

THE KUFR 'MUSLIM' MARRIAGES BILL -CLEARING A MISCONCEPTION

Written by Administrator

Thursday, 24 March 2011 13:10 - Last Updated Monday, 28 March 2011 08:18

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Before we proceed to examine, analyze and expose the kufr and the unconstitutionality of the MMB it is important to explain a certain aspect pertaining to the recognition of Islamic Marriages.

Many judges of the High Court, Supreme Court and Constitutional Court as well as politicians of various hues and persuasions of the post apartheid era, have commented on the reasons for the nonrecognition of Muslim marriages.

All of these entities, and surprisingly even the judges, have unanimously erred in their unanimous

conclusion that the reason for the non-recognition was the apartheid law. However, despite the passage of 15 years since the demise of the apartheid law, and the domination of the ANC government, the position remains exactly the same – namely, no legal recognition for Islamic Marriages.

If apartheid had truly been the reason as all these entities erroneously contend, then what has prevented the bestowal of recognition to Muslim marriages even 15 years after the destruction of

the apartheid monster? The contention that apartheid had denied recognition to Islamic Marriages

is a myth. If apartheid had denied such recognition, then today by the very same token, the ANC

democracy is denying recognition despite the fact that the Courts have already decreed recognition

in a number of cases.

The fact is that the very same Marriages Act and other related law Acts which existed during the apartheid days regulate matrimonial matters today in this so-called democratic society.

Everyone

has acted blindly in making apartheid the scapegoat for non-recognition of Muslim marriages in South Africa.

Just as it is possible today to gain legal recognition for Muslim marriages by registration, so too was this open for Muslims and for all others during the apartheid regime. The apartheid government

did not debar Muslims from registering their marriages under the Marriages Act and opting for one

of the property regimes offered by the Matrimonial Property Act. And so too, the government today

does not prevent Muslims from taking this route to gain recognition for their marriages.

During the apartheid regime, Muslims were free to register their marriages, and so too are they free today to register their marriages if they are desirous of legal recognition. The reality is that those Muslims who did not register their marriages in the apartheid era, and who do not register even today, are not interested in legal recognition because they are contented with the superior

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divine recognition which Allah Azza Wa Jal confers to their marriages. There is no stigma in legal

non-recognition. Hence, most Muslims are not concerned with legal recognition.

It was not apartheid which had denied recognition nor is it the present government which is denying recognition. It was and still is Muslim attitude which deprives them of legal recognition. The common denominator of non-recognition in terms of both regimes (apartheid and the ANC) is

Muslim refusal to avail of the law of the land in terms of which recognition is granted.

South Africa during the apartheid era and in the present age has always been a secular state with

secular laws. The secular state has a secular law in place for the purpose of recognizing marriages.

PO Box 3393

Port

Elizabeth

6056

South Africa

Anyone whoever refuses to have his marriage registered in terms of this law will obviously be denied legal recognition. The same rule applied then and applies now.

If a secular law is in conflict with our Deen (Islam), then it is incumbent for the Muslim community to approach the authorities with a view to rectify the problem. Engagement with the authorities to seek a solution for a problem, especially if the problem is an act of suppression of our religion, is perfectly legitimate and necessary. But where there is no conflict and no suppression

of religion, then engagement is futile and meaningless, and sinister and evil if the engagement is

underlined with pernicious nafsani motives such as the NNB Jamiat's and MJC's current 'engagement' policy.

However, we must add that the government is at fault in that on the one hand it blames the apartheid regime for non-recognition of Muslim marriages, and on the other hand, it has perpetuated

the very same system which has denied Islamic Marriages, at least Islamic polygynous marriages.

In so far as Islamic monogamous marriages are concerned, the government can validly argue that it

is not denying recognition because the Marriages Acts are open for all citizens of the country, including Muslims. So why do those Muslims who clamour for secular/civil recognition refuse to register their marriages under the secular laws, especially since in this case there is no conflict between the Shariah and the secular which offers legal recognition? Why do they want a separate

so-called 'religious' Act for recognition, especially when the deceptive 'religious' Act is grossly irreligious and un-Islamic?

The only perfunctory problem the government of the day is confronted with is the issue of Islamic

polygynous marriages. We say 'perfunctory' because there is a simple solution for this imagined problem. We shall be petitioning the government with an easy, valid Proposal to solve the

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imagined imbroglia around this issue. There will be no valid reason, no rational and no legal reason for refusing our Proposal. Should our Proposal be unacceptable to the government, the

matter shall be tested in the courts of the land, Insha'Allah.

If some warped or convoluted 'religious bill such as MMB is necessary for recognition of Muslim Marriages, then the ANC government will be in exactly the same position as was the apartheid government, for it will follow that just as Islamic Marriages per se were not recognized before, so too are they not recognized today. An extra secular law is required for such recognition.

There is then no difference between two secular governments (the apartheid one and the ANC

one), for both stipulate a secular law for recognition.

In terms of the Shariah there is no problem in this stipulation as long as its consequence is not in

conflict with Islamic Law. We contend that the law of registration spawning recognition in the apartheid time and even today is not in conflict with the Shariah, hence there is no need for the stupid clamour for legislation of the stupid Bill of Kufr. (This argument will continue in No.3, Insha'Allah).

Meanwhile it remains the incumbent obligation of Muslims to object to MMB. Forward your letter of objection to the Minister of Justice & Constitutional Development.

The Minister of Justice & Constitutional Development,

c/o Mr. T.N. Matibe,

Private Bag X81,

Pretoria

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Fax 086 648 7766

e-mail: TMatibe@justice.gov.za

The closing date for comment has been extended by the High Court to 31 May 2011. We are now asking for another extension in view of the difficult task which the Court has imposed on us to

be executed in such a short space of time.

After sending your objection to the Minister, please forward a copy of your letter of objection to:

THE MAJLIS, P.O.Box 3393, Port Elizabeth 6056 or

Fax 041 451 3566 or e-mail: muftis@themajlis.net JAZAAKALLAAH!