

## ANNULLING MARRIAGES AND THE DRIVEL OF THE MJC

Written by Administrator

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In Cape Town a conflict has developed between the carrion-halaalizing outfit, viz. Muslim Judicial Council (MJC) and the Mitchells Plain Welfare Organisation (MPWO) on the issue of marriage annulments (Faskh). The MJC maintains that it does not recognize any Faskh decrees issued by any other bodies. It believes that it is the sole entity entitled to issue Faskh decrees (marriage annulments).

It appears that the MJC sheikhs have become senile in their brains, hence they hallucinated such a stupid statement. Did Jibraeel (alayhis salaam) arrive with Wahi to invest the MJC with this authority? What is the MJC's basis in the Shariah for making such a preposterous and palpably baseless claim?

If the procedure adopted by the MPWO is in conformity with the Shariah, then they will be entitled to issue Faskh decrees. In fact, other Ulama organizations may also assume upon themselves the duty of annulling marriages.

The essential requisites which the Committee should observe are:

(1) The Committee should consist of three responsible, uprighteous elders of the community. If none of them is an Aalim, then before they issue any decree, it will be Waajib (compulsory) for the Committee to submit their findings to even ONE Aalim who has expertise in marital issues in terms of the Shariah. If the Aalim confirms the correctness of the findings, the Committee should issue its decree of Faskh.

(2) It is imperative for both parties (husband) and wife to be present at the hearing. The Committee may not issue a Faskh decree after hearing only the wife. The husband has to be present. If the husband refuses to attend the hearing, he will be in contempt. His absence ameliorates the task of the Committee. They may, in fact, issue the Faskh decree in his absence. His refusal to attend will be an admission of guilt which according to the Shariah is valid grounds for annulling the marriage.

(3) If the husband at the hearing pledges to reform himself and fulfil the rights of his wife, then the Committee has no entitlement to annul the marriage regardless of past abuses.

In view of the abundances of applications for annulment, gross abuse by recalcitrant husbands and the extreme lethargy of existing Ulama bodies in the performance of their duties, especially in this regard, there is an imperative need for the establishment of Shar'i Committees in all towns and cities to attend to these marital problems. It is not necessary for the Committees to be affiliated to any Ulama body. Care should be taken to ensure that the Committee consists of honest, uprighteous and responsible persons whose integrity is recognized by the community in which they live. It is not necessary for the Committee members to be Ulama. However, it is imperative that they issue their decree only after an Aalim of rank proclaims it valid in terms of the Shariah.

As far as the umbrage and tantrums of the MJC are concerned, they may amuse themselves with marbles which befit men who talk drivel and acquit themselves with puerility.