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**ASSALAMU ALAIKUM**

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**BEWARE OF THE MMB  
(MUSLIM MARRIAGES BILL)  
LEST WE UNKNOWINGLY SLIP OUT OF  
THE FOLD OF ISLAM**

By Mufti E.M.H.Salejee (Estcourt)

Writing in the Introduction of Jawaahirul Fiqh, Hadhrat Mufti Muhammad Shafi (rahmatullah alayh) the father of Mufti Taqi Saheb states:

***“Whoever denies even the smallest hukm of the Divine Law (of Allah Ta’ala), he is without any doubt and without hesitation outside the pale of Islam. Islam is averse to keep him within its fold. Muslims are embarrassed by the presence of such a person among them.”***

“From the definition of Imaan and Kufr it is clear that kufr is not restricted to open denial of Allah and His Rasool. It is also of the same degree of kufr to deny any hukm (law) from the authentically substantiated Ahkaam, proven with certitude to be that of Rasulullah (sallallahu alayhi wasaliam), even if the denier accepts all the other ahkaam and practices them with steadfastness.”

Denial of any Shar’i Hukm (Law) which is among the Dhururiyaat (Essentials) of the Deen is kufr. Interpreting any of the Dhururiyaat to produce a meaning which diverges from or which conflicts with the meaning substantiated by the 14 century Ijma’ of the Ummah is Kufr which expels the denier or the interpreter from the fold of Islam.

Dhururiyaat (Essentials) of the Deen in this context refer to all those Ahkaam (Laws), the authenticity of which is based on Tawaatur (a sufficient number of continuous reliable chain of narrators).

If any Hukm is based on Tawaatur narration from the Sahaabah down the ages, it is in the category of Dhururiyaat. All Ahkaam substantiated by Ijma’ of the Ummah from the

age of the Sahaabah are the Dhururiyaat of the Deen. Hadhrat Mufti Taqi Saheb has emphatically proved that the Ahkaam pertaining to polygamy, age of majority, talaaq, etc. are all evidenced by Ijma', hence any interpretation which alters or displaces the meaning which the Ummah has understood for the past fourteen centuries is disbelief. Hadhrat Mufti Taqi Saheb states in his book, Our Personal Laws:

***“The third Source of the Shariah of Islam is the Ijma’ of the Ummah. It is a unanimous issue that it is not permissible to present an opinion in conflict with the consensus of all the Sahaabah-e-Kiraam and the Taabi-een-e-Uzaam. Ijma’ of the Ummah is a Hujjat (Proof and Authority) in the Deen which is evidenced by the Qur’aan and Hadith. A view which conflicts with the consensus of all the Muslims is not permissible.”***

Hadhrat Allaamah Anwar Shah Kashmiri (rahmatullah alayh), in Ikfaarul Mulhideen, and Hadhrat Mufti Muhammad Shafi (rahmatullah alayh), in Jawaahirul Fiqh, make it abundantly clear that the presentation of a view in conflict with Ijma' is kufr. This is a basic principle of Usool which should not be hidden from the Ulama.

It is essential to understand that the term Dhururiyaat-e-Deen does not apply to only Fardh acts such as Salaat, Zakaat and Hajj. Even Sunnat and Mustahab acts are classified in this category, hence rejection of even Sunnat acts of the Dhururiyaat class expels the denier from the fold of Islam. In this connection, Allamah Muhaddith Muhammad Anwar Shah Kashmiri (rahmatullah alayh) states in his famous kitaab, Ikfaarul Mulhideen:

***“To use mis’waak is Sunnat, but it is Fardh to believe in it being Sunnat. Denial of its Sunnat status is kufr.”***

“We shall further on (in this book, i. e. Ikfaarul Mulhideen) prove in greater detail and certitude that there exists ijma' of the Ulama on the kufr of interpreting any of the Dhururiyyat-e-Deen in a manner which will produce a meaning which differs from the meaning which is based on Tawaatur and which all Muslims, the Ulama and laymen, had understood to be in every age, and on which was the Ta-aamul (practice) of the Ummah.”

*“in fact, according to the Ulama-e-Ahnaaf denial of any Qat'i and Yaqeeni Shar 'i Hukm or Aqeedah (law or belief of absolute certitude) is kufr even if it does not belong to the Dhururiyaat category. Any interpretation or change effected to such Ahkaam is kufr.”*

*“Ijma’ of the Sahaabah is a Hujjat-e-Qat'i (Proof of absolute certitude and authenticity which tolerates no variance). All the Ulama-e-Usool of the Ahnaaf are unanimous in contending that denial of anything on which there is Ijma' of the Sahaabah is kufr because this Ijma' is in the category of Kitaabullah (Qur'aan)”*

Th Shar'i evidence to prove that the denier or mis-interpreter of an Ijma, is a kaafir is too numerous to reproduce here. What has been presented on this issue so far is more than ample to convince every unbiased, fair-minded sincere Muslim that to effect change and

to add constraints or to mis-interpret the Ahkaam of polygamy, age of buloogh, talaaq, nikaah, etc. takes one out of the fold of Islam. These are such Ahkaam which are Qat'iyuth Thuboot (i.e. the authenticity is absolute in certitude, there being not the slightest vestige of uncertainty). There is no scope for interpretation. Any adulteration by way of interpretation is kufr.

Mufti Taqi Saheb states in his 'Our Personal Laws':

***"Assuming that we have no daleel (proof) besides Ijma', and we observe that not a single Sahaabah, Taabiee or Faqeeh had ventured a conflicting opinion, then we can close our eyes and accept the hukm (Law). The Ijma' (consensus) and Ittifaq (agreement) of all the Sahaabah, all the Taabieen, all the Aimmah-e-Mujtahideen and all the Ulama is such a powerful daleel that not a single Muslim dare have the audacity to say anything in opposition to it"***

***"Is it logical and possible for all the Sahaabah, the Khulafa, the Taabieen, all the Aimmah Mujtahideen, all the Fuqaha and all the Muhadditheen to unanimously contend something, and that not a single one of them had the taufeeq to state what the proven Haqq (truth) is? Rasulullah (sallallahu aiayhi wasallain) himself had stated: 'My Ummah will not be unanimous on deviation'"***

***"To this day, there is consensus of the entire Ummah on the permissibility of the marriage of minors."***

***No one should labour under the impression that the Masaa-il under discussion in this kitaab are issues of difference among the Ulama hence there is nothing wrong in adopting any one of the views. In these masaa-il no Aalim of the Deen has differed. From the time of Rasulullah (salialiahu alayhi wasallam) to this day, Ulama of all persuasions are united and have concurred. Only those few westernized individuals who had no relationship with the Knowledge of the Deen at any time in their lives, oppose these masaa-il"***

The aforementioned statements of the Ulama illustrate that the Masaa-il which the MMB/MPL bill has mutilated and made subservient to the secular constitution are Ahkaam evidenced by the Qur'aan, Sunnah and the Ijma' of the Ummah. Those who have ventured to alter, tamper and misinterpret these Shar'i Laws to produce a hybrid concoction to comply with the secular laws and to appease non-Muslims should understand that they are treading a most dangerous path, a path of spiritual disaster. They should, therefore, repent, and have mercy upon themselves and abandon the destructive MMB/MPL exercise.

We shall conclude this article with a Fatwa of Hadhrat Maulana Rashid Ahmad Gangohi (rahmatullah alayh) on the issue of criticism of a second marriage. It is clearer than daylight that the only reason for applying constraints to polygamy is to appease the non-

Muslims and to comply with the 'spirit' of the constitution which vehemently espouses the values of those clamouring for gender equality. The Fatwa is most apt.

### **QUESTION**

**What do the Ulama of the Deen and the Muftis of the powerful Shariah say about a man who, inspite of having knowledge that a second Nikah is substantiated by the Qur'aan Shareef and it was the Sunnah of Rasulullah (sallallahu alayhi wasallam), view it as bad and dishonourable. He despises the man who practices polygamy. Inspite of this he says: I do accept that it is correct and that it is the Sunnah of Rasulullah (sallallahu alayhi wasallam), but since it is not a custom in our society, we view it with scorn. What is the Hukm of the noble Shariah regarding this person?**

### **ANSWER**

A man who finds fault with or despises any Law of Allah Ta'ala or way of Rasulullah (sallallahu alayhi wasallam) is undoubtedly an accursed kaafir, an opponent of the Haqq, a Jahannami (inmate of Hell) and a Murtadd (A Muslim who has turned away from Islam). His contention is aggravated kufr in view of the fact that he is aware of this act being the Hukm of Allah Ta'ala and the Sunnah of Rasulullah (sallallahu alayhi wasallam). This miserable, mal-oon (accursed) man gives preference to his custom over the Law of Allah Ta'ala.

To boycott such a person is pure Deen. It is never permissible to maintain family ties with him. It is imperative to dissociate from him. Understand that he is the vilest specimen of Allah's creation. Become his enemy. Never perform Janaazah Salaat for him because he is a kaafir.

So is it recorded in the kutub of Hadith, Fiqh and Aqaaid.

Forty eight Ulama signed and endorsed this Fatwa of Hadhrat Maulana Rashid Ahmad Gangohi (rahmatullah alayh) — Fataawa Rashidiyyah.

“Those who do not decide according to what Allah has revealed, verily, they are the Kaafiroon.”  
(Qur' aan)

“On us is only to deliver the clear Message.” (Qur 'aan)  
From Allah do we seek aid and on Him do we repose our trust.

O Allah! Keep us with Imaan, grant us death upon Imaan and resurrect us once again with Imaan. (Aameen)