**Submission by Muslim Women Development Trust (MWDT)– Puttalam (originally written in Tamil and translated).**

**The Muslim Marriage and Divorce Act:**

The 1907 Sri Lankan (General) Marriage Registration Ordinance (GMRO)[[1]](#footnote-1) is applicable to all citizens of the country with the exception of Muslims who marry within faith[[2]](#footnote-2). Two communities – the Kandyan Sinhalese and Sri Lankan Muslims have separate Acts for marriage and divorce, on the basis of ethnicity (with a geographic qualifier), and religion respectively. The present-day Muslim Marriage and Divorce Act (MMDA) was enacted in 1951.

MMDA continues to render Muslim girls and women as second-class citizens. Among many other grave forms of rights violation MMDA legally allows child marriage by not stipulating the minimum age of marriage (a Quazi can permit even the marriage of a child under the age of 12). Due to unconditional polygamy and multiple marriages being not registered compulsorily, the child bride and her baby have immense social issues and most often these children would not have proper birth certificate thus enrolling them into a govt. schools is a huge challenge. In addition, early marriage and early pregnancy within the Muslim community has direct consequences on the health and wellbeing of the girl children and it contributes to hindering their access to education and decent job.

The State has renounced its responsibility to reform Muslim Personal Law, on the ground that it is a matter for the Muslim community. Despite multiple committees, with predominantly Muslim men, appointed to review the Muslim Marriage and Divorce Act since 1990 and a cabinet paper and private member motions being brought in, none of these efforts have been yet fruitful. **Article 16 of the Constitution** allows for private religious practices predating the Constitution to remain “valid and operative,” producing such equal rights violations as the Muslim Marriage and Divorce Act.[[3]](#footnote-3)

**Constitutional Deficit in Article 16 and the Muslim Marriage and Divorce Act.** In 2017, the UN Committee on Economic, Social and Cultural Rights recommended the state immediately amend the Muslim Marriage and Divorce Act which did not afford female Muslim minors with equal rights under the law, instead allowing child marriage and limiting equal rights to divorce.[[4]](#footnote-4) The basis of this problem was identified by a report in 2017 by the Special Rapporteur on minority issues who observed: “Problematic in terms of constitutional provisions affecting the private practice of religion, as explained below, are article 16 (1), stipulating that all written and unwritten laws that existed prior to the 1978 Constitution are “valid and operative”, and article 80 (3), which prohibits judicial review of acts once adopted by Parliament.”[[5]](#footnote-5) Local citizens continued to call for reform of the MMDA in 2019.[[6]](#footnote-6)

**Grave concern of reform groups to work with the current government in the context of Covid 19 and Anti Muslim campaign and cremation only law:**

Our agitation for reform is for over 3 decades. During the previous good governance government, there was a substantial move forward to reform this law (even though ultra-conservative, male-only religious and political leaders tried to highjack and or obstruct that). There was even a cabinet paper approved. Now with forceful **cremation of Covid -19 and suspected Covid 19 causalities and 5 Muslim janazas (bodies) being forcefully cremated** by Rajapakse Sinhala nationalist government, we feel that if we ask for equal rights as our sisters belonging to other faith in this country, there is a grave danger of being forced to accept One Country and One Law Policy. We have been articulating for reform but not for abolishing of personal laws because these laws acknowledge the diversity and pluralism in this country.

**Recommendation**:

1. The State must muster its political will to ensure that Muslim girls are treated as equals under the law and immediately reform the Muslim Marriage and Divorce Act in order to prohibit underage marriages and teenage pregnancies.
2. Raise the age of marriage of all citizens to 18. Make 13 years of education compulsory for Muslim girls as well.

MWDT works exclusively on Muslim girls and women’s rights in Puttalam districts and island wide. It has its office in Palavi - Fareethabath– Puttalam district and the Managing director is Ms. Juwairiya Mohideen ( 0777284058 and email juwairiyamohideen@yahoo.com)

1. The Sri Lankan General Marriage Ordinance -<http://srilankalaw.lk/Volume-V/marriage-registration-ordinance.html> [↑](#footnote-ref-1)
2. Long title of the General Marriage ordinance No 19 of 1907 [↑](#footnote-ref-2)
3. The Constitution of the Democratic Socialist Republic of Sri Lanka, Art. 16 (May 15, 2015), https://www.parliament.lk/files/pdf/constitution.pdf (last visited Dec. 4, 2019); Marriage and Divorce (Muslim) Act, Ch. 134 (Aug. 1, 1954), http://www.commonlii.org/lk/legis/consol\_act/mad134294.pdf (last visited Dec. 4, 2019). [↑](#footnote-ref-3)
4. UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the fifth periodic report of Sri Lanka (ICESCR)*, U.N. Doc. E/C.12/LKA/CO/5 (4 Aug. 2017), https://tbinternet.ohchr.org/\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fLKA%2fCO%2f5&Lang=en. [↑](#footnote-ref-4)
5. UN HRC, *Report of the Special Rapporteur on minority issues*, at ¶ 10. [↑](#footnote-ref-5)
6. *Sri Lanka: Take Immediate Steps to Reform the Muslim Marriage and Divorce Act (MMDA) – Civil Society Statement*, SRI LANKA BRIEF, Aug. 6, 2019, https://srilankabrief.org/2019/08/sri-lanka-take-immediate-steps-to-reform-the-muslim-marriage-and-divorce-act-mmda-civil-society-statement/ (last visited Oct. 12, 2019); Shreen Saroor, *The Reform of the Muslim Marriage and Divorce Act & the Role of the All Ceylon Jamiyyathul Ulama*, SRI LANKA BRIEF, Aug. 3, 2019, https://srilankabrief.org/2019/08/the-reform-of-the-muslim-marriage-and-divorce-act-the-role-of-the-all-ceylon-jamiyyathul-ulama-shreen-abdul-saroor/ (last visited Oct. 12, 2019). [↑](#footnote-ref-6)