

Attorney Aslam Mayat-Should The Fatwa be Retracted?

Written by Administrator

Friday, 12 August 2011 19:05 - Last Updated Friday, 12 August 2011 19:09

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ATTORNEY ASLAM MAYAT ? CLARIFICATION

QUESTION: Subsequent to The Majlis having issued a Fatwa of Kufr on attorney Aslam Mayat of Durban, the Jamiatul Ulama KZN issued a “Clarification” which exonerates the attorney from Kufr. According to the Jamiat, attorney Aslam Mayat has “emphatically stated that he accepts the Qur’aan and Sunnah to be immutable.” Is it now not the duty of The Majlis to issue a retraction of its Kufr Fatwa?

ANSWER

Retraction of an erroneous view/fatwa is obligatory when the error is established. A person who refuses to retract his error, especially an error of the grave proportions of a Fatwa of Kufr, is Shaitaan incarnate. If our error is established, there shall not be the slightest hesitation nor procrastination in issuing a Retraction. However, we have not erred in our Fatwa. The issue is far from resolved in terms of the Shariah.

Our Fatwa is based on FACTS provided by Advocate Saleem Khan who had circulated his letter publicly to a number of Ulama. We have no reason to believe that Advocate Saleem Khan had circulated falsehood or had attributed false statements to attorney Aslam Mayat. If it could be established that Advocate Saleem Khan had attributed false statements to attorney Mayat, only then will it be proper for us to rescind (not retract) the Fatwa which is based on facts which have hitherto not been challenged or refuted by either attorney Aslam Mayat or the Jamiat. It is not sufficient for attorney Aslam Mayat to say that he accepts the Qur’aan and Sunnah to be immutable. This statement must be accompanied by an unequivocal retraction of the views of kufr which he had expressed.

According to Advocate Saleem Khan, the following are the statements of attorney Aslam Mayat:

- (1) “You know that I am not enamoured with Purdah meetings, but I personally am satisfied in this meeting Munira was a full participant and in fact played an integral role.”
- (2) “Advocate Khan said that the lawyers should not be permitted to change Shariah, of which the Ulema were the sole guardians. Advocate Motala said that it was a fallacy that Amal would want to pronounce on shariah and Amal had no intention of changing shariah.” Commenting on these statements, attorney Aslam Mayat said:
“I respectfully disagree with the Learned Advocates Khan and Motala... From the MPL debacle, and in particular the divergence of views regarding “the right” of the husband to take a further wife, I have come to realise that it is possible to have different but valid interpretations of what a particular verse of the Quran means. Verses can even become abrogated by subsequent

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verses, etc.”

(3) “At the end of the day the essence of the point is that for Amal to be a party to, or even condone such conduct by the husband which so clearly offends against the SA Constitution, is in my humble opinion, a part that Amal should exercise great caution before going down on it. Before Amal embarks on such a frolic I would expect thoughtful and reflective persons to carefully analyse and deliberate over it.” (Underlining ours – The Majlis)

(4) “Of course Amal could take the contrary view that the above literature does not represent true Islamic Law, and want to chart an alternative brand of Shariah in a nonaligned panchayat committee...”

These statements which Advocate Saleem Khan has attributed to attorney Aslam Mayat are impregnated with KUFR which expels a man from the fold of Islam. The conspicuous averments and implications of kufr are:

(a) Rejection of Hijaab which is an injunction established by Absolute Qur’aanic and Hadith Nusooos.

(b) Secular attorneys have the right to change the Shariah by way of their form of interpretation.

(c) The underlined words, viz., “such conduct” refer to the Qur’aanic permission granted to the husband to ‘beat’ his outrageously disobedient wife. Attorney Aslam in denigration of this Qur’aanic verse describes it disdainfully with the terms “such conduct”. Then he commits a greater act of kufr with his averment that this “such conduct” which the Qur’aan allows is offensive to the SA Constitution. He has clearly placed the Constitution of South Africa above the Qur’aan Majeed. Not only has he bestowed a higher pedestal to the Constitution, he has in fact lamentably insulted the Qur’aan Majeed with these terms and classification, viz., that the said Qur’aanic aayat is offensive to the SA Constitution.

On this presumed kufr basis, attorney Aslam Mayat has urged Amal to refrain from “such a frolic” (another insult to the Qur’aan – The Majlis). In essence he has urged Amal not to subscribe to the Qur’aanic aayat which permits the husband to mete out punishment to his disobedient wife.

(d) Attorney Aslam then commits another extremely grave act of kufr by advocating the abrogation of Islam. He urges Amal “to chart an alternative brand of Shariah” – a new ‘shariah’, different and apart from the existing immutable fourteen century old Shariah – the Qur’aan and the Sunnah. Islam and the Shariah are synonymous. These are not different concepts.

Neither the Jamiat nor any other Aalim who is an Aalim of Islam, can have a different view regarding the kufr nature of attorney Aslam Mayat’s statements and their consequences.

A Retraction could be validly issued by us only if any of the following acts transpires:

(i) Advocate Saleem Khan admits that the statements which he has attributed to attorney Aslam Mayat are indeed false.

(ii) Attorney Aslam Mayat rejects these statements and denies having made them

(iii) Attorney Aslam accepts having made these statements, but realizes his grievous error, retracts them, repents and renews his Imaan.

In the event of (i) we shall rescind the Fatwa of Kufr, not retract it (there is a difference between rescission and retraction), and severely reprimand Advocate Saleem Khan.

In the event of (ii) we shall rescind the Fatwa.

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In the event of (iii), we shall rescind the Fatwa.

In none of the cases can we retract the Fatwa in view of it being based on FACTS supplied to us. The Fatwa could only be rescinded and attorney Mayat's Imaan proclaimed. May Allah Ta'ala guide us all and save our Imaan from the hazards of our own nafsani evils and the snares and deceptions of shaitaan.