3: You only have to register the marriage here if you were married in a religious ceremony in the UK in a place which was not authorised to conduct marriages. Marriages carried out in a Muslim country and registered under the law of that land ARE recognised and you have full legal rights. But be careful to check if the marriage was registered by an authorised mosque. Just because banks and other public bodies are recognising what looks like an official certificate to them, does not mean that the English court will accept it! You must either have a green English marriage certificate or a signed and sealed certificate from abroad.



FA (admin): That's great - we have many members in this position (having married abroad) and they're not quite sure where they stand.



AINA KHAN: They are the lucky ones! Imagine the horror of being married for 20 years here - only to learn of the husband marrying abroad, and finding out the 2nd wife is here and has all the legal rights and you have none... This is so common now with internet marriage agencies.



JBK (admin): SubhanAllah this has happened to so many convert sisters; guy marries them then they find out he got married back home to a cousin.

Everything is great till they break up and find out the second wife actually has all the rights!



AINA KHAN: Jazmin these heartbreaking stories are only too real. Such happenings would not be allowed in a Muslim country, where it is illegal not to register. I do not know of any Muslim country that allows such freedom to abuse other people's human rights. This is a mess and it is giving Muslims a bad name.



FA (admin): Question 4: I married in 2006 in Bangladesh. I spent 2 weeks with my husband there. The marriage was consummated. After returning to London we stayed in contact through talking on the phone and writing letters for a few months. Throughout this time I found out he drinks alcohol and that he had cheated with other women, one of which I had known but decided to give him another chance. I made the decision to divorce him. I wrote to him with this intention a few times but he didn't respond. The last one I sent was returned back without opening. The marriage was registered only in Bangladesh and not in the UK, and I have never made an application for him to bring him to the UK or declared that I am married. I would like help to know how I can end this marriage as he does not respond to my letters and refuses to acknowledge them. It's been 9 years and I have tried asking for help in mosques but am not getting the help I need. I hope you can advise me on what would be the best way to end this. Thank you.



AINA KHAN: Answer 4: As you are a British citizen, in a legal marriage as it was abroad, you have to get a divorce which is recognised under English law. Your husband can give you a divorce if he is living abroad. If your husband is not cooperating, a specialist solicitor can prove this to the court and get you a

divorce within 4 to 6 months as well as an Islamic divorce from a Sharia Council if you want this.



FA (admin): Thank you. Aina, just to clarify. The person who asked Question 4. She needs a civil law divorce here in the UK even though she only had a nikah in Bangladesh, because the nikah in Bangladesh is recognised religiously and in the courts?



AINA KHAN: Correct. Btw - A divorce obtained in the English court is recognised anywhere in the world. Interestingly however, many Muslim countries do not recognise a divorce from a Sharia Council!



FA (admin): So really, we are behind in the UK. Our nikahs need to be automatically recognised here somehow.



JBK (admin): Wow!!! I know so many Bengali ladies who have not had a civil divorce here in the UK even though the marriage ended within a few months in Bangladesh. Every Sikh wedding I have been to, they do the registry on the wedding day, we need to catch up!



NJU (admin): Aina this is an incredible revelation. I feel like my eyes have been opened. Still digesting the shock! It is really interesting to note that the marriage abroad is so legally binding in this way. It makes total sense but we just did not know this!



NR (admin): That is quite scary, that divorce is not recognised from shariah council by many Muslim countries. Why is this?



AINA KHAN: I agree that the law is completely out of date, as it is unchanged after the 1949 marriage act. My campaign 'Register Our Marriage' calls for the law to be updated so all religions are treated the same. Did you know that only the Church of England, Jewish and Quaker marriages have to be legally registered? Why on earth are nearly 3,000,000 Muslims left so vulnerable?



NR (admin): All my life that's all I knew. You do your nikah and registry together. Only in recent times I know people who do registry and then nikah on actual reception day. The fact that people do not register their marriages is a revelation for me and mind boggling!



NJU (admin): I feel like I have been living in a bubble.



AINA KHAN: I only have one Hindu client whose marriage was not registered. All other faiths, as well as smaller tightly regulated Muslim communities such as Ismailis, register their marriages at the same time as the religious ceremony. This is a sudden and rapidly rising phenomenon in the last 5 or so years. Are we not acting as if we are living in Jahilliyah pre-Islamic times, with no one to regulate what we do to our women and children?



FA (admin): Aina, Question 5 is related, except this time the marriage was not consummated: I got married abroad. The marriage was never consummated. After returning to the UK I made an application for my husband which was refused and I was told to make an appeal. During this time I found out a lot about him which led me to the decision of divorcing him. I never made an appeal and told him of my intention for divorce. He said he will never agree to it. Will you please advise me on how I can divorce him so it is recognised here in the UK and in [the country I got married in]. Thank you.



AINA KHAN: Answer 5 - same as to question 4. The unconsummated marriage means she is only entitled to half the Mehr. Also, she can get the marriage declared a Nullity in an English court ie that it never existed.



FA (admin): Ok ladies, we have a few more minutes and Aina will try and wrap up with the last few questions. Please allow her time to do this.



JBK (admin): Question 6: I am a muslim revert of 4years, married for 3. My first and second name has been changed by deed poll but I put 'Mrs' in front of all my documents even though we have had a nikkah but same issue as above (the reason our marriage is not registered-because our mosque doesn't do the registry and because it is such a long process with the notice of wedding, then paying the huge amount for the civil wedding etc & my husband says the nikkah is enough) so legally I'm not married, only islamically. Is this allowed, to use the title Mrs? Also I don't have a wedding certificate! We were never given one and the mosque doesn't do them, is this a problem??



AINA KHAN: Question 6 - There is nothing to stop you using any title such as Mrs. It is a major problem that you do not have a marriage certificate. What kind of mosque does not issue a written certificate?! It is outrageous. How will you know the Mehr you should be given? How are you going to prove you are married if you are challenged in a Muslim country? A client of mine was imprisoned and her child was to be taken away when I wrote to the Judge to stop this. Please get a certificate and keep it safe! You will still have no legal rights here, but at least you will be treated as married when abroad.



JBK (admin): Question 7: My question is what rites does a husband have over property if they divorce. The house is under the wives name. They have children.



AINA KHAN: Answer 7: The children's needs come before the Husband or Wife's. So the house will be lived in by them and their primary carer, usually the Mother, whoever it belongs to. When the youngest child has finished full-time education or training, the house will be sold and the proceeds divided. In the UK the starting point is a 50-50 division but the share is higher for the wife in some situations. So if the house belongs to the wife, she will need to show an unusual contribution in order to keep it fully eg she has been the homemaker as well as contributing financially. It is best to have a prenup to protect any assets after divorce. But this is not a good reason not to get legally married, since the chances of a registered marriage surviving are much

higher than if you are just living together after a Nikah. Perhaps it is to do with the fact that it is not so easy to just walk away?



FA (admin): Aina has very kindly agreed to answer this one last question.

InshaAllah we will wrap up straight after. Final Question: I have a general question about the rights of women who marry and live in their in-laws home. if they move in with their in-laws, perhaps live for several years or more but then either divorce or perhaps become widowed, what rights if any do they have over property especially if they have been contributing to the household income? I read many stories of women who live for long periods with in-laws and I feel worried about how their investment should be protected, or worse if they are kicked out of their in laws home?



AINA KHAN: Answer 8: If a wife is living in her in-laws' home, she needs to be even more careful to make sure her marriage is legally recognised. They are often kicked out overnight, but the English divorce courts are extremely sympathetic. The judge will recognise any contributions made and return her her if she can prove a money trail. Even if the husband has fraudulently registered his properties in his family's name, in order to protect them from his wife, we can get this set aside. Cases involving the in-laws are extremely complicated and expensive, so it is best that the wife has her share protected by a restriction at the land registry. This is specialist work and advice is needed. The good news is that I can often obtain orders for the husband to pay the wife's legal costs in advance, or arrange loans for the legal fees to be paid as long as the husband owns a property. The only thing the wife has to pay is a success fee after she is awarded a share and the house is sold. This has been an enormous relief to my clients who are often the ones with low or no income, while the husband has a good income and savings.



FA (admin): Aina, thank you ever so much. May Allah bless you! We are priviledged to have had this time with you today - you have an incredibly busy schedule and yet you made time for this. We have learnt so much, Alhamdulillah.



AINA KHAN: It was such a pleasure to be able to put your minds at rest and to help protect others who are vulnerable.

I find it so rewarding to help women and men in impossible positions, often dealing with clients from abroad or far away on Skype. You can imagine how good it feels to be able to take away the misery endured by so many!

Please do support my Register Our Marriage (ROM) campaign on FB and Twitter @SignitIDO.

InshaAllah with your support, I will be able to educate our community via social media and national road shows, and get men to support their daughters and sisters in having registered marriages, just as Muslims abroad do! All the best, Aina



NJU (admin): Thank you Aina, it was an honour to have you here with us shedding light on this area. Your answers were very clear, succinct and highly informative. Thank you from all of us.



FA (admin): Thank you once again Aina! This is the URL for Aina's "Register Our Marriage" campaign: <https://www.facebook.com/groups/register.our.marriage>

Aina Khan is of course a leading figure at Duncan Lewis Solicitors and her contact details are at

http://www.duncanlewis.co.uk/family_ourteam/Aina_Khan.html if anyone needs formal legal advice.

If anyone needs more information on how to register your marriage, visit:

<https://www.gov.uk/marriages-civil-partnerships/overview>