The limits on recognition of unregistered religious marriages in England and Wales

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MA v WK [2025] EWFC 499

In MA v WK, the Family Court (Cusworth J) considered whether Nikkah ceremonies conducted in England but not compliant with the statutory formalities of the Marriage Act 1949 could become valid marriages through subsequent registration in Pakistan. The applications were brought under s.55(1) of the Family Law Act 1986 seeking declarations as to marital status.

Background

Three applicants had each participated in Islamic Nikkah ceremonies in England that did not comply with the formal requirements of the Marriage Act 1949 and were therefore accepted to be "non-qualifying ceremonies."

- In two cases, the applicants produced evidence that the marriages had later been registered in Pakistan (one apparently shortly after the ceremony; another decades later).
- In the third case, no evidence of registration abroad was provided.
  The applicants argued that registration in Pakistan created a valid Pakistani marriage, capable of recognition in England and Wales as a valid foreign marriage.
  The Attorney General intervened, opposing that position.

Issue

Whether a non-qualifying religious ceremony conducted in England can become a valid marriage recognisable in English law by virtue of subsequent foreign registration.

Decision

Cusworth J refused the declarations sought. The court held that registration abroad cannot transform a non-qualifying ceremony in England into a valid marriage.

Key Reasoning

1. Lex loci celebrationis governs formal validity
   The validity of a marriage is determined by the law of the place where the marriage is celebrated. Since the ceremonies took place in England, they had to comply with the Marriage Act 1949.

2. Non-qualifying ceremonies cannot be retrospectively validated
   Because the ceremonies did not comply with statutory requirements, they were non-qualifying ceremonies rather than void marriages. Foreign registration cannot convert them into legally recognised marriages.

3. Registration does not determine the place of celebration
   The applicants' argument that registration should determine the relevant lex loci was rejected. The court held that the location of the ceremony—not later administrative registration—determines validity.

4. Recognition of a "recognition" is impermissible
   Even if Pakistan recognised the marriages, English courts could not recognise a foreign recognition of something that English law treats as a non-marriage.

5. Presumption of marriage unavailable
   The doctrine of presumption of marriage could not apply because there was positive evidence that the statutory formalities had not been complied with, which displaces the presumption.

Practical Significance

The decision reinforces the Court of Appeal's approach in Akhter v Khan that religious ceremonies in England which do not comply with statutory formalities remain "non-qualifying ceremonies."

It confirms that:

- Foreign registration cannot retrospectively validate such ceremonies, and
- Parties who wish their marriage to be recognised in England and Wales must comply with the Marriage Act 1949 at the time of the ceremony.

The judgment is likely to be of continuing relevance in cases involving unregistered religious marriages and cross-border attempts to secure recognition through foreign registration.

Nathalie Bull represented the third respondent.

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