



**PRESS RELEASE  
NO EMBARGO**

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**AL JAMA-AH welcomes the Recognition of the Nikah Marriage as a legal marriage in South Africa**

The Al Jama-ah Party has welcomed the Constitutional Court's confirmation of the Appeal Court's judgement (Out of Community of Property) that a Nikah mostly performed by Imams in a mosque in terms of Shari'ah (Islamic rulings) is a legal marriage.

Addressing post graduate students at IPSA, Hon Ganief Hendricks the Party's Leader of AL JAMA-AH in Parliament and ad hoc member of Parliament's Portfolio Committees on Home Affairs and Justice describes it as a 'big but limited win' for Muslim women who have been discriminated against because the Nikah (that is, the Muslim marriage) was not recognised as legal. "The judgement says 'outside of community of property' which opens the door for Shari'ah compliant legislation," says Hendricks.

Hendricks, however, slammed the remedies now afforded to Muslim women as discriminatory as it only benefits women who had court cases in place since December 2014. "Most Muslim women cannot afford to go to Court for a remedy and the judgement excludes them. The judgement only benefits a few women, and the more affluent women or those who are sponsored by feminist groups," he says.

Some of the relief measures granted by the interim Court are:

- The Divorce Act may be used to dissolve a Muslim marriage that was in existence on 15 December 2014, in which legal proceedings have not been finally decided.
- This remedy, however, is only available in respect of marriages/terminations where legal proceedings were implemented by either of the parties and where such proceedings have not been finally determined.

Al Jama-ah views the remedies as very significant, and, at the same time, he applauds the Women's Legal Centre (WLC) for having secured remedies for their clients.

Hendricks explains that the Nikah has been recognised as a Muslim marriage in South Africa in several other judgements over the past decades. He, moreover, stated that Parliament has been slow in obeying court judgements. In this judgement, the Constitutional Court has given Parliament until June 2024 on the eve of the 7<sup>th</sup> Parliament; and he added that with Parliament's slow pace in recognising Muslim marriages legislation thereof can only be expected in 2029.

AL JAMA-AH has written to the Speaker expressing its dismay at Parliament's slow pace in legislating processes regarding the recognition of Muslim marriages. The dignity of Muslim spouses has been harmed as the current death certificates state "never married". The Constitutional Court also raised its dismay of the harm caused to children born from a Muslim marriage who have been referred to by researchers as "bastards" and their mothers as "whores". The party will ask researchers to apologise to the Muslim community and will lodge defamatory criminal charges.





Hendricks has introduced an interim Private Members Bill (PMB - aka a Bare Bones Bill) that is ready to be certified by Parliament's legal team; and this is expected to be presented to the National Assembly during the second part of year 2022.

**For further media enquires contact national spokesperson:**

**Adv. Shameemah Salie**  
**Cell: 084 423 0476**