

TUNISIA: Tunisia lifts ban on Muslim women marrying non-Muslims

President's initiative secures Tunisian women's right to choose spouse despite opposition from mainstream Muslim clerics

Al Jazeera (14.09.2017) – <http://bit.ly/2fpyiLR> – Tunisia has abolished a decades-old ban on Muslim women marrying non-Muslims as the president seeks to secure equal rights for the country's female population.

“Congratulations to the women of Tunisia for the enshrinement of the right to the freedom to choose one's spouse,” presidency spokeswoman Saida Garrach wrote on Facebook on Thursday.

The announcement came a month after President Beji Caid Essebsi called for the government to lift the ban dating back to 1973, arguing that existing practice violates Tunisia's constitution, adopted in 2014 in the wake of the Arab Spring revolution.

He created a commission, led by a female lawyer and rights activists, aimed at drafting revised rules.

Until now a non-Muslim man who wished to marry a Muslim Tunisian woman had to convert to Islam and submit a certificate of his conversion as proof while a Muslim Tunisian man is allowed to marry a non-Muslim woman.

Human rights groups in the North African country had campaigned for the ban's abolition, saying it undermined the fundamental human right to choose a spouse.

Inheritance inequality

Tunisia is viewed as being ahead of most Arab countries on women's rights, but there is still discrimination, particularly in matters of inheritance.

Daughters are entitled to only half the inheritance given to sons.

Mainstream Muslim clerics almost universally see the inheritance rules as enshrined in the Quran, Islam's holy book, and consider the rules on marriage to be equally unquestionable in Islamic law.

The country's leading imams and theologians have issued a statement denouncing the president's proposals as a "flagrant violation of the precepts" of Islam.

Some worry that such changes could stir up anger in a country that has already suffered deadly attacks.

The first president of independent Tunisia, Habib Bourguiba, championed a landmark social code in 1956 that set a standard for the region by banning polygamy and granting new rights to women unheard of in the Arab world at the time. But even he didn't dare push for equal inheritance.

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SOUTH AFRICA: Legality of Muslim marriage a religious, human rights issue – divorcee

AllAfrica (24.03.2017) – <http://bit.ly/2mSr74h> – For 20 years, Nasrin Hoosain* was a supportive wife and mother. She left her studies and job opportunities to build her family, raise their children and support her husband as he climbed the career ladder.

When, after years of abuse and infidelity, he asked for a divorce, she was the one who faced an uncertain future, without financial stability and the risk of homelessness.

Muslim marriage – known as a nikah – is not legally recognised in South Africa, meaning Hoosain, like other muslim women, is not entitled by law to the assets accrued with her husband in the two decades of their union.

She joined dozens of women who lined up outside the Western Cape High Court this week, calling for nikahs to be declared legally valid. This would allow recourse for wives who can be left penniless when the marriage dissolves.

The class action is expected to be heard on August 28, three years after the Women's Legal Centre first brought its case.

It argues that once customary marriages were given full legal recognition, the historical basis for not recognising polygynous marriages fell away.

Legislation is therefore needed to recognise Muslim marriages, the WLC says.

Muslim marriages allow for up to four wives, but come with the responsibility of providing equally to each spouse. It is not commonly practiced because of the difficulty in maintaining this, research has found.

The non-profit legal centre contends that legal protection has been denied to Muslim women 16 years after the Constitution came into force. This had resulted in widespread oppression and gender discrimination in areas such as divorce, the duties of support, parental rights and responsibilities, and inheritance.

For Hoosain, the end of her marriage meant starting over after years of living a financially comfortable life.

'Soul destroying'

She had been a student when she tied the knot, and dropped out of university to see to their home after having their first born.

"I was a full time mom – a cook, a doctor, a nurse and a taxi driver, all in one," she said.

Hoosain put her own prospects on hold to "build a successful family", despite facing ill-treatment from her husband at home.

When he asked her for a Talaq – which in Islamic terms is a divorce prompted by the man as a formal repudiation of his wife – she didn't put up a fight.

For three months, her husband was forced to maintain her, but once the process was finalised, she was without an income.

"As a wife, I gave such a lot of myself to him over the years. All I got in return was a 'thank you, ma'am, for your services

rendered; off you go," Hoosain recalls.

As they did not have a civil union, her husband was not recognised as such in the eyes of the law.

He therefore did not legally have to split their assets accrued over the 20 years, or give her spousal support. She however refused to do the "normal thing" and move out of the house she helped him build.

"I had done my research, so I knew he couldn't force me to leave. Both of us had worked ourselves up, both of us had made sacrifices for what we had. I put my foot down and told my children that we couldn't be put out, showing them what our country's laws state and referring to passages in the Quran. Eventually he left, but not without a fight."

Hoosain has an English version of the religious text of Islam, marked with pink sticky notes, as well as South African law documents which she refers to, to substantiate her arguments.

Life has been difficult since her marriage dissolved, Hoosain admits, as she relies on her ex-husband for money to support their minor children.

She doesn't want to approach the courts for child maintenance, describing the process as "soul destroying".

Legal proceedings

"So I am at his mercy. Whatever he decides to give is what I just have to take," she explains, resigned.

Her career prospects are limited as she does not have work experience, and her age, 40, also puts her at a disadvantage.

But unlike some of her Muslim friends who were forced to "take what their husbands offered to placate them, which is usually next to nothing", Hoosain has instituted legal proceedings to force him to cough up.

She declined to disclose the details of her case as it is still before the courts.

Fair religion

Had her marriage been legally recognised, the traumatising reality of divorce would have been somewhat easier, Hoosain insists. The non-recognition of the union is against her human rights.

“It is unfair, discriminatory and prejudicial. We live in a secular country in which we are legally protected from any form of discrimination. Why are Muslim marriages excluded from that?”

The devout Muslim says her issue is not with the teachings of Islam, but with the cultural interpretation which is “not in line” with the Quran.

“Islam is a fair religion, which promotes equality. It even says in the Quran that in case of divorce, separate on equitable terms. This means it must be fair, just and equal.

“Why should a woman have to give up her lifestyle in the event of a divorce? Building what you have takes two people; why does only one get everything?”

Had she known what awaited her later, she would have insisted on a civil union, Hoosain admits.

‘This is our fight’

“You, as a woman, are not protected otherwise. This is both a religious and human rights issue. Islam teaches you to stand firm in what you believe is the truth; to fight oppression, injustice and tyranny. We can’t just sit and take it.

“Women need to be respected. When men refuse to give you your fair share, it’s a sign of disrespect. You give the best years of your life to your marriage and building a family [but have

no recourse if the marriage dissolves]. It's unfair."

The recognition of customary marriages, which allows for more than one wife, should also extend to Muslims, she argues.

Polygamy is not common in Islam, Hoosain says, as the Quran teaches that you have to treat both equally, from physical assets to emotional support.

"It's allowed, but virtually impossible to maintain multiple wives equally," she says.

The class action is an important step toward protecting the rights of Muslim women, Hoosain believes.

"Our voices need to be heard; we are part of South African society. This is our fight so that our daughters can have a better life and not be left destitute in the event of divorce," she says.

Judges Siraj Desai, Gayaat Salie-Hlophe and Nolwazi Boqwana are expected to preside over the matter.

*Not her real name

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