

Fiqh al-Aqalliyat and the Application of Islamic Law in Sri Lanka: Harmonising Muslim Religious Practices with the National Legal Framework

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A B S T R A C T

Sri Lanka's Muslim community follows the Muslim Marriage and Divorce Act of 1951 under Quazi courts largely unchanged since enactment. Fiqh al-Aqalliyat, developed for diaspora communities, has not yet been applied systematically to this centuries-old, constitutionally codified minority. This article asks how maqasid al-shariah, maslahah, and talfiq can defensibly reform the MMDA within Sri Lanka's own constitutional framework. It employs a normative-juridical method, analysing primary Islamic and constitutional sources alongside secondary doctrinal and socio-legal scholarship. The analysis first shows why Fiqh al-Aqalliyat suits Sri Lanka's Muslims despite their difference from the diaspora contexts it first addressed. It then demonstrates that Articles 9 and 16 (1) jointly immunise the MMDA from constitutional challenge. This leaves legislative reform, rather than litigation, as the only viable pathway toward change. Comparative evidence from Malaysia, Indonesia, and Singapore shows talfiq already enables female judicial appointment within Shafi'i-majority settings elsewhere. The article's principal contribution reframes minority protection through a covenant of citizenship, integrating maqasid al-shariah with equal-citizenship reasoning. This framing repositions the post-2024 consultation process as a citizenship claim grounded in Islamic legal reasoning, not external pressure. The findings indicate that doctrinal defensibility no longer obstructs MMDA reform inside Sri Lanka's constitutional order. Political will, not doctrine, now stands as the binding constraint on Quazi court modernisation and gender-equitable outcomes.

Keywords: fiqh al-Aqalliyat, muslim marriage and divorce act, Islamic law, Sri Lanka



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Introduction

Sri Lanka's Muslim community makes up close to a tenth of the national population today. Under the Muslim Marriage and Divorce Act of 1951, this

community follows its own family law (Government of Sri Lanka, 1951). The Quazi courts administer this law, and their basic structure has barely changed since enactment. Two further personal-law systems, Kandyan law and Thesawalamai, operate alongside the Muslim Marriage and Divorce Act. Sri Lanka has therefore never applied one single, unified civil code to family matters across its communities (Griffiths, 1986; Tamanaha, 2021).

Legal pluralism scholarship treats this kind of arrangement as a semi-autonomous social field, one the state does not fully absorb (Merry, 1988). Muslim minority status of this kind is not unique to Sri Lanka as a jurisdiction. Islamic legal scholarship has developed a dedicated response to exactly this kind of minority condition. Since the 1990s, jurists writing under the banner of Fiqh al-Aqalliyat have addressed this question directly (Parray, 2012). Their central concern is how Muslims can still practise their faith fully as loyal citizens.

The state around them, after all, does not apply Islamic law as its own legal system. The doctrine first took shape around Muslim communities living in Western Europe and North America. It has since been tested in very different settings, including the Palestinian minority inside Israel (Mustafa & Agbaria, 2016). Diaspora communities elsewhere have used the same doctrine to negotiate between classical fiqh and local law (Gafoordeen & Sabir, 2023). These varied applications share one underlying move: minority status becomes a source of legitimate legal questions, not a deficiency.

Sri Lanka complicates this comparative picture more than it simply illustrates it in a comfortable way. Sri Lankan Muslims are not recent arrivals negotiating an unfamiliar legal system, unlike most diaspora communities. They form a centuries-old community whose personal law was codified under colonial rule and then left largely unchanged. That history sits inside a state structure the field of Fiqh al-Aqalliyat did not originally anticipate. Recent scholarship has only just started to notice this specific gap in the wider literature on minority jurisprudence.

A 2026 study in the IIUM Law Journal applies maqasid al-shariah to the MMDA's gender provisions (Abdullah et al., 2026). It argues that several MMDA rules sit uneasily with the law's own higher stated objectives, according to its authors. That analysis remains doctrinal, though, and it never engages the constitutional side of the reform question. It asks whether the MMDA is defensible on Islamic terms, not whether reform is constitutionally workable. Socio-legal studies of the Quazi courts document administrative failure in considerable, often troubling, detail across many districts (Shihan & Zaroum, 2022).

These studies rarely connect their findings back to the jurisprudential tools that might justify reform. Fiqh al-Aqalliyat and Sri Lankan constitutional law have, in effect, been studied by two separate audiences. The constitutional side of this gap is not an abstract or merely theoretical matter for Sri Lankan Muslims. Article

9 of the 1978 Constitution assigns Buddhism the state's "foremost place" and obliges its protection (Constitution of Sri Lanka, 1978). Article 16 (1) separately preserves existing law even where it conflicts with the chapter's explicit fundamental rights guarantees.

Together, these two provisions leave the MMDA largely immune from constitutional challenge in the ordinary courts. Reform has therefore always depended on political will rather than on judicial intervention of any kind. That political will has proved inconsistent across recent Sri Lankan governments over the past two decades. A 2021 presidential task force proposed replacing all personal-law regimes with one uniform civil code. Muslim organisations read that proposal as an attempt to dissolve their legal identity entirely, not to genuinely reform it (Groundviews, 2024).

The government elected in 2024 has since promised consultation with religious leaders before any amendment. Muslim women's groups view that promise as a further, familiar way of delaying change they have sought for decades (The Diplomat, 2025). The reform question, in short, remains genuinely open, with no clear resolution yet in sight. This article addresses that opening by connecting Fiqh al-Aqalliyat directly to Sri Lanka's constitutional text. Existing scholarship has largely treated these two literatures as separate, parallel conversations that rarely cite one another.

This article's novelty rests on three moves that combine them for the first time in a Sri Lankan context. First, it reads *maqasid al-shariah* and *talfiq* directly against Articles 9 and 16(1) of the Constitution itself. It does not treat the MMDA's provisions as though they existed in isolation from the wider constitutional order. Second, it treats the covenant of citizenship as a genuine jurisprudential resource, not mere rhetoric. It then tests that idea against the specific post-2024 consultation debate now under way inside the Muslim community itself.

Third, the article uses Malaysia and Indonesia as working models, not general illustrations of possibility. Both countries have used *talfiq* specifically to open judicial office to women within Shafi'i-majority legal settings. Those settings resemble Sri Lanka's own legal environment closely enough to support a meaningful comparison. None of the sources used in this argument appear in earlier treatments of this same topic. These considerations converge on one central research problem for this study to address in full.

How can the tools of Fiqh al-Aqalliyat, particularly *maqasid al-shariah*, *maslahah*, and contextual *ijtihad*, reform the MMDA and its courts? The reform must remain defensible within Islamic law and workable within Sri Lanka's constitutional framework. Three specific objectives follow directly from this central research problem, each addressed in turn below. The first objective explains why Fiqh al-Aqalliyat suits a minority unlike the diaspora communities it

first served. The second objective examines how the MMDA interacts with the constitutional provisions shielding it today.

The third objective assesses what a Fiqh al-Aqalliyat-based reform would mean for the Quazi courts. It also considers what such reform would mean for Muslim women and for the wider community. The article now develops this problem across several further stages, moving from method to argument. The next section sets out the study's doctrinal and socio-legal method in detail, including its sources and its analytic steps. Results and Discussion then traces the theoretical resources Fiqh al-Aqalliyat has to offer this particular reform debate.

It examines Sri Lanka's plural legal architecture, then applies these tools to the MMDA directly. The Malaysian and Indonesian comparisons appear where they sharpen this argument most usefully, rather than as decoration. The Conclusion returns to the three objectives stated earlier in this Introduction and weighs their combined implications. It then considers what the analysis means for the reform debate now under way in Colombo.

Research Method

This study employs a normative-juridical approach, treating law as a coherent system of rules and principles. Peter Mahmud Marzuki defines legal research as a process for finding rules that answer a stated legal issue (Marzuki, 2009). The analysis therefore relies on library-based legal materials rather than field data drawn from courts or communities. Hutchinson and Duncan describe doctrinal work as identifying and evaluating legal norms in a systematic way (Hutchinson & Duncan, 2012). This design suits a study asking whether MMDA reform is defensible in both Islamic and constitutional terms.

Two categories of legal materials support this analysis, following the conventional normative-juridical distinction used in legal scholarship. Primary legal materials include the Quran, authoritative Hadith collections, the Muslim Marriage and Divorce Act, and the 1978 Constitution. These primary materials carry direct, binding authority over the specific questions this article investigates in detail. Secondary legal materials include journal articles, monographs, and policy reports discussing Fiqh al-Aqalliyat, the MMDA, and Sri Lankan practice. Secondary materials help interpret the primary sources and situate them within the wider scholarly debate.

The study applies maqasid al-shariah as its principal analytical framework for evaluating the MMDA's contested provisions today. Auda's systems approach treats maqasid as a method for assessing whether specific rulings serve law's higher, overarching objectives (Auda, 2008). The article uses that framework to test whether provisions on wilayah, divorce, and Quazi appointments serve those broader objectives. Talfiq, defined by Krawietz as combining rulings drawn from more than one madhhab, supplies a second tool (Krawietz, 2002). Applying talfiq

lets the article ask whether provisions outside the dominant Shafi'i tradition could support the debated reforms.

A comparative dimension supplements the doctrinal analysis, focused specifically on Malaysia and Indonesia as reference jurisdictions. Both countries maintain Shafi'i-majority legal environments broadly comparable to conditions inside Sri Lanka's own Muslim community. Fowzul's juristic analysis of talfiq-based reform proposals documents how Sri Lankan reformists already invoke these jurisdictions themselves (Fowzul, 2024). The article treats that comparison as an analytical resource, not as settled proof that similar reform must follow. The comparison instead tests whether talfiq-based arguments used elsewhere retain force under Sri Lanka's distinct constitutional constraints.

Several limitations follow directly from this normative-juridical design and deserve to be stated plainly here. The study does not draw on interviews, court observation, or other primary empirical data gathered for this article. Quazi court judgments were not systematically reviewed, since consolidated case reporting from these courts remains difficult to access. The analysis therefore describes what reform *maqasid al-shariah* and talfiq could justify, not how Quazi courts presently reason. These limitations mark the study as doctrinal rather than empirical, consistent with its stated methodological aim.

Results and Discussion

Religious Practices of Sri Lankan Muslims Intersecting with National Law: Marriage, Inheritance, and Polygamy

The MMDA governs three religious practices that intersect directly with Sri Lankan national law: marriage, inheritance, and polygamy. Each practice sits inside a separate statutory framework, yet each also draws its authority from classical Islamic jurisprudence. Marriage falls under the MMDA itself, inheritance under the Muslim Intestate Succession Ordinance, and polygamy under MMDA notification rules. This three-part structure means religious observance and state regulation are never fully separable for Sri Lankan Muslims. The sub-sections below examine each domain in turn before the following sub-heading addresses their combined constitutional standing.

Marriage practices illustrate this overlap most visibly, particularly through the requirements of wali consent and minimum age. Hamin and Cegu Isadeen find the MMDA sets no minimum age, relying on puberty instead (Hamin & Cegu Isadeen, 2016). Their study also finds that a bride's consent is often represented by her wali rather than obtained from her directly. These practices track a particular reading of Shafi'i doctrine on guardianship, not a single, uncontested Islamic position on the matter. Because puberty is biologically variable, the absence of a fixed age threshold leaves considerable discretion to registering Quazis.

This discretion means outcomes for individual brides can vary widely depending on which Quazi handles their registration. A recent stakeholder-based study reassesses this same consent gap through the lens of maqasid al-shariah rather than procedure alone. Abdullah, Ibrahim, and Mohd argue documented consent is Islamically justified and legally necessary for valid marriage (Abdullah et al., 2026). Their interviews across various stakeholders reveal broad agreement that existing procedures fail to secure a bride's genuine autonomy. Their argument draws partly on Hanafi doctrine, where explicit consent already functions as a foundational requirement for marriage validity.

This suggests MMDA reform need not import external norms, since comparable arguments already exist inside the Islamic legal tradition. Empirical evidence on how experts themselves view these questions has also grown substantially in recent years. Long, Saujan, Nafees, Razick, and Jubba surveyed legal scholars and Quazis on proposed MMDA amendments (Long et al., 2026). Their results show only moderate support, at fifty-three percent, for introducing a fixed statutory minimum marriage age. By contrast, seventy-five percent of respondents supported requiring the bride's own consent directly in marriage documentation.

Eighty-eight percent of respondents also favored establishing separate, dedicated operations for Quazi courts within the existing system. This split suggests that consent reform may face less resistance within the community than an outright age threshold would. It also suggests reform strategy matters: bundling contested and less-contested provisions together could slow the whole reform process. Reform proposals debated since 2016 have targeted both provisions specifically, without yet producing binding legislative change. The persistence of this gap between expert opinion and enacted law illustrates how reform here remains political, not purely doctrinal.

This political dimension does not weaken the doctrinal case, but it explains why doctrinal consensus alone has proved insufficient. The community-level survey data therefore complements, rather than replaces, the doctrinal arguments developed by Abdullah, Ibrahim, and Mohd above. Inheritance distribution shows a different kind of tension, one rooted in implementation rather than statutory design. Saujan, Mazahir, and Ibrahim find many families divide estates informally, not by fara'id shares (Saujan et al., 2022). Their study attributes this gap to limited awareness of fara'id rules among ordinary community members.

The state's ordinance formally requires fara'id distribution, yet its enforcement depends heavily on family-level religious literacy. Because enforcement relies on private compliance rather than judicial oversight, informal division can persist without triggering any legal challenge. This pattern raises a further question: whether informal division reflects rejection of fara'id, or simply limited legal access. A separate strand of scholarship examines how the same

ordinance treats individuals outside a strictly binary gender framework. Saujan, Abubakr, and Nafees show the Ordinance applies classical fiqh categories of khuntha to such cases (Saujan et al., 2025).

They further note that Article 16 (1) of the Constitution shields this ordinance from equality-based constitutional challenge. This combination leaves structural barriers in place even where other national legislation has since moved toward broader protection. The finding illustrates a recurring pattern: statutory inheritance rules can lag behind both doctrinal debate and social change. It also shows inheritance reform cannot rest on *maqasid al-shariah* alone, since constitutional provisions independently constrain what courts may revisit. This gap between formal law and lived practice recurs across several MMDA-related domains, not inheritance alone.

Polygamy presents the most contested overlap between religious permission and state oversight in current debate. The MMDA permits polygamous marriage but requires the husband to notify multiple Quazis before registering it. Tegal and Cegu Isadeen document inconsistent Quazi practice around this requirement, leaving many first wives uninformed (Tegal & Cegu-Isadeen, 2021). This inconsistency shows that a procedural safeguard written into statute can still fail at the point of administration. A first wife left uninformed cannot meaningfully exercise whatever legal remedies the notification requirement was designed to protect.

The gap between statutory design and administrative practice here closely parallels the informal inheritance division discussed in the preceding sub-section. The same expert survey found only moderate support for regulating, rather than abolishing, polygamy outright (Long et al., 2026). Reform advocates and religious authorities remain divided over whether polygamy should be restricted, conditioned, or simply better regulated procedurally. This disagreement mirrors the wider pattern identified across all three domains discussed in this sub-section. Religious permission, statutory procedure, and administrative practice rarely align neatly within Sri Lanka's Muslim personal law framework.

Taken together, marriage, inheritance, and polygamy each reveal the same structural gap between codified rule and everyday enforcement. Each domain also shows that reform proposals already exist, drawn from within Islamic jurisprudence rather than imposed from outside it. What remains unresolved is not the availability of reformist arguments but the constitutional and political space to enact them. The following sub-section turns directly to that constitutional space, examining how the MMDA interacts with Articles 9 and 16(1). That analysis will show whether these three practices enjoy genuine constitutional protection or merely survive through judicial reluctance to intervene.

Analysis of Harmonization and Tension between the MMDA and the Constitution and General Law

The MMDA does not operate in a constitutional vacuum, but sits inside a framework shaped by Articles 9 and 16(1). Article 9 gives Buddhism the foremost place in the Republic, while formally guaranteeing other religions freedom of worship. Article 16(1) separately declares all existing written and unwritten law valid, regardless of inconsistency with fundamental rights. Because the MMDA predates the 1978 Constitution, Article 16(1) is the provision most directly relevant to its legal standing. This sub-section examines how that provision, alongside Article 9's majoritarian framing, shapes the space available for MMDA reform.

Article 16(1) effectively immunises pre-1978 personal laws from constitutional challenge on equality or non-discrimination grounds. A woman disadvantaged by MMDA provisions on consent, guardianship, or polygamy therefore cannot invoke fundamental rights litigation. Gunatilleke's study of constitutional practice finds limitation regimes in Sri Lanka often favor majoritarian interpretations of public interest (Gunatilleke, 2023). His broader argument, developed through case studies and key informant interviews, concerns minority religious freedom rather than the MMDA specifically. Its underlying finding nonetheless applies here: constitutional text alone cannot guarantee protection where political will to enforce it is absent.

This gap between formal guarantee and practical claimability recurs across Sri Lanka's treatment of religious minorities more broadly. Abdullah, Mohd, and Ibrahim note Sri Lanka ratified CEDAW even as Article 16 (1) shields the MMDA (Abdullah et al., 2026). This tension between international commitment and domestic constitutional immunity is not unique to Sri Lanka among Muslim-minority jurisdictions. Dawood documents comparable gaps between international obligation and domestic personal law across several Muslim family law systems (Dawood, 2024). Her analysis situates Sri Lanka's Article 16 (1) problem within a wider pattern of gender-equality commitments left structurally unenforceable.

Sezgin's comparative study of Muslim-majority and Muslim-minority jurisdictions offers a useful frame for reading this pattern (Sezgin, 2023). He argues minority-context reforms depend heavily on whether the state grants personal law communities autonomy or actively regulates them. Sri Lanka's approach combines statutory codification of the MMDA with near-total judicial non-interference, an unusual configuration in his typology. This configuration leaves reform initiative almost entirely to the legislature, since courts cannot compel change through constitutional review. The practical result is that MMDA reform has depended on cabinet decisions and parliamentary committees rather than litigation strategy.

The Quazi court system illustrates a further dimension of this harmonization problem, concerning its relationship to the general judiciary. Quazi courts operate under the MMDA as a parallel structure, separate from Sri Lanka's ordinary

Magistrate and District Court system. Mufas and Sivanayagam identify structural weaknesses in Quazi court operations, including inconsistent procedure (Mufas & Sivanayagam, 2023). These weaknesses compound the harmonization problem, since parallel structures with weaker procedural safeguards sit uneasily beside general civil courts. Reform proposals to integrate Quazi functions into a unified family court system respond directly to this structural mismatch.

Gender composition of the Quazi bench adds a further constitutional dimension to this discussion, tied to broader equality guarantees. Ramzy and Ghavifekr document sustained advocacy for appointing female Quazis, framed as a gender equality question (Ramzy & Ghavifekr, 2019). Their study finds opposition to female Quazis draws on classical fiqh restrictions, not any provision of the MMDA itself. This distinction matters constitutionally: the barrier to reform here is doctrinal interpretation, not a textual requirement Article 16 (1) protects. It suggests some MMDA-adjacent practices could change through interpretive reform alone, without needing constitutional amendment at all.

Marriage registration offers a comparable case where general law and Muslim personal law interact without full harmonization. Sri Lanka's general population registers marriages under the Marriage Registration Ordinance, a civil-law framework outside MMDA's religious jurisdiction. Saujan, Nafees, and Nugraha evaluate how mandatory Muslim marriage registration protects women's inheritance and property claims (Saujan et al., 2025). They find registration gaps leave some Muslim marriages unregistered, weakening a wife's position in later inheritance or maintenance disputes. This finding connects directly to the informal inheritance division discussed in the previous sub-heading, reinforcing the same structural pattern.

Nafees and Ahmad situate the MMDA within Sri Lanka's dual system of religious and civil law (Nafees & Ahmad, 2020). They describe Sri Lanka's personal law arrangement as legal pluralism, where religious and civil frameworks coexist by design. Legal pluralism of this kind is common across South and Southeast Asia, not a uniquely Sri Lankan constitutional arrangement. What distinguishes Sri Lanka is Article 16 (1)'s blanket immunity, which forecloses judicial harmonization available in some comparable jurisdictions. Malaysia and Indonesia, discussed further in the next sub-heading, instead permit periodic legislative harmonization between religious and civil family law.

The doctrinal literature developed earlier in this article offers one route toward harmonization that does not require constitutional amendment. Moulana and Nafees argue Fiqh al-Aqalliyat provides Sri Lankan Muslims a framework for internally generated reform (Moulana & Nafees, 2025). Their argument holds that minority jurisprudence can justify departing from majority-school positions without appealing to external human rights instruments. This matters constitutionally, because reform framed in purely Islamic terms avoids objections

that external, non-Islamic values are being imposed. It also sidesteps Article 16 (1) entirely, since legislative amendment rather than judicial review would remain the operative reform mechanism.

Stilt, Waheedi, and Griffin caution that reform ambitions elsewhere have outpaced what political systems could deliver (Stilt et al., 2018). Their comparative account documents reforms proposed for decades before enactment, and some abandoned entirely despite strong doctrinal justification. Sri Lanka's own record fits this pattern closely, given committees convened in 2009, 2018, and 2020 without binding legislative outcomes. Constitutional immunity under Article 16 (1) likely deepens this pattern, since it removes judicial pressure that might otherwise accelerate reform. Where courts cannot compel change, legislative reform depends entirely on sustained political will across successive governments.

Taken together, these findings show MMDA reform facing a compound obstacle, constitutional as much as doctrinal in nature. Article 16 (1) forecloses judicial review, Article 9's majoritarian framing shapes urgent public interest, and Quazi court structures compound both. Doctrinal tools such as *maqasid al-shariah* and *Fiqh al-Aqalliyat* address only the doctrinal half of this obstacle. Genuine reform therefore requires legislative action informed by these doctrinal tools, since courts cannot substitute for that political process. Two further constitutional dimensions deserve brief attention before turning to the comparative sub-heading: judicial attitude and legislative procedure.

On judicial attitude, Sri Lankan courts have occasionally signaled discomfort with Article 16 (1) without directly overturning its protective scope. The 2008 presidential reference under Article 129 (1) asked whether Sri Lankan law matched the ICCPR, without resolving Article 16 (1). That unresolved reference illustrates judicial reluctance to confront Article 16 (1) directly, even when squarely presented with the opportunity. This reluctance matches Gunatilleke's broader finding that Sri Lankan courts often defer to majoritarian readings of constitutional limitation clauses. For MMDA reform specifically, this means litigation strategy is unlikely to succeed where legislative reform has already stalled.

On legislative procedure, MMDA amendments require ordinary parliamentary legislation, not the two-thirds majority reserved for entrenched constitutional provisions. This lower procedural threshold should, in principle, make MMDA reform easier than amending Article 16 (1) or Article 9 themselves. In practice, however, successive committees have produced recommendations that stalled well before reaching a parliamentary vote. The 2009 committee chaired by Justice Marsoof and the 2020 advisory committee both produced substantive reports without binding legislative follow-through. This pattern suggests the obstacle is less procedural than political, rooted in the same majoritarian dynamics Gunatilleke identifies elsewhere.

The cumulative picture from this sub-heading is that MMDA harmonization faces at least three distinct but reinforcing barriers. The first barrier is constitutional: Article 16 (1) removes judicial review as an avenue for compelling reform of discriminatory provisions. The second barrier is institutional: the Quazi court system operates with weaker procedural safeguards than Sri Lanka's general judiciary. The third barrier is political: legislative committees have repeatedly produced reform recommendations that failed to secure parliamentary enactment. Doctrinal frameworks such as *maqasid al-shariah* and *Fiqh al-Aqalliyat* can address the underlying substantive questions these barriers raise.

What such frameworks cannot do alone is overcome the structural conditions under which MMDA reform must currently proceed. This is precisely why comparative evidence from Malaysia and Indonesia, examined next, carries particular weight for the present analysis. Both countries share Sri Lanka's Shafi'i-majority religious context but differ sharply in their constitutional and legislative reform pathways. Malaysia amends its Islamic family law through state legislatures operating under a written Federal Constitution without an Article 16 (1) equivalent. Indonesia consolidated reform through its 1991 Compilation of Islamic Law, enacted through ordinary national legislative procedure.

Examining how each jurisdiction converted doctrinal consensus into binding law offers a practical lesson for Sri Lanka's own trajectory. It also tests whether *talfiq*-based arguments already advanced by Fowzul and others retain force across different constitutional settings. Neither Malaysia nor Indonesia offers a perfect template, given their own unresolved debates over female Quazi appointments and polygamy conditions. The following sub-heading takes up that comparative task, returning to the *maqasid* and *talfiq* framework developed earlier in this article.

Comparative Lessons from Malaysia, Indonesia, and Singapore: *Talfiq* and Minority Governance in MMDA Reform

This comparative analysis extends beyond *mazhab* affinity into genuine minority governance, addressing a methodological gap left unresolved so far. Malaysia and Indonesia share Sri Lanka's Shafi'i-majority environment, useful chiefly for testing whether *talfiq* travels across different constitutional settings. Singapore offers something the first two jurisdictions cannot, a genuine minority-context peer for Sri Lanka's Muslim community. Its Administration of Muslim Law Act governs family matters nationally for a minority community, mirroring the MMDA's own structure. The following analysis therefore separates doctrinal lessons on *talfiq* from institutional lessons on minority governance itself.

Malaysia appointed its first female Shariah judges in 2010, relying explicitly on Hanafi opinion through *talfiq* (Fowzul, 2024). Wan Muhammad's comparative study finds Malaysian courts exercised judicial creativity similar to neighbouring Thailand's Shariah bench (Wan Muhammad, 2009). This creativity extended *talfiq* beyond appointment questions into broader interpretive practice within

Malaysia's Shariah judiciary. Opposition nonetheless persists, since Ramzy and Ghavifekr trace resistance to classical fiqh restrictions rather than statutory barriers (Ramzy & Ghavifekr, 2019). This finding matters directly for Sri Lanka, where the same classical restriction, not MMDA text, blocks female Quazis.

Indonesia moved earlier than Malaysia, formally accommodating female judges in religious courts from 1989 onward (Nurlaelawati & Salim, 2013). Nurlaelawati and Salim document steady growth in female judicial appointments since that formal accommodation began. Recent scholarship complicates this success story, though, since institutional gender-blindness can itself sustain inequality (Kholiq & Halimatusa'diyah, 2023). Kholiq and Halimatusa'diyah find gender-neutral policies produced different practical effects for male and female judges alike. This qualification matters for Sri Lanka, since formal talfiq-based appointment alone cannot guarantee substantive gender equity afterward.

Zaini and colleagues trace fiqh al-aqalliyyat's own history inside Indonesia's Dutch colonial legal institutions (Zaini et al., 2025). Their account shows minority jurisprudence shaping majority-context institutions long before contemporary talfiq debates emerged. Indonesia therefore offers a doubled lesson, doctrinal flexibility through talfiq and historical adaptation through minority jurisprudence itself. Neither lesson, however, addresses what Sri Lanka's own Muslims face as an enduring numerical minority. The next comparison turns to a jurisdiction sharing that minority condition directly, rather than merely sharing madhhab.

Singapore governs Muslim family law nationally through the Administration of Muslim Law Act, enacted in 1966 (Steiner, 2015). Unlike Malaysia and Indonesia, Singapore's Muslims form a genuine numerical minority within a secular multi-religious state. Steiner groups Singapore with the Philippines as minority codes, distinct from Malaysia and Brunei's majority codes (Steiner, 2018). This structural parallel makes Singapore, not Malaysia or Indonesia, the closer analogue to Sri Lanka's own minority position. AMLA nonetheless remains contested, since recent reform debates raise concerns familiar from Sri Lanka's own MMDA experience.

Recent amendments have expanded Syariah Court powers over divorce proceedings, following Singapore's own family justice reform process. Singapore also maintains reservations to CEDAW Articles 2 and 16, citing AMLA's protection of Muslim personal law. This tension between international commitment and domestic immunity closely resembles Sri Lanka's own Article 16 (1) dilemma (Dawood, 2024). Singapore's negotiation of minority status shows that immunity clauses persist despite genuine numerical-minority reform pressure. Malaysia and Indonesia therefore supply doctrinal tools, while Singapore supplies a structurally comparable institutional predicament.

These comparative lessons converge on a resource this article has not yet developed, the covenant of citizenship itself. Recent scholarship reframes minority

protection as equal citizenship grounded in dignity, not conditional tolerance (Ahmed Zakaria Shehata, 2026). This reframing integrates maqasid al-shariah, human dignity, and adaptive ijthad into one substantive protective model. Harun and colleagues develop a parallel Indonesian concept grounding citizenship in constitutional rather than status-based terms (Harun et al., 2025). Saeed traces this citizenship framing to Ghannouchi's earlier argument that minority status generates rights, not mere permissions (Saeed, 1999).

Applied to Sri Lanka, this covenant reframes the post-2024 consultation debate as a citizenship question, not a concession request. Muslim organisations negotiating with government therefore claim citizenship rights already grounded in Islamic legal reasoning, not external pressure. This framing answers Groundviews' concern that reform proposals threaten Muslim legal identity rather than protecting it (Groundviews, 2024). The covenant of citizenship, maqasid al-shariah, and talfiq together form a coherent doctrinal foundation for MMDA reform. Malaysia, Indonesia, and Singapore each demonstrate one piece of this foundation operating successfully within a comparable legal environment.

Conclusion

This article set out three objectives and each has now received a direct answer through the preceding analysis. The first objective explained why Fiqh al-Aqalliyat suits Sri Lanka's Muslims despite their difference from the diaspora communities the doctrine first served. Their centuries-old, codified status distinguishes them from newly arrived minorities, yet minority jurisprudence still applies with equal force. The second objective examined how Articles 9 and 16 (1) interact with the MMDA to shield it from constitutional challenge. The third objective assessed what maqasid-based reform would mean for Quazi courts, for Muslim women, and for the wider community.

Together, these three findings show that MMDA reform is defensible in Islamic terms without depending on constitutional litigation. Maqasid al-shariah and talfiq supply the doctrinal resources reform advocates need, since both tools already sit inside classical Islamic jurisprudence. Article 16 (1) nonetheless forecloses judicial review, leaving parliament as the only viable channel for enacting these doctrinal insights. The Quazi court system compounds this constitutional barrier through its own weaker procedural safeguards relative to the general judiciary. Genuine reform therefore requires legislative will informed by doctrine, not doctrine alone or litigation alone.

The comparative analysis of Malaysia, Indonesia, and Singapore sharpens this conclusion rather than merely illustrating it further. Malaysia and Indonesia demonstrate that talfiq can open judicial office to women within a Shafi'i-majority setting. Singapore shows that a genuine numerical minority can still govern family law nationally through its own statutory framework. None of these three

jurisdictions offers Sri Lanka a template that transfers without adjustment to local conditions. Each instead supplies one piece of a larger doctrinal and institutional puzzle that Sri Lanka must still assemble.

The covenant of citizenship adds a resource this comparative literature had not yet placed alongside Fiqh al-Aqalliyat. Reframing minority protection as equal citizenship shifts the post-2024 consultation from a concession into a rights-based claim. Muslim organisations can therefore approach government negotiations from a position grounded in Islamic legal reasoning, not external pressure. This framing directly answers concerns that reform threatens Muslim legal identity rather than protecting and strengthening it. The covenant, together with maqasid and talfiq, now forms a coherent doctrinal foundation for the debate ahead.

For Colombo's reform debate, this article's central implication is that doctrinal defensibility no longer stands as the obstacle. Political will remains the binding constraint, since courts cannot compel change under Sri Lanka's current constitutional settlement. Future research should examine how Quazi courts might implement maqasid-based reform once legislative authorisation eventually arrives. Empirical work inside the Quazi court system would also test whether reformed rules change outcomes for Muslim women. Fiqh al-Aqalliyat, this article has argued, gives Sri Lankan Muslims the tools to reform their own tradition.

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