Despite UUCSA having understood the kufr status of the so-called 'Muslim Marriages Bill (MMB), and despite conceding the "fundamental shortcomings" of MMB, that it is 'problematic, complicated, un-Islamic and in conflict with Islamic Law", UUCSA still believes that the hopelessly flawed kufr MMB can still be remoulded and made compliant with the Shariah.
Towards this end, UUCSA has made some proposals for amending the Bill. The suggested amendments, even if accepted by the Minister of Justice, will be cosmetic. Neither are the suggested amendments 'power points' in terms of the Shariah, nor will these 'power points' rescue the Bill from the confines of kufr in which it is securely enmeshed.
The following are UUCSA's suggested amendments to the draft bill:

(1) Defining a "Marriage Officer", the MMB states:
"Marriage Officer" means any Muslim person with knowledge of Islamic law appointed as marriage officer for purposes of this Act by the Cabinet member responsible for home affairs or an officer acting under that Cabinet member's written authorization."

Unhappy with this MMB definition, UUCSA proposes the following amendment:
"Marriage Officer" means any Muslim person with knowledge of Islamic law approved by a recognized Muslim Judicial Body and appointed as marriage officer for purposes of this Act by the Minister or an officer acting under the Minister's written authorization."

OUR COMMENT: While this suggested amendment is devoid of Shar'i substance, UUCSA's motive is conspicuous. What is the meaning of a 'recognized' Muslim Judicial Body? Whose recognition will make the body a 'recognized Muslim Judicial Body"? UUCSA's or the NNB Jamiat's or the MJC's or any of UUCSA's lackey members?

It is indeed lamentable that while UUCSA is concerned with this non-Shar'i issue, it overlooks such provisions which are in flagrant conflict with the Shariah.

(2) According to MMB, Section 2 provides for Opt In for couples married after enactment of MMB, and Opt Out for couples married before enactment. (Anyone who requires detailed explanation on this section, may write to us.)

UUCSA's proposed amendment is: "Opt in for ALL couples"

OUR COMMENT: Since this provision has drawn a storm of protest and indignation from Muslims of all spheres of life, UUCSA has reluctantly felt constrained to propose this amendment. While this MMB provision is an infringement of the constitutional rights and an act of zulm, it is not a direct assault on any specific hukm (law) of the Shariah. Again, while UUCSA has deemed it necessary to suggest deletion of the Opt-In-Opt-Out provisions, it inexplicably ignores clear-cut kufr provisions of the Bill. UUCSA's suggested amendment is no "power point" in terms of the Shariah..

(3) Summarizing Section 6 (9) (a) of MMB, UUCSA states:

"Any person who facilitates the conclusion of a Muslim marriage, irrespective of whether that person is a marriage officer or not, They have a choice Direct to a Marriage Officer Fine – R20,000".
(Note, we have reproduced UUCSA's statement verbatim with its grammatical atrocities.)

UUCSA's proposed amendment is: :Delete Clause"

OUR COMMENT: The absurdity of this zulm clause which is so severely criticized by all Muslims besides the UUCSA clique, has forced UUCSA to propose its deletion.

(4) Section 8 (1) of MMB reads:
"A Muslim marriage to which this Act applies is deemed to be a marriage out of community of property excluding the accrual system, unless the proprietary consequences governing the marriage are regulated by mutual agreement of the spouses, in an antenuptial contract which must be registered in the Deeds Registry."

UUCSA proposes the following amendment:
"A Muslim marriage to which this Act applies is deemed to be an antenuptial contract which must be registered in the Deeds Registry. It is a marriage out of community of property excluding the accrual system."

OUR COMMENT: The exclusion of the clause: "unless the proprietary consequences governing the marriage are regulated by mutual agreement of the spouses" is appropriate. Although the exclusion of the clause is designed to prevent the couple from opting for a haraam property regime, UUCSA's proposal in our opinion lacks constitutional validity. It is also illogic. If the amendment is accepted and incorporated in the Act, the marriage will automatically and compulsorily be an antenuptial contract excluding the accrual system. On the other hand, while the excluded clause is un-Islamic, it is logical and constitutional.
Besides the above, the amendment is mild and cannot be termed a 'power point'.

(5) On the crucial issue of Qur'aanic Polygamy, UUCSA subtly presents an extremely abbreviated 'summary' of the haraam, offensive, kufr MMB provisions. Thus, UUCSA, presenting the MMB versions states in its paper, Ammendments to Draft Bill:
"Court approval to conclude a further marriage…
Court approval of a written contract which will regulate the future matrimonial property system of his marriages."

UUCSA's proposed amendment is only the extremely ambiguous statement: "Approved Contract"

OUR COMMENT: For a better understanding of this kufr provision, we cite the full text from MMB. Section 9 (6) states:
"A husband in a Muslim marriage, to which this Act applies, who wishes to conclude a further Muslim marriage with another woman after the commencement of this Act must apply to court – (a) for approval to conclude a further Muslim marriage in terms of subsection (7); and (b) for approval of a written contract which will regulate the future matrimonial property system of his

marriages."
Subsection (7) mentioned above, reads: "(a) When considering the application in terms of subsection (6), the court must grant approval if it is satisfied that the husband is able to maintain equality between his spouses as is prescribed by the Holy Qur'an.

(b) If a court grants approval for a husband to conclude a further Muslim marriage as provided for in paragraph (a) it may, in the case of an existing marriage which is in community of property or which is subject to the accrual system or other contractual arrangement, terminate the matrimonial property system which is applicable to that marriage and may -
(i) order an immediate division of the joint estate concerned in equal shares, or on such other basis as the court may deem just; or
(ii) order the immediate division of the accrual concerned in accordance with the provisions of Chapter 1 of the Matrimonial Property Act, 1984 (Act No.88 of 1984), or on any other basis as the court may deem just.
(c) The court must make an order in respect of the prospective estate of the spouses concerned as is mutually agreed, or failing any agreement, the marriage is deemed to be out of community of property, unless the court, for compelling reasons, decides otherwise."
These provisions pertaining to polygamy are loaded with haraam and kufr. But, UUCSA has deemed it appropriate to adopt total silence thereby conveying approval, hence the only comment made by UUCSA is "Approved Contract". The entire Section cited above is glaringly in conflict with the Shariah. While UUCSA has made an attempt to suggest cosmetic changes to other provisions which are not in direct conflict with any Hukm of the Shariah, there is complete silence and acceptance of the flagrant kufr of the polygamy provisions.

The following acts are in total negation of the Qur'aan and Sunnah:

* While the Qur'aan explicitly grants a man the unfettered legal right to marry more than one woman, MMB effectively cancels this right and abrogates the Qur'aan's permission with the restrictions mentioned above.
* Permission of the court is made an imperative condition for a second marriage.
* The man must apply to the court for approval of a written contract which will regulate the future property system of his marriages.
* Thus MMB encumbers the Qur'aanic right to marry a second wife with two haraam conditions: (i) the courts approval, and (ii) a property regulating contract to be approved by the court.
* Even after making an application as described above, it is entirely left to the non-Muslim judge to decide whether the second marriage accords with the Qur'aan. What a kufr anomaly?
* If the court in its sole discretion deems it appropriate to grant permission to marry a second wife, the court must order the division of the man's assets, and the method of division is haraam since it will be in accordance with kufr laws. The Shariah makes no provision for distribution of a man's estate if he marries a second wife. Distribution of his estate occurs only with death, not with nikah.

Despite these confirmed factors of kufr, UUCSA does not consider it necessary to even suggest amendments to make the provision compliant with the Shariah.

(6) In its amendment, captioned, Estate – Polygamy, UUCSA cites MMB as follows:
"The court must make an order in respect of the prospective estate of the spouses concerned as is mutually agreed, or, failing any agreement, the marriage is deemed to be out of community of property, unless the court, for compelling reasons, decides otherwise."

UUCSA suggests the following amendment to this provision:
"The court must make an order in respect of the prospective estate of the spouses concerned as is mutually agreed, or, failing any agreement, the marriage is deemed to be out of community of property."

OUR COMMENT: This is in flagrant conflict with the Shariah. Neither is it permissible to fetter a second marriage with the court's permission nor is it permissible for any court, be it even a Muslim court, to make the kind of order suggested in MMB and in UUCSA's amendment. UUCSA's suggested amendment has no validity in the Shariah and is in flagrant conflict with the Shariah. This encumbrance is haraam, and since it is an accretion on the Qur'aan's bestowal of an unfettered right to marry, the provision, as well as UUCSA's amendment, are kufr.

(7) Under the heading, Maintenance, UUCSA cites Section 11 (2) (iv):
"A husband's duty to support a child born of the marriage includes the provision of food, clothing, separate accommodation, medical care and education."

UUCSA's suggested amendment is:
"A husband's duty to support a child born of the marriage includes the provision of food, clothing, medical care education and reasonable contribution towards accommodation."

OUR COMMENT: The suggested amendment substitutes the word 'separate' with 'reasonable contribution'. There is no Shar'i merit in the suggestion. It is a futile exercise. While UUCSA deemed it necessary to comment on this non-issue, it selected total silence, in fact condonation for the kufr provisions related to polygamy and other issues.

(8) UUCSA proposes the inclusion of a new provision pertaining to Intestate Succession, as follows: "Notwithstanding anything contrary contained in any law, and notwithstanding anything to the contrary contained in the Intestate succession Act, 1987, the estate of a Muslim person who dies after the commencement of this Act, shall devolve in accordance with the rules of the Islamic Law of Succession."

OUR COMMENT: This proposal is valid although unconstitutional. No law in terms of the kufr Constitution of the country can prescribe to any person the devolution of his estate. His constitutional right to bequeathe his entire estate to a casino or brothel is 'inviolable', hence MMB will not be able to prescribe to any person nor proscribe anyone's Will with any MMB provision. However, a provision pertaining to an intestate's estate may be valid in terms of the law.

It is surprising and lamentable that while UUCSA deemed it appropriate - and it is appropriate – to offer this proposal, it could not understand the imperative need to emphatically reject the

flagrant kufr provisions pertaining to the proscription of polygamy. We therefore are compelled to interpret this proposal as a window-dressing stratagem.

(9) Proposing another amendment, UUCSA states:
"In the interpretation, application, implementation and amendment of this Act, a court as contemplated in this act shall be bound to comply with the rules of Islamic Law in the light of the provision of section 15 of the Constitution."

OUR COMMENT: UUCSA has displayed remarkable naivety. In terms of the Constitution, no law may be enacted to attenuate the jurisdiction of the court. It is glaringly in conflict with the Constitution to enact any law which will make the courts subservient to customary or religious law. In fact, the opposite is true. The courts, in terms of the Constitution, will interpret and develop customary and religious law to bring these into line with the ethos, spirit and letter of the Constitution. In this way, the courts will spawn a transmuted 'shariah' administering kufr in the name of Islam.

On the basis of a remote assumption, should this proposal be enacted into law, it will be thrown out by the Constitutional Court the very first time an application is launched to have it rescinded. UUCSA has displayed stark ignorance of the judgments of the Constitutional Courts on issues of this nature. We suggest that UUCSA expands its studies and seeks assistance from the legal fraternity. It is incredible that this proposal was the effect of legal advice.

UUCSA cites Section 15 of the Constitution. There is nothing in Section 15 which attenuates the absolute freedom of the courts to decree in terms of the Constitution. Nothing in Section 15 obliges the courts to make their decrees subservient to religious law.

Section 15 contains provisions relating to "Freedom of religion, belief and opinion". But such freedom is not unfettered. It is encumbered with other provisions of the Constitution. On a variety of issues, Muslims are denied the freedom to practise their religion despite the 'freedom' principle enshrined in the Constitution. 'Freedom of Religion' does not have a literal application. It has a constitutional meaning.

Section 173 of the Constitution states: "The Constitutional Court, Supreme Court of Appeal and High Courts have the inherent power to protect and regulate their own process, and to develop common law, taking into account the interests of justice."

Section 39 (1) of the Constitution states:
"When interpreting the Bill of Rights, a court, tribunal or forum –
(a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom:
(b) must consider international law; and
(c) may consider foreign law.

(1) When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights."

Elaborating this constitutional concept of interpretation, Justice Moseneke of the Constitutional Court, explained:
"Courts are required not only to apply customary law but also to develop it. Section 39(2) of the Constitution makes plain that when a court embarks on the adaptation of customary law it must promote the spirit, purport and objects of the Bill of Rights.
The adaptation of customary law serves a number of important constitutional purposes. Firstly, this process would ensure that customary law, like statutory law or the common law, is brought into harmony with our supreme law and its values, and brought in line with international human rights standards. Secondly, the adaptation would salvage and free customary law from its stunted and deprived past. And lastly, it would fulfil and reaffirm the historically plural character of our legal system, which now sits under the umbrella of one controlling law – the Constitution."

The courts will interpret MMB or any Islamic precept in the light of the Constitution, not in the light of religion. The courts will utilize their right of interpretation to "salvage" the Shariah "from its stunted and deprived past". – Nauthubillah! MMB will make this a reality. In one case, the court said:
"It is one thing for the court to acknowledge the important role that religion plays in our public life. It is another to use religious doctrine as a source for interpreting the Constitution."
Thus, the jurisdiction of the courts cannot be made subservient to religion. On the contrary, it is the other way round. UUCSA has meaninglessly made a broad reference to Section 15 of the Constitution. The guidelines for interpretation of laws by courts have been clearly spelt out by Section 39 off the Constitution. By what stretch of imagination does UUCSA conclude that these constitutional guidelines can be overridden by religion?

(10) UUCSA states in its paper: "The following 3 Clauses have been deleted in the Bill, re-instated by UUCSA: Arbitration (Tahkim), Courts and Assessors, Unopposed Proceedings."

OUR COMMENT: Since these three provision which the earlier draft bill contained are diametrically in opposition to the Constitution, and stand no chance of being accepted, the Minister of Justice arbitrarily deleted them. Now UUCSA proposes their re-incorporation.

The deletion or inclusion of the three provisions which were in the previous draft bill, is irrelevant. All three provisions desired by UUCSA are Islamically corrupt, invalid (baatil), and in conflict with the constitution as well, hence the Minister of Justice had no option other than to expurgate them.

A secular court has no wilaayat (jurisdiction) over Muslims in terms of the Shariah. Decrees of talaaq, faskh, etc. issued by a secular court are baatil. We fail to understand how the UUCSA supporters of such Islamically corrupt and invalid provisions will ever be able to sleep with a clear conscience if couples pass their lives in zina as a consequence of submitting to faskh and talaaq decrees of a secular court. While they will be labouring under the massive illusion that their marriages have been 'islamically' dissolved, the reality will be that their Nikahs will remain intact and valid, hence any 'marriage' to another man will be baatil. The relationship will be adulterous and the offspring illegitimate.

By clothing the secular court with wilaayat which is baatil in the Shariah, the perpetrators are

guilty of kufr, for the Qur'aan Majeed rejects the wilaayat of non-Muslims over Muslims. It matters not if the secular court hands down a decree conforming to the Shariah. Such decree will simply not be valid. It will be in the same category as a man issuing talaaq to a strange woman who is not his wife.

As much as the drafters of the Court and Tahkeem provisions had attempted to portray these provisions with Islamic hues, they were constrained to include the following:
"Provided that in urgent matters and in cases of an application under Rule 43 of the High Court Rules, the matter may be determined by a non-Muslim judge sitting without assessors." (Emphasis ours).

In the earlier draft bill from which the kufr Court and Tahkeem provisions were deleted, a vain attempt was made to present the secular courts as being Islamic by the stratagem of Muslim judges and Muslim assessors. Firstly, this perfunctory portrayal is evaporated into oblivion by the aforementioned provision which allows for a non-Muslim judge without even Muslim assessors to adjudicate and issue fatwas/decrees on issues of talaaq and faskh – decrees which are simply invalid according to the Shariah.

Secondly, even the Muslim secular judge is compulsorily fettered to the kufr Constitution. He is bound to interpret any Shar'i issue in the light of the Constitution. Thirdly, his decree can be appealed, hence the relevant provision in the earlier draft bill states:
"Any decision of the court shall be subject to appeal to the Supreme Court of Appeal in accordance with the applicable Rules of Court…."

Besides the above samples of kufr extracted from the previous bill, the entire Section dealing with courts and tahkeem is cluttered with haraam and kufr. Yet UUCSA deems it appropriate to request for re-incorporation of the corrupt provisions. But we suppose it does not matter since the entire current bill is cluttered with haraam and kufr. Complementing it with some more kufr will really not matter. The words of the Shakespearian murderous character Macbeth could be aptly applied to UUCSA's attitude of desensitization which has abolished the Shar'i concept of kufr from their minds. Reflecting on his insane orgy of murder, whether he should repent and reform or not, Macbeth said: "To come back would be as tedious as to go over."(or words to this effect). In other words, he was in the middle of a river of blood – the blood of all the persons he had murdered. Whether he goes forward to reach the other bank or return to the first bank. It will be the same. He will have to swim through the same amount of blood. Following the same deception in which Macbeth was entrapped, UUCSA feels compelled to plod along with kufr – kufr compounded with kufr in which it is wallowing with its MMB. Whether it wades backwards or forwards in the river of kufr, it appears just as tedious. But this is a satanic deception which prevented Macbeth from repenting and reforming, and so it appears UUCSA is entrapped in the cauldron of MMB kufr.

While UUCSA has concerned itself with some cosmetic amendments and making perfunctory suggestions, it has in entirety ignored the many provisions of kufr which render the bill beyond redemption. No amount of restructuring the bill can ever make it compliant with the Shariah. The following are the provisions which are in direct conflict with the Shariah:

(a) Section 3 grants equal status in every respect to the wife whereas this is tantamount to a flagrant rejection of the Qur'aan and Sunnah which elevate the man higher than the woman. According to the Qur'aan Majeed:

* A man's status is higher than a woman's
* Men are the rulers of women
* The testimony of two women equals the testimony of one male.
* Women do not have the right of Talaaq
* Women have to remain in Iddat on divorce or death of husband, but not men.
* A women's share of inheritance is generally half the share of a man.
* The husband has the right to lightly beat his wife for her gross disobedience
* A woman should have a male Wali to contract her marriage
* A man is allowed to marry up to four women.

There are numerous other rules in the Sunnah which unequivocally place women in subservience to their husbands. All these rules of the Qur'aan and Sunnah unequivocally rebut the 'equal status' provision. Since this provision is in negation of the Qur'aan and Sunnah, it is palpable kufr.

(b) The provision for resolving disputes between the husband and the wife is in conflict with the Shariah.

(c) Section 5 which contains the provisions for the validity of Muslim marriages is 90% corrupt, haraam and kufr. In terms of the Shaafi' Math-hab, the Nikah according to MMB is not valid since it makes no provision for the Wali to contract the Nikah. Minus the Wali, the relationship will be an adulterous one. Just this one Fardh requirement of the imperative need for the Wali negates the equality status provision.

(d) Permission of the cabinet minister/court is necessary for a second marriage.

(e) Marrying in contravention of MMB carries a fine of R20,000. The following draconian kufr provision, provides a good idea of the nature of MMB:

"A husband who concludes a further Muslim marriage while he is already married, without the permission of the court, in contravention of subsection (6), is guilty of an offence and liable on conviction to a fine not exceeding R20,000."

The husband is criminalized for availing himself of his Qur'aanic right, but this husband is allowed by MMB to commit adultery with any number of women and to sire illegitimate offspring. It did not occur to UUCSA to effect any amendment in this regard.

While UUCSA refuses to acknowledge a man's inviolable, unfettered Qur'anic right to marry without kuffaar court permission, it does by implication accept a man's constitutional right to commit adultery, hence MMB provides no sanctions for this abomination. Not surprising at all. We are dealing with MMB.

(f) Under 18 year olds may marry only if the court grants permission. A 'valid Muslim marriage' may not be contracted under MMB by under 18 year old adults.

(g) If a marriage officer registers a valid Shar'i Nikah in contravention of the provisions of MMB, will be liable for a fine of R20,000.

(h) Anyone who facilitates a marriage and who 'prevents' (discourages, etc.) the spouses from MMB or who does not inform them about MMB procedures regardless of him not being a marriage officer, can be fined R20,000 or sent to jail. See Section 8 (12) of MMB. No parent, no Imaam and no Maulana may inform the prospective couple of the evils of MMB. A year's jail sentence awaits him.

(i) A court may not cancel the civil marriage registration without the husband first issuing Talaaq. Consider this brutal example: Zaid, out of ignorance, had registered his marriage in community of property. This matrimonial regime does not allow the Muslim's estate to be distributed according to the Shariah's Law of Inheritance. After realizing the kufr implications of this registration, Zaid applies to court for cancellation of the civil registration. According to MMB, the court must first satisfy itself that Zaid had issued a Shar'i Talaaq to his wife. The Nikah must first be terminated; Zaid must first divorce his beloved wife, end his happy marriage and ruin the future of his children – only then should the court cancel the haraam civil registration. This is MMB in its prime.

(j) The kuffaar court according to MMB MUST interpret the Qur'aan to determine whether Zaid qualifies to marry a second wife. If in the opinion of Judge John who is guided by the ethos, spirit and letter of the kufr Constitution, Zaid does not qualify according to the Qur'aan for a second marriage, then Judge John must not allow him to enter into Nikah with Zubaidah, but he may commit zina with her. The meaning of Qur'aanic equality between spouses is left to the interpretation of Judge John. This is MMB which UUCSA supports with its body and soul. See Section 8 (7) (a) of MMB.

(k) The entire Law of Islam pertaining to Talaaq, Faskh, etc. is firmly placed under the control of the secular courts. Judge John will decree Talaaq and Faskh and interpret as he deems fit the rules of Nafqah (maintenance), Hadhaanah (custody), etc., etc.

(l) If the wife disputes the validity her husband's Talaaq Baa-in (Irrevocable Talaaq), the Talaaq will not be registered nor be considered valid.

(m) A husband who does not register the Talaaq he had issued is liable for a fine of R20,000.

(n) Talaaq according to MMB will be valid only when the court issues a decree dissolving the marriage.

(o) Application for Faskh according to the Shariah is only made by the wife. But according to MMB, a husband too can apply to the secular court for Faskh. In view of a man's right to issue Talaaq to end the marriage, this provision is absurd and laughable.

(p) MMB provides for the haraam usurpation and distribution of a man's assets when divorce takes place. MMB grants the secular court the full right to decide on the division of the assets of the husband when he divorces his wife. According to Allah's Law, division of assets is not a

consequence of Talaaq. MMB flagrantly submits Talaaq to the secular Divorce Act. All the consequences of divorce as provided for in the secular Divorce Act are extended to Talaaq.

(q) MMB grants the Cabinet Minister or anyone appointed by him/her "to make regulations relating to any matter that is required or permitted to be prescribed in terms of this (MMB) Act."

(r) In addition to the R20,000 fines for several 'offences' already specified, MMB grants the Minister the following draconian power:
"Any regulation made under subsection (1) may provide that any person who contravenes a provision thereof or fails to comply therewith is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year."

UUCSA is ominously silent on this myriad of haraam and kufr irregularities which makes up the document called MMB. It has suggested some cosmetic changes while not even alluding to all these draconian provisions of kufr. MMB is in fact another cult which is violently in conflict with the Shariah. But UUCSA supports it. In its paper, UUCSA states:

"Certain clauses are un-Islamic – Undue encumbrances – Omission of certain laws – Lack of adequate safeguards – Withdraw from process if final version is untenable."

Even UUCSA's 'final version' will be hopelessly corrupt and in diametric conflict with the Shariah. Judging from the type of cosmetic changes UUCSA has suggested, and its total blindness regarding the major kufr flaws of the bill, it is 110% certain that the 'final version' can never be compliant with the Shariah. Of crucial importance is the non-Muslim court which will have all the power to issue decrees. This is simply not tenable. It is totally unacceptable to Islam. The court has absolutely no wilaayat, and this is a non-negotiable ABSOLUTE.

There is absolutely no hope for the reformation of MMB. Every Muslim is under Shar'i obligation to protest and to inform the Minister of Justice of his objection and dissociation from MMB. Send your objection to the following address:

The Minister of Justice & Constitutional Development,
c/o Mr. T.N. Matibe,
Private Bag X81,
Pretoria
0001
Fax 086 648 7766
e-mail: TMatibe@justice.gov.za

SMS your objection to the Minister of Justice:

SMS the words: MMB I REJECT IT
to 32015
Sms's are charged at R1.00

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