

8 July 2022

Response to the Muslim Judicial Council's (MJC) 'short fatwa' on Islam & Homosexuality

Al-Ghurbaah Foundation, including the organizations/institutions/scholars and individuals mentioned below, strongly condemn the 'short fatwa' issued by the MJC for the following reasons:

Although there is no indication as to what may have led to the need for this fatwa (religious decree), the MJC's Fatwa Committee chose to target the LGBTQIA+ community during Pride Month and during the release of the documentary 'The Radical', which recounts the stories of queer Muslims and their struggles in reconciling with Islam.

- 1) While the 'short fatwa' states that the LGBTQIA+ issue "requires a multi-faceted discussion including religious, socio-political, educational and many other dimensions", the fatwa committee still went ahead to pass a fatwa without adequate information that informs the fatwa, without consultation with the LGBTQIA+ community around whom the fatwa is made, and without regard for any consequences the statements in the fatwa may have. The MJC passed a similar fatwa in 2007, which to date, no evidence of any research indicating that the MJC has exhausted all avenues in finding facts and referencing reputable research to inform their fatwa. Mere reliance on the classical scholarly opinions of the 9th century is not enough to base a fatwa on. With due respect, these classical scholars were not privy to the researched information around sexual orientation and gender identity available to us today, which seems to not be of paramount importance to the MJC.
- 2) The Muslim community is starved of critical thinkers who can sit in the discomfort of a discussion

around sexual and gender diversity without feeling that their masculinity is being threatened.

When critical thinkers rise to engage with contentious social issues, they should not be condemned as 'out of the fold of Islam, but rather engaged with in a manner that is academically reputable and through a research framework that produces facts and tangible results. The MJC's fatwa does not encourage bold and engaging conversation around the complex issue of human sexuality and gender identity. We encourage the MJC to rise and become leaders in critical enquiry and in the development of a functional Islamic jurisprudence (fiqh) for the marginalized within our community.

- 3) Reducing a homosexual orientation to mere 'choice' and 'desire' is indicative of the lack of information around the innateness of sexual orientation, gender identity and sexual expression. It also speaks to the inability of religious leaders to distinguish sexual orientation from assumptions about public sexual immorality. The MJC is merely regurgitating patriarchal sentiments under the guise of Islamic jurisprudence, and these statements have repercussions on the lives of marginalized LGBTQIA+ people of faith. For many queer Muslims their sexual orientation and gender identity, and their Islamic identity are intrinsic to their existence. Not being able to reconcile these elements result in a spiritual cognitive dissonance which may lead to suicidal tendencies and many other mental health issues increasingly faced by queer Muslims. Such sentiments make it increasingly impossible for queer Muslims to reconcile their sexual orientation and gender identity with Islam which have lead to many queer Muslims abandoning their faith. The MJC must be held accountable for the repercussions the statements in their fatwa may have.

- 4) The reason for the existence of a separate inclusive mosque for queer Muslims and their allies in Cape Town is a direct response to queer Muslims not feeling safe in mainstream mosques in South Africa. While the doors of mainstream mosques might in theory be open to queer Muslims, these

mosques are still not safe spaces if the Imam’s sermon is condemnatory and filled with homophobic and transphobic undertones. Merely stating that “the Muslim community should strive to include them in their gatherings of worship and social activities” is not sufficient as it is devoid of a clear narrative regarding compassion and inclusivity. All queer Muslims should feel free, safe and accepted in places of worship and the MJC should take a proactive stance in making sure every mosque is safe for LGBTQIA+ people of faith.

- 5) While it is the right of every religious group to preserve their religious beliefs, such beliefs cannot infringe on human rights, create risks and unsafety for an already marginalized group within our community. A ‘short fatwa’ like the one published by the MJC incites hate and violence and therefore contravenes government legislation that affords rights and protection to the LGBTQIA+ community.
- 6) The preservation of family values and the protection of children are legitimate concerns; however, we fail to see how researched information regarding the diversity within human sexuality, that informs educational curricula, threatens family values and corrupts children's minds. On the contrary, if we do not educate our children on the complexities of human sexuality, we are perpetuating irresponsible sexual behaviour. If we do not teach our children about the diversity within the spectrum of sexuality and gender, we are inadvertently teaching them that it’s okay to discriminate. The assumption that children will become homosexuals if they learn about homosexuality in schools stems from a place of fear and ignorance of human sexuality.
- 7) We strongly urge the MJC to show their leadership through engaging with the sciences on the horizon which includes the humanities, social sciences, medical and psychological research in

the field of human sexuality and to consider the lived realities of the LGBTQIA+ community. Any decree (fatwa) on such a complex social issue, should not merely be a religious judgment, but rather a guiding document with accurate information and positive role-modelling in accordance with a compassion-centred and all-inclusive Islam.

The following organizations/institutions/scholars and individuals are in support of this response:

- | | | |
|-------------------------|---|-----------------------------------------------------------------------|
| Imam Muhsin Hendricks | - | Executive Director of Al-Ghurbaah Foundation |
| Abdul Mugheeth Petersen | - | Chairperson of Al-Ghurbaah Foundation |
| Aaqielah Pillay | - | Secretary of the Al-Ghurbaah Foundation |
| Ziyaad Follentine | - | Al-Ghurbaah Masjid Committee |
| Nic Paton | - | Interfaith Activist |
| Rumana Akoob | - | Gender Activist / Multimedia Journalist and Communications Specialist |
| Laurie Gaum | - | Minister, Dutch Reformed Church |

