

**Al Jama-ah's
Kufr Nikah Bill
Another MMB
Haraam Stupidity**



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REPUBLIC OF SOUTH AFRICA

**REGISTRATION OF MUSLIM
MARRIAGES BILL**

*(As introduced in the National Assembly (proposed section 76 Bill); Explanatory summary of the Bill and prior notice of its introduction published in Government Gazette No of 2021)
(The English text is the official text of the Bill)*

(Mr. M.G.E. Hendricks, MP)

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BILL

To enact legislation regulating the recognition, requirements, solemnisation, registration, proprietary and other consequences, dissolution and consequences of dissolution of Muslim marriages; and to provide for matters connected therewith.

All our comments in RED

Our Comment

The objectives of the Bill as set out above are rejected. Assuming that Muslims should support your Bill, then the only objective should be: Recognition of Muslim Marriages". All other aspects stated above are unacceptable for the simple reason that no secular law will permit the regulation of the consequences of recognition to be in conformity with the Shariah. As such, your Bill is rejected by the Shariah.

PREAMBLE

WHEREAS it is an imperative that the constitutional rights of parties to, and children born of, a marriage governed by Islamic Law that cannot be registered with the Department of Home Affairs, are protected;

AND WHEREAS there is an urgent need to prevent the indignity suffered by all those that enter into a marriage governed by Islamic Law that cannot be registered with the Department of Home Affairs;

AND WHEREAS section 2 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”) provides that the Constitution is the supreme law of the Republic and that all law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled, and furthermore specifically—

□ in section 7(2), places a responsibility on the state to respect, protect, promote and fulfil the rights in the Bill of Rights;

□ in section 8(1), provides that the Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state;

□ in section 9(1), provides that everyone is equal before the law and has the right to equal protection and benefit of the law;

□ in section 9(2), provides that legislative and other measures designed to protect or advance persons that were previously disadvantaged by unfair discrimination may be taken in order to promote the achievement of equality;

□ in section 9(3), provides that the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic and social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth;

□ in section 10, acknowledges that everyone has inherent dignity and provides that everyone has the right to have their dignity respected and protected;

□ in section 15(1), provides that everyone has the right to freedom of conscience, religion, thought, belief and opinion;

□ in section 15(3)(a), provides the opportunity for legislative recognition of marriages concluded under any tradition, or a system of religious, personal or family law that is consistent with the Constitution;

□ in section 28(2), provides that a child's best interests are of paramount importance in respect of all matters concerning the child;

□ in section 36, provides that the rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom,

taking all relevant factors into account;

AND WHEREAS the Republic of South Africa has international law obligations to take appropriate and reasonable measures to eradicate discrimination against, and abuse of, all women, and to protect children;

AND WHEREAS it is necessary to provide a process to register marriages governed by Islamic Law to recognise these marriages and as lawful, to provide protection to the parties involved; and to regulate the consequences of these marriages,

Our Comment

If the consequences are not fully compliant with the Shariah, they will be unacceptable. It is a forgone conclusion that the consequences as defined by the Shariah will not be accepted by secular law.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa as follows:—

ARRANGEMENT OF SECTIONS

Sections

1. Definitions
2. Application of Act
3. Recognition of Muslim marriage
4. Requirements for Muslim marriage
5. Solemnisation of Muslim marriage
6. Registration of Muslim marriage
7. Proprietary consequences
8. Equal status and legal capacity of spouses
9. Dissolution of Muslim marriage
10. Regulations
11. Limited duration of application of Act
12. Short title and commencement

Definitions

1. In this Act, unless the context otherwise indicates—

“**competent witness**” means a person who is 14 years and above, and competent to give evidence in a court of law;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 ;

“**court**” means any division of the High Court of the Republic contemplated in section 6(1) of the Superior Courts Act, 2013 (Act No. 10 of 2013) or any court for a regional division contemplated in section 29(1B) of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944);

“**Deeds Registries Act**” means the Deeds Registries Act, 1937 (Act 47 of 1937);

“**Department**” means the Department of Home Affairs;

“**Divorce Act**” means the Divorce Act, 1970 (Act No. 70 of 1979), as amended;

“**Identification Act**” means the Identification Act, 1997 (Act No. 68 of 1997);

“**Islamic Law**” (Shari’ah), which regulates all public and private behaviour, means the law as derived from the two primary

sources, namely, the Qur'an and the Sunnah (Prophetic model) and that uses juristic tools such as ijma (the consensus) of Muslim Jurists or the individual jurist's qiyas (analogical deductions) to issue legal edicts;

“Islamic Rulings” means—

(a) the customary Islamic Law applicable at the time—

(i) as derived from the customs and usages traditionally and universally observed among the persons professing to live in accordance with the tenets of Islam in the Republic;

(ii) that forms part of the culture of those persons that are in the process of considering a matter under the prevailing law for the time being in the Republic to be derived from Islamic jurisprudential peer reviewed writings, and

(iii) which includes all express mandatory Islamic obligations contained in the *Qur'an*, *Islamic Shaari'ah* (of which the *Qur'an* is the most fundamental source) and then the *Sunnah* (as the second most fundamental source);

(b) in the absence of express provisions contemplated in paragraph (a) regarding a particular matter under consideration the opinion or school of thought that is most in line with the spirit, purport and object of the Constitution; and

Our Comment

This, from the Islamic perspective, is invalid. In the absence of valid, Shar'i Urf (Traditional Customs), the resort is incumbently to revert to the Principles formulated by the Fuqaha (the Jurists of the first three eras of Islam) for the acquisition of Fatwa which will be issued by a qualified Mufti of the Math-hab in question.

An opinion is not tenable in the Shariah simply because it appears to be “most in line with the secular constitution”. The constitution is a product of atheism. The provisions of the constitution are largely in conflict with Islam. Thus,

this secular device may not form a factor in the process of determining Islamic opinion.

(c) in the absence of express provisions contemplated in paragraphs (a) and (b) regarding a particular matter, the opinion of Islamic jurisprudential peer reviewed writings by Islamic jurists that is most in line with the spirit, purport and object of the Constitution;

Our Comment

Baseless – same argument as above.

“**Marriage Act**” means the Marriage Act, 1961 (Act No. 25 of 1961);

“**marriage officer**” means any person that is an *Imaam* or member of the Islamic *Ulemah* that has been appointed as a marriage officer in terms of the Marriage Act;

Our Comment

This narrow definition of ‘marriage officer’ has no validity in the Shariah. Any adult Muslim who has knowledge of the requisites of Nikah, has the right to perform/contract a Nikah. In terms of the Bill which is being fielded, if an Imaam or and Aalim or any adult Muslim performs a Nikah, such a marriage will not be valid if this Islamic officer was not appointed as a marriage officer in terms of the Marriage Act. Thus, you will be back to square one and your ‘never married’ cliché will become applicable.

“**Minister**” means the Cabinet member responsible for the administration of the Department;

“**Muslim person**” means any person who professes the religion of Islam by acknowledging that there is no God but One and that Muhammad is His last Messenger and does not believe in any

kind of prophethood after him in any sense of the term: Provided that peculiarities in belief, orthodoxy or heterodoxy does not preclude or include a person to be a Muslim person;

“**Muslim marriage**”, subject to section 2, is a legal contract of marriage that regulates the consequences of the parties’ intended marital status of their relationship, concluded during a ceremony referred to as a *nikah* in accordance with Islamic Law ; means a marriage concluded in accordance with Islamic Law”.

“**prescribed**” means prescribed by regulation made under section 10;

“**this Act**” includes any regulation made under this Act.

Application of Act

2. (1) This Act applies to all Muslim marriages registered with the Department as contemplated in section 5 irrespective of the date of commencement of this Act.

(2) This Act, insofar as it can be made applicable, applies to a Muslim marriage concluded before the commencement of this Act, if the parties to that Muslim marriage elect to have their marriage registered with the Department as contemplated in section 5.

Our Comment

Your concern regarding the issue of ‘never married’ will remain in respect of Muslims who elect not to have their marriages registered.

Recognition of Muslim marriage

3. A Muslim person, or such other person who is permitted in terms of Islamic Law to enter into a Muslim marriage, may conclude a Muslim marriage in accordance with the requirements contemplated in sections 4, 5 and 6, and such Muslim marriage is deemed a valid and binding contract of marriage with all the patrimonial consequences, obligations and rights that accrue to such Muslim marriage in accordance with this Act and any other applicable law.

Our Comment

According to this provision, a valid Nikah performed according to the requisites of the Shariah will NOT be a valid marriage in terms of this Act if the “requirements contemplated in sections 4,5 and 6” are not complied with. Thus, this Bill is nothing but a cosmetic charade to convey the idea of the Islamic Nikah being legally recognized just as recognized by the Shariah. But this perception is false and deceiving.

Requirements for Muslim marriage

4. (1) The parties contemplating entering into a Muslim marriage must—

(a) be 18 years or older and must provide the necessary proof of identification as contemplated in section 12 of the Marriage Act: Provided that where one or both of the parties are younger than 18 years, parties must comply with Islamic Law regarding the required age as well as with the prescripts set out in sections 24 to 27 of the Marriage Act and any other applicable law;

Our Comment

We have vigorously fought against this haraam condition. There is no minimum age for the validity of Nikah in Islam. The minimum age of 18 is a satanic stupidity. Long before 18, millions of persons indulge in fornication, yet Nikah is debarred, and this debar is accepted by politicians whose focus is not on Allah Ta’ala.

(b) be of sound mind and must be able to confirm that—

(i) they have been apprised of, and understand, the patrimonial consequences, obligations and rights that accrue to such Muslim marriage in accordance with this Act and Islamic Law; and

- (ii) that they are not aware of any lawful impediment to the contemplated Muslim marriage; and
- (c) freely and voluntarily, in writing, consent to be married to each other in terms of this Act and Islamic Law.
- (2) A prospective wife intending to enter into a Muslim marriage must determine and record in writing the dowry that she expects from her prospective husband, which—
 - (a) may include the performance of any obligation prior to or after the Muslim marriage has been confirmed; and
 - (b) upon acceptance by the prospective husband creates a binding and enforceable obligation, which endures even in the event that the marriage is dissolved, until it is fulfilled.
- (3) (a) A prospective wife or husband contemplated in subsection (2) may each, in writing, mandate another person to negotiate such dowry on her or his behalf.
 - (b) The mandate contemplated in paragraph (a) must be given freely and voluntarily.
 - (c) The person mandated in paragraph (a) must negotiate in accordance with the parties wishes and intention.
 - (d) The dowry negotiation is only finalised by acceptance of the negotiated dowry by the prospective wife and husband.
- (4) The terms of the dowry negotiated in accordance with subsection (2) must be recorded in writing and noted the marriage certificate issued by the marriage officer.
- (5) The parties to a Muslim marriage may—
 - (a) enter into further Muslim marriages under this Act; and
 - (b) not during the subsistence of a Muslim marriage enter into any other marriage or civil union as contemplated in the Marriage Act, the Civil Union Act, 2006 (Act No. 17 of 2006), or the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998).

Our Comment

(a) and (b) are contradictory and haraam. The parties to a Muslim marriage are a man and a woman. How is it

possible for a married woman to “enter into further Muslim marriages”?

The provision (b) states the very opposite. Furthermore, it is not permissible nor intelligent that a Muslim man’s right of entering into a second, third and fourth marriage be restricted or cancelled by any secular Act.

Solemnisation of Muslim marriage

- 5.** (1) A Muslim marriage is solemnised by a marriage officer—
- (a) in the presence of the parties to the Muslim marriage themselves; and
 - (b) at least two competent witnesses.
- (2) A marriage officer may solemnise a Muslim marriage at any time on any day of the week.
- (3) In solemnising a Muslim marriage, the marriage officer must follow the ceremonial traditions universally observed in Islamic Law, after which the marriage officer must declare the marriage solemnised by stating: “I declare that A.B. and C.D. here present have been lawfully married” (“A.B.” referring to the name and surname of the husband reflected in an identity card contemplated in the Identification Act; and “C.D.” referring to the name and surname of the wife, reflected in an identity card contemplated in the Identification Act).
- (4) The competent witnesses contemplated in subsection (1) must confirm that they witnessed the Muslim marriage ceremony by signing the documentation to be prescribed by the Minister from time to time.
- (5) No person is capable of contracting a valid Muslim marriage in terms of this Act through any other person acting as their representative.

Our comment

This provision is in conflict with the Shariah. It also requires the Purdah Nasheen lady to expose herself to a ghair mahrams (the marriage officer and witnesses). The Islamic system since time immemorial, has always been for the bride to be represented by her Wali/Wakeel.

(6) If the provisions of this section have not been strictly complied with owing to—

(a) an error, omission or oversight committed in good faith by the marriage officer, or by one of, or both of the parties; or

(b) a physical disability of either or both parties to the Muslim marriage, but such Muslim marriage has in every other respect been solemnised in accordance with the provisions of this Act, and there is no other lawful impediment to the solemnisation thereof, that Muslim marriage is as valid and binding marriage as it would have been if the said provisions had been strictly complied with.

Registration of Muslim marriage

6. (1) The marriage officer solemnising a Muslim marriage, the parties thereto and two competent witnesses shall sign the prescribed marriage register immediately after such Muslim marriage has been solemnised.

Our comment

This provision is also in violation of the Purdah of the bride. The signature of her Representative suffices.

(2) The marriage officer must complete a certificate on the prescribed form in which he must—

(a) state that at the time of the solemnization of the marriage he was in terms of this Act entitled to solemnize that marriage;

- (b) record the details of the parties to the Muslim marriage, and the date, time and place of the solemnisation thereof;
- (c) note the terms of the dowry as contemplated in section 4(4); and
- (d) indicate the chosen matrimonial property regime that applies, as contemplated in section 7.

Our comment

The matrimonial regime MUST be only ante nuptial contract excluding the accrual clause. No other regime is acceptable to the Shariah.

(3) (a) The marriage officer must, within six months after the conclusion of the Muslim marriage, transmit the marriage register, certificate and any other prescribed documents, to an authorised officer contemplated in the Identification Act.

(b) The marriage officer must maintain a record of the marriage, including a copy of the certificate contemplated in subsection (2) until such time that the marriage officer has received the prescribed confirmation of registration of that Muslim Marriage with the Department.

(4) (a) Either spouse to a Muslim marriage concluded prior to the commencement of this Act, may within 24 months of the commencement of this Act, apply to an authorised officer contemplated in the Identification Act in the prescribed manner and form for the registration of their Muslim marriage.

(b) Whether a Muslim marriage concluded prior to the commencement of this Act, is registered with the Department, or not, does not affect the validity of an otherwise valid Muslim marriage.

Our comment

This appears to be nonsensical. If marriages prior to the Act are to be considered valid, then all Muslim marriages

should simply be considered valid without the need for this Bill.

(5) Either party to a Muslim marriage may request the prescribed marriage certificate, or a copy thereof, to be issued by the Department.

(6) The marriage certificate contemplated in subsection (5) is *prima facie* proof that a valid Muslim marriage exists between the parties referred to in the marriage certificate.

Proprietary consequences

7. (1) The parties to a Muslim marriage must voluntarily choose the matrimonial property system that will apply to their marriage.

Our comment

According to the Shariah the parties have no right to voluntarily commit sin and transgression. Selection of a property system which violates the Shariah is haraam. Thus, this Bill is unacceptable.

(2) This election contemplated in subsection (1) must be indicated on the marriage certificate contemplated in section 6(2).

(3) If the chosen matrimonial property regime is that of out of community of property, an antenuptial contract must be entered into and must comply with Chapter VII of the Deeds Registries Act.

(4) Notwithstanding subsection (3), a court may on application by either or both of the parties to the Muslim marriage, subject to such conditions as it may deem desirable, authorise the postnuptial execution of the notarial contract having the effect of an antenuptial contract, if the terms thereof were agreed upon between the intended spouses before the Muslim marriage, and may order the registration, within a specified period, of any contract so executed, in accordance with section 88 of the Deeds Registries Act.

(5) The provisions of the Matrimonial Property Act, 1984 (Act No. 88 of 1984) applies to the matrimonial property regime chosen by the parties.

Our comment

The provisions of the Matrimonial Property Act are haraam. The Muslim marriage may not be encumbered with these haraam provisions.

Equal status and legal capacity of spouses

8. Each party to a Muslim marriage has full status and capacity, including the capacity to acquire assets and to dispose of them, and to enter into contracts and to litigate in their own name without the need for consent or knowledge of the other party to that Muslim marriage.

Our comment

This provision militates against the teachings and spirit of Islam. Islam is a patriarchal Deen. It is imperative that the wife informs and consults with her husband. She may not engage in dealings behind his back. Such conduct befits the kuffaar, not Muslims.

Dissolution of Muslim marriage

9. (1) Save for the exclusion of section 3 of the Divorce Act, the dissolution of a Muslim marriage may be regulated in accordance with the provisions of the Divorce Act, subject to the peremptory conditions and formalities having been completed, as required by Islamic Law and Islamic Rulings.

Our comment

This haraam provision is vehemently rejected. The dissolution of a Muslim marriage may not be in terms of the Divorce Act. The Shariah has its own system which

may not be compromised or scuttled for acceptance of a haraam system.

(2) To safeguard the interests of minor and dependent children born a Muslim marriage, a court must consider the Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987), and the Children's Act, 2005 (Act No. 38 of 2005), in addition to the Divorce Act.

Our comment

This provision is rejected. The interests of the minor children can be safeguarded only in terms of the Shariah, not in terms of the kufr secular Acts.

(3) A court granting a decree for the dissolution of a Muslim marriage may, in addition to any order provided for in the Acts contemplated in subsections (1) and (2)—

(a) order that any person who in the court's opinion has a sufficient interest in the matter be joined in the proceedings; and
(b) when making an order for the payment of maintenance, take into account any provision or arrangement made in accordance with any contract concluded between the parties and Islamic Law at the time.

(4) Nothing in this section should be construed as limiting the role, recognised in Islamic Law, of any person, including any established Muslim judicial body, in the mediation, in accordance with Islamic Law, of any dispute or matter arising prior to the dissolution of a Muslim marriage by a court.

Our comment

This provision is drivel. The final say will always be the kuffaar court which will override the role of the Shariah or of any Muslim judicial body.

Regulations

10. (1) The Minister—

(a) may make regulations regarding the processes and forms to request a marriage certificate, or copy thereof, to be issued by the Department.

(b) must make regulations—

(i) regarding the form and format of documents to be signed by competent witnesses at the solemnisation of a Muslim marriage;

(ii) regarding the form and format of a certificate contemplated in section 6(2);

(iii) setting out the necessary processes and procedures to be followed and documents to be submitted when registering a Muslim marriage with an authorised officer at the Department, including processes and procedures related to confirmation of such registration; and

(iv) regarding the process to register a Muslim marriage concluded prior to the commencement of this Act, with the Department.

(2) The Minister must publish any regulation made under this section in the *Gazette*.

Limited duration of application of Act

11. (1) This Act will be automatically repealed upon the commencement of an Act of Parliament regulating the registration, recognition, solemnisation, proprietary consequences and dissolution and consequences of dissolution of, Muslim marriages.

(2) Where Parliament opted to legislate on the subject matter contemplated in subsection

(1) in more than one Act of Parliament—

(a) a relevant section in this Act will be deemed to be repealed upon commencement of an Act of Parliament that regulates the subject matter dealt with in that section; and

(b) this Act is automatically repealed as a whole upon the commencement of the last Act of Parliament dealing with the subject matters contemplated in subsection (1).

Short title and commencement

12. (1) This Act is called the Registration of Muslim Marriages Act, 2022, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE REGISTRATION OF MUSLIM MARRIAGES BILL, 2022

1. INTRODUCTION

1.1. In the Republic of South Africa, Muslim marriages that have only been solemnised in terms of the tenets of Islamic law have never been recognised as valid marriages in law capable of being registered with the Department of Home Affairs. Even in the current constitutional dispensation, the state has failed to enact any legislation recognising and regulating any aspect in relation to Muslim marriages. The failure to recognise and regulate valid Muslim marriages has created a great deal of legal uncertainty resulting in an inability even on the part of legal practitioners to advise their Muslim clients with any reasonable degree of certainty what their rights and obligations are or what remedies are available to them in the circumstances. This causes many Muslim women and men to not pursue any legal action enforcing their rights. The failure to recognise Muslim marriages is an indignity by the state to the entire Muslim faith and the failure to regulate and provide for the registration of Muslim marriages undermines and insults the very foundations on which Islam is built. Not recognising the existence of a Muslim marriage is tantamount to not recognising the existence of Muslim people, their religion, customs, traditions and culture. The effect of this continuous gross human right violation by the state is significant. It is essentially impossible for a person to attend to his or her

affairs if one lives in a society where you are not even able to establish the proprietary consequences of a person's marriage upon the conclusion or at the dissolution thereof. There are no mechanisms to safeguard the welfare of minor or dependent children of Muslim marriages at the time of the now informal dissolution of these marriages.

Our Comment

The entire dissertation above is pure imagination. Non-legal recognition of Muslim marriages poses no insult to Muslims. Muslims are not confronted with hardships on account of non-recognition of their Islamic marriages. Al Jama-ah and others of like thinking should elaborate on these imagined hardships.

Only women who have abandoned Islam (became murtad) believe that the Shariah imposes 'hardship' on them since the issues of divorce, maintenance, custody of minors, guardianship and inheritance, are not in terms of secular kufr law. Those who believe that they are prejudiced by the Shariah, should avail themselves of the secular law Acts, and not scheme to tamper with and mutilate the Divine Law of Allah Ta'ala.

There is no indignity to Muslims if the stupid home affairs officials state in the death certificate "never married". It is understood that this means never married in terms of kufr secular law, hence it is no insult and no indignity to Muslims. Furthermore, this phrase could be simply substituted by the terms "Muslim Rites".

The incompetency and hopelessness of Al Jama-ah are conspicuously illustrated by its inability to persuade the

government to simply instruct its home affairs employees to state in the death certificate “Moslem Rites”. When the ANC became the government, entire Acts such as the Group Areas Act, Immorality Act and other discriminatory legislation were swiftly scrapped without the slightest difficulty. So what impedes the effacement of the ‘never married’ stupidity? Why is there a need to promulgate whole marriage Acts for this simple, silly purpose?

The answer for this question is that there is a sinister objective of anti-Islam forces who masquerade as Muslims, but desire that the Shariah be expunged from the lives of Muslims. Satanic forces such as the lewd women’s organizations are the ringleaders and entities such as Al Jama-ah are pandering to the dictates of these moronic female bodies.

Al Jama-ah cannot tell us that we are suffering hardship when we see no such hardship nor feel any such hardship nor any insult and indignity.

Yes, hardship for us will be the imposition of marriage acts such as this proposal of Al Jama-ah, the MPL and MMB. All these bills, we believe, are devices of Iblees since every such attempt is in violent conflict with the Shariah. This entire exercise of Al Jama-ah is satanically motivated whether Mr. Hendricks is aware or not, and whether it is intentional or unintentional. Any provision which militates against the Shariah is an inspiration of shaitaan.

While Al Jamah’s concern is its extremely short-sighted demand of ‘recognition’, our concern is the evil and

haraam consequences stemming from legal recognition of our marriages. The consequences of recognition militate against the Provisions of the Shariah, hence are never accepted by Muslims, that is, those who have Imaan. As for those who claim to be Muslim, but demand the consequences legislated by the kuffaar, they are in reality munaafiq and murtad who masquerade as Muslims.

The officials who write “never married” in death certificates fully understand and know that Muslims are married according to their religious rites, and that their marriages are holy bonds solemnized in holy places such as Mosques. These officials know that their “never married” nonsense is in terms of secular laws which in reality are the products of the devil.

There is no merit whatsoever in this memorandum of Al Jama-ah. Mr.Hendricks is not rendering any service to the Muslim community. Only ignoramuses and these munaafiq women’s bodies will support the haraam bills of Al Jama-ah.

The claim that it is impossible for Muslims to attend to their affairs because their marriages are not legally recognized is a stupid canard. Muslims never experienced such difficulties hallucinated by Al Jama-ah. Our lives and affairs continue without the stupidities imagined by Al Jama-ah.

Another kufr idea is the claim that there is no mechanism to safeguard the interests of minors when a marriage is dissolved. For Muslims there is and has always been the

mechanism of the Shariah. But yes, for those munaafiqs and murtads who are not satisfied with the Shariah consequences, there is no mechanism in the Shariah to satisfy their haraam craving for usurping the wealth of their ex-husbands and for claiming such maintenance and custody which the Shariah does not permit them. But they do have the mechanism of the kufr laws of the country which they can invoke to aid them in their haraam demands. And, that is precisely why these murtad women run to the kuffaar courts for help thereby effacing whatever semblance of Iman they may have had just prior to running to the kuffaar court.

For those who have valid Imaan, the mechanism of the Shariah is more than adequate. They seek the guidance of the Ulama and act accordingly.

By not recognizing Muslim marriages which are not performed in terms of the state's laws, the state has not failed in any way. The state has promulgated laws for all the citizens. When Muslims of their own volition refuse to act in terms of such laws, then it is improper and stupid to say that the state has failed to recognize Muslim religious marriages. It has not failed. Al Jama-ah has failed to apply its brains.

If the state seeks to impose on Muslims the haraam consequences of its marriage, divorce and other Acts, then it will be proper to say that the state has miserably failed to act in terms of the freedom of religion provision of the secular constitution, and in so doing it is imposing hardship on Muslims.

In its memorandum, Al Jama-ah alleges:

“The failure to recognise Muslim marriages is an indignity by the state to the entire Muslim faith and the failure to regulate and provide for the registration of Muslim marriages undermines and insults the very foundations on which Islam is built. Not recognising the existence of a Muslim marriage is tantamount to not recognising the existence of Muslim people, their religion, customs, traditions and culture.”

This is manifestly false. It is incongruent, impractical and stupid to recognize Muslim marriages without the encumberment of the legal consequence stemming from recognition. These consequences are ALL HARAAM and tantamount to kufr which leads to the effacement of the Imaan of the one who demands such kufr consequences. The state cannot only recognize our marriages as legal without imposing on us the hardship of the haraam consequences. Thus, the state has not failed in not recognizing Muslim marriages to be legal. It is saddled with this incongruency to which Al Jama-ah is blind either due to ignorance or due to some sinister haraam agenda.

It is ludicrous to say that legal non-recognition undermines the very foundations on which Islam is built. Perhaps Mr. Hendricks is not aware of the Foundations of Islam, hence he has blurted out this ludicrous, laughable absolute drivel. All non-Muslims do recognize Muslim marriages. No one believes and says that Muslims who are married in the Musjid are unmarried. All the law-makers, all the intelligent people and all the morons believe in the validity and sanctity of marriages performed in the Musjid. Legal non-recognition in no way impugns

the dignity of Muslims. It is never calculated to be an insult by the state. Al Jama-ah has ridiculed its own intelligence with this nonsensical memorandum.

Even during the Apartheid regime, despite Muslim marriages not being legally recognized, no insult was ever implied nor did Muslims feel that they were being insulted by such non-recognition. Non-recognition always favoured Muslims in view of the fact that it allowed them considerable leverage to organize their affairs in accordance with the Shariah.

During the early 70's, there was a custody battle in the magistrate's court here in Port Elizabeth. In that era in which atheism and immorality were not as dominant as they are today, adultery was a valid ground for divorce, etc. In this case, the lady had embraced Islam, not the ex-husband. She married a Muslim. In court, the kaafir ex-husband citing as one of his grounds, said that the lady was living in the state of adultery. He was aware that she was married to the Muslim man only in terms of Islamic rites.

The magistrate who was a hardliner, Broederbond type, asked: "Was her marriage to the Muslim man not performed in the Mosque?" The ex-husband had no option but to affirm this fact. Then the magistrate asked: "Do you mean that the 100 million Arabs are all living in adultery. Don't ever mention in this court that the lady is living in adultery."

Even this apartheid Broederbond debunked the indignity and insult stupidity which Al Jama-ah has imagined, and monotonously piping.

CONCLUSION

The bills proposed by Al Jama-ah are rejected. These bills are no better than the earlier ill-fated, haraam MPL and MMB measures. Al Jama-ah's exercise is simply old wine, not even in a new bottle. Only the label has been slightly altered in a futile endeavour to mislead ignorant Muslims into believing that the Shariah consequences will apply when Talaaq occurs. But this idea is a canard – a falsehood. Everything proposed in these bills is in vivid conflict with the Shariah. One must be totally blind not to observe and understand the kufr being proposed by Al Jama-ah.