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Register Our Marriage: Aina Khan talks about her campaign for marital justice

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Aina Khan's Register Our Marriage project is starting to turn heads all over the UK. Finally, people are starting to realise that, without this civil contract in place, either party can be left vulnerable in the event of a separation. Growing up in London, with roots in Pakistan, Aina is perfectly placed to tackle the challenge, one she has embraced head-on. Using her vast legal experience, Aina is determined to educate Muslims and non-Muslims alike about the importance of a legal marriage.

A solicitor with a strong commitment to women's right in Islam, Aina has made it her mission to reform a law that she states is not fit for purpose. The Upcoming sat down with Aina to find out why she's so passionate about the campaign and why it's important that people know their rights when they enter into a marriage.

What inspired you to start the Register Our Marriage campaign?

Frustration. As a lawyer, I feel that the law is about justice, and if it is not fit for purpose then it has to be changed. Publicly, I have been talking about this issue for 20 years, in the media, ten years, and I have seen no change. I actually see things getting worse.

The fact that nobody else seems to be doing anything is another reason. This issue has gone on unaddressed long enough to the point where I just had to do something. I have started off small in the hope that people will believe in this as much as I do. It seems to be working so far.

According to your Facebook page, more than 90 per cent of Mosques are unregistered and over 80 per cent of marriages are unregistered among Muslims. In an increasingly multicultural society, why do you think these figures

are still so high?

The most worrying thing is that they are growing. Five years ago, it was 50 per cent of marriages. It concerns me that it is growing to a point where I feel that if I don't do anything now, it will get to a point where it is difficult to resolve. It has to be reversed now.

The easiest way to explain it is that the popularity of marriage is at an all-time low across the UK. It's the same for all faiths: marriage is just not popular. People are happy to live together without the commitment of marriage. When they do commit, they are scared of divorce and the expensive fallout that can come of it.

Another reason is class: 70 per cent of the middle class get married whereas only 30 per cent of the lower classes choose to. It seems to have something to do with the perceived norms of society as well – pleasing the establishment, keeping wealth in the family. We don't know what the drivers are, but it's clear that for many, marriage certainly isn't a priority.

Muslims are probably having these exact same views about marriage and thinking "we'll commit one day, but we are not ready yet". However, there is one crucial difference: Muslims cannot live together publicly in the eyes of their community because it is disapproved of. So an unregistered marriage allows them to live in a cohabitation relationship with a community stamp of approval on it; that's the only difference I can see.

Do you believe some people actively avoid registering an Islamic marriage in the UK in order to protect their own financial interests?

Primarily, that seems to be the reason, yes. Both the headache of a divorce and the cost of going to court can be a worry for some people. The fear that it could go wrong and the feeling that you are not yet ready to commit are also driving factors. Most young men and women share that fear of commitment. It's nothing new; it's a trust issue.

The difference with Muslims is that they can't have sexual relationships and live together; it's just not acceptable. Because of that, they marry but do not register. I can understand it, they have the big party in front of the whole family and community so that everyone is happy, but they just do not worry about what's going to happen if it all breaks down. They feel as if they can just split up and walk away, but of course they can't do that.

You have pointed out that unofficial marriages can lead to human rights abuses, with women and children being left vulnerable. What rights does someone have if they are married but not registered?

There is no common marriage law in the UK, so unless you register your marriage you have absolutely no rights. There are also no cohabitation rights in this country, something that confuses people very much. The average person assumes that if you live with someone for a number of years, or you have a child, that there must be rights to protect you. However, this is not the case. Without that official piece of paper, there is nothing legally binding in place.

When people realise this, they are shocked, whether they are Muslims or non-Muslims. The remarkable thing is that our politicians don't know about it and neither do our lawyers. If these people don't know what's going on, then we are doing a pretty bad job of protecting people.

Does putting an agreement like that in place scare people, when you consider that a marriage is supposed to be a passionate thing between two people?

It's so rare for two people to be that switched on, and for them to put passion and romance aside for a second and think about signing a legal contract. This can raise all sorts of trust issues and it can seem very risky to bring it up, so it hardly happens.

Religious minorities are a double whammy in a sense that a great many people who get married in this way think that the marriage is legal because that's what they are being told from the rest of the community. When they find out it isn't, often in front of a judge, it can come as a horrendous shock.

To trust someone and believe that it is legal, only to find out that it is not – that's the worst part.

Why do you think so many mosques are not registered? Is it that they themselves are not aware?

One reason is ignorance – they have no idea what the impact of not registering is. Secondly, those that do want to register and start the process do not follow through with the necessary paperwork because it's an administrative headache. Thirdly, and the most worrying that I've heard, is that they have gotten registered, they have believed in it, prepared everything to put it in place and the congregation itself didn't want it.

You see, some Muslims only want to get married in the eyes of the community and are not ready for legal marriage yet. Both the mosque and the couple are not aware of what might happen later on. They are not aware that the wife and the children might be left vulnerable. It's almost like an ostrich in the sand policy.

So the Register Our Marriage campaign is twofold, for that reason. One: lobby for the law to be changed, because it is completely wrong and not fit for purpose. And two: educate the community – all the communities. It's not just about Muslims; it's about Hindus, Sikhs and all the others out there, so that they know that, without that piece of paper, they have no rights in marriage.

To spread this message, I've been doing road shows around the country and a social media campaign, which is not only growing, but gaining support across all faiths and communities. It is great to see people outside of Islam getting involved.

Has your campaign met any resistance from either within or outside the Muslim community?

Not yet, but I anticipate there might be from some parts of the Muslim community, specifically from the hardliners who believe that Islam is enough to protect a couple and don't see the need for a civil marriage.

However, Islam is not enough if it cannot be enforced, if it's just words. And my counter argument to that is to show people that it's not actually an Islamic marriage at all because an Islamic marriage is a contract between a couple that states a husband must protect his wife. So if you are not doing that, you haven't actually started that contract.

It's being made into a religious ceremony when it isn't one; it's a civic duty to each other. That's where the Islamic argument helps me. Islam is very protective of its women and children. It doesn't want them dependent on the state. Over 1,400 years ago, Islam introduced the idea registration and legal marriage to protect women and children in the event of death or divorce.

Of course, the interesting thing is that we seem to have dispensed with all that now with impunity in the UK. Even more interestingly is that in a Muslim country you would not get away with that. There is no Muslim country that I can find that allows you to have an unregistered Islamic marriage, which is extraordinary. Yet it can be argued here because nobody knows any better.

Do you feel that the role of women's rights in Islam is generally misunderstood in the UK, and maybe that is something that has held back the campaign?

The campaign is based on women's rights. That is its strength. Because of this it hasn't held us back. Culture and tradition are holding it back, which will always be the case. People say "we've never done it like that before; women have never had these rights," but that is not acceptable anymore. You can't be in Britain, as British citizens and expect women to rely on their parents after a divorce. So the campaign really depends on the Islamic narrative and goes back to the source: justice. Once you strip away culture and tradition you actually get back to this fundamental point very quickly.

In Islam, it's the husband's duty to look after the wife and children, even after a divorce. A woman can keep all her properties, her earnings, and even her own name. It is a common misconception that a woman has to be autonomous and that in an Arabic setting, a man has to control his wife. Islam wants women to stand on their own feet within a marriage contract. If she wants equal right to divorce, she gets it. If she doesn't want her husband to take another wife, she gets it. Anything she thinks could be a risk to her she can put in a marriage contract to protect herself.

It seems today some women have forgotten this to the point where they are not even asking for their basic rights, because it is considered unfeminine to want equality. The Quran says that all women are equal, and so we need to go back to this source.

So many of my clients find it a relief to hear this. When they come to me with their emotional baggage and I explain to them that Islam can help them, they feel empowered.

It is incredible that Islamic marriage laws have been completely misinterpreted in this way.

I can understand why it has happened. Human nature would rather avoid dramatic change than face it, because change is difficult. Early on, Muslim women were very feisty and not afraid to fight for their rights, but the progression stagnated and stalled, causing people to regress.

Women need to find this out for themselves and reclaim it, because no one else will do it for them. Women need to educate themselves, using things like the Internet to gain this knowledge. Actually, I have found that men are very keen to support the campaign once you position it in a way that makes them consider: "What if it were your daughter or sister?"

This isn't just about women, it's about human rights. It's about all faiths being equal under the law.

Ultimately, would you like to see a law that makes registration compulsory for all faiths?

Either no faiths at all, like in France where it is a secular ceremony, or all faiths. That's unlikely here because we have a religious law that states Church of England, Jewish and Quaker marriages have to be registered. There are hardly even 20,000 Quakers in the UK. There are 2.7 million Muslims. I just want the law to be updated for a modern Britain.

Do you think the new Conservative government will be a good thing or a bad thing for this campaign?

In the early 1990s, the Conservatives looked into this because they are very pro-marriage and they were considering reform, but it got shelved. In a recent meeting with Theresa May, she said that the party did not think it was such a big concern and that she would like to see the data reflecting the issue. So the discourse could be back on the table. I don't think we will see any reform of cohabitation rights any time soon – which we'd all like – so I think at least the law surrounding marriage needs to change based on the following: all faiths that have a religious marriage must register it officially. And that's it. Clear and simple.

If you don't want that, you are still able to get married at home or in a restaurant, but people will know that this gives them no legal rights in marriage.

Ultimately, who has the most responsibility in tackling this issue – the UK government or imams within local communities?

The imams will do their part, and they are very good at this. But I feel we have to educate children at school so they are made aware sooner. This is so young people know their choices as early as possible. If you educate people early, they will be able to make a better informed decision later on in life. Introducing this into PSHE could protect people and stop them from sleepwalking into disasters later on.

That's where it could be seen as the government's job to do this, but it also has to happen in our communities, as well. And hopefully my roadshows will help this. I want people to know it's not just a Muslim issue. Yes, the numbers appear to be Muslim, but imposing this change on a huge community is a difficult thing to do. That's why I feel a new law that makes everyone the same across the board would be so beneficial and straightforward.

At the end of the road shows, where do you want the campaign to go next?

The next stage is lobbying parliament in September. I want the question raised there and a subsequent debate about the justification of the law as it stands. I'm then hoping that by December there will be a Law Commission report on the topic, and by the New Year we I want them to justify to me why it should stay as it is. I want them to be on the defensive.

What do you want to achieve from the campaign?

As well as the massive human rights abuses this can lead to, discrimination against women is also inherent in this issue. The stronger party is usually the husband in these cases; the woman usually always comes off worse. Firstly, I want to educate people about the lack of cohabitation rights in the UK and let the public know that if you want rights and justice, you have to be married.

Have a prenuptial agreement to protect everything against divorce – these are binding and can save you a lot of money in a

court of law. If you don't want marriage, put a cohabitation agreement in place to protect yourself and your financial interests. You can put whatever you want in a contract, such as who owns what share of the house, who paid for the car, even who gets the dog. Ideally, that's what we want to achieve.

Joey Tyson

If you would like to help Aina gather data for this campaign, you can fill in her survey [here](#).

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