



PO Box 3393,
Port Elizabeth, 6056
South Africa

Email: muftis@themajlis.co.za

28 Jamadiyuth Thaani 1435 – 29 April 2014

YUSUF PATEL'S (BOGUS UUCSA'S) ACRIMONIOUS OUTPOURING AND THE NASEEHAT OF JAMIAT KZN

The Bogus UUCSA which has instituted legal action against the Genuine UUCSA has written an extremely acrimonious letter accusing the Jamiat KZN of siding with the Genuine UUCSA who is being dragged to the kuffaar court by the Bogus UUCSA. Since Bogus UUCSA regards the Jamiat KZN to be its affiliated member, it (Bogus UUCSA) has debunked its intelligence on account of the stance adopted by Jamiat KZN.

In this one-sided 'dispute' created by Bogus UUCSA, Jamiatul Ulama Natal-KZN has adopted a neutral stance. The Jamiat KZN has decided to remain aloof and not support any of the parties in the haraam litigation process in the kuffaar court embarked on by Bogus UUCSA represented by Yusuf Patel of Middelburg.

In response to the venomous diatribe of Yusuf Patel, the Jamiat KZN issued the following *naseehat* which we reproduce verbatim.

THE STANCE AND NASEEHAT OF JAMIAT KZN

12 Rabi-us-Thaani 1435

13 February 2014

Muhtaram Moulana Yusuf Patel Saheb

Assalaamu Alaikum wa Rahmatullahi wa Barakaatuh

I am in receipt of your letter dated the 5th of February 2014.

The tone of your letter bears testament to the obvious frustration UUCSA is facing at this time. Notwithstanding this, there is something more important than UUCSA and the right of its name. That is the welfare of the Ummah and the position of the Ulama in the eyes of the Muslim community.

IT IS OBVIOUS that there are two groups of Ulama who lay claim to the name UUCSA. Both these groups are now headed towards the Kuffaar courts in order to settle this dispute.

The position of the Jamiatul Ulama KZN is straightforward and simple: We support neither group on this issue. Let me reiterate: WE DO NOT SUPPORT EITHER GROUP IN THEIR LEGAL BATTLE OVER THE UUCSA NAME.

Now that this is clear, allow me to appraise you of our deep-felt concerns.

Our senior Ulama of the past have for decades strove and made tremendous sacrifices, as a result of which the Ulama fraternity, generally speaking, were held in esteem in the eyes of the South African public.

However, more recently as a result personal motives having crept into the fraternity, leading to a preference of considerations over that of the Shari'ah, public opinion of the Ulama has been rapidly waning.

We believe that the need of the hour is to rekindle the confidence and trust the public previously had on the Ulama, primarily by committing ourselves to serve as the guardians of the Shari'ah, and not be amongst those who undermine its values.

We at the Jamiatul Ulama KZN endlessly deal with conflict situations and disputes. Our constant advice to the parties in such matters is to resort to alternative dispute mechanisms such as mediation and arbitration. One of the benefits of such mechanism is that they are private in nature, and hence more protective of the dignity and honour of the feuding parties. We unremittably advise against the public forum of the secular courts, where the proverbial "washing dirty linen in public" takes place.

We often find that the parties are not interested in resolving disputes, but simply wish to misuse the Jamiatul Ulama KZN to score points against each other. When they find no joy in achieving their ulterior motives, they at times resort to the courts. The Husband loses his sanity in his frenzy to show the Wife a point, and publicly exposes her shortcomings. The Wife revengefully retaliates in a fit of vengeance, only to expose his faults. The mudslinging match goes on, fuelled by lawyers who have pecuniary motives at heart. Little do the couple realise that they harm no one but themselves. Their honour and dignity is destroyed, their time irredeemably wasted and their pockets fleeced and emptied. Each becomes so fixated upon scoring the next point, that they never step back to realise how they have become the laughing stock of society. Should any person feel pity upon them and advise them to bring this insanity to an end, each responds by blaming the other as the cause, feigning total innocence. They cry "I am the victim", little to realise that this is no justification for the spiteful steps they voluntarily undertook, nor does such cry restore their public standing. We often find that the innocent children are the ones that suffer the most.

After noticing the egg on their face, each spouse begins the blame game. 'It's the other one's fault'. 'Why didn't he/she back down?' 'I was only reacting to his/her actions.' This only serves to compound their disgrace. This blame-shifting is an endless vicious spiral that only ends in the grave.

ولن يملأ فاه إلا التراب ويتوب الله على من تاب

Now when we advise members of the public against taking their disputes to the Kuffaar courts, with what face can we be expected to support one Ulama group against the other in having their dispute thrashed out publicly in court? Is this not a truly sad day where we, all of us collectively, need to really hang our heads in shame for the poor example we are setting? Are we going to defend our actions by childishly playing the blame-game?

The Ulama of South Africa have no shortage of enemies. Each enemy will be eagerly waiting to make mince-meat of the public fiasco unfolding. The Kuffaar press will have a field day when this case goes viral. The damage to the esteem of the Ulama will be so colossal, that a century of sincere ground-work will not be able to undo the disgrace the Ulama would have brought upon themselves. Please do at least one thing: Ponder over the consequences of your move.

إِنَّمَا أَعْطَٰكُمْ بِوَاحِدَةٍ أَنْ تَقُومُوا لِلَّهِ مِثْلَىٰ وَفَرَادَىٰ ثُمَّ تَتَفَكَّرُوا [سبأ/46]

You will want to defend your position by stating that there were attempts at arbitrating the dispute. Let us not fool ourselves by such half-hearted attempts. The position is that each group is solely motivated by the desire to inflict maximum disgrace upon the other. This cannot be achieved by a closed-door arbitration. Each group has been advised by its respective lawyers that it has a strong case, and by taking it to arbitration they will lose the opportunity of scoring a decisive and humiliating public lesson over the other. However, as a mere formality and foreshadowing a defence, the prospect of arbitration was tepidly broached. Had there been a sincere desire to resolve a dispute, as opposed to the burning desire to disgrace the other, the option of arbitration would have been more vigorously pursued.

Arbitration is not only a viable alternative, for two Ulama groups in dispute it is the only sane option.

If the dispute is of a legal nature, there are many Muslim lawyers who could serve as arbitrators. On the other hand, if the dispute concerns the Shari'ah, then the Ulama in our country are plentiful. If it is a combination of both aspects, the arbitration panel could consist of a combination of lawyers and Ulama.

It is part of our Aqeedah that a Muslim, no matter how weak his Imaan may be, is far superior to a Kaafir. To have the dispute adjudicated before a Muslim lawyer will undoubtedly be preferred over having it adjudicated before a kaafir judge in a secular court. Even if that Muslim lawyer is a drunkard, drug-addict, womaniser etc., as long as he regards these acts to be sinful, his appointment will be far superior to that of a Kaafir judge.

It goes without saying that the judgment of the weakest Aalim would be better than the present position. I would venture to say that the incorrect judicial decision of an Aalim would be preferred over the correct judgment of a Kaafir judge.

The arbitration route is not impossible, nor impractical; provided both groups have the will to resolve the dispute and are not overtaken by the burning desire to run the other down. Each group can present a list of over 100 lawyers (and need be Ulama) they prefer. The first common name who accepts the nomination will be the arbitrator. Surely this is achievable. As mentioned above, any Muslim lawyer will surely be more honourable than the Kuffaar courts. If assuming there is no common name in the first list; expand it globally, work on the next hundred names, and so on.

However, if both groups are determined to cut their noses in order to spite their faces, there is no sense in making meaningful suggestions. Have you considered what a laughing stock the Ulama of South Africa are making of themselves in this debacle? It is a joke deserving to shed tears over. Both groups are fighting over the name "UNITED Ulama". This must be the height of ludicrousness. Without unity, does the name mean anything? Again, we can expect the blame game, which is another joke.

A certain lawyer associated with one of the groups took objection against the appointment of Judge Satchwell, presumably because of her self-confessed lesbian status. It would be the cherry on the top of this joke if the case had to be heard before this same judge, which is very possible.

I am reasonably sure the first remark the judge hearing this matter will make is: Why could this matter not be dealt with by some religious seniors in the Muslim community? The Muslim community as a whole will then have to look for a place to hide their heads in shame.

If both groups have dug in their heels so deep that they are not willing to make movements in order to accommodate a more sensible solution, this is all the reason why we should not be associated with any of the two groups in this matter.

Let us assume that the two groups go ahead, lunge at each other's throats in public, and make the Ulama look like a bunch of circus-clowns. People then lose faith in the Ulama and

start taking the ignorant as their guides. The level of Deen in the community suffers. Are the two groups prepared to carry the burden of this result on their necks on the Day of Qiyaamah, or do they think that they will be able to pass on the blame there as well?

We at the Jamiatul Ulama KZN have endured much abuse in the past because of our independent stance on various issues. Let it be known that we will continue to apply our minds independently, and if necessary, be the non-conformist Ulama body. We are fully prepared to take whatever flack comes our way for our neutral position in this matter. We are motivated by the pleasure of Allah Ta'ala, and by His fadhli, we will not be swayed by emotional ranting and derogatory name calling. UUCSA or any other Ulama organisation will just have to get used to the idea that we think differently.

It is clear that your letter was based on a lack of understanding of the Jamiatul Ulama KZN's stance. Now that you are informed of our position, should you wish to raise any point, I would be prepared to consider it provided your address is cordial and dignified.

We are alive to the strong probability that one or both groups would be offended by our neutral position, and that there will likely be an attempt to draw us into one of the groups. The issue is not a matter of the Shari'ah. It is a case of two groups of Ulama fighting over a name. Such a fight before the Kuffaar courts is a fitnah for the Ummah. Taking-guidance from the Hadith, we feel obliged to stay away, as far as possible, from such fitnah.

حديث لمسلم من رواية عثمان الشحام قال انطلقت انا وفرقد السبخي إلى مسلم بن أبي بكره وهو في أرض فدخلنا عليه فقلنا هل سمعت أباك يحدث في الفتن حديثاً فقال نعم سمعت أبا بكره يحدث قال قال رسول الله (صلى الله عليه وسلم) إنها ستكون فتنٌ ألا ثم تكون فتنة القاعد خيرٌ من الماشي فيها والماشي فيها خيرٌ من الساعي إليها إلا فإذا نزلت أو وقعت فمن كان له إبلٌ فليحلق بإبله ومن كان له غنمٌ فليحلق بغنمه ومن كانت له أرضٌ فليحلق بأرضه قال فقال رجل يا رسول الله أرأيت من لم يكن له إبلٌ ولا غنمٌ ولا أرضٌ قال يعتمد إلى سيفه فيدق على حده بحجر ثم لينج إن استطاع النجاء اللهم هل بلغت اللهم هل بلغت قال فقال رجل يا رسول الله أرأيت إن أكرهت حتى ينطلق بي إلى أحد الصفين أو إحدى الفتنين فضررتني رجلٌ بسيفه أو يجيء سهمٌ فيقتلني قال يبوء بإثمه وإثمك ويكون من أصحاب النار

No person or group is too superior to receive nasee-hah, even if it is from juniors. Since you have written to me, I take this opportunity to request you to consider one question. You believe that you are right. For a let us accept that. Therefore the following two Ahaadith apply to you:

لا يؤمن العبد الإيمان كله حتى يترك الكذب في المزاحه ويترك المراء وإن كان صادقاً

ومن ترك المراء وهو محق بني له في وسط الجنة

In the light two Ahaadith, notwithstanding all previous merits or demerits, if Rasulullah was present, what would he be pleased with: Going ahead with your case in the Kuffaar courts or abandoning it?

I leave you to ponder over this. May Allah Ta'ala guide us all.

Was salaam

JAMIATUL ULAMA (KWAZULU NATAL)
(Council of Muslim Theologians)
P O BOX 19551 DORMERTON 4015
SOUTH AFRICA
TEL. 031 - 2077099 FAX.. 031 2074163

(End of Jamiat's letter)

GENUINE UUCSA COMMENTS AS FOLLOWS:

“The Jamiat KZN is acting within its rights to adopt a neutral stance. In general whatever the Jamiat has stated in its letter of naseehat is correct. However, we have to clarify the following issues:

(i) There are no two parties going to the kuffaar court. It is only one party which has initiated the process of taking the route to the kuffaar court, and that is Bogus UUCSA, the Applicant in this haraam case.

(ii) Genuine UUCSA is the Respondent. This means that it is being dragged to the kuffaar court against its volitional will. Genuine UUCSA has no desire whatsoever to proceed to the kaafir court. The desire and the action emanate from only one party, viz. Bogus UUCSA.

(iii) The Jamiat KZN has misunderstood the case unfolding in the kuffaar court. Two groups of Ulama are not “headed towards the Kuffaar courts to settle this dispute”. It is only one group taking the haraam action and heading to the haraam kuffaar court, and that party is Bogus UUCSA. Genuine UUCSA (the Respondent) has no option other than be dragged to the kuffaar court. The ball is solely in the court of Bogus UUCSA, the Applicant. The Respondent is the *Mazloom*.

(iv) Since the intransigent initiator of the haraam action is Bogus UUCSA, it is improper for the Jamiat KZN to fault Genuine UUCSA, and if the Jamiat KZN believes that the Applicant is the genuine UUCSA, then too it has to reserve its castigation for the Applicant, not for the Respondent.

(v) The stance of Genuine UUCSA is motivated and determined by the Shariah whereas Bogus UUCSA is simply disgorging bile and venom in egotistical frenzy. It has no Shar’i basis for its haraam action of running to the kuffaar court. In so doing, it has lost every vestige of shame. In this haraam action, Bogus UUCSA is engaging in a self-excoriating exercise of spiritual and moral suicide. By running to the Kuffaar court it is exhibiting its guilt of flagrant violation of the Qur’aanic command which sets out the mechanism for resolving disputes. Such naked rejection of the Qur’aan is kufr.

(vi) The Jamiat KZN is in error for casting the Respondent into the same mould of the Applicant. Whilst the Respondent is averse to go to the Kuffaar court, the Applicant (Bogus UUCSA), in rebellious contravention of the Shariah believes that the kuffaar court can grant it the relief which the Shariah cannot.

(vii) While the Applicant seeks to gain kuffaar court relief just for a name, the Respondent has a Shariah Goal to pursue. The Applicant has no Shar’i argument to bolster its haraam kuffaar court action. In so far as the Applicant (Bogus UUCSA) is concerned, its fight is over a name, and nothing else. As far as the Respondent is concerned, there is no fight from its side. It is being dragged to the kuffaar court. It has no alternative but to sustain its defence against baatil from any platform on to which it is shoved without its free will.

(vii) The Applicant will be solely responsible for having its dirty linen exposed in the kuffaar court and kuffaar media.

(viii) The Applicant despite parading itself as the *United* Ulama Council, deems it appropriate to drag other Ulama to the kuffaar court, and that too on account of its lust for a name. What hope can the community entertain regarding the slogan of ‘unity’ which the Applicant trumpets?

(ix) It is indeed sad and lamentable that a group which designates itself “United Ulama Council of S.A.” finds it proper, respectable and honourable to stand askance for relief in front of a kaafirah lesbian judge in a kuffaar court. What type of mentality and what kind of hearts do these Ulama-e-Soo’ have? In flagrant rejection of the Qur’aan-commanded forum, they believe the kuffaar court to be the best option!!!