



The Role of the Quazi Courts in Family Dispute Resolution: Effectiveness and Limitations in the Sri Lankan Context

A.L.Nazeer Kany

PhD Candidate, Department of Islamic Studies
South Eastern University of Sri Lanka
Email; sharfangani5655@gmail.com

SMM. Nafees

Professor in Islamic Law, Department of Islamic Studies
South Eastern University of Sri Lanka
Email; nafeessmm@seu.ac.lk

Abstract

This study examines Sri Lanka's Quazi court system and how it mediates family disputes. Beginning with an overview of the country's mixed legal system, it highlights the application of Muslim personal law through specialized Quazi tribunals. The study assesses the strengths and weaknesses of Muslim Quazi courts, particularly within the MMDA framework. Although designed to provide more accessible and affordable family dispute resolution for the Muslim community, in practice the system raises concerns about effectiveness, legal certainty, and justice especially in relation to the protection of women's rights. The article aims to analyze the role of Quazi Courts in resolving family disputes in Sri Lanka by evaluating their effectiveness, identifying structural and procedural limitations under the MMDA, and mapping their implications for gender equality and access to justice. The research adopts a qualitative socio-legal approach using secondary data through document review and doctrinal analysis. Sources include the MMDA, academic literature, institutional reports, and comparative studies on religion-based family courts within the context of legal pluralism. The data are analyzed through deductive thematic analysis to extract key themes such as operational weaknesses, gender disparities in the MMDA, impacts on women, and reform challenges. The findings indicate that Quazi Courts offer access-related advantages (low cost, opportunities for self-representation, and relatively rapid processing for simple cases), but their effectiveness is constrained by the lack of minimum qualifications and formal training for Quazis, irregular hearing schedules, inadequate infrastructure, weak oversight, and alleged corrupt practices. Normatively, several MMDA provisions are seen to reinforce gender inequality (child marriage, mandatory male guardianship, divorce procedures that disadvantage women, polygamy without strict scrutiny, and the absence of post-divorce property distribution

rules), thereby weakening women's protection and the overall quality of justice. This article recommends comprehensive MMDA reform (setting a minimum marriage age, strengthening women's agency, ensuring equality in divorce procedures, regulating polygamy with strict safeguards, and establishing property division mechanisms), professionalizing and standardizing Quazi Courts (minimum qualifications, mandatory training, a code of ethics, effective supervision, and adequate court facilities).

Keywords: Quazi Courts, Family Dispute, MMDA, Sri Lankan Muslims.

Introduction

The legal system of Sri Lanka is unique in that it is a combination of the common law and personal regulations.¹ On their part, they consist of Kandyan law, Thesawlamai, and the Muslim law.² It represents a plural legal system which was formed due to the multicultural and colonial history of the island and has been affected by the Eastern and Western societies and religions, including Hinduism and Buddhism, and the Western legal systems, such as Roman-Dutch and English law.³ Common law is applicable to all the people in the nation, whereas personal law is employed only to some groups of people depending on their religion or ethnicity.⁴

It is a historical concession between religious and customary practices in the contemporary state system with each state court representing different communities. This change as a way of maintaining cultural heritage and identity also comes with the unreasonably distributed difference in access to justice and different access to rights amongst communities. Therefore, Quazi courts

¹ Sivakumar Sivakajan, "Muslim Marriage and Divorce Act (1957) of Sri Lanka ; Critically Analysed the Inequalities in the Muslim Childeren, Women, Quazi Court System and Overlapping with General Law in Sri Lanka," *Journal of Islamic Law* 5, no. 2 (2024): 288-305, <https://doi.org/https://doi.org/10.24260/jil.v5i2.2833>.

² Iqbal Saujan, Seeni Mohamed Mohamed Nafees, and Yusuf Sani Abubakar, "The Causes and Consequences of Child Marriage Among Muslim Community : With Special Reference to the Cases Identified in the Eastern Province of Sri The Causes and Consequences of Child Marriage Among Muslim Community : With Special Reference to the Cases," *Quru': Journal of Family Law and Culture* 2, no. 3 (2024): 278-305, <https://doi.org/https://doi.org/10.59698/quru.v2i3.214>.

³ Muneer Abduroaf and Najma Moosa, "Muslim Marriage and Divorce in Sri Lanka: Aspects of the Relevant Jurisprudence," *Ejmel Eloquent Journal of Islamic and Middle Eastern Law* 4 (2016): 97-108, <http://www.ejmel.uzh.ch>; Iqbal Saujan and Seyed Mohamed Mohamed Mazahir, "Legal and Practical Issues in the Management of Waqf Properties in Sri Lanka," *International Journal of Sukuk and Waqf Research* 2, no. 1 (2021): 18-31, <https://doi.org/10.46281/ijswr.v2i1.1646>.

⁴ Masaji Chiba, "Legal Pluralism in Sri Lankan Society," *The Journal of Legal Pluralism and Unofficial Law* 25, no. 33 (1993): 197-212, <https://doi.org/10.1080/07329113.1993.10756450>; Farrah Ahmed, "Personal Autonomy and the Option of Religious Law," *International Journal of Law, Policy and the Family* 24, no. 2 (August 1, 2010): 222-44, <https://doi.org/10.1093/lawfam/ebq006>.

do not stand alone in this heterogenous framework when they are incorporated into the legal framework of Sri Lanka. This broader context can be used to explore the Quazi system in greater detail.

In Sri Lanka, MMDA regulations include areas of marriages, divorce, or financial assistance to Muslims.⁵ These procedures occur via state-based Quazi courts. Quazi court emerged out of initial Arab merchants who arrived in the island.⁶ The system was later officially applied to the Sri Lankan Muslims by the Dutch.⁷ MMDA in its practice in Sri Lanka is received law as opposed to native law.⁸ It is a combination of the traditional customary practise, which is strengthened with traditional Islamic jurisprudence that has been realigned with the local conditions.⁹ This led to a process of adaptation, which was duly documented in a code of Muslim law that was made by the Dutch and later translated into English and adopted by the British government in 1806.¹⁰ This principle was not complete and was complemented with general Muslim jurisprudence and local customary practices.

The evolution of the MMDA in Sri Lanka, as well as its inception which was formed by the local traditions up to the strict and inflexible rules that were established during the colonial regime, can be seen as the history of the transformation.¹¹ The comparison of flexibility of practices in the past and the current rigidity is an indication of the continued reluctance to modernize. According to this historical development, the contemporary problems are not caused by the principles of the Islamic law alone, but by the old frameworks,

⁵ Iqbal Saujan et al., "Safeguarding Women ' s Rights and Heirship : An Evaluation of Mandatory Muslim Marriage Registration in Sri Lanka," *Quru': Journal of Family Law and Culture* 3, no. 3 (2025): 238-63, <https://doi.org/https://doi.org/10.59698/quru.v3i3.462>; M. M. M. Sabir and M. I. M. Ameen, "Quazi Court and Administrative Integrity," in *Intellectual Discourse on Proposed Reformation of the Muslim Marriage and Divorce Act (MMDA)* (Faculty of Islamic Studies & Arabic Language, South Eastern University of Sri Lanka, Oluvil., 2024), 151-62, <http://ir.lib.seu.ac.lk/handle/123456789/7142>.

⁶ Rifai Sulaiman Lebbe, "Arab and Muslim Settlements in Sri Lanka from Pre-Islamic Periods to 16 Th Century A . D . Dr SLM RIFAI," *Available at SSRN*, 2021, 1-17, <https://doi.org/https://dx.doi.org/10.2139/ssrn.3815477>.

⁷ syed Mujtaba Athar, "Historical Development Of The Roman-Dutch Legal Tradition In Sri Lanka," *Russian Law Journal* 8, no. 2 (2024): 348-53.

⁸ Christine G. Schenk and Shalul Hasbullah, "Informal Sovereignties and Multiple Muslim Feminisms: Feminist Geo-Legality in Sri Lanka," *Political Geography* 94 (April 1, 2022): 102527, <https://doi.org/10.1016/J.POLGEO.2021.102527>.

⁹ M B Fowzul, "Fixing the Legal Age of Marriage in the MMDA of Sri Lanka: An Islamic Analysis," in *Intellectual Discourse on Proposed Reformation of the Muslim Marriage and Divorce Act (MMDA)* (Faculty of Islamic Studies & Arabic Language, South Eastern University of Sri Lanka, 2024), 103-15, <http://ir.lib.seu.ac.lk/handle/123456789/7150>.

¹⁰ Mohamed Buhary Fowzul, "The Requirement of Muslim Marriage Registration in Sri Lanka: From the Maqasid Al-Shari'ah Perspective," *Global Journal of Arts Humanities and Social Sciences* 4, no. November (2024): 11, <https://doi.org/10.5281/zenodo.14228890>.

¹¹ Shamara Wettimuny and Hana Rajap, "Reforming the Muslim Marriage and Divorce Act," 2018, <https://archive.veriteresearch.org/handle/456/5230>; Saujan et al., "Safeguarding Women ' s Rights and Heirship : An Evaluation of Mandatory Muslim Marriage Registration in Sri Lanka."

political limitations, and the inability to introduce changes gradually to the laws.¹²

The historical development of the Muslim legal practices can be helpful to explain that the notion of reform is not something imposed externally, as it is rather consistent with the tradition of the continuous legal development. This is particularly important regarding the Quazi courts that are still central in solving family and personal issues among the Sri Lankan Muslims, and thus in defining individual rights and general well-being.¹³ However, even with the weight that they carry, there have been grave concerns about their administrative efficiency, procedural fairness and their capacity to promote justice and gender equality.¹⁴

The current debate of this problem in the media as well as the necessity to alter the current rules also emphasizes the ongoing tension between conservative views on faith-oriented legislative policies and the modern vision of justice, especially concerning women rights.¹⁵ The backlash against some of the provisions of the 1957 Muslim Marriage and Divorce Law, as they do not fill the gaps between the genders or specifically, to counter the modern changes in the society, is indicative of a high degree of friction within the legal systems. It is not the pressure of bureaucracy but associated with the primary rights and general values of individuals. To get a clearer picture of how such friction is actually worked out in the day-to-day business-at what cost-an examination of Quazi tribunals must be taken, as both a practical imperative and a scientific point of interest in this study.

Studies on Sri Lanka's Quazi Courts generally develop along two main strands: (1) research assessing institutional performance, procedures, and access to justice in the resolution of family disputes under Muslim personal law; and (2) research highlighting gender bias embedded in the normative framework of the Muslim Marriage and Divorce Act (MMDA) and its reform agenda. The article "The Role of the Quazi Courts in Family Dispute Resolution: Effectiveness and Limitations in the Sri Lankan Context" sits at the intersection

¹² Shamila Dawood, "Islamic Law and Gender Equality : Challenges and Reforms in Sri Lanka ' s Muslim Marriage and Divorce Act," *Journal of Islamic Law Review* 5, no. 2 (2024): 288-305.

¹³ Iqbal Saujan, Yusuf Sani Abubakr, and Seeni Mohamed Mohamed, "Gender Beyond Binary : Inheritance Rights of Third Gender in Islamic Law - Sri Lankan Legal Recognition and Reform," *Indonesian Journal of Islamic Law* 8, no. 2 (2025): 142-66, <https://doi.org/https://doi.org/10.35719/ijil.v5i2>.

¹⁴ P Chandrahassan, "Pragmatic Approaches Towards Fundamental Rights Litigation Procedure in Srilanka : Challenges and Opportunities," in *International Research Conference Articles (KDU IRC)*, vol. 2012 (General Sir John Kotelawala Defence University, Sri Lanka, 2012), 227-36, <http://ir.kdu.ac.lk/handle/345/8499>.

¹⁵ Dawood, "Islamic Law and Gender Equality : Challenges and Reforms in Sri Lanka ' s Muslim Marriage and Divorce Act," 2024; Saujan et al., "Safeguarding Women ' s Rights and Heirship : An Evaluation of Mandatory Muslim Marriage Registration in Sri Lanka."

of these strands, yet stands out for integrating an evaluation of institutional effectiveness (accessibility, cost, speed, and procedural certainty) with an analysis of structural and procedural limitations that directly affect substantive justice, especially for women.

First, "A Female Quazi Appointed in the Judicial Position: Islamic Law and Public Opinion in Sri Lankan Context"¹⁶ makes an important contribution by focusing on issues of gender representation and legitimacy within the Quazi judiciary. Its primary emphasis is on: (a) the normative-doctrinal foundations concerning whether women may serve as Quazis (through juristic reasoning and textual references), and (b) the sociological dimension of public opinion and community acceptance of the idea of a "female Quazi." Accordingly, the study operates at a normative-socio-cultural level, examining how discourses of equality and judicial authority are shaped by religious interpretation and societal perceptions. However, because its focus is specifically on the "female Quazi" question, discussion of operational problems (such as training, infrastructure, consistency of decisions, and governance) functions largely as contextual background rather than as the main object of institutional evaluation. It is at this point that "The Role of the Quazi Courts..." complements the literature: it treats the "female Quazi" debate not merely as a representation issue, but as part of a broader institutional reform strategy aimed at improving fairness, accountability, and the quality of judicial outcomes.

Second, Shamila Dawood's "Islamic Law and Gender Equality: Challenges and Reforms in Sri Lanka's MMDA"¹⁷ (2024) strengthens the scholarship by situating Quazi Court problems within a critique of MMDA norms that are seen to produce or reinforce gender inequality. Dawood is particularly notable for mapping "problematic" areas such as the wali requirement, child marriage concerns, divorce provisions and women's unequal access to remedies, and the relationship between MMDA provisions, legal reform agendas, and principles of gender equality. A key contribution of this work is its argument that barriers to justice for women are not merely a matter of institutional practice, but also a consequence of a normative architecture that facilitates inequality. Nonetheless, Dawood's primary focus remains the MMDA's normative-reformist analysis; therefore, the question of "how effective Quazi Courts function as dispute-resolution mechanisms" (e.g., affordability, process design, backlogs, adjudicative quality, and procedural certainty) is not always addressed through systematic institutional evaluation.

¹⁶ Iqbal Saujan, "A Female Quazi Appointed in the Judicial Position: Islamic Law and Public Opinion in Sri Lankan Context." Volume 24 (2019): 57-64.

¹⁷ Shamila Dawood, "Islamic Law and Gender Equality: Challenges and Reforms in Sri Lanka's Muslim Marriage and Divorce Act." J. Islamic L. 5 (2024): 288.

Against this backdrop, “The Role of the Quazi Courts in Family Dispute Resolution...” occupies a bridging position in the literature by: (1) testing the institutional effectiveness and limitations of Quazi Courts as forums for family dispute resolution; and (2) demonstrating how these limitations intersect with the MMDA’s normative problems identified by Dawood, while also remaining relevant to the gender inclusivity agenda advanced by “female Quazi” scholarship. Conceptually, the article expands the discussion from questions such as “which norms are discriminatory” and “who is eligible to serve as a Quazi” to a more operational inquiry: how the design, capacity, and governance of Quazi Courts shape access to justice and judicial outcomes. Its novelty therefore lies in this synthesis—treating Quazi Courts not only as religious institutions, but also as state mechanisms within a plural legal system that must meet standards of procedural certainty, accountability, and fairness.

Problem Statement

The Quazi court set up in Sri Lanka is meant to deliver its services to the Muslim community using methods they are well used to, although, there are grave shortcomings, which lower its efficiency and in most cases lead to unfair results - at least to women. The absence of standardized education of Quazis is another significant issue that brings about unequal decisions and vague principles. Rather than regular meetings, hearings occur on an infrequent basis; lack of infrastructure coupled with allegations of malpractice is only another slowing factor to case handling. Within the MMDA, there are also some gender inequalities in regulations, such as the absence of an age required to get married, and that men must serve as legal guardians to adult women. The divorce procedures are biased against women, and the multitude of marital status is not provided with security measures. The fact that Quazi applies these rules the way he does, considering the fact that he has indicated that he believes in the gender roles, further creates additional obstacles to women, as they have access to the law at a lower. Problems are related to poor management of the MMDA and Quazi courts that collectively deteriorate the female litigants. Even though modifications were presented through a review panel, consensus on amendments is yet to be reached and as such, the structure remains the same. This demonstrates a disrelation between what the system purports to be doing and how it actually impacts Muslim households especially women. Due to unpredictable outcomes and irregular decisions, it is possible to assume that fair procedures were disregarded, which will deteriorate trust in the long term. It is still unclear whether Quazi courts are fulfilling the family mediation requirements of the Sri Lankan Muslims.

This report aims to achieve the following objectives: To determine the efficiency and shortcomings of the Quazi system of justice in Sri Lanka in regard to gender equality, in relation to handling family disputes. The report suggests

that Quazi courts should be reformed, as well as the MMDA which would be more inclined towards fairness and gender sensitivity in the dispute resolution methods.

Methods

It is a qualitative socio-legal methodology, which emphasizes the way law, daily practices, or individual narratives interrelate in between the Quazi court environment. It examined underlying reasons for structural pros yet cons instead of just listing system flaws. As limitations such as gender bias and arbitrary decision making are context dependent, a qualitative design is necessary to establish such variations. This research is based on secondary sources of data to identify the discourse on Quazi courts. These include the analysis of legal documents such as the Muslim Marriage and Divorce Act (MMDA), academic writings on Muslim personal law and Quazi courts in Sri Lanka, reports on functioning problems, and comparative analysis on religious family law courts with reflections on legal pluralism.

Thematic analysis will be used to analyze qualitative data. It is a method for identifying, analyzing, and interpreting pattern meanings within textual data. Such a procedure follows: introduction, by which the material is read through from start to finish in order to get an idea about the content and to develop initial ideas; Initial coding, by which codes are developed to understand features in the data relevant to research objectives; merging codes into underlying data to identify broader patterns; developing themes by coding into possible themes that cover the research objectives, such as "operational shortcomings," "gender disparities in MMDAs," "impact on women," and "reform challenges"; themes must be analyzed for consistency and the identification of subthemes; and narrative construction-integrating topics with evidence into a clear discussion. A deductive thematic analysis approach will be utilized whereby the research questions and theoretical models will guide the identification of the themes. It, therefore, allows for the consistent detection of underlying issues like systemic gender bias and weak institutions to make a logical argument about Quazi court effectiveness and shortcomings while ensuring theoretically informed analysis.

Evolution of Quazi Courts

The Sri Lankan legal system has been largely shaped by centuries of colonial and multicultural influences.¹⁸ The arrival of Islamic law to Sri Lanka through Arab traders brought Islamic legal principles to the island. Over time, a separate Muslim society emerged and continued to be regulated by its own

¹⁸ Sabir and Ameen, "Quazi Court and Administrative Integrity."

religious law in personal terms.¹⁹ During Dutch colonial rule, Muslim law was officially accepted for application to the Sri Lankan Muslim community.²⁰ The Dutch promulgated a code of Muslim law which enunciated the major legal concepts considered authoritative by the community. The code shaped traditional Islamic jurisprudence to local circumstances and was complemented by locally established usages.²¹ In the early British period, this code was translated into English and adopted by the Governor in Council in 1806, after assurances from local Muslim leaders that it accurately reflected their laws and customs.²² Yet this code was not a comprehensive statement of Muslim law and remained complemented by local usage and general Muslim jurisprudence.

Initially, the administration of Muslim matters were handled by the ordinary courts during the early British period.²³ The courts, generally trained in English and Roman-Dutch law, were found to be able to understand Muslim principles in a form that could be largely harmonious with the common law, while demonstrating some judicial skill and interpretive versatility. But in the early twentieth century, the British government legalized a common Muslim practice of having their disputes decided by a Muslim priest or judge, called a Quazi.²⁴ Provision was then made by law for the establishment of Quazi courts, and certain matrimonial cases were left solely to these Muslim judges, resulting in the enactment of the Muslim Marriage and Divorce Act of 1951.²⁵

The establishment of Quazi courts by the British, where a pre-existing customary practice was codified, indicates a colonial indirect rule policy. This had the effect of giving judicial authority over individual cases to indigenous religious leaders, perhaps to maintain social harmony and take the workload away from the common law courts by co-opting existing local processes.²⁶ This prehistory may have inadvertently created issues of state accountability and

¹⁹ Sivakajan, "Muslim Marriage and Divorce Act (1957) of Sri Lanka ; Critically Analysed the Inequalities in the Muslim Childeren, Women, Quazi Court System and Overlapping with General Law in Sri Lanka."

²⁰ Wettimuny and Rajap, "Reforming the Muslim Marriage and Divorce Act."

²¹ Christine G Schenk and Shalul Hasbullah, "Informal Sovereignties and Multiple Muslim Feminisms: Feminist Geo-Legality in Sri Lanka," *Political Geography* 94 (2022): 102527, <https://doi.org/https://doi.org/10.1016/j.polgeo.2021.102527>.

²² Saujan, Nafees, and Abubakar, "The Causes and Consequences of Child Marriage Among Muslim Community : With Special Reference to the Cases Identified in the Eastern Province of Sri The Causes and Consequences of Child Marriage Among Muslim Community : With Special Reference to the Cases."

²³ ATHAR, "HISTORICAL DEVELOPMENT OF THE ROMAN-DUTCH LEGAL TRADITION IN SRI LANKA."

²⁴ T Mohamed Mufas and C Sivanayagam, "Challenges Faced by Quazi Court and Its Resolutions in Contemporary Sri Lanka," *Indian Journal of Musti Research and Development* 4, no. 2 (2023): 26-32, <https://doi.org/10.54392/ijmrd2324>.

²⁵ Iqbal Saujan, Mohamed Haniffa, and Mohamed Nairoos, "Re-Marriage Practice Amongst Muslim Women: A Social Study," *Cognizance Journal of Multidisciplinary Studies* 2, no. June (2022): 13-35, <https://doi.org/10.47760/cognizance.2022.v02i05.002>.

²⁶ Sabir and Ameen, "Quazi Court and Administrative Integrity."

oversight today. In creating a separate, less professionally administered system, the possibility of progressive interpretation and reconciliation with evolving legal principles was lost, which existed when Quazi courts dealt with these cases. This initial divergence may be responsible for the current issue of inconsistency and injustice within the Quazi court system, but it need not beso.

The Muslim Marriage and Divorce Act (MMDA)

The Muslim Marriage and Divorce Act No. 13 of 1951 (MMDA) is the principal law that covers marriage, divorce and family-related matters for Muslims in Sri Lanka.²⁷ The MMDA specifically excludes Muslims from the application of the General Marriage Registration Ordinance²⁸. Quazi Court has exclusive jurisdiction in divorce cases under the MMDA. Judgments issued by the Quazi Court are appealable to the Quazi Board and then to the Supreme Court of Sri Lanka.²⁹ The MMDA recognizes various forms of divorce, which are more liberal in nature than the fault-based common law of divorce. *Talaq* is a form of divorce applied for by the husband, in which he expresses his desire to end the marriage in the presence of the Quazi, who tries to reunite with the help of relatives.³⁰ Where reconciliation fails, the Quazi grants divorce and the husband does not need to give any reason for it, meaning that grounds for "dissolution of marriage" are available under Muslim law.³¹ *Fasah* is initiated by the wife applying for divorce before the Quazi, enumerating the reasons for the divorce. But the wife must give notice and accuse her husband of marital wrongs and produce two witnesses, a process that generally takes longer and is more burdensome for women.³² *Mubarat* is based on mutual consent on the part of both the spouses to dissolve the marriage and register it without alleging marital fault or failure in marriage if the two can no longer live together happily and harmoniously.³³ *Khula* is initiated by the wife, who may agree to return the

²⁷ Muslim Personal Law Reform Action Group MPLRAG, "What Is the Muslim Marriage and Divorce Act (MMDA)?," MPLRAG, Muslim Personal Law Reform Action Group, 2017, https://www.mmdasrilanka.org/aboutmmda/?utm_source=chatgpt.com.

²⁸ R. Silva, E. Souza, and S. Simelane, "Marriage , Divorce Registration and Vital Statistics," *Centre of Excellence for CRVS Systems, United Nations Population Fund.*, 2024, <https://idl-bnc-idrc.dspacedirect.org/bitstreams/c1ebfb9b-6564-4126-b1a5-9161f17be13d/download>; Fowzul, "The Requirement of Muslim Marriage Registration in Sri Lanka: From the Maqasid Al-Shari'ah Perspective."

²⁹ Sabir and Ameen, "Quazi Court and Administrative Integrity."

³⁰ Rose Wijeyesekera, "A Critical Evaluation of the Law of Divorce under the General Law and Special Laws of Sri Lanka" (University of Colombo, Sri Lanka, 2003), https://www.academia.edu/download/68239778/A_Critical_Evaluation_of_the_Law_of_Divorce_Under_General_Law_and_Special_Laws_of_Sri_Lanka.pdf.

³¹ Shamila Dawood, "Islamic Law and Gender Equality : Challenges and Reforms in Sri Lanka ' s Muslim Marriage and Divorce Act," *Journal of Islamic Law* 5, no. 2 (2024): 288-305, <https://doi.org/https://doi.org/10.24260/jil.v5i2.2833>.

³² Sabir and Ameen, "Quazi Court and Administrative Integrity."

³³ Marsoof Saleem, *The Quazi Court System in Sri Lanka and Its Impact on Muslim Women*, First (Colombo 5, Sri Lanka: Muslim Women's Research and Action Forum (MWRAF),

mahr (dowry) and force her husband to pronounce *talaq* without any compelling reason, as well as suggest recognition of the failure of the marriage.³⁴ But the Supreme Court of Sri Lanka held in the *Mirza v. Ansar* decision that a Shafi wife cannot initiate *khula* without her husband's consent, making it difficult for women to force a unilateral divorce.³⁵ While the MMDA offers divorce forms (*talaq*, *khula*, *mubarak*) that are consistent with the principle of "irretrievable rupture", the substantive and procedural requirements for women (for example, fault and Passover with witnesses) generate a significant gender imbalance in obtaining divorce. This means that theoretical flexibility

Apart from divorce, the MMDA is also heavily criticized for its myriad provisions that increase gender inequality and limit access to justice among Muslim women.³⁶ The MMDA virtually enables child marriage by authorizing the registration of marriages of girls under 12 with the Quazi's approval, and even without the Quazi's permission, formal marriage is valid, which directly conflicts with statutory rape laws.³⁷ As far as the MMDA is concerned, adult Muslim women are a minority as they cannot contract marriage independently and require a male guardian ('*wali*') to grant permission on their behalf, which restricts their own free and equal agency and autonomy in family matters.³⁸ The MMDA allows Muslim men to legally marry up to four wives without any conditions, including the consent of the existing wives, and any such marriage beyond the four wives is not illegal but "irregular".³⁹ Secondly, there is no fixed mechanism under the MMDA allowing Muslim women to claim their share of the property in the marriage in the event of divorce, thereby leaving women economically vulnerable.⁴⁰ These MMDA provisions on minimum age of

73/19 E Kirulapone Avenue, 2011),
https://www.academia.edu/30277198/The_Quazi_Court_System_in_Sri_Lanka_and_its_Impact_on_Muslim_Women.

³⁴ Mohamed Buhary Fowzul and Sayed Sikandar Shah Haneef, "Women's Advocacy for Imposing Stringent Stipulations on Polygamy in Muslim Marriage and Divorce Act of Sri Lanka: A Juristic Analysis," *International Journal for Studies on Children, Women, Elderly And Disabled* 11 (2020): 1-9, https://www.ijcwed.com/wp-content/uploads/2020/09/IJCWED11_008.pdf.

³⁵ Saleem, *The Quazi Court System in Sri Lanka and Its Impact on Muslim Women*.

³⁶ Dawood, "Islamic Law and Gender Equality : Challenges and Reforms in Sri Lanka ' s Muslim Marriage and Divorce Act," 2024.

³⁷ Saujan, Nafees, and Abubakar, "The Causes and Consequences of Child Marriage Among Muslim Community : With Special Reference to the Cases Identified in the Eastern Province of Sri Lanka The Causes and Consequences of Child Marriage Among Muslim Community : With Special Reference to the Cases."

³⁸ Mohamed Buhary Fowzul, "The Views of The Women Activists in Sri Lanka OnThe Validity of WalīnA Marriage: A Juristic Analysis," *AL-HIKMAH: INTERNATIONAL JOURNAL OF ISLAMIC STUDIES AND HUMAN SCIENCES* 4, no. 3 (2021): 412-35, <https://doi.org/https://doi.org/10.46722/hikmah.v4i3.160>.

³⁹ MPLRAG, "What Is the Muslim Marriage and Divorce Act (MMDA)?"

⁴⁰ Muneer Abduroaf and Najma Moosa, "Muslim Marriage and Divorce in Sri Lanka: Aspects of the Relevant Jurisprudence," *Electronic Journal of Islamic and Middle Eastern Law* 4 (2016), <https://heinonline.org/HOL/Page?handle=hein.journals/elcjlouc4&id=105&div=&collection=>.

marriage, *wali* requirement and polygamy are not technicalities of law but primary abuses of women's human rights.⁴¹ This brings Sri Lanka's Muslim personal law into line with international condemnation of such practices, indicating vast areas of concern for legal reform and human rights.

Effectiveness of Quazi Courts in Family Dispute Resolution

Although the Quazi court system has been criticized, it has some features intended to make it more effective as a resolver of family conflicts.⁴² The system is low-cost or free, in general, at the first level, as legal representation is not required, hence economically viable for most people, especially those who cannot afford the legal fees of the District Courts.⁴³ The non-requirement of lawyers guarantees that parties can represent themselves as best they can, prevent their statements from being distorted by legal terminology, and be able to freely present their cases and problems before the Quazi. Quazis have to adopt an inquisitive way of working, that is, they have to actively seek necessary information from the parties so that they can take informed decisions, which is theoretically considered beneficial for conciliation and non-adversarial resolution of disputes in sensitive family matters.⁴⁴ On most occasions, services are provided in the litigants' convenient language, primarily Tamil, which facilitates better communication and understanding. Sometimes, especially in less disputed cases, Quazis have been seen to provide timely relief in divorce cases.⁴⁵ While the Quazi system has the strengths of easy access and low cost, the latter are mostly balanced by the central issues of justice and quality. This creates a paradox that while ease of initial entry is achieved, adequate results are often not achieved.⁴⁶ The positives mainly relate to ease of entry into the system, but the process within the system is often rife with gross disadvantages which will be noted in the following section.

⁴¹ MPLRAG, "What Is the Muslim Marriage and Divorce Act (MMDA)?"

⁴² Anton Cooray, "Access to Non-Judicial Justice Through Islamic Courts in Sri Lanka: Palm Tree Justice or Accessible Justice?," *Asia Pacific Law Review* 20, no. 1 (2012): 113-34, <https://doi.org/10.1080/10192557.2012.11788257>.

⁴³ MPLRAG, "FAMILY COURT SYSTEM FOR A REFORMED MUSLIM MARRIAGE AND DIVORCE ACT (MMDA)," 2022, <https://www.mmdasrilanka.org/wp-content/uploads/2022/03/ENG-MPLRAG-Position-paper-Imagining-a-Family-Court-System.pdf.pdf>.

⁴⁴ M.I.M. Jazeel and M.B. Fowzul, "Quazi Court Practices in Muslim Family Disputes: A Case Study on Quazi Courts of Sri Lanka," *Nithal Published by Faculty of Arts & Culture, Eastern University of Sri Lanka* 10, no. 2 (2021): 142-56, <http://ir.lib.seu.ac.lk/handle/123456789/5977>; Cooray, "Access to Non-Judicial Justice Through Islamic Courts in Sri Lanka: Palm Tree Justice or Accessible Justice?"

⁴⁵ Cooray, "Access to Non-Judicial Justice Through Islamic Courts in Sri Lanka: Palm Tree Justice or Accessible Justice?"; Mufas and Sivanayagam, "Challenges Faced by Quazi Court and Its Resolutions in Contemporary Sri Lanka."

⁴⁶ Mufas and Sivanayagam, "Challenges Faced by Quazi Court and Its Resolutions in Contemporary Sri Lanka."

Limitations and Challenges of Quazi Courts

Despite its purported strengths, the Quazi court system suffers from serious weaknesses that seriously hamper its effectiveness and impartiality in settling circumstantial family disputes. The issues can be broadly categorized under operational and procedural weaknesses and their deep impact on women's rights and gender equality.

Operational and Procedural Deficiencies

A serious problem is that Quazis have no professional training and certification.⁴⁷ Compared to judges in the classical legal system, Quazis are not trained at all and do not require any qualifications and experience. This lack of professionalism leads to the implementation of capricious norms and provides extremely uncertain outcomes, making the judicial process uncertain and arbitrary.⁴⁸

Furthermore, the working environment of Quazi courts suffers from irregular sitting schedules and unavailability. The Quazi's schedule is unstable and uncertain and can be changed at will.⁴⁹ Quazis are not available during Ramzan, and meeting dates are irregular, causing severe adjournment and inconvenience to the parties.⁵⁰ This is compounded by the lack of government-provided premises; The government does not provide buildings or other accommodation for Qazi courts, and some Quazis are known to conduct their work from their homes or parts of public buildings.⁵¹ Such an informal environment is a matter of serious concern on the aspect of formality, confidentiality and physical security of both the Quazi and the people appearing before him. Well-documented cases of corruption and bribery further undermine the legitimacy of the system. Cases are recorded, such as petitions before the Judicial Service Commission, of Quazis who have exacted money in forms, or amounts of with held maintenance, or have received bribes in order to expedite cases, or grant divorces. this mixture of untrained Quazis, state openness and informality is a corruption and arbitrary decision making recipe

⁴⁷ Mohammad Ismath Ramzy and Simin Ghavifekr, "Women Quazi in a Minority Context: An Overview of Sri Lankan Experience," *Societies* 9, no. 1 (2019), <https://doi.org/10.3390/soc9010013>.

⁴⁸ M B Fowzul, "The Judgements of Quazi Courts in Sri Lanka: An Analysis," *Muallim Journal of Social Sciences and Humanities*, 4, no. 1 (2020): 1-15, <https://doi.org/https://doi.org/10.33306/mjssh/50>.

⁴⁹ Jazeel and Fowzul, "Quazi Court Practices in Muslim Family Disputes: A Case Study on Quazi Courts of Sri Lanka."

⁵⁰ M.I.M. Jazeel and M.B. Fowzul, "இலங்கையில் நியமனம் பெறும் காழிகளின் நடத்தைகள்: ஓர் இஸ்லாமிய, கள அனுபவப் பகுப்பாய்வு," *Sri Lankan Journal of Arabic and Islamic Studies* 2, no. 1 (2019): 15-30, <http://seu.ac.lk/sljaais/>.

⁵¹ Jazeel and Fowzul, "Quazi Court Practices in Muslim Family Disputes: A Case Study on Quazi Courts of Sri Lanka."

that essentially destroys the sense of confidence that people have in the rule of law and the courts.⁵²

Excessive delay is another big issue, especially in highly contested cases.⁵³ The delay has a disproportionate impact on women, and most importantly in Fasad divorce cases where Quazi orders are appealed. The Quazis Board, being the appellate forum, also reportedly has a backlog of appeal cases, further adding to the problem. Despite the fact that the Quazi is to adopt an inquisitorial approach, it is reported that the parties face an adversarial approach from the Quazi. In some areas, third parties such as mosque committees are also involved, which may introduce complexity and deviate from the intended non-adversarial ethos. Finally, there is a lack of generally available public information about the process and expected time scale, and a significant "lack of state oversight and monitoring of the operation of the Quazi court system". This absence of transparency and accountability contributes significantly to the shortcomings of the system.⁵⁴

Impact on Women's Rights and Gender Inequality

The flaws in the Quazi court system are particularly deep and harmful to Muslim women, mainly due to the overlap of prejudicial provisions under the MMDA and discriminatory judicial application. As discussed under Section 5.2, the unequal divorce provisions under the MMDA disproportionately affect women.⁵⁵ Whereas the men need not give a reason to grant a divorce, the women wishing to get a Passover divorce should demonstrate by evidence and witnesses the fault of the spouse in the marriage, which complicates and extends the process. Such procedural incompatibility contributes to significant time wastage in granting a divorce, especially where a woman challenges it to the latter. Similarly, the failure to provide a minimum age of marriage, coupled with the requirement for a wali for adult Muslim women, actually denies women agency over their choice of marriage and compels girls into marriage in violation of extensive legal protections and human rights norms.⁵⁶ Likewise, the MMDA provisions on polygamy without proper safeguards-in effect, obtaining the consent of existing wives or any demonstration of financial capability-once again empowers a man at the expense of women, which can result in financial and emotional adversity in a polygamous marriage.⁵⁷ The absence of a clear arrangement for the division of property in a marriage at the time of divorce

⁵² Jazeel and Fowzul.

⁵³ Cooray, "Access to Non-Judicial Justice Through Islamic Courts in Sri Lanka: Palm Tree Justice or Accessible Justice?"

⁵⁴ Sabir and Ameen, "Quazi Court and Administrative Integrity."

⁵⁵ (MPLRAG, 2021)

⁵⁶ Wettimuny and Rajap, "Reforming the Muslim Marriage and Divorce Act."

⁵⁷ Fowzul and Haneef, "Women's Advocacy for Imposing Stringent Stipulations on Polygamy in Muslim Marriage and Divorce Act of Sri Lanka: A Juristic Analysis."

once again puts women at risk financially, especially those who do not have independent access to financial information.⁵⁸

Along with these legal inequalities there is also discriminatory treatment by the Quazi. Women's organizations acknowledge the fact that most Quazis have "deep-rooted conceptions of gender roles" and are biased against practices such as polygamy. This leads to discriminatory treatment of women seeking divorce or maintenance orders, often resulting in cases of women experiencing domestic violence from their husbands being dismissed.⁵⁹ Evidence confirms that women were sometimes "not allowed to speak and had their mouths closed by the Quazi". The interplay of the Biased Basic Law (MMDA) and biased judicial practice (established gendered notions of Quazi) creates a system that is inherently biased in which women's rights are continually curtailed.⁶⁰ This creates stronger access to justice problems that extend far beyond procedural delays, and directly impact women's agency and well-being.

Debate on Women Quazis

One of the most important and ongoing topics of debate regarding Muslim personal law reform in Sri Lanka is the refusal to appoint women as judges in Quazi courts.⁶¹ Denial is widely seen as a way to justify gender inequality in the system. Through research it has been revealed that Islamic teachings emphasize appointment based on merit without specific requirements that disqualify a person based on gender.⁶² This implies that women with equal or superior qualifications in Islamic jurisprudence, especially jurisprudence, can be directly appointed as Quazis or serve as advisors to the Quazi. Arguments against female Quazis are based on interpretations of Quranic verses, such as Sura An-Nisa, verse 34 (protective role of men) and Sura al-Baqarah, verse 282 (role of witnessing in financial transactions), as well as some hadith (e.g., "The

⁵⁸ B Rajeev, "Muslim Women Protection of Rights on Marriage Act and Divorce of Muslim Women in Malappuram District" 14 (2022): 201-13.

⁵⁹ Wettimuny and Rajap, "Reforming the Muslim Marriage and Divorce Act."

⁶⁰ Shamila Dawood, "Married Women Property Rights under Muslim Marriage and Divorce Act of Sri Lanka: A Critical Analysis," *ATSK Journal of Law* 1, no. 1 (2024): 33-41, https://www.researchgate.net/profile/Shamila-Dawood-2/publication/380164573_Married_Women_Property_Rights_under_Muslim_Marriage_and_Divorce_Act_of_Sri_Lanka_A_Critical_Analysis/links/662e6d1006ea3d0b7413d2ac/Married-Women-Property-Rights-under-Muslim-Marr.

⁶¹ Mufas and Sivanayagam, "Challenges Faced by Quazi Court and Its Resolutions in Contemporary Sri Lanka."

⁶² S. M. M. Mazahir and M. M. A. Abdullah, "The Appointment of Women Quazi in Sri Lankan Muslim Minority Context: An Analysis," in *Intellectual Discourse on Proposed Reformation of the Muslim Marriage and Divorce Act (MMDA)*, ed. South Eastern University of Sri Lanka Faculty of Islamic Studies & Arabic Language (Faculty of Islamic Studies & Arabic Language, South Eastern University of Sri Lanka, 2024), 163-81, <http://ir.lib.seu.ac.lk/handle/123456789/7140>.

nation will not prosper that entrusts its affairs to a woman").⁶³ Such interpretations are challenged by modern scholars, who offer alternative explanations based on historical context and an understanding of broader Islamic principles. He argues that those texts are primarily addressing specific social or political circumstances of the time or discussing the highest levels of leadership, excluding women in all public offices, including judicial ones. The argument is that the examples of successful female rulers and thinkers in Islamic history are a response to the perception that women are necessarily incapable of leading or judging.

The contrast between the limited number of Muslim women with formal education in Sri Lanka when the MMDA was enacted (1951) and the high number of women's university students and law and Islamic studies students today is stark.⁶⁴ This contemporary reality, where so many qualified Muslim women are studying law, makes their continued exclusion from Quazi appointments an malpractice. The controversy over female Quazi thus reflects the broader conflict between traditional, and sometimes patriarchal, interpretations of religious texts and modern ideas of gender equality and merit in the context of legal reform.⁶⁵ The agenda of women becoming judges can be a milestone in eliminating gender bias in the judicial system not only through the possibility of introducing a more gender-sensitive approach but also through dismantling the gender role and introducing more responsibility and fairness to the courts.

Comparative Insights

The problems with Sri Lanka's Quazi court system are no exception, as many South Asian and Muslim-majority states face the challenge of maintaining religious personal laws in all their diversity in a style of legal pluralism. Religious personal laws for Hindus, Muslims and Christians have been codified in India, leading to ongoing controversies regarding secularism, constitutionality, minority and women's rights. It highlights the internal issues of balancing religious freedom with general principles of law in a pluralistic democracy. Malaysia has a multi-system state in which Muslim law is governed by a separate system of Sharia courts at the state level. Research has shown that Malaysia is more formal in the regulation of inheritance and polygamy than Indonesia. It is intended to suggest a more formal and perhaps more strict method of Islamic family law administration.

⁶³ Iqbal Saujan, "Female Quazi Appointed in the Judicial Position : Islamic Law and Public Opinion in Sri Lankan Context .," *IOSR Journal of Humanities and Social Science* 24, no. October (2021): 57-64, <https://doi.org/10.9790/0837-2410075764>.

⁶⁴ Mazahir and Abdullah, "The Appointment of Women Quazi in Sri Lankan Muslim Minority Context: An Analysis."

⁶⁵ Saleem, *The Quazi Court System in Sri Lanka and Its Impact on Muslim Women*.

Indonesia, which is also based on Sharia, is generally described as more tolerant in terms of customary law, and has a centralized system in the form of religious courts. The grounds and procedures for divorce also vary, with Islamic accommodability evident. Singapore, since 1961, has more or less abandoned the concept of personal law for non-Muslims and incorporated them into an umbrella system, the Women's Charter, allowing polygamy to remain an option for Muslims. It has a more secular approach to its non-Muslim citizens while retaining religious personal law for Muslims. The variation in the application and reform of Islamic family law in these different Muslim-majority or significant Muslim minority contexts clearly demonstrates that Islamic law is not uniform and can be brought into line with modern legal principles and human rights. This offers a valuable template of Sri Lanka that reform does not imply that it should abandon the Islamic principles, but rather it must pursue contextually relevant interpretations and applications that can satisfy the modern human rights requirements without renouncing its Islamic juridical tradition. These cross-country examples bear witness to the manner in which the differing countries are able to appreciate the finer points of religious p-ersona-laws, and their doctrines are highly helpful in enlightening Sri Lanka on their re-formist endeavors.

Recommendations

According to the findings of the limitations identified and in view of the fact that there is a great necessity of ensuring equitable and effective family dispute resolution to Muslim communities in Sri Lanka, the following concrete, practical recommendations are given:

Comprehensive Reform of the MMDA

The key point is to discuss the very discriminatory clauses of MMDA since procedural changes will not suffice to address the inequities of the very statutes. It is recommended to amend the MMDA to have a separate, explicit minimum age of marriage for girls at 18 years in line with international human rights standards and the Sri Lankan Penal Code to protect young girls from the negative impacts of child marriage and ensure their right to education and protection. Furthermore, the reforms should ensure equality in marriage and divorce for adult Muslim women through the abolition of the requirement of a freely consenting 'Wali' so that they have the sole right to marry of their own free will, thereby recognizing women's agency and decision-making capacity. Divorce law needs to be overhauled so that men and women are treated equally, possibly introducing concepts such as divorce by mutual consent or irreparable breakdown of marriage, as in other jurisdictions, to balance the ease of divorce for men and easier options to end the marriage for women. The provisions for polygamy should be reconsidered and modified to require the

explicit consent of existing spouses, establish real financial capacity to provide for all wives equally, and ensure the happiness and equitable treatment of all involved. Finally, there should be legalization of stipulations and procedures of meeting just requirements on equitable property division in divorce so as to guarantee economic security and equity of women who usually obtain substantial marital property unofficially.

Professionalization and Oversight of Quazi Courts

Judicialization and expansion of the state are needed to transform courts from sometimes formal, often arbitrary tribunals to predictable, accountable judicial institutions that maintain the rule of law. This would include introducing a systematic, mandatory training scheme for all Quazis in key areas of Islamic law, Sri Lankan family law, judicial ethics, gender sensitivity, and modern methods of conflict resolution, as well as establishing minimum educational and professional requirements for appointment to the office of Quazi with a view to ensuring competency and professionalism. A robust system of state supervision must be set up through the Judicial Service Commission or similar independent body that closely monitors the performance of Quazi courts to ensure compliance with specified procedures, investigates allegations of corruption and bias, and imposes on Quazis a formal code of conduct. Standardized processes and timelines should be developed and implemented with clear, openly accessible procedural guidance and reasonable maximum case resolution timelines, so as to prevent arbitrary decision-making, avoid unreasonable delays, and provide litigants with a consistent set of expectations. Finally, Quazi courts should operate in state-owned, appropriate premises, which will enhance the formality of proceedings, confidentiality, and protection from informal and potentially compromising situations for judicial officers and litigants.

The state should be judicialization and growth of the state is required to turn courts, which are in some cases formal and in others arbitrary tribunals, into predictable, accountable judicial organizations that uphold the rule of law. This would involve introducing a systematic, compulsory training program for all Quazis in the so-called key areas of the Islamic law, the Sri Lankan law of family, judicial ethics, gender sensitivity and modern techniques of resolving conflicts as well as setting minimum educational and professional qualifications to hold the office of Quazi with the view to ensuring competency and professionalism. This should have a strong system of state oversight which should be established by the Judicial Service Commission or other independent institution that oversees the performance of Quazi courts closely to ensure that it regards the specified procedures, investigates claims of corruption and bias and places on Quazis an official code of conduct. Standardized processes and

schedules are to be formulated and established, with unambiguous and publicly available procedural advice and reasonable maximum case timelines, in order to prevent arbitrary decision-making, prevent unreasonable delay, and provide litigants with a consistent body of expectations. Lastly, the courts of Quazi courts should work in state-owned, appropriate premises which will improve the formality of proceedings, confidentiality, and protection of judicial officers and litigants against informal and otherwise compromising situation.

Promoting Gender Sensitivity and Inclusivity

Introduction of women as *Quazi* is not a symbolic, but rather a material change which can resolve the gender bias and existing power disparity in the court and add a more fair and understanding judgmental atmosphere. It involves ensuring that the holistic mandatory gender sensitization is incorporated in all judicial officing including *Quazi* so that they can break the inherent assumptions of the gender role and treat litigating women equally, fairly and respectfully to allow Kaizenes to identify and resolve issues such as domestic violence. Serious moves are required to consciously seek appointment of competent women as Quazi basing on merit and Islamic juridical competence only as the sources in the Islamic do not specify gender when it comes to appointment. Their involvement can introduce varying risks, make the gender more sensitive and confront the patriarchal values that are dominant in the judiciary, and thus possibly offer women litigants a more balanced result. Moreover, information resources on MMDA procedure, rights, and accessible remedies must be availed and legal aid systems must be given the necessary competence to avail quality legal representation and assistance to all people especially poor women when this becomes imperative even in appeal where payment and legal representation is required.

Fostering Collaborative Dialogue for Reform

This long-standing stalemate on reforming MMDA underscores the need to take the multi-staged consensus-based move as an escape out of generalized resistance towards change. The reforms should be initiated with an open dialogue among all stakeholders- religious leaders, civil society, legal experts, women rights organizations and the government on reforms in a sensitive way that will induce consensus on how to reform to avoid offending religious and cultural feelings. It is a participatory style that is sought after in the process of ameliorating disputing cases with legally grounded and culturally permissible solutions to ensure that effective execution is guaranteed and outcomes are fruitful in the long term.

Conclusion

The Quazi court system of Sri Lanka holds a special and central position in the plural legal system of Sri Lanka as the court of choice in settling the family disputes of the Muslims. Despite some of the benefits being provided, like low cost and the possibility of self-representation, its general utility suffers a huge blow due to a number of major drawbacks. The study indicates that these limitations are of two types, one being the operational deficiencies in the management of the Quazi court, and the second, which are more systematic, the discriminatory clauses of the MMDA. In its operation, it is severely deficient of the judicial training and qualification of Quazis, which has resulted in arbitrary standards, uncertain decision making and even incidences of corruption and bribery. These and other causes like unbalanced scheduling, poor-quality state facilities, and the absence of stringent state control have resulted in the unreasonable delays and a total failure of faith in the judicial system. All of these difficulties affect the cumulative effect on the Muslim women, disproportionately. The minimum marriage age, wali requirement, discriminatory divorce practices, and permitted polygamy conditions of the MMDA restrict the agency of women and increase the current gap in gender between marriage, divorce, and property rights. When the source is coming through quacks who have internalized gender beliefs, it is enhanced by discriminatory application thus deemphasizing the predicaments faced by women and even silencing them to the court. Such overlapping of discriminatory substantive law and discriminatory judicial enforcement is a terribly unfair regime that frequently deprives women the opportunity to be treated equally in judicial proceedings. The currently discussed issue of reforms, with the contentious aspect of appointment of female Quazis, even though frozen in air, underscores the sheer difficulties of accommodating the traditional understandings of Islamic law with the modern human rights principles. The fact that these problems persisted in the Quazi court system, despite decades of criticisms and reform initiatives, is indicative of a strong institutionalist form of inertia and political unwillingness to do anything about these problems that might involve human rights abuses. In effect, the Quazi courts, though a constitutional arm of the state court system, are not necessarily the embodiment of the concept of impartiality, predictability, and equality between men and women, as embodied in their current form and the laws they currently enact. There is an urgent and comprehensive reform to facilitate a scenario where the Muslim families in Sri Lanka can get a fair and equitable resolution to family disputes.

Bibliography

Abduroaf, Muneer, and Najma Moosa. "Muslim Marriage and Divorce in Sri Lanka: Aspects of the Relevant Jurisprudence." *Electronic Journal of*

Ahmed, Farrah. "Personal Autonomy and the Option of Religious Law." *International Journal of Law, Policy and the Family* 24, no. 2 (August 1, 2010): 222-44. <https://doi.org/10.1093/lawfam/ebq006>.

ATHAR, SYED MUJTABA. "HISTORICAL DEVELOPMENT OF THE ROMAN-DUTCH LEGAL TRADITION IN SRI LANKA." *RUSSIAN LAW JOURNAL* 8, no. 2 (2024): 348-53.

Chandrasahana, P. "Pragmatic Approaches Towards Fundamental Rights Litigation Procedure in Sri Lanka: Challenges and Opportunities." In *INTERNATIONAL RESEARCH CONFERENCE ARTICLES (KDU IRC)*, 2012:227-36. General Sir John Kotelawala Defence University, Sri Lanka, 2012. <http://ir.kdu.ac.lk/handle/345/8499>.

Chiba, Masaji. "Legal Pluralism in Sri Lankan Society." *The Journal of Legal Pluralism and Unofficial Law* 25, no. 33 (1993): 197-212. <https://doi.org/10.1080/07329113.1993.10756450>.

Cooray, Anton. "Access to Non-Judicial Justice Through Islamic Courts in Sri Lanka: Palm Tree Justice or Accessible Justice?" *Asia Pacific Law Review* 20, no. 1 (2012): 113-34. <https://doi.org/10.1080/10192557.2012.11788257>.

Dawood, Shamila. "Islamic Law and Gender Equality : Challenges and Reforms in Sri Lanka ' s Muslim Marriage and Divorce Act." *Journal of Islamic Law Review* 5, no. 2 (2024): 288-305.

———. "Islamic Law and Gender Equality : Challenges and Reforms in Sri Lanka ' s Muslim Marriage and Divorce Act." *Journal of Islamic Law* 5, no. 2 (2024): 288-305. <https://doi.org/https://doi.org/10.24260/jil.v5i2.2833>.

———. "Married Women Property Rights under Muslim Marriage and Divorce Act of Sri Lanka : A Critical Analysis." *ATSK Journal of Law* 1, no. 1 (2024): 33-41. https://www.researchgate.net/profile/Shamila-Dawood-2/publication/380164573_Married_Women_Property_Rights_under_Muslim_Marriage_and_Divorce_Act_of_Sri_Lanka_A_Critical_Analysis/links/662e6d1006ea3d0b7413d2ac/Married-Women-Property-Rights-under-Muslim-Marr.

Fowzul, M B. "Fixing the Legal Age of Marriage in the MMDA of Sri Lanka: An Islamic Analysis." In *Intellectual Discourse on Proposed Reformation of the Muslim Marriage and Divorce Act (MMDA)*, 103-15. Faculty of Islamic Studies & Arabic Language, South Eastern University of Sri Lanka, 2024. <http://ir.lib.seu.ac.lk/handle/123456789/7150>.

- . “The Judgements of Quazi Courts in Sri Lanka: An Analysis.” *Muallim Journal of Social Sciences and Humanities*, 4, no. 1 (2020): 1-15. <https://doi.org/https://doi.org/10.33306/mjssh/50>.
- Fowzul, Mohamed Buhary. “The Requirement of Muslim Marriage Registration in Sri Lanka: From the Maqasid Al-Shari’ah Perspective.” *Global Journal of Arts Humanities and Social Sciences* 4, no. November (2024): 11. <https://doi.org/10.5281/zenodo.14228890>.
- . “The Views of The Women Activists in Sri Lanka OnThe Validity of WalīinA Marriage: A Juristic Analysis.” *AL-HIKMAH: INTERNATIONAL JOURNAL OF ISLAMIC STUDIES AND HUMAN SCIENCES* 4, no. 3 (2021): 412-35. <https://doi.org/https://doi.org/10.46722/hikmah.v4i3.160>.
- Fowzul, Mohamed Buhary, and Sayed Sikandar Shah Haneef. “Women’s Advocacy for Imposing Stringent Stipulations on Polygamy in Muslim Marriage and Divorce Act of Sri Lanka: A Juristic Analysis.” *International Journal for Studies on Children, Women, Elderly And Disabled* 11 (2020): 1-9. https://www.ijcwed.com/wp-content/uploads/2020/09/IJCWED11_008.pdf.
- Ismath Ramzy, Mohammad, and Simin Ghavifekr. “Women Quazi in a Minority Context: An Overview of Sri Lankan Experience.” *Societies* 9, no. 1 (2019). <https://doi.org/10.3390/soc9010013>.
- Jazeel, M.I.M., and M.B. Fowzul. “Quazi Court Practices in Muslim Family Disputes: A Case Study on Quazi Courts of Sri Lanka.” *Nithal Published by Faculty of Arts & Culture, Eastern University of Sri Lanka* 10, no. 2 (2021): 142-56. <http://ir.lib.seu.ac.lk/handle/123456789/5977>.
- . “இலங்கையில் நியமனம் பெறும் காழிகளின் நடத்தைகள்: ஓர் இஸ்லாமிய, கள அனுபவப் பகுப்பாய்வு.” *Sri Lankan Journal of Arabic and Islamic Studies* 2, no. 1 (2019): 15-30. <http://seu.ac.lk/sljais/>.
- Mazahir, S. M. M., and M. M. A. Abdullah. “The Appointment of Women Quazi in Sri Lankan Muslim Minority Context: An Analysis.” In *Intellectual Discourse on Proposed Reformation of the Muslim Marriage and Divorce Act (MMDA)*, edited by South Eastern University of Sri Lanka Faculty of Islamic Studies & Arabic Language, 163-81. Faculty of Islamic Studies & Arabic Language, South Eastern University of Sri Lanka, 2024. <http://ir.lib.seu.ac.lk/handle/123456789/7140>.
- Moosa, Muneer Abduroaf and Najma. “Muslim Marriage and Divorce in Sri Lanka: Aspects of the Relevant Jurisprudence.” *Ejimele Electronic Journal of Islamic and Middle Eastern Law* 4 (2016): 97-108. <http://www.ejimele.uzh.ch>.

MPLRAG: Muslim Personal Law Reform Action Group. "Maintanace under MMDA," 2021. <https://www.mmdasrilanka.org/maintenance-under-the-mmda/>.

MPLRAG. "FAMILY COURT SYSTEM FOR A REFORMED MUSLIM MARRIAGE AND DIVORCE ACT (MMDA)," 2022. <https://www.mmdasrilanka.org/wp-content/uploads/2022/03/ENG-MPLRAG-Position-paper-Imagining-a-Family-Court-System.pdf.pdf>.

MPLRAG, Muslim Personal Law Reform Action Group. "What Is the Muslim Marriage and Divorce Act (MMDA)?" MPLRAG, Muslim Personal Law Reform Action Group, 2017. https://www.mmdasrilanka.org/aboutmmda/?utm_source=chatgpt.com.

Mufas, T Mohamed, and C Sivanayagam. "Challenges Faced by Quazi Court and Its Resolutions in Contemporary Sri Lanka." *Indian Journal of Musti Research and Development* 4, no. 2 (2023): 26-32. <https://doi.org/10.54392/ijmrd2324>.

Rajeev, B. "Muslim Women Protection of Rights on Marriage Act and Divorce of Muslim Women in Malappuram District" 14 (2022): 201-13.

Sabir, M. M. M., and M. I. M. Ameen. "Quazi Court and Administrative Integrity." In *Intellectual Discourse on Proposed Reformation of the Muslim Marriage and Divorce Act (MMDA)*, 151-62. Faculty of Islamic Studies & Arabic Language, South Eastern University of Sri Lanka, Oluvil., 2024. <http://ir.lib.seu.ac.lk/handle/123456789/7142>.

Saleem, Marsoof. *The Quazi Court System in Sri Lanka and Its Impact on Muslim Women*. First. Colombo 5, Sri Lanka: Muslim Women's Research and Ac t on Forum (MWRAF), 73/19 E Kirulapone Avenue, 2011. https://www.academia.edu/30277198/The_Quazi_Court_System_in_Sri_Lanka_and_its_Impact_on_Muslim_Women.

Saujan, Iqbal. "Female Quazi Appointed in the Judicial Position : Islamic Law and Public Opinion in Sri Lankan Context ." *IOSR Journal of Humanities and Social Science* 24, no. October (2021): 57-64. <https://doi.org/10.9790/0837-2410075764>.

Saujan, Iqbal, Yusuf Sani Abubakr, and Seenii Mohamed Mohamed. "Gender Beyond Binary: Inheritance Rights of Third Gender in Islamic Law - Sri Lankan Legal Recognition and Reform." *Indonesian Journal of Islamic Law* 8, no. 2 (2025): 142-66. <https://doi.org/https://doi.org/10.35719/ijil.v5i2>.

Saujan, Iqbal, Mohamed Haniffa, and Mohamed Nairoos. "Re-Marriage Practice Amongst Muslim Women: A Social Study." *Cognizance Journal of*

Multidisciplinary Studies 2, no. June (2022): 13-35.
<https://doi.org/10.47760/cognizance.2022.v02i05.002>.

Saujan, Iqbal, and Seyed Mohamed Mohamed Mazahir. "Legal and Practical Issues in the Management of Waqf Properties in Sri Lanka." *International Journal of Sukuk and Waqf Research* 2, no. 1 (2021): 18-31.
<https://doi.org/10.46281/ijswr.v2i1.1646>.

Saujan, Iqbal, Seeni Mohamed, Mohamed Nafees, and Iqbal Subhan Nugraha. "Safeguarding Women ' s Rights and Heirship : An Evaluation of Mandatory Muslim Marriage Registration in Sri Lanka." *Quru': Journal of Family Law and Culture* 3, no. 3 (2025): 238-63.
<https://doi.org/https://doi.org/10.59698/quru.v3i3.462>.

Saujan, Iqbal, Seeni Mohamed Mohamed Nafees, and Yusuf Sani Abubakar. "The Causes and Consequences of Child Marriage Among Muslim Community : With Special Reference to the Cases Identified in the Eastern Province of Sri The Causes and Consequences of Child Marriage Among Muslim Community: With Special Reference to the Cases." *Quru': Journal of Family Law and Culture* 2, no. 3 (2024): 278-305.
<https://doi.org/https://doi.org/10.59698/quru.v2i3.214>.

Schenk, Christine G., and Shalul Hasbullah. "Informal Sovereignties and Multiple Muslim Feminisms: Feminist Geo-Legality in Sri Lanka." *Political Geography* 94 (April 1, 2022): 102527.
<https://doi.org/10.1016/J.POLGEO.2021.102527>.

Schenk, Christine G, and Shalul Hasbullah. "Informal Sovereignties and Multiple Muslim Feminisms: Feminist Geo-Legality in Sri Lanka." *Political Geography* 94 (2022): 102527.
<https://doi.org/https://doi.org/10.1016/j.polgeo.2021.102527>.

Silva, R., E. Souza, and S. Simelane. "Marriage , Divorce Registration and Vital Statistics." *Centre of Excellence for CRVS Systems, United Nations Population Fund.*, 2024. <https://idl-bnc-idrc.dspacedirect.org/bitstreams/c1ebfb9b-6564-4126-b1a5-9161f17be13d/download>.

Sivakajan, Sivakumar. "Muslim Marriage and Divorce Act (1957) of Sri Lanka ; Critically Analysed the Inequalities in the Muslim Childeren, Women, Quazi Court System and Overlapping with General Law in Sri Lanka." *Journal of Islamic Law* 5, no. 2 (2024): 288-305.
<https://doi.org/https://doi.org/10.24260/jil.v5i2.2833>.

Sulaiman Lebbe, Rifai. "Arab and Muslim Settlements in Sri Lanka from Pre-Islamic Periods to 16 Th Century A . D . Dr SLM RIFAI." *Available at SSRN*, 2021, 1-17. <https://doi.org/https://dx.doi.org/10.2139/ssrn.3815477>.

Wettimuny, Shamara, and Hana Rajap. "Reforming the Muslim Marriage and Divorce Act," 2018. <https://archive.veriteresearch.org/handle/456/5230>.

Wijeyesekera, Rose. "A Critical Evaluation of the Law of Divorce under the General Law and Special Laws of Sri Lanka." University of Colombo, Sri Lanka, 2003. https://www.academia.edu/download/68239778/A_Critical_Evaluation_of_the_Law_of_Divorce_Under_General_Law_and_Special_Laws_of_Sri_Lanka.pdf.