



**Baroness Cox, on behalf of Equal and Free, shares the following response to the Nuffield Foundation's Final Report: *When is a wedding not a marriage? Exploring non-legally binding ceremonies*, published on 8 March 2022.**

I must first commend this report, taking the work of Dr Rajnaara Akhtar, Professor Rebecca Probert, Sharon Blake, Dr Vishal Vora, and Tania Barton as an encouraging signal that the issue of legally-unregistered marriage is receiving the attention – and scrutiny – it so desperately needs. Equal and Free stands in agreement with this report's overall conclusion that "reform of weddings law is not only important but also achievable" and welcomes the judgement that "this reform is long overdue."<sup>1</sup>

I am also encouraged by the report's recognition of the fact that legally unregistered religious-only marriages particularly affect the Muslim community, which they found to be due in part to the lack of Muslim places of worship being registered for weddings, limiting the options available to Muslims "wishing to get married in their normal place of worship."<sup>2</sup> Our own work supports the Nuffield Report's identification that "financial considerations where one party wished to ring-fence their assets" and "a lack of awareness that the religious ceremony was not legally recognised"<sup>3</sup> were issues particular to Muslim participants. Indeed, Equal and Free has listened to first-hand accounts of the financial inequalities produced by legally unregistered marriages. We are also all too aware of the 2017 Channel 4 survey, which found that of the 6 in 10 Muslim women who have had traditional Islamic weddings in Britain but are not legally married, over a quarter (28%) of these women are not aware that they do not have the same legal rights as someone in a civilly-registered marriage.<sup>4</sup> These issues, and the testimonies of the women who live through them, form the foundation of the work of Equal and Free.

However, the Nuffield Foundation's *When is a wedding not a marriage? Exploring non-legally binding ceremonies* is too little, too late on the issue of Islamic religious-only marriages. The recommendations relating to this matter 1) echo those put forward by myself 11 years ago, 2) are based on a limited sample size – producing potentially misleading results – and 3) simply do not go far enough to protect the rights of British citizens.

In June 2011, I introduced the Arbitration and Mediation Services (Equality) Bill into the House of Lords for the first time. The Bill proposed a number of amendments that would further the application of equality legislation to arbitration and mediation services - including provisions for the

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<sup>1</sup> Probert, R.; Dr Akhtar, R.; Blake, S. (2022) *When is a wedding not a marriage? Exploring non-legally binding ceremonies: Final Report*. Nuffield Foundation. pp.138. Available at: [https://www.nuffieldfoundation.org/wp-content/uploads/2020/11/when\\_is\\_a\\_wedding\\_not\\_a\\_marriage\\_-\\_exploring\\_non-legally\\_binding\\_ceremonies\\_-\\_final\\_report.pdf](https://www.nuffieldfoundation.org/wp-content/uploads/2020/11/when_is_a_wedding_not_a_marriage_-_exploring_non-legally_binding_ceremonies_-_final_report.pdf)

<sup>2</sup> Ibid. pp.7

<sup>3</sup> Ibid. pp. 8

<sup>4</sup> Channel 4. (2017). *New Channel 4 survey reveals The Truth About Muslim Marriage*. [News Release]. Available at: <https://www.channel4.com/press/news/new-channel-4-survey-reveals-truth-about-muslim-marriage>

victims of domestic abuse and connected purposes. In particular, the suggested amendment to section 149 (public sector equality duty), subsection (3) of the Equality Act 2010, proposed steps for “removing or minimising disadvantages suffered by persons” married according to certain religious practices, by informing individuals of their lack of legal protection and the “need to obtain an officially recognised marriage in order to have” this protection.<sup>5</sup> The Nuffield Foundation’s Final Report examines the Law Commission’s provisional recommendation to criminalise the misleading of participants in religious wedding ceremonies by not making them aware of their rights, and posits that it would be good practice for Imams to ensure that couples understand the lack of legal status that marriages through these ceremonies currently hold.<sup>6</sup> This echoes my recommendation from over a decade ago, which did not receive a meaningful government response, and is simply not adequate in the light of research on the extent of the issue that has been published since – including the Law Commission’s own research in 2015. It noted, in *Getting Married: A Scoping Paper* that: “it is telling that only 200 legal marriages in Muslim places of worship were recorded in 2010, against a background population of 2,706,066 Muslims in the 2011 census.”<sup>7\*</sup>

Moreover, the image of religious-only marriage in the UK produced by the Nuffield Foundation’s sample study group is a misleading one, and again does not show the size or the reality of the issue for many Muslim women. The authors of the Nuffield Foundation report themselves recognised the “shortcoming of the sample recruited”<sup>8</sup> when discussing its demographics. I appreciate their admission of the fact that their “limited engagement with more recent immigrants to England and Wales with limited English” will have affected their conclusions on the consent and legal awareness of couples married in religious-only ceremonies.<sup>9</sup> I furthermore agree with the assessment that “further research may be required in this area, particularly to understand how these individuals find out about and are supported in the legal process surrounding weddings.”<sup>10</sup> It is within the very groups excluded from this study – those with limited English, limited knowledge of their legal rights in this country, or an insecure or spouse-dependent migration status – that those most vulnerable to rights abuses can be found.<sup>11, 12</sup>

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<sup>5</sup> Baroness Cox, C. (2011) *Arbitration and Mediation Services (Equality) Bill [HL]*. [Private Members’ Bill]. London: House of Lords. pp.2 Available at: <https://publications.parliament.uk/pa/bills/lbill/2010-2012/0072/2012072.pdf>

<sup>6</sup> Probert, R.; Dr Akhtar, R.; Blake, S. (2022) *When is a wedding not a marriage? Exploring non-legally binding ceremonies: Final Report*. Nuffield Foundation. Available at: <https://www.nuffieldfoundation.org/wp-content/uploads/2020/11/when-is-a-wedding-not-a-marriage-exploring-non-legally-binding-ceremonies-final-report.pdf>

<sup>7</sup> Law Commission. (2015). *Getting Married: A Scoping Paper*. London: Law Commission. pp. 18. [https://www.lawcom.gov.uk/app/uploads/2015/12/Getting\\_Married\\_scoping\\_paper.pdf](https://www.lawcom.gov.uk/app/uploads/2015/12/Getting_Married_scoping_paper.pdf)

\*It is noted that Professor Probert, a co-author of the Nuffield Foundation Final Report, was the Specialist Adviser to this Law Commission Project - presenting a seemingly conflicting image of the extent of religious-only marriage in the UK to the impression created by the sample size used for the Nuffield report.

<sup>8</sup> Probert, R.; Dr Akhtar, R.; Blake, S. (2022) *When is a wedding not a marriage? Exploring non-legally binding ceremonies: Final Report*. Nuffield Foundation. pp.136. Available at: <https://www.nuffieldfoundation.org/wp-content/uploads/2020/11/when-is-a-wedding-not-a-marriage-exploring-non-legally-binding-ceremonies-final-report.pdf>

<sup>9</sup> Ibid. pp.136

<sup>10</sup> Ibid. pp.136

<sup>11</sup> End Violence Against Women. (2019) *Women Living in a Hostile Environment*. Available at: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/FINAL-living-in-a-hostile-environment-for-Web-and-sharing-.pdf>

<sup>12</sup> Darby, O. (2019) *Breaking language barriers empowers vulnerable women*. Thomas Reuters Foundation. Available at: <https://news.trust.org/item/20190213175112-rsujl>

It would therefore be much easier to take advantage of a woman when she is not well integrated into British culture, has not been here long enough to have established a support network, is not able to confidently communicate in English, and does not know what resources are available to her for help. The Nuffield Foundation report has not included the group that needs a change in Weddings Law the most, instead presenting results from a group who, apart from a small minority, “were aware of [their wedding’s] lack of status and the implications of this in terms of their legal rights and responsibilities.”<sup>13</sup>

This group’s majority legal awareness is far from reality, as Aurat: Supporting Women illustrated in 2014, releasing the report: *Equal and Free? 50 Muslim Women’s Experiences of Marriage in Britain Today*. It was found that 46 of the 50 women interviewed identified as being currently married, but of these 46, five were in marriages recognised by English law.<sup>14</sup> Roxana Rais, Chairperson of the Muslim Women’s Advisory Council, stated in a BBC Radio 4 Sunday Discussion on 12<sup>th</sup> December 2021 that this issue is growing, cannot be prevented, and law reform is necessary.<sup>15</sup>

Behind these numbers are the real women and experiences that the Nuffield Foundation report has failed to affirm. In the Aurat report, Habiba Jaan details the experiences of Thashin, who was unaware of the legal status of her marriage, but whose husband was aware of British weddings law. He did not undertake a civil registration so that he could leave without giving her anything. She was left with three children and can only provide for them now because of her family’s support. Bahia was equally unaware of the legality of her marriage, assuming that it was legally binding because the Nikah certificate was stamped by her local mosque. As the report notes, “she assumes that she is entitled to the same legal rights as any other married woman in the UK.”<sup>16</sup> Rafa lost the family home that she had jointly invested in with her husband when he left her, as he had ensured it was in his name alone and her marriage’s lack of legal status meant that she had no rights to the property.<sup>17</sup> These are only three of the case studies presented by Aurat: Supporting Women, and hold great similarities to the testimonies that we at Equal and Free have heard from the survivors that we partner with. This is the reality of the vulnerability and suffering experienced by too many women in religious-only marriage situations.

We commend this report in the capacity that it adds to the increasing chorus of voices calling for the Government to stop ignoring the outdatedness of marriage law and engage in the need for reform. However, after a decade of campaigning for some of the most vulnerable and marginalised members of modern British society to have access to the legal rights due to them, the recommendations of this report are simply not enough. The conclusions based on interviews with so limited a sample group fail the women who would most benefit from more comprehensive marriage reform. We need government reports to be produced that thoroughly explore and demonstrate the extent of this issue. Sadly, the Nuffield Foundation report, whilst a step in the right direction, has not produced this and, as such, represents more than a missed opportunity: it has the potential to set

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<sup>13</sup> Ibid. pp.137

<sup>14</sup> Jaan, H. (2014). *Equal and Free? 50 Muslim Women’s Experiences of Marriage in Britain Today*. Aurat: Supporting Women. Available at: <https://www.secularism.org.uk/uploads/aurat-report-dec2014.pdf>

<sup>15</sup> Stourton, E., (2021, 12 December), Sunday, [Radio Broadcast], BBC. <https://www.bbc.co.uk/sounds/play/m0012fhk>

<sup>16</sup> Jaan, H. (2014). *Equal and Free? 50 Muslim Women’s Experiences of Marriage in Britain Today*. Aurat: Supporting Women. pp.10. Available at: <https://www.secularism.org.uk/uploads/aurat-report-dec2014.pdf>

<sup>17</sup> Jaan, H. (2014). *Equal and Free? 50 Muslim Women’s Experiences of Marriage in Britain Today*. Aurat: Supporting Women. Available at: <https://www.secularism.org.uk/uploads/aurat-report-dec2014.pdf>

the cause of providing proper legal protection for British women back, by presenting a skewed picture.

We must do more than this study recommends, and for this purpose I will be reintroducing the Marriage Act 1949 (Amendment) Bill into the House of Lords.<sup>18</sup> While it is not the perfect solution, it aims to do what the Nuffield Foundation recommendations do not: it aims to protect those more vulnerable to the potential consequences of religious-only marriage by enshrining the right of equality before the law for all British married women.

*If you have any questions or comments on this statement, please contact [oliverdeeb@parliament.co.uk](mailto:oliverdeeb@parliament.co.uk).*

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<sup>18</sup> Baroness Cox, C. (2020) *Marriage Act 1949 (Amendment) Bill [HL]*. [Private Members' Bill]. London: House of Lords. Available at: <https://publications.parliament.uk/pa/bills/lbill/58-01/085/5801085.pdf>