

Cape Town Ahmadiyya Court Case 1982-1985

A presentation compiled by Zahid Aziz



Some of us outside the court building in Cape Town, November 1985

For full details, visit: www.ahmadiyya.org/sa-case

From the Holy Quran

- Say: Who gives you sustenance from the heavens and the earth? Say: Allah. And surely we or you are on a right way or in manifest error.
- Say: You will not be asked of what we are guilty, nor shall we be asked of what you do.
- Say: Our Lord will gather us together, then He will judge between us with truth. And He is the Best Judge, the Knower.
 - The Holy Quran, 34:24-26

قُلْ مَنْ يَرْزُقُكُمْ مِنَ السَّمَوَاتِ
وَالْأَرْضِ قُلِ اللَّهُ وَإِنَّا أَوْ إِيَّاكُمْ
لَعَلَىٰ هُدًى أَوْ فِي ضَلَالٍ مُّبِينٍ ﴿٢٤﴾
قُلْ لَّا تُسْأَلُونَ عَمَّا أَجْرَمْنَا وَلَا نُسْأَلُ
عَمَّا تَعْمَلُونَ ﴿٢٥﴾
قُلْ يَجْمَعُ بَيْنَنَا رَبُّنَا ثُمَّ يَفْتَحُ بَيْنَنَا
بِالْحَقِّ وَهُوَ الْفَتَّاحُ الْعَلِيمُ ﴿٢٦﴾

How legal action started

- Branch of our Lahore Ahmadiyya Jamaat had existed in Cape Town since the 1950s.
- Our members faced severe opposition from the *Ulama*. They were declared *kafir*. *Ulama* told Muslims to boycott and ostracise Ahmadis.
- *Ulama* complained to the government that Ahmadis should not be allowed to build a mosque or Islamic centre.

Legal action

- Our Jamaat started legal proceedings against the *Ulama's* body the *Muslim Judicial Council* (MJC), with the claim that:
 - We are Muslims. We believe in the fundamentals of Islam.
 - They are defaming us by calling us kafir, and they are denying our right of entry to mosques and burial in the Muslim graveyard.
- We sought court order to stop MJC doing this.
- 'Plaintiffs' were the Anjuman and one individual Mr Ismail Peck (who died in July 2010).

Opponents' propaganda

- *Opponents' allegation:* Ahmadis are asking a non-Muslim court to determine that they are Muslims.
- *Answer:* We are claiming to be Muslims and asking the court to restrain *Ulama* from oppressing us.
- Issue here is *not* which interpretation of Islam is correct, or who is a 'good' Muslim, or who is on the right path.
- Issue here is which person, according to Islam, should be treated as a Muslim by other Muslims.

Reply by MJC

- In pre-trial submissions,* MJC replied that just accepting the fundamentals is **not sufficient**. There are other beliefs necessary for Muslims, and Ahmadis don't accept them (e.g. finality of prophethood).
- So we asked: “give particulars of all such doctrines and principles to qualify a person as a Muslim”.

*These are exchanges of documents between the attorneys of the two parties outlining their case before any court hearing.

MJC can't define 'Muslim'

- MJC replied:
 - For the purposes of this case, you don't need to know what are *all* the beliefs required of a Muslim.
 - All you need to know is that your beliefs disqualify you to be Muslims.
- They don't want to, or they are unable to, define who is a Muslim, but can only define who is not a Muslim!

Anjuman not entitled to sue

- MJC claimed that, legally, an Anjuman is a body, not a person, and a body can't sue for defamation.
- In 1983 the court accepted MJC's stand. Anjuman was discontinued from suing. But Ismail Peck was allowed to continue.
- It was Allah's doing, that when case was first filed, our Jamaat added Mr Peck's name. Otherwise the case would have finished at this point.

MJC keep changing submission

- After accepting that they would argue from Islam that Ahmadis are non-Muslim, the MJC submitted a Special Plea in December 1983, which was:
 - These religious and doctrinal issues are purely ecclesiastical in nature, and it is not appropriate for a Secular Court to attempt to resolve these questions.
 - These issues and disputes have been determined in favour of the MJC's stand by various international Islamic bodies.
 - The court should not attempt to resolve these matters but should accept and apply the decisions of these bodies.

Explanation for late change

- This special plea was a late change and the MJC had to explain to court the reason.
 - “it was not appreciated just how complex and difficult the doctrinal issues in this case were. This only became apparent when a detailed consultation was recently held by me with certain international experts”
 - “the trial on the issues arising will involve many weeks of extremely complex expert testimony”
 - “If the Special Plea is heard separately and upheld, it will be unnecessary to lead all this complex and voluminous evidence and there will be a dramatic saving in costs and time which will otherwise be consumed in the Courts.”

MJC's reasons for late change rejected

- The judge did not accept these reasons as valid. He wrote:
 - “In any event defendants, in order to be able to plead, must have known and appreciated what the issues were that are involved in this case and what their answers were to the allegations made by the plaintiffs. A perusal of the defendants' request for particulars to the particulars of claim, for further and better particulars thereto, and of the replies to such requests [by plaintiffs] makes that clear.”

MJC helped by Ulama from Pakistan

- MJC submitted following list of experts, along with their qualifications, who were going to testify that Ahmadis are non-Muslims:
- **1. Moulana Muhammad Zafar Ahmed Ansari:**
 - Former member of the National Assembly of Pakistan. Founder member of the Constitutional Council of the Muslim World League. ... Member of the Council of Islamic Ideology Chairman of the Constitution Commission appointed by the President of Pakistan
- **2. Mr Justice (Retired) Mohammad Afzal Cheema:**
 - Member of the National Assembly of Pakistan 1962–1965 ... Former acting speaker of the National Assembly 1962–1965. *Acting President of the Islamic Republic of Pakistan*, May 1963. Judge of the West Pakistan and Lahore High Courts. Federal Law Secretary of the Government of Pakistan, appointed 14 May 1973. Elevated as a Judge of the Supreme Court of Pakistan, October 1974
- **3. Maulana Justice Muhammad Taqi Usmani:**
 - Member of the Constitution Commission established by the President of Pakistan. ... Presently Judge of the Supreme Court of Pakistan (Shariat Bench). ...

List continued

- **4. Professor Khurshid Ahmad:**
 - Former Minister of Planning and Statistics in the Federal Cabinet of Pakistan. Former Deputy Chairman of the Planning Commission of Pakistan. Former Director-General and present Chairman of the Islamic Foundation, Leicester, United Kingdom.
- **5. Dr Sayed Riazul Hasan Gilani:**
 - Senior Lecturer higher Islamic Law, Punjab University. Senior Advisor High Court and Supreme Court of Pakistan. Standing Counsel of the Government of Pakistan in the Federal Shariat Court and in the Shariat Appeal Bench of the Supreme Court.
- **6. Professor Mehmood Ahmad Ghazi:**
 - Associate professor, Islamic Research Institute, Islamabad, Pakistan. ... Juris consultant of the Federal Shariat Court. Associate member of the Constitution Commission appointed by the President of Pakistan.

Hafiz Sher Mohammad



Ahmadi member Mr Ismail Peck (left) and Hafiz Sher Muhammad, a witness from Pakistan, who gave historical and theological evidence in the Cape Town Supreme Court in support of Mr Peck's application for an interdict against the Muslim Judicial Council (MJC).



Hafiz Sher Mohammad sahib was sent to Cape Town to assist our Jamaat's lawyers in preparing the case. He went in 1983, 1984 and 1985.

These photos are from 1985.

A group photo



Hafiz Sher Mohammad, seated centre,
Zahid Aziz, seated left,
with local members and friends in Cape Town.

Trial set for November 1984

- Hafiz sahib was to appear as expert witness on our Jamaat's behalf.
- He had been writing documents on various issues, such as Who is a Muslim according to Islam, the beliefs of Hazrat Mirza sahib, his claims, replies to opponents' allegations against him etc.
- Most of these were translated into English by me, and I used to send the translations to him in Cape Town by post.
- In October 1984 I (Zahid Aziz) went to Cape Town as his interpreter.
- We used to meet our advocates daily, explain the religious issues to them and go through Hafiz sahib's evidence.

MJC raise special questions

- At the start of the hearing on 6 November 1984, the MJC raised “preliminary questions” and asked them to be determined first, “separately from the merits of this action”:
 - “whether or not the Court should decline to hear the merits of the dispute as to whether Ahmadis are Muslims or not”
 - They argued: “a secular court could not adjudicate on religious issues, and that it should accept the decisions of the MJC and the international Islamic religious bodies”.
 - They also argued that it is an “academic” case, which falls outside the legitimate purposes for which the process of the court is designed.

November 1984 hearing

- The hearing lasted three days on the above points.
- The judge reserved his judgment.
- You can see how *desperate* the MJC and their Ulama were to prevent the question “whether Ahmadis are Muslims or not according to Islam” being discussed in court.

Result of 1984 hearing

- In July 1985, the judge issued his judgment and rejected their plea. He wrote:
 - “Our Courts have never lacked the courage to deal with doctrinal disputes where this has been necessary, nor have they shirked an obligation to do so when faced therewith.”
 - “Indeed it appears to me that the resolution of the question whether Ahmadis are Muslims or not may well be more fairly and dispassionately decided by a secular Court such as this than by some other tribunal composed of theologians. Certainly when regard is had to the considerable number of experts to be called and the considerable volume of testimony to be given by them, this Court may well be the most suitable forum to deal with them and with their evidence”.

November 1985 hearings

- The date **Tuesday 5 November 1985** was now set for the trial to resume, and for the plaintiff and the defendants to present the religious case on the issue of whether Ahmadis are Muslims or not.
- MJC stated they would fight the case in court.
- I joined Hafiz sahib in Cape Town in early October.
- We made full and intensive preparation for the case during that month.
- We spent many days in discussions with our advocates to clarify to them the religious issues.

November 1985 hearings

- Hafiz sahib had prepared expert testimony on a wide range of vital topics, such as the definition of a Muslim, beliefs of Ahmadis, claims of Hazrat Mirza Ghulam Ahmad, replies to allegations against him.
- This material is based on references to a large number of sources, classical and modern, and in order to present it as legal evidence in court he had to have the original sources ready at hand.
- This was an enormous practical problem, but the Maulana managed to transport with him to Cape Town almost a library of books and journals.

What happened when trial opened

- A very large court room with an upper gallery was packed with members of the Muslim public, predominantly supporters of the defendants who had been instructed by their religious leaders to attend.
- As the proceedings opened, their attorney said:
 - His clients could not accept “the jurisdiction of this honourable court to determine who is a Muslim”.
 - They had “canvassed the opinions of the international Muslim community” on this point.
 - They had found the “common point of view throughout the Islamic world”, which he termed an *ijma*, that Muslims “cannot accept a determination from a non-Muslim judge as to who is a Muslim”.
 - He claimed that the defendants had received messages from “Muslim organisations throughout the world ... representing hundreds of millions of people” expressing this view.
 - [See first page of transcript of proceedings.](#)

What happened when trial opened

- The counsel for the defence then announced that “the defendants wish no longer to participate in these proceedings ... they withdraw their defence in this matter”.
- The defendants, their counsel, and their supporters in the public then all walked out of the court room, never to return. Their supporters had been instructed to attend, just for the purpose of staging the walk-out.
- For the rest of the trial, while Hafiz sahib gave evidence, the local religious leaders had given strict instructions to their followers not to attend the proceedings.

Withdrawal

- From *The Argus*, 6 November 1985

COURTS

Withdrawal in case over Ahmadi sect

Staff Reporter

A CIVIL case to decide whether the Ahmadi sect is Muslim is proceeding without the defendants — the Muslim Judicial Council — who have withdrawn as it feels a non-Muslim court cannot decide the matter.

Mr Ismail Peck, a member of the Ahmadi movement, has applied for an interdict to prevent the Muslim Judicial Council, the trustees of the Muslim Sect (Aghanaf) and the present trustees of the Malay portion of Vygekraal Cemetery in Athlone, from printing defamatory matter about him.

The court has been asked to determine whether he is Muslim and is thus entitled to Muslim rights and privileges of attending mosque and being buried in a Muslim cemetery.

Opinion

Mr S Desai, for the defendants, said there were reservations over whether a non-Muslim court had the jurisdiction to decide if someone was Muslim.

International opinion had been canvassed and 71 telexes and telegrams had arrived from countries such as India, Pakistan, Japan and France from organisations representing “hundreds of millions” of Muslims.

Consensus was that the court had no jurisdiction and a decision would not be binding on the consciences of Muslims.

Packed

The Supreme Court was packed yesterday with about 300 spectators, who left the court when the defence withdrew.

While the case proceeded they waited on the steps outside the building.

Mr E L King SC, for Mr Peck, said a series of courts in various countries had deliberated the issue and “almost without exception” found that the Ahmadi movement was Muslim.

There were certain differences in beliefs, but these were not fundamental to the faith, he said.

Hafiz Sher Muhammad, a witness from Pakistan, is giving historical and theological evidence in the trial.

The court heard that Hafiz Muhammad could recite the entire Koran.

Mr Justice D M Williamson is presiding. Mr King and Mr C B Prest, instructed by M R Kahn and Associates, appear for Mr Peck. Mr Desai, for the defendants, is instructed by Mr Hoosain Mohamed.

Our evidence

- If defendants withdraw, the plaintiff is not obliged to present a full case, but wins the claim.
- We decided to present our case fully, so that the mass of evidence may be given an open hearing and placed permanently on public record.
- Our counsel opened the case and called Maulana Hafiz Sher Mohammad to the witness stand. (I had been sworn in as his interpreter.)

Hafiz sahib's evidence

- The judge asked Hafiz sahib a few questions to assess his knowledge.
- After that, Hafiz sahib went through his prepared evidence.
- On each topic, a document was submitted to the court, and then Hafiz sahib introduced the topic and went through the document in oral testimony.
- The judge frequently interposed to question him on points and conclusions arising out of the evidence.
- I interpreted for Hafiz sahib.

Evidence on 21 topics

1. Who is a Muslim?
2. Beliefs of Hazrat Mirza Ghulam Ahmad and his followers
3. Issue of Khatam an-nabiyyin
4. Revelation in Islam
5. Revelation and Hazrat Mirza's claim
6. Terms nabi and rasul for non-prophets
7. Claims of eminent Muslim saints
8. Muslim saints and sufis in India
9. Terms and concepts of Tasawwuf
10. Clarification of Correction of an Error
11. No claim to prophethood — Summary
12. Titles Mary and Messiah for Muslims
13. Claim to be Messiah not against Islam
14. Fulfilment of Prophecies
15. Dignity of Jesus
16. Birth of Jesus
17. Jihad
18. Fatwas of Kufr
19. Attitude towards other Muslims
20. Tributes to Hazrat Mirza Ghulam Ahmad
21. Tributes to the Lahore Ahmadiyya

The evidence can be read online at: www.ahmadiyya.org/sa-case/evidence/contents.htm

This evidence is a gist of the knowledge contained in Lahore Ahmadiyya literature.

Hafiz sahib had written each document by hand in Urdu. I translated it by hand on paper, and it was then typed.

The Judgment

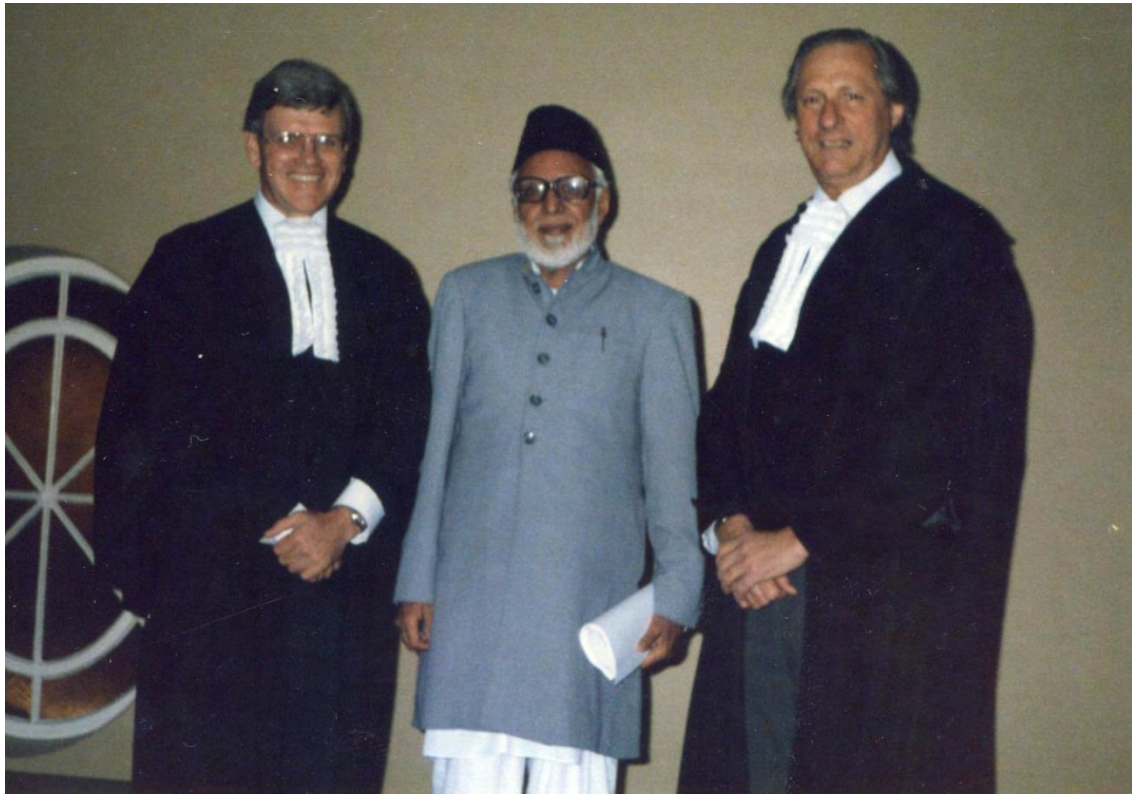
- [Judgment](#) was given on Wednesday 20 November 1985. The judge summarised all the religious and legal evidence presented, and on the basis of that he granted the plaintiff all the orders that were sought.
- “As against all three Defendants, **Second Plaintiff is declared to be a Muslim** and as such to be entitled to all such rights and privileges as pertain to Muslims.”
 - [See original, typed judgment, first and last page.](#)

Judge's opinion on Hafiz sahib

- *From the Judgment:*
- “Second plaintiff placed before this court the evidence of one Hafiz Sher Mohammad, an Ahmadi theologian and missionary and a scholar and a person learned in matters concerning the Muslim faith and religious practices. I am satisfied that he is an expert in this field and able to speak with authority on it.”
- “In my estimation the witness is a man of great learning and integrity. He gave evidence before me for some six days and created an extremely favourable impression. I accept his evidence without hesitation.”

Hafiz sahib with our advocates

- *Left: Mr Colin Prest, junior counsel. Right: Mr E.L. King, senior counsel.*



A group of us at the court

- Ismail Peck is on the left of the photo.



How news was reported in Pakistan

- For several days the dignitaries from Pakistan remain silent about the judgment.
- **Then they made statements that:**
 - A biased Jewish judge has declared Qadianis to be Muslims.
 - They boycotted the case because “justice could not be expected from this Jewish judge”.
 - “the Jewish judge recorded the statement of a Qadiani named Sher Mohammad”.
 - [See images of these news reports from *Daily Jang*](#)

My reply

- I sent a letter to *Jang* to correct these false statements. But they did not publish my letter.
- I complained to the ‘Press Council’ of England, and *Jang* were forced to publish my letter.
- But *Jang* added a note from the Editor saying that “*according to Zahid Aziz*” some facts were misrepresented!

Was the judge a Jew?

- The judge at the 1984 hearings was Jewish, who ruled that the court could determine the issue if Ahmadis are Muslims or not.
- For the November 1985 hearing, the judge was changed to D.M. Williamson, a Catholic Christian.
- The MJC withdrew in the court of Justice Williamson.
- But their advisors in Pakistan did not know that the judge had been changed!
- We can say: Allah knew that they were going to allege that the judge was a Jew, so He caused him to be changed!

Judgment published in Pakistan

- This Judgment was published in *Pakistan Supreme Court Cases, March 1986*.
- [See scanned images here.](#)
- After the authorities in Pakistan found out, this issue was withdrawn on the instructions of the government of President Zia-ul-Haq and was republished without this judgment.
- However, copies of the original issue exist.

The Ahmadiyya Case

*FAMOUS RELIGIOUS COURT CASE IN CAPE TOWN
BETWEEN
LAHORE AHMADIYYA MUSLIMS
AND SUNNI MUSLIM RELIGIOUS BODIES*

CASE HISTORY, JUDGMENT AND EVIDENCE

Chief Contributor:

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1987

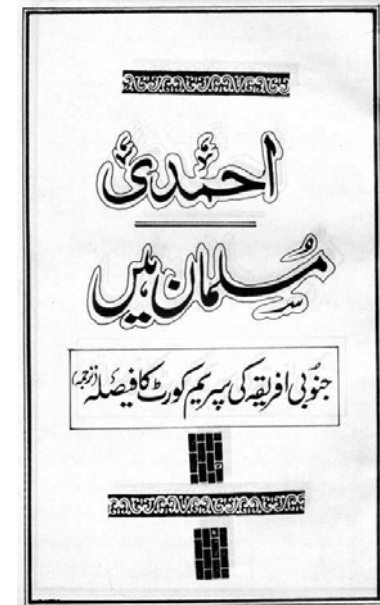
Ahmadiyya Anjuman Isha'at Islam Lahore Inc.
36911 Walnut Street, Newark, CA 94560 U.S.A.

Book published in 1987
fully documenting the
case.

It is also online at:

www.ahmadiyya.org/sa-case/intro.htm

Urdu translation of Judgment:



Falsehood told even now

- *Nawa-i Waqt*, Lahore, 31st May 2008
- Interview with a Maulana Mufti Zubair Bayat, President of the *Jami'at-ul-Ulama* of the Natal province in South Africa. The Maulana was interviewed by a *Nawa-i Waqt* correspondent during the Maulana's visit to Makka where he was performing *Umra*.

Complete falsehood

س.....جنوبی افریقہ میں قادیانی کتنی تعداد میں ہیں اور
فتنہ قادیانیت کی سرکوبی کے لئے وہاں کے مسلمانوں کی
کیا حکمت عملی رہی ہے؟
ج.....کچھ سال پہلے جنوبی افریقہ میں قادیانیت کے
خلاف مسلمانوں نے ہائی کورٹ میں مقدمہ دائر کیا تھا اور
واضح کیا کہ جماعت احمدیہ اسلامی فرقہ نہیں ہے یہ ایک نیا
مذہب ہے مسلمانوں سے ان کا کوئی تعلق نہیں بلکہ قادیانی
غیر مسلم گروہ ہے۔ جنوبی افریقہ کی ہائی کورٹ نے
قادیانیوں کے عقائد کو پڑھا اور مسلمانوں کے جذبات کو
محسوس کرتے ہوئے قادیانیوں کو کافر قرار دے کر
مسلمانوں کے حق میں فیصلہ دیا۔ مسلمانوں کی طرف سے
مقدمہ کی پیروی میں پاکستان سے علماء کرام مولانا منظور
احمد چنیوٹی وغیرہ نے بڑا اہم کردار ادا کیا۔ اگر جنوبی افریقہ
میں کوئی قادیانی ہے تو برائے نام چند افراد ہوں گے۔

I wrote a reply to this. [See reply here.](#)

Hafiz Sher Mohammad sahib

- In this presentation there is not time to mention all the services and sacrifices of Hafiz Sher Mohammad sahib.
- And this is just the first case, for which he went to Cape Town in 1983, 1984 and 1985.
- For the second case (not covered here), he went there in 1987 and 1988.
- I have written about his sacrifices. [See article here.](#)

Closing Prayers

- “Our Lord, decide between us and our people with truth, and You are the Best of Deciders.” 7:89

رَبَّنَا افْتَحْ بَيْنَنَا وَبَيْنَ قَوْمِنَا
يَا حَقِّ وَأَنْتَ خَيْرُ الْفَاتِحِينَ ﴿٨٩﴾

For full details, visit: www.ahmadiyya.org/sa-case/intro.htm

Supporting material referred to in earlier slides

- **Slide 14:** *Cape Sunday Times*, 17 November 1985
- **Slide 22:** First page of transcript of proceedings.
- **Slide 28:** First and last page of original typed Court Judgment.
- **Slide 32:** News as misreported in *Daily Jang*.
- **Slide 35:** Judgment as published in Pakistan Supreme Court Cases, March 1986.
- **Slide 38:** Reply sent to *Nawa-i Waqt* for misstatements in interview.
- **Slide 39:** Article about the life of Hafiz Sher Mohammad.

Ref. Slide 14:
Cape Sunday Times,
17 November 1985

[See next page](#)

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My anguish over burial row — Peck

AHMADI member Mr Ismail Peck told the Supreme Court in Cape Town this week of the anguish he suffered when his mother died and he wasn't allowed to bury her.

He had to cede this right to his uncle — and, he hadn't inherited a cent from his mother, he claimed.

During his testimony, Mr Peck said he had been branded a *kafir* (non-believer).

"My world came to an end. Even my life has been threatened," he said.

Mr Peck, an Athlone Post Office worker and member of the Ahmadiyya Anjuman Ish'at Islam, Lahore, was giving evidence in support of his claim to being a Muslim and entitled to the rights enjoyed by them.

Offended

Mr Peck told Mr Justice D M Williamson he "felt very disturbed" and "deeply offended" when he was first called a *kafir* by other Muslims.

Before citing the five tenets of Islam, in which he claimed he believed, Mr Peck said: "I was born a Muslim, and I am still a Muslim."

He told the court his father, brother, and two other members of his family had been buried at Vygekraal.

"I also want to be buried there," he said in reply to a question by Mr

E L King SC, his counsel. Softly-spoken Mr Peck, 57, told the court, among other things, that:

- His Ahmadi beliefs were "an issue at his mother's deathbed;

- After she died, he was forced to hand over to his religious right to bury his mother to his uncle;

- He "cried hysterically" when he was asked to do this a few hours before his mother's burial, and "for the sake of peace" he eventually agreed;

- He argued with his uncle that they should "believe what they believe, and that he should

be free to do the same; and,

- Relatives disinherited him after he had been left money in his mother's will and "until today I have not received a cent" when he refused to renounce his beliefs.

Mr Peck recalled the day his mother became ill and sent for him "because she wanted to speak to me".

Mr Peck said: "My mother was lying on the bed and the whole family was there.

"She kept quiet... and I knew it was the Ahmadi issue.

"I told her: 'Mother, please don't worry. I will bury you as a Sunni', and reassured her that I was a Muslim."

He said that, a few months later, his mother died and he was telephoned at work by a relative to fetch her body from Groote Schuur Hos-

pital.

Mr Peck said he took his mother's body to The Strand at about midnight, left to fetch his wife in Cape Town, and when he arrived back at 3.00 am he was told his brother-in-law and his uncle wanted to speak to him.

He said he knew it was the "Ahmadi issue".

Started to cry

Mr Peck said his wife's brother told him they did not want any trouble, and asked him to hand over his authority to his uncle.

"I started crying and said they should believe what they wanted to believe."

Mr Peck said "the whole room was upset" and, eventually, "for the sake of peace", he handed over his authority to his uncle.

He said his mother had said in her will that

they "should pay him out by the night".

"They disinherited me and until now I have not received a cent," said Mr Peck.

During the past three years, Mr Peck has been involved in a costly legal battle with the Muslim Judicial Council (MJC) for recognition of his Muslim rights.

He is asking the court for an order allowing him to attend the Long Street Mosque, and be buried in the Muslim section of the Vygekraal cemetery in Athlone, Cape Town.

Withdrew

Mr Peck is also asking the court for an order preventing the MJC from spreading allegedly defamatory statements about himself.

The MJC withdrew from the court case last week, claiming the court of law was not the place to settle the dispute.

On Friday, judgment was reserved until this week.



Ahmadi member Mr Ismail Peck (left) and Hafiz Sher Muhammad, a witness from Pakistan, who gave historical and theological evidence in the Cape Town Supreme Court in support of Mr Peck's application for an interdict against the Muslim Judicial Council (MJC).

UDF man 'killed by



UDF activist Mr Hassan Solomon, who has been missing for over three months.

A YOUNG United Democratic Front activist and youth programme organiser, who vanished without trace over three months ago, is thought now by his family and lawyers to have been killed by a right-wing hit squad.

Mr Hassan Solomon, 23, an employee of Youth Forum — a project started by the inter-church group, Diakonia — disappeared on the night of August 11 after telling his family he was travelling with friends to King

William's Town to attend the funeral of lawyer and UDF supporter Mrs Victoria Mxenge.

Mrs Mxenge was shot and axed to death her outside her Durban home in August. No-one has yet been arrested in connection with the incident.

Extensive inquiries by the family have revealed Mr Solomon did not attend Mrs Mxenge's funeral and nobody saw him leave his Durban flat, either alone or with friends on the night he

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Ref. Slide 22:

First page of transcript of
proceedings.

[See next page](#)

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IN THE SUPREME COURT OF SOUTH AFRICA(CAPE OF GOOD HOPE PROVINCIAL DIVISION)CASE NUMBER: 10058/82DATE: 5.11.1985

In the matter between:

1. AHMADIYYA ANJUMAN ISHAATI - ISLAM LAHORE (SA) 1st Plaintiff
2. ISMAIL PECK 2nd Plaintiff

and

THE MUSLIM JUDICIAL COUNCIL (CAPE) AND OTHERS Defendant

MR. KING: May it please your Lordship, I appear with my (10)
learned friend, Mr. Prest, for the plaintiff.

MR. DESAI: May it please your Lordship, I appear on behalf of
the defendants, my Lord. My Lord, prior to the commencement
of the proceedings, I wish to indicate to the Court at this
stage the attitude of the defendants. At the outset I wish to
state that no disrespect is intended to the Court. I merely
intend to express to the Court the strongly felt opinions of
the defendants in this matter. I express them at the outset
because they've a direct bearing on the further proceedings in
this matter. My Lord, this case has a long history and (20)
throughout these proceedings the defendants, by way of excep-
tions and various other interpleaders, have attempted to avert
a trial, simply because that reservations as to the jurisdic-
tion in their eyes of this honourable Court to determine who
is a Muslim. The relief sort - the declarator sought is a
determination by this Court as to the Ahmadis being regarded
as Muslims. All the other ancillary relief sought has a
direct bearing on the determination of that question. The
matters were brought to finality - or the issue was more
clearly - clearly chrystallised in a judgment of your
Lordship's brother, Mr. Justice Berman, in a judgment deli- (30)

Ref. Slide 28:

First and last page of original
typed Court Judgment.

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IN THE SUPREME COURT OF SOUTH AFRICA

CAPE OF GOOD HOPE PROVINCIAL DIVISION

CASE NUMBER: 10058/82

DATE: 20.11.1985.

In the matter between:

AHMADIYYA ANJUMAN-ISLAM LAHORE (SA)

Plaintiffs

ISMAIL PECK

and

THE MUSLIM JUDICIAL COUNCIL & OTHERS

Defendants

WILLIAMSON J: Originally two plaintiffs sued in this action. (10
They were, as first plaintiff the Ahmadiyya Anjuman-Islam
Lahore (SA), a voluntary association of Muslims constituted in terms of a
written constitution whose members are commonly known and referred to as
Ahmadis and second plaintiff one Ismail Peck. Ismail Peck is a member
of the first plaintiff association and sued in his individual
capacity as well as in his capacity as a member of such asso-
ciation.

The defendants are, firstly, the Muslim Judicial Council
(Cape) described as a voluntary association of certain Sheiks,
Immams and theologians; secondly, the trustees of a mosque (20
situated at the corner of Long and Dorp Streets, Cape Town, to
which I shall refer as the mosque and, thirdly, the trustees
of the Malay portion of the Vygekraal Cemetery, Athlone,
Cape.

Briefly stated the plaintiffs' cause of action is that
there are certain fundamental doctrines and principles upon
which Islam is founded; that the plaintiffs accept these fun-
damental doctrines and principles and are Muslims; that all
mosques are dedicated to Allah and every Muslim, irrespective
of sect or movement, has the right of admittance to any mosque
no matter where it is situated for the purpose of prayer and (30

- (1) As against all three Defendants, Second Plaintiff is declared to be a Muslim and as such to be entitled to all such rights and privileges as pertain to Muslims.
- (2) As against First Defendant, First Defendant is interdicted from disseminating, publishing or otherwise propagating false, harmful, malicious and defamatory matter of and concerning members of the Ahmadīyya Anjuman Ashati Islam Lahore South Africa, including Second Plaintiff, to wit, that such members are non-Muslims, disbelievers, kafir, apostates, murtads, that they reject the finality of the Prophethood of Muhammad, that they are non-believers and as such are to be denied admittance to mosques and to Muslim burial grounds, and that marriage with an Ahmadi is prohibited by Muslim law. (10)
- (3) As against the Second Defendant, Second Plaintiff is declared to be entitled to admittance to the Malay mosque situate at the corner of Long and Dorp Streets, Cape Town, held under Deed of Transfer dated 11th February 1881, and to all rights and privileges therein pertaining to Muslims generally. (20)
- (4) As against the Third Defendant, Second Plaintiff is declared to be entitled to the same rights of burial in the Malay portion of the Vygekraal Cemetery, held under Deed of Transfer No. 3, dated 18th December, 1908, as pertaining to all Muslims.
- (5) As against all three Defendants: Costs of suit on the attorney and client scale, which costs shall include
- (i) Costs of the hearing on 23rd February 1984,
 - (ii) the wasted trial costs occasioned by the postponement of the trial which was to have taken place on 1st November, 1984, (30)

Ref. Slide 32:

News as misreported in
Daily Jang.

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پاکستان کے ہر روز نامہ کے زیادہ
 باقاعدہ تصدیق شدہ اشاعت
 ABC
 CERTIFIED

THE DAILY JANG LAHORE ***

روزنامہ جنگ لاہور

۱۲ صفحات

منبر

آوارہ اربیع الاول ۱۴۰۶ھ، ۲۷ دسمبر ۱۹۸۵ء

۲۰۲۲

۵۰ پیسے

۱۱۲۰ فون

۲۰۲۲

۲۰۲۲

۲۰۲۲

یہ مسئلہ پورے عالم اسلام کا ہے اور عدالت کو اس کے سماعت کا اختیار نہیں تھا۔ جنوبی افریقہ کی حکومت نے فیصلہ مسترد کیا تو پورا عالم اسلام تحریک چلائے گا، مولانا محمد یوسف لکھنوی قادیانیوں اور اسرائیل کے خصوصی تعلقات کے پیش نظر یہی سچ سے کیا توقع ہو سکتی تھی، ظفر احمد انصاری کیا یہودی حج عیسائیوں کو جو بنی اسرائیل کے تمام انبیاء کو مانتے ہیں یہودی تسلیم کر سکتا ہے، چودھری اسماعیل اور دوسرے وکلاء کا بیان

قادیانیوں کے حق میں فیصلہ متعصب یہودی حج نے کیا

عالمی عدالت انصاف کے حج کی حیثیت سے ظفر اللہ خان نے جنوبی افریقہ کے حق میں فیصلہ دیا تھا، قادیانی گواہ کے بیان پر کوئی جرح نہیں ہوئی، ریاض الحسن گیلانی یہ فیصلہ اتنا ہی قابل نفرت ہے جتنی جنوبی افریقہ کی نسل پرست حکومت، مصری علماء قادیانی کے سے پوری طرہ باخبر نہیں۔ ضیاء القاسمی

جنوبی افریقہ کی عدالت کے فیصلے نے ثابت کر دیا ہے کہ قادیانیوں کو غیر مسلموں کی سی پرستوں کا حاصل ہے، زاہد الرشیدی لاہور (میگزین رپورٹر) ذہنی اتارنی جنرل پنجاب سید ریاض الحسن گیلانی نے نسلی امتیاز رکھنے والی حکومت کی یہودی عدالت کے قادیانیوں کو مسلمان قرار دینے کے فیصلے پر تبصرہ کرتے ہوئے کہا کہ اسرائیلی کوئی حیثیت نہیں کیونکہ یہ ایک طرف فیصلہ ہے۔ جو مسلمانوں کے ہائیکٹ کے بعد ایک قادیانی کے بیان کو بنیاد بنا کر دیا گیا ہے۔ سید ریاض الحسن گیلانی اس پینل میں شامل تھے جو کیپ ٹاؤن کی اس یہودی عدالت میں مسلمانوں کی طرف سے مقدمہ لڑنے گیا تھا۔ پس منظر بیان کرتے ہوئے کہا کہ ہم ایک ایسے ملک کے مسلمانوں کی مدد کے لئے جا رہے تھے جہاں آج کے دشمنی کے دور میں بھی گوروں نے وہاں کی آبادی کو نسلی امتیاز کی بنیاد پر غلام بنا رکھا ہے۔ اور وہ ایسٹلک ہے جس کے حق میں قادیانیوں کے سرکردہ رہنما ظفر اللہ خان نے

بتقاضی ۸ ۴ ۲۰

بقیہ :- قادیانی فیصلہ

فیصلہ دیا تھا۔ جب وہ عالمی عدالت انصاف کے جج اور نسلی امتیاز کے بارے میں مقدمہ ان کے درود پیش ہوا تھا۔ انہوں نے کہا کہ کیپ جو جنوبی افریقہ کے چار صوبوں میں سے ایک ہے اس کے دار الحکومت کیپ ٹاؤن کی عدالت جسے وہ سپریم کورٹ کہتے ہیں دراصل وہ صوبے کی عدالت ہے۔ جیسے ہمارے ہاں ہائیکورٹ ہے۔ ان کی سپریم کورٹ کے اوپر ایک اور عدالت ہے جسے وہ اپیل کورٹ کہتے ہیں۔ قادیانیوں نے وہاں کی سپریم کورٹ میں درخواست گزاروں کی انہیں

- (۱) غیر مسلم نہ کہا جائے۔
- (۲) مسلمان اپنے قبرستانوں میں ہمیں اپنے مردے دفن کرنے سے منع نہ کریں۔ اور
- (۳) مسلمان اپنی مساجد میں ہمارا داخلہ بند نہ کریں۔

اس مقدمہ کی سماعت چار مرحلوں پر عیسائی جج کے سامنے ہوئی۔ ہم نے پہلے مرحلے میں حکم امتناعی مانگا جو دے دیا گیا۔ اس کے بعد کئی چیزیں کی باری آئی۔ اور ہماری درخواست خارج کر دی گئی۔ ۱۹۸۳ء میں جب مقدمے کی باقاعدہ سماعت ہوئی تو جج کو تبدیل کر دیا گیا اور ایک متعصب یہودی جج مقرر کر دیا گیا۔ اس مرحلے پر ہم نے کہا کہ سب سے پہلے عدالت کے دائرہ اختیار پر بحث ہونی چاہئے۔ کیونکہ مسلمانوں کا مسئلہ ہے اور کوئی سکالر یا غیر مسلم اس مسئلے کو حل کرنے کی اہلیت اور اختیار نہیں رکھتا۔ یہودی جج نے یہ بات تسلیم کرنے سے انکار کر دیا۔ اس مرحلے پر ہم نے اس یہودی عدالت کے پنچاکٹ کا پروگرام بنایا۔ کیپ ٹاؤن کی مسلم جوڈیشل کونسل نے موقف اختیار کیا چونکہ اس یہودی جج سے انصاف کی توقع نہیں لہذا ہم پنچاکٹ کرتے ہیں۔ ۸ نومبر کو یہودی جج نے ایک قادیانی شیعہ کا بیان لکھ بند کیا جس میں اس نے کہا کہ ”ہم ختم نبوت کے منکر نہیں“ ہم محمد رسول اللہ صلی اللہ علیہ وسلم کو آخری نبی مانتے ہیں“ قادیانی گواہ کے اس بیان کو نبی خدا کر یہودی جج نے ایک طرف فیصلہ دے دیا۔ کیونکہ قادیانی گواہ کے بیان پر نہ تو کوئی جرح ہوئی اور نہ ہی یہ مسلمانوں کی موجودگی میں ہوا۔ اس لئے اس فیصلے کی کوئی حیثیت نہیں۔

انٹرنیشنل مجلس تحفظ ختم نبوت کے سیکرٹری جنرل مولانا ضیاء اللہ تعالیٰ نے جنوبی افریقہ کی عدالت کی طرف سے کئے جانے والے فیصلے کو انصاف کی دنیا کا بدترین فیصلہ قرار دیا ہے۔ اور کہا ہے کہ اگرچہ مسلمانوں نے فیصلہ دینے والی عدالت کا پنچاکٹ کیا تھا اور یہ محض دن میں شو پر بنی فیصلہ ہے تاہم یہ فیصلہ اسی قدر قابل نفرت ہے جتنی قابل نفرت جنوبی افریقہ کی نسلی امتیاز رکھنے والی حکومت انہوں نے کہا کہ اس سلسلے میں انٹرنیشنل مجلس تحفظ ختم نبوت کا ہنگامی اجلاس طلب کرنے کے انتظامات کئے جا رہے ہیں۔

مرکزی مجلس عمل تحفظ ختم نبوت کے سیکرٹری اطلاعات مولانا زاہد الراشدی نے کہا ہے کہ قادیانیوں کو مسلمان قرار دینے کے بارے میں جنوبی افریقہ کی سپریم کورٹ کے غیر مسلم جج کے حالیہ فیصلہ کی کوئی دینی یا اخلاقی حیثیت نہیں ہے کیونکہ کسی شخص یا گروہ کو مسلمان یا غیر مسلم قرار دینا خالصتاً مسلم علماء کا کام ہے اور دنیا بھر کے تمام مکتاتب فکر کے مسلم علماء کی طرف سے قادیانیوں کو غیر مسلم قرار دینے کے متفقہ فیصلہ کے بعد ایک غیر مسلم عدالت کی طرف سے انہیں مسلمان قرار دینے پر اصرار صرفاً جانبداری اور مسلمانوں کے دینی امور میں مداخلت ہے۔

ممتاز عالم دین اور جنوبی افریقہ میں قادیانیوں اور مسلمانوں کے درمیان قانونی تنازعہ میں مسلمانوں کی امداد کیلئے جانے والے پاکستانی مسلم باہرین کے وفد کے رکن مولانا محمد یوسف ملہ صیوانی نے کہا کہ کیپ ٹاؤن کی عدالت نے قادیانیوں کے حق میں ایک طرفہ فیصلہ بنا کر پورے عالم اسلام کے مسلمانوں کے جذبات کو مجروح کیا ہے۔ مسلمان اس فیصلے کو براہ کرم تسلیم نہیں کریں گے اور اگر جنوبی افریقہ کی حکومت نے اس فیصلے کو تسلیم نہیں کیا تو مسئلہ کرنے کی کوشش کی تو پورا عالم اسلام تحریک چلائے گا۔ انہوں نے بتایا کہ لاہوری قادیانیوں کی جانب سے کیپ ٹاؤن کی مقامی عدالت میں درخواست کی تھی کہ انہیں مسلمانوں کے قبرستان میں تدفین اور مسلمانوں کی مسجد میں نماز ادا کرنے کی اجازت دی جائے۔ اس درخواست کے بعد مرزا انہوں نے عدالت سے حکم امتناعی حاصل کر لیا لیکن مولانا ظفر احمد انصاری کی قیادت میں پاکستانی علماء اور قانونی ماہرین کے وفد نے کیپ ٹاؤن جاکر حکم امتناعی ختم کروا دیا تھا۔ بعد ازاں مقدمہ سماعت کیلئے پیش کیا گیا تو پاکستان کے گیارہ علماء پر مشتمل وفد نے کیپ ٹاؤن جاکر اپنے وکیل محمد اسماعیل کے ذریعے عدالت میں یہ موقف پیش کیا کہ عدالت کو اس مقدمے کا اختیار نہیں ہے کیونکہ مسئلہ مقامی نہیں بلکہ پورے عالم اسلام کا ہے۔

عالم اسلام متفقہ طور پر قادیانیوں کو غیر مسلم قرار دیتا ہے لہذا یہ مقدمہ خارج کر دیا جائے مولانا ملہ صیوانی نے بتایا کہ لاہوری مرزا انہوں کو یہ پیش کش بھی تھی کہ وہ اپنا مقدمہ کسی ایسی عالمی عدالت میں پیش کریں جس میں مسلمان جج بھی ہو لیکن انہوں نے یہ دلیل تسلیم نہیں کی مسلمانوں کے وکیل کے دلائل عدالت نے مانا کہ جنوبی افریقہ کی عدالت میں اس امر کا فیصلہ بنا دیا جائے گا کہ عدالت کو سماعت کا اختیار ہے یا نہیں لیکن جون ۱۹۸۵ء میں عدالت نے فیصلہ سنایا کہ اس مقدمہ کی سماعت کا اختیار حاصل ہے اور مسلمان علماء و فقہاء سے بہتر فیصلہ کر سکتے ہیں کیونکہ عدالت کی نظر میں یہ فیصلہ غیر متعصبانہ اور غیر جانبدارانہ ہو گا اس بد کیپ ٹاؤن کی مسلم کونسل نے دنیا بھر کے معروف دارالافتاء سے فتویٰ مانے ان کا متفقہ فیصلہ یہ تھا کہ کسی غیر مسلم عدالت کا فیصلہ مسلمانوں کیلئے قابل قبول نہیں ہے اور قرآن مجید نے غیر مسلموں کے پاس فیصلہ لے جانے کو طاعت کے پاس فیصلہ لے جانے کا قرار دیا ہے یہ فتویٰ عدالت میں پیش کرنے کے بعد یہ بات واضح کر دی گئی کہ مسلمان اس مقدمہ کی کارروائی میں حصہ نہیں لیں گے۔

انہوں نے کہا کہ کیپ ٹاؤن میں قادیانیوں کی مجموعی تعداد تقریباً بارہ ہزار ہے اگر قادیانیوں نے یہودی جج کے فیصلے کو نبی بنا کر مسلمانوں کی مساجد میں داخل ہونے کی کوشش کی تو ہمیں اٹھا کر باہر پھینک دیا جائے گا اور اگر انہوں نے اپنے مردے مسلمانوں کے قبرستانوں میں دفن کئے تو ہمیں بھی نکال کر پھینک دیا جائے گا۔ انہوں نے کہا کہ مسلمان قادیانیوں کو اسلامی برادری میں شامل کرنے کیلئے ہرگز تیار نہیں ہوں گے۔ اور اس مقدمہ کیلئے ہری سے بڑی قربانی سے دریغ نہیں کیا جائے گا۔

پاکستان دستوری کمیشن کے سابق سربراہ مولانا ظفر احمد انصاری نے کہا ہے کہ غیر مسلم عدالت کو کسی کے مسلمان ہونے یا نہ ہونے کے بارے میں فیصلہ دینے کا کوئی حق نہیں۔ انہوں نے کہا کہ اس یہودی جج کے ایک طرفہ فیصلے سے قادیانی مسلمان نہیں ہو جائیں گے اور نہ ہی اس فیصلے کا دنیا کے کسی مسلمان پر اثر ہو گا جتنی کہ جنوبی افریقہ کے مسلمان بھی قادیانیوں کو بدستور غیر مسلم ہی تصور کرتے رہیں گے۔ البتہ اس فیصلے سے جنوبی افریقہ میں قادیانیوں اور مسلمانوں کے درمیان مستقل فتنہ و فساد کی بنیاد پڑ گئی ہے۔ انہوں نے کہا کہ کم از کم پورے عالم اسلام کی تمام تنظیموں نے قادیانیوں کو متفقہ طور پر غیر مسلم قرار دیا تھا۔ انہوں نے کہا کہ قادیانیوں کے اسرائیل اور یہودیوں کے ساتھ خصوصی تعلقات کے پیش نظر اس یہودی جج سے اور کیا توقع اور امید کی جاسکتی تھی۔

عالمی تنظیم مسلم باہرین قانون کے رہنما محمد اسماعیل قریشی میاں شیر عالم ملک و قادیانہ تسلیم میاں ابوالفتح اور حیدر اعوان کی جانب سے جنوبی افریقہ کی عدالت پر تنقید کرتے ہوئے کہا گیا ہے کہ جنوبی افریقہ کی نسل پرست لاڈنی حکومت کی عدالت نے جس کا بیج مسز ویم سن ایک یہودی نژاد شخص ہے نے قادیانی مسئلہ پر غیر متعصبانہ فیصلہ دے کر ساری امت مسلمہ کی دل آزاری کی ہے۔ یہ فیصلہ قانونی اور منطقی لحاظ سے بھی غیر متعصبانہ ہے پہلے تو اس عدالت کو ایسے دینی معاملہ کے بارے میں فیصلہ دینے ہی کا کوئی اختیار نہیں تھا۔ بالقرض اگر اس کے اختیارات کو تسلیم بھی کر لیا جائے تو کیا یہی یہودی نژاد جج عیسائیوں کو جو جی اسرائیل کے تمام اٹھیا کو اپنا پیغمبر مانتے ہیں یہودی قرار دینے کی جرات کر سکتا ہے یا پھر کوئی عیسائی حکومت یا عیسائی عدالت یا خود عیسائی مسلمانوں کو جو حضرت عیسیٰ علیہ السلام کی نبوت پر ایمان رکھتے ہیں اپنا پیغمبر تسلیم کرنے کیلئے تیار ہیں۔

نج یہودی نہیں عیسائی تھے

مگر جسے؟ جنوبی افریقہ میں احمدیوں سے متعلق مقدمہ کی بازگشت گزشتہ دنوں اخبارات میں کافی رہی۔ برطانیہ اور پاکستان سے علماء کرام اس مقدمے کے بارے میں اپنے نقطہ نظر کا برملا اظہار کیا۔ لیکن اس مقدمے کے سلسلے میں کچھ حقائق غلط طور پر بتائے جا رہے ہیں جن کی تصحیح کرنا یہ ضروری سمجھتا ہوں، کیونکہ میں خود اس مقدمے میں شریک تھا، اس مقدمے میں بار بار لفظ قادیانی استعمال کیا گیا، جو غلط ہے، کیونکہ مدعی صرف احمدیہ انجمن اشاعت اسلام لاہور (جنوبی افریقہ شاخ) تھی۔ جو لاہوری احمدی کے نام سے مشہور ہے۔ دوسری بات یہ کہ نج و ولیم سن یہودی نہیں بلکہ رومن کیتھولک عیسائی تھے۔ تاہم گزشتہ سال کے مقدمے میں نج ضرور یہودی تھے۔ لیکن اس کے باوجود اس مقدمے کا بائیکاٹ نہیں کیا گیا، اس لئے اس مرتبہ مقدمے کے بائیکاٹ کی یہ وجہ قرار دینا درست نہیں کہ چونکہ مقدمے کا نتیجہ یہودی تھا، اس لئے مقدمے کا بائیکاٹ کیا گیا، یہ کوئی نئی بات نہیں، بلکہ ماضی میں بھی غیر مسلم عدالتیں مسلمانوں کے مقدمات کا فیصلہ کرتی رہی ہیں، بھارت، جنوبی افریقہ اور دیگر غیر مسلم ممالک میں مسلمانوں کے مقدمات کی سماعت غیر مسلم عدالتیں ہی کرتی ہیں، علاوہ ازیں یہ کہنا بھی غلط ہے کہ اس مقدمے سے قبل زبیر نے عدالت نے احمدیوں کے خلاف فیصلہ دیتے ہوئے مسلمانوں کا یہ تو تسلیم کیا تھا، کہ احمدی غیر مسلم ہیں۔ جبکہ حقیقت یہ ہے کہ اس مقدمے کی تین سال کی کارروائی میں کبھی بھی عدالت نے احمدیوں کے خلاف اس نوعیت کا فیصلہ نہیں دیا۔ (ڈاکٹر زاہد عزیز)

(۲۴، السواٹر کر لینٹ۔ بریکوٹ، فرسٹنگھم)

نوٹ:، جنوبی افریقہ کی عدالت کے فیصلے پر مختلف مکاتیب تک کے علماء کرام اور دیگر حضرات نے اپنی رائے کا اظہار کیا تھا جو اخبار میں شامل اشاعت ہوتی رہی۔ لیکن بعد میں یہ مسلم صرف اس لئے بند کر دیا گیا، کیونکہ اس سے تنازعہ میں شدت پیدا ہونے کا احتمال تھا، لیکن ڈاکٹر زاہد عزیز کا مندرجہ بالا امر اسلئے صرف اس لئے شائع کیا جا رہا ہے کہ ان کے بقول عدالتی فیصلے کی خبر میں بعض حقائق مستحکم کر دیئے گئے اور وہ ان کی تصحیح کرنا چاہتے ہیں، اسس سلم میں مزید بحث کی اشاعت سے ہم معذرت خواہ ہیں (ادارہ)

Ref. Slide 35:

Judgment as published in Pakistan Supreme Court Cases, March 1986.

Here we show the journal cover page, and the opening and closing pages of the Judgment from it.

All the pages of the Judgment in this journal are available online through the link: www.ahmadiyya.org/sa-case/intro.htm

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PAKISTAN SUPREME COURT CASES

[P.S.C]

VOL. V | MARCH, 1986 | PART 3

A Monthly Journal of Cases decided by the Supreme Court of Pakistan, Supreme Court of Azad Jammu and Kashmir, Federal Shariat Court, Supreme Court of India, Supreme Court of Bangladesh, House of Lords, Privy Council and Supreme Court of Cyprus

PROMPT REPORTING

Decisions delivered on 20-2-1986, 5-2-1986, 2-2-1986, 26-1-1986, 22-1-1986 and 20-1-1986 are reported in this part-See Pp. 400, 307, 333, 331, 405 and 332.

IMPORTANT DECISION

- * Income-tax Act (XI of 1922).—High Court jurisdiction—Jurisdiction of High Court only, advisory in nature. SC (Pak) 314
- * Sind Rented Premises Ordinance (XVII of 1979)—Petition pay Rent to mutwalli of Waqf Property—mutwalli filed ejection petition—mutwalli fall within the definition of landlord. SC (Pak) 332
- * Ahmads—Mirza Ghulam Ahmad was "wali or Mujadid" and not the Prophet Ahmadi are Muslims. SC (South Africa) 352
- * Industrial Relations Ordinance (XXIII of 1969).—Revisional Power of Labour—Appellate Tribunal—Revisional Jurisdiction is supervisory in nature in order to enable the Tribunal which is at the apex of the hierarchy of Tribunals set up by the Industrial Relations Ordinance to examine the legality or propriety of proceedings taken or on order passed by subordinate Tribunals and there is no bar to exercise the power on application of a party. SC (Pak) 391

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Pakistan Supreme Court Cases

1, Turner Road (Near High Court), Lahore

continue to deposit future rent regularly in Court and any failure in this regard shall entail their eviction even before six months from today."

Petition dismissed.

1985 PSC 342

[Supreme Court of South Africa]

Prezent : Williamson J.

AHMADIYYA ANJUMAN-A-ISLAM LAHORE (SA)
and another

versus

THE MUSLIM JUDICIAL COUNCIL and others

Case No. 10058 of 1982 decided on 20th November, 1985.

(a) Ahmadis (Lahori)

—Held : Ahmadis are Muslims.

(Para 67, 68, 83)

(b) Ahmadis

—Mirza Ghulam Ahmad—Founder of Ahmadi sect of Muslim—
Held : Mirza Ghulam Ahmad was Wali" or "Mujadid" and not the prophet.
(Para. 27)

(c) Ahmadis (Lahori)

—Muslim Mosque—Admittance of—Entitlement of—Ahmadis (Lahori)
—Held : Ahmadis (Lahori) are entitled to admittance to Muslim mosque
held under deed of Transfer dated 11-2-1881.
(Para. 83)

(d) Ahmadis (Lahori)

—Muslim cemetery—Burial—Right of—Ahmadi (Lahori)—Held :
Ahmadi (Lahori) has right of burial in Muslim cemetery as another Muslims
have.
(Para. 83)

(e) Ahmadis (Lahori)

—Muslims—Right of propagation against Ahmadis—Muslims restrained
from disseminating, Publishing or otherwise Propagating false, harmful
malicious and defamatory matter of and concerning members of the
Ahmadiyya Anjuman Ashati Islam Lahore South to wit, that such mem-
bers are non-Muslims disbelievers 'Kafir, apostates, murtads' that
they are non-believers.
(Para. 83)

(f) Ahmadis

—Founder of Ahmadi Sect—Claims of—Stated :—

- (i) He denied receiving *wahy nubuwwat* (Prophethood) and affirmed receiving *wahy wilayat* (sainthood).
- (ii) He denied the use of prophet (*nabi*) in its technical sense and affirmed the use of the term in its literal sense.
- (iii) He denied that the term *muhaddas* could be applied to him in its literal sense and affirmed that he was a *muhaddas* in the technical sense.

(iv) He denied being an actual or real prophet and affirmed being a metaphorical prophet.

(g) Supreme Court of South Africa

—Jurisdiction of—Dispute before Court whether Ahmadis are Muslims or not—Contention that decision as to Ahmadis are Muslims is a writ involve determination of a number of doctrinal and religious questions which are purely ecclesiastical in nature and in appropriate for a Secular Court to attempt to resolve such question—Repelled—Held: Courts of South Africa never lacked courage to deal with doctrinal dispute where some has been necessary nor have they shirked an obligation to do so when faced therewith. (Para. 8)

(h) Supreme Court Rules Act (South Africa)

—S. 19(1)(a) (iii)—Supreme Court—Jurisdiction of—Declaratory order—Question whether Ahmadis are Muslims or not—Held: Resolution of the question whether Ahmadis are Muslims or not may well be more fairly and dispassionately decided by a secular Court such as this than by some other tribunal composed of theologians. (Para. 8)

Long v. Bishop of Cape Town, 4 Searle 162; *Jan & others v. Ismail and others* 1866(5) Searle 102; *Hessen and others v. Daout*, 6 SC 372; *Behardien v. Intillah*, 6 CTR 41; *Du Toit and others v. Domingo*, 7 CTR 134; *Doble and others v. Salle and others*, 1900(7) SC 552; *Salle v. Connelly and others*, 1908 EDC 97; *Omar Raffie and others v. Behardien Jappie and another*, 1891(6) EDL 169; *Jamila and others v. African Congregational Church*, 1971(3) SA 836(d) at 840(E) and *Allen & others Nao v. Gibbs and others*, 1977(3) SA 212 SECLD; *Innes CJ in Siffman v. Krstel* 1909 TS 538; *Shenker Bros. v. Baster*, 1952(3) SA 655 AD *Greenberg JA* 670 (G); *Narastakath v. Parakkal* (1922) 45 Indian Law Reports Madras 926; *Muslims and Auo v. Marrikan*, Case No. 531/1925; *Hakim Khalil Ahmad and others v. Malik Israfil and Orders* 1917 Vol 37 *Indian Cases* (Patna High Court) P. 302 *St. Edward Chemler CJ and. Roe J.* 302/1917 Ind.; *Airyasha Keresht v. Hlsnatullah Koresht* /1972; Vol XXIV All Pakistan Legal Divisions Kar. P. 653. *Imdadally H Agha J. Queen Empress v. Remazan and others* (1885) ILR 7 All 462 *Asa Ullah v. Azim Ullah* (1889) 12 ILR 694 *Malik Ahmad v. Israfil* 1917 Ind. AIR (1955) All. 68; *Mulla on the Principles of the Muhammedan Law* (Pak Ed. 223/1980) and *Fyzee, Outlines of Muhammedan Law* pp 319; *In re Consistory of the Dutch Reformed Church, Cape Town* (1897) 13 SC 5, 9-10 and also *Honore The South African Law of Trust* (2nd ed) PP 36-37; *Noardien v. Moslem Cemetery Board* 1965(3) SA 174 (C); *Levy v. Moltke* 1934 BDL 296, 324; *SA Associated Newspapers Ltd. and another v. Estate Palsar* 1975(4) SA 787 (AD); *Knupfer v. London Express Newspaper Ltd.* (1944) 1 All ER 494 (HC) 497 8; *Levy v. Von Moltke* 1934 EDL 296, 315, and also *Gayley on Libel & Slander* (6th ed) P. 141, Note 30. ref.

D to of hearing : 20th November, 1985.

JUDGMENT

Wallamson, J.—Originally two plaintiffs sued in this action. They were, as first plaintiff the Ahmadiyya Anjuman-Islam Lahore (SA), a voluntary association of Muslims constituted in terms of a written constitution whose members are commonly known and referred to as Ahmadis and

second plaintiff one Ismail Peck. Ismail peck is a member of the first plaintiff association and sued in his individual capacity as well as in his capacity as a member of such association,

2. The defendants are, firstly, the Muslim Judicial Council (Cape) described as a voluntary association of certain Sheikhs, Imams and theologians; secondly, the trustees of a mosque situated at the corner of Long and Dorp Streets, Cape Town, to which I shall refer as the mosque and; thirdly, the trustees of the Malay portion of the vygekraal Cemetery, Athlone, Cape.

3. Briefly stated the plaintiffs' cause of action is that there are certain fundamental doctrines and principles upon which Islam is founded; that the plaintiffs accept these fundamental doctrines and principles and are Muslims; that all mosques are dedicated to Allah and every Muslim, irrespective of sect or movement, has the right of admittance to any mosque no matter where it is situated for the purpose of prayer and other religious functions and that the first defendant published certain false and defamatory matter of and concerning the plaintiffs, to wit, that all Ahmadis are non-Muslims and are apostates and disbelievers and as such should be denied admittance to all mosques and also should be denied the right to bury their dead in any Muslim cemetery.

4. As against the second defendant the plaintiffs allege that it wrongfully refused, despite requests, to concede the right of members of the first plaintiff and the right of second plaintiff to admittance to the mosque. This, they said, was contrary to certain conditions contained in an annexure to a deed of transfer passed on 11 February 1881.

5. As against the third defendant the plaintiffs allege that it refused to recognise the right of members of the first plaintiff to have their dead buried in the Malay portion of the Vygekraal Cemetery. This cemetery is held in terms of a deed of grant dated 18 December 1908. This refusal, so it is alleged, is contrary to the express terms of this deed of grant.

6. The plaintiffs, on the above-stated facts, claimed:

- (a) Against all three defendants an order declaring that members of the first plaintiff and second plaintiff are Muslims and as such are entitled to all rights and privileges as pertain to Muslims.
- (b) Against the first defendant an order interdicting it from disseminating, publishing or otherwise propagating the defamatory matter complained about.
- (c) Against second defendant an order declaring that members of the first plaintiff and the second plaintiff are entitled to admittance to the mosque and against the third defendant an order declaring that members of the first plaintiff and second plaintiff are entitled to the same rights of burial in the cemetery as pertain to all Muslims.

7. At an earlier stage in the proceedings defendants excepted to first plaintiff's claim against them on the ground that first plaintiff had no *locus standi* to bring such claims. The exception was upheld and the particulars of claim, in so far as they related to the first plaintiff, were set aside. Thereupon the action was continued by second plaintiff only.

72. He testified to the fact that in May 1982 the Movement applied for a welfare organisation number to enable them to raise money for an Islamic centre. This caused the shakhs to incite the Sunni Muslims against the Ahmadiyya movement. The pamphlets (copies of which are annexed to the pleadings) were printed and distributed amongst the Muslim community.

73. He said that he felt very disturbed and offended by this action. To quote his words ;—

"...my world came to an end"

He went on to refer to certain personal incidents relating to the death of his mother and to his relationships with other Muslims and it is quite clear that the attitude taken by the Defendants has caused him deep hurt.

74. He went yet further and indicated that his very life had been threatened. For these reasons he was left with no alternative but to approach the Court. He was a manifestly truthful person and I accept his evidence.

75. The defamatory allegations complained of are that all Ahmadis are non-Muslims, apostates and disbelievers ; that they reject the finality of the Holy Prophet Muhammad ; that they are non-believers and as such are to be denied the right to bury their dead in any Muslim cemetery ; that all business and social intercourse (including marriage) with Ahmadis is prohibited ; and an exhortation to all Muslims to stand up and defend Islam against the Ahmadis (record pages 5, 6, 122, 123, 125—128 ;) publication is not in issue (record page 488) ; First Defendant, denying that the statements are defamatory, pleads a *bona fide* belief in the correctness of their statements and a right and duty to communicate same—*i. e.* a qualified privilege.

76. The *onus* of establishing the qualified privilege is on First Defendant—it has tendered no evidence in regard thereto.

77. To say of a Muslim that he is a non-Muslim and an apostate is the gravest possible defamation ; this has been testified to by the expert witness and Second Plaintiff has himself told the Court of the hurt which has been occasioned to him as a result thereof *Lavy v. Molke* 1934 EDL 296, 324 et seq.

78. Second Plaintiff is an Ahmadi, a member of a small group of only some 200 men, women and children in all in this country, and is clearly comprehended within defamation and entitled to seek the Court's protection in respect thereof. See *SA Associated Newspapers Ltd. and another v. Estate Pelsler* 1975 (4) SA 787 (AD) ; *Krupfer v. London Express Newspaper Ltd* (1944) 1 All ER 495 (HC) 497—8 ; *Lavy v. Von Molke* 1934 EDL 296, 315, and also *Gayley on Libel and Slander* (6th ed) p 141. No. 30.

79. Second Plaintiff does not seek damages ; merely an injunction against continued publication of such defamatory matter. Clearly he is entitled to such relief. In the result Second Plaintiff has proved that he is entitled to the various orders which he has claimed.

80. I turn next to consider the question of costs. Before Mr. Desai

and his clients withdrew from the Court, at the commencement of these proceedings Mr. King, who together with Mr. Prest appeared for the Second Plaintiff, gave formal notice to the Defendants that an order for attorney and client costs would be sought. It is contended that Defendants behaved un-reasonably and vexatiously in failing to communicate to the Court and to Second Plaintiff their intention to withdraw from the proceedings. Mr. Khan, Second Plaintiff's attorney, gave evidence as to his communication with Defendants. I accept his evidence. I am satisfied that in the light of the discussions between the attorneys, and the exchange of correspondence, in all probability the decision to withdraw had been taken some time ago, and for reasons best known to Defendants, this was kept secret until the actual moment of its announcement in Court. The letter of 21st October 1985 (Exhibit 24) from Defendant's attorneys is in my view a deliberately misleading document. In the light of the long history of the Defendants' strenuously conducted defence no one could have guessed what Defendants had in mind. Nor was the Court or the Second Plaintiff informed as to when the decision to withdraw had been taken, though the inference is clear that it probably was taken before the letter of 21st October was written.

81. The result of all this is that without doubt the Second Plaintiff has unnecessarily been put to considerable further expense in preparing for what would clearly have been a protracted and complicated trial. I view this conduct on the part of the Defendants with disfavour and it is in my opinion only just that in these circumstances I should order them to pay costs on the attorney and client scale in respect of the whole litigation.

82. I have considered whether I should award attorney and client costs only from a certain date but have decided against that course. The Defendants have not seen fit to explain why this decision, if it is indeed one of conscience, was not taken and communicated long ago. Summons was after all served more than three years ago, in October 1982, Mr. Khan also gave evidence on certain other aspects relating to costs which satisfied me as to the reasonableness of getting experts and an interpreter from overseas.

83. In the result I make the following order:—

- (1) As against all three Defendants, Second Plaintiff is declared to be a Muslim and as such to be entitled to all such rights and privileges as pertain to Muslims.
- (2) As against First Defendant, First Defendant is interdicted from disseminating, publishing or otherwise propagating false, harmful, malicious and defamatory matter of and concerning members of the Ahmediyya Anjuman Ashati Islam Lahore South Africa, including Second Plaintiff, to wit, that such members are non-Muslims, disbelievers, kafir, apostates, Murtads that they reject the finality of the Prophet-hood of Muhammad, that they are non-believers and as such are to be denied admittance to mosques and to Muslim burial grounds, and that marriage with an Ahmadi is prohibited by Muslim law.
- (3) As against the Second Defendant, Second Plaintiff is declared to be entitled to admittance to the Malay mosque situate at the

Ref. Slide 38:

Reply sent to *Nawa-i Waqt* for misstatements in interview.

[See next page](#)


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From Nawa-i-Waqt,
Lahore, 31st May 2008.

The page is not numbered
in the newspaper, but
must be number 20 as it
comes after number 19.

This interview is printed
in the lower half of the
page on the right hand
side.

Please see the passage
below that I have marked
by a red line.



میر تقی بون استاد انوالہ

اب تک کہتے تھے کہ مسلمانوں سے ہرگز
الحد القراءہ مارے ملک میں مختلف مذہبی تنظیموں
کی جدوجہد سے خصوصاً مسیحی بیعت کی دعوت پر
تین کروڑوں کی تعداد میں غیر مسلم و بنی اسلام میں داخل
ہوئے ہیں اور بعض تقابلی یہ تعداد دونوں پر مبنی تھی
یعنی جاری ہے اور ان میں مسلمانوں کے کردار و اطلاق
کامیاب سے زیادہ عمل نکلے۔
س۔ ڈنمارک کے میڈیا میں توہین آمیز مناظروں کی
دوبارہ اشاعت پر جنوبی افریقہ کے مسلمانوں نے اس
ناپاک جسارت کے خلاف کوئی احتجاج کیا؟

مولانا مفتی زبیر بیات کا تعلق جنوبی افریقہ کے شہر نال
کی ایک کاروباری اور مذہبی جمعی سے ہے۔ ایک عرصہ

جنوبی افریقہ کے مسلمان توہین آمیز خاکوں کے خلاف سراپا احتجاج ہیں

مولانا مفتی زبیر بیات کی نواسے وقت سے ہاٹ چیریت



ج۔ ڈنمارک کے اخبارات میں نبی کریم ﷺ کے
حوالے سے چھینے والے پنج آمیز خاکوں نے جہاں
عالم اسلام کے تمام مسلمانوں کو ایک حد سے دوچار
کیا وہاں جنوبی افریقہ کے مسلمانوں میں بھی غم و غصے کی
لہر دوڑ گئی اور مختلف موقعوں پر یورپی ملکوں خصوصاً
ڈنمارک کے خلاف شدید رد عمل کا اظہار کیا گیا جنوبی
افریقہ کے ہزاروں مسلمانوں نے احتجاجی جلسے جلوس
اور ریلیاں منعقد کیں۔ برٹ میڈیا اور ایکٹرا ٹیک میڈیا
پر تحفظ ناموس رسالت ﷺ کے حوالے سے علماء کرام
اور دانشوروں نے فوراً منہظر کرانے اور اس ناپاک
جسارت کے مرتکب عناصر کو یکسر کردار تک پہنچانے کے
لئے مطالبات پیش کئے اس کے علاوہ اقوام متحدہ اور
ڈنمارک کے سفارتخانہ و ڈنمارک حکومت کو مذمتی خطوط
ارسال کئے گئے۔
س۔ آپ کی شخصیت سے سب سے زیادہ متاثر ہیں؟
ج۔ میں سب سے زیادہ جس شخصیت سے متاثر ہوا
ہوں وہ نبی آخر الزمان حضرت محمد مصطفیٰ ﷺ کی
مبارک شخصیت ہے۔ آپ ﷺ کی تعلیمات کا خلاصہ
اخلاق کی سمجھل اور راہ سے بھگی ہوئی انسانیت کو راہ
مستقیم دکھانا ہے۔ رحمت للعالمین ﷺ کی سیرت پرورد
اور ہر زمانے کے لئے جس نے اس آداب کو علم و
ادب اور اخلاق کے ذریعے آراستہ کیا اور انسان میں
اخلاق و کردار کے جوہر پیدا کئے۔
س۔ مفتی صاحب آپ ہمارے قارئین کو کیا پیغام
دینا چاہتے ہیں؟
ج۔ نواسے وقت کے قارئین کو میرا کھیرا پیغام
یہ ہے کہ اسلامی تعلیمات کا مطالعہ اللہ کی لیاکرت اور
اس کی رحمتی میں جو رہنمائی لے کر اپنی زندگی کو ان سے
مطابقت و جاننے کی کوشش کریں۔

سے وہ جمعیت اہل علم نے نال کے صدر ہیں۔ گذشتہ
دونوں وہ بغرض عمر یہاں مکہ مکرمہ میں تشریف لائے تو
نواسے وقت کے ساتھ ان کی جو گفتگو ہوئی وہ نذر
قارئین ہے۔
س۔ مفتی صاحب سب سے پہلے آپ نواسے وقت
کے قارئین کو اپنا تعارف اور اپنے دعویٰ و علمی کاموں
کے متعلق آگاہ کریں؟
ج۔ میری ولادت دربن جنوبی افریقہ میں ہوئی
ہے۔ ہمارے آباؤ اجداد کا تعلق ہجرت بھارت سے
تھا۔ میں دارالعلوم دیوبند سے فارغ التحصیل ہو چکا
ابتدائی تعلیم اپنے ملک جنوبی افریقہ کے ایک شہر علی و
دینی ادارہ ”دارالعلوم آزادوں“ سے حاصل کی اور ایم
اے جہانسنگ یونیورسٹی سے کیا۔ ذرا مسلم سکول
کے نام سے تعلیمی ادارہ قائم کیا اور اس تعلیمی ادارے
کے ساتھ ساتھ ایک ”دارالاحسان سنٹر“ قائم ہے۔ جس
میں خاص طور پر مذہبی پروگرامز دارالافتاء تحقیقی کام
میڈیا ڈیسک اور عریاء و مساکین کے لئے رفاہی کام
جاری ہے۔
س۔ جنوبی افریقہ کے مسلمانوں کی حالت کیسی ہے؟
ج۔ دنیا بھر میں نوجوان نسل جس سے راہروی کی
طرف بڑھ رہی ہے جنوبی افریقہ میں ایسا نہیں ہے
وہاں کی نوجوان مسلم نسل مذہب اور دین کی طرف
راغب ہے اور ہم اس سے راہروی کیلئے نکلے اور عملی
توانائیاں صرف کر رہے ہیں۔
س۔ جنوبی افریقہ میں قادیانی تہمتی تعداد میں ہیں اور
تہمت قادیانیت کی سرکوبی کے لئے وہاں کے مسلمانوں کی
کیا حکمت عملی رہی ہے؟
ج۔ کچھ سال پہلے جنوبی افریقہ میں قادیانیت کے
خلاف مسلمانوں نے ہائی کورٹ میں مقدمہ دائر کیا تھا اور
واضح کیا کہ جماعت احمدیہ اسلامی فرقہ نہیں ہے بلکہ ایک
مذہب ہے مسلمانوں سے ان کا کوئی تعلق نہیں بلکہ قادیانی
غیر مسلم گروہ ہے۔ جنوبی افریقہ کی ہائی کورٹ نے
قادیانیوں کے عقائد کو بڑھا اور مسلمانوں کے جذبات کو
مسخوں کرتے ہوئے قادیانیوں کو کافر قرار دے کر
مسلمانوں کے حق میں فیصلہ دیا۔ مسلمانوں کی طرف سے
مقدمہ کی پیروی میں پاکستان سے علماء کرام مولانا منظور
احمد چٹوٹی وغیرہ نے ہائی کورٹ کو آواز دیا کہ جنوبی افریقہ
میں کوئی قادیانی سے تہمتی کام چھوڑا جائے۔
س۔ جنوبی افریقہ میں مسلمانوں کا کوئی کام کیسا ہے

This is a short interview with a Maulana Mufti Zubair Bayat, introduced as President of the *Jami'at-ul-Ulama* of the Natal province in South Africa. The Maulana was interviewed by a *Nawa-i-Waqt* correspondent during the Maulana's visit to Makka where he was performing *Umra*.

A question he was asked by the interviewer was:

“How many Qadianis are there in South Africa, and what line of action are the Muslims there taking in order to defeat the mischief of Qadianiyyat?”

The Maulana gave the following reply:

“A few years ago, Muslims in South Africa instituted a court case against Qadianiyyat in the High Court. They made it clear that the Ahmadiyya community is not a sect of Islam but is a new religion. They have no connection with Muslims; in fact, the Qadianis are a non-Muslim group. The High Court of South Africa considered the beliefs of the Qadianis and, being sensitive to the feelings of the Muslims, it ruled in favour of Muslims by declaring the Qadianis as kafir. On the side of the Muslims, Ulama from Pakistan such as Maulana Manzoor Ahmad Chinioti and others played an important role. If today there are any Qadianis in South Africa, it must be an insignificant number.”

(Daily *Nawa-i-Waqt*, Lahore, 31st May 2008, p. 20, lower half of the page, column 3)

Comments on above reply by Dr Zahid Aziz:

This Maulana is from South Africa and therefore cannot plead ignorance for his mis-statements in this reply. While being on *Umra* in Makka, he has uttered a number of absolute untruths in his reply. Due to my involvement in our Cape Town court cases, **I know it for a fact** that the Maulana has made the following misrepresentations:

1. **No “Qadiani”** was at all involved in any such court case in South Africa. In one case it was a member of the Lahore Ahmadiyya Movement and in the other case it was a Sunni imam who was being persecuted by the ulama because he regarded Ahmadis as Muslims. This was in the 1980s.
2. The “Muslims in South Africa” **never** instituted any court case against any Ahmadi. Both court cases were instituted **against the Ulama**.
3. **No court in South Africa has at all, ever, ruled that Ahmadis (or Qadianis for that matter) are kafir**. In fact, in the case that concluded in 1985 the court ruled that **Lahore Ahmadis, the plaintiffs, are Muslims**. The court ruled that the Ulama were defaming our members by calling them kafir, and it prohibited them from continuing this defamation.
4. The claim of the Maulana that “Muslims in South Africa” filed a suit is quite **shameful** for the following further reasons. (a) The Ulama vigorously submitted to the court in 1984 that the court, being secular, was not qualified

to determine who is a Muslim. (b) When the court ruled in favour of the Ahmadi plaintiff, the Pakistani Ulama and legal experts who had been helping the Ulama in South Africa published statements in Pakistani newspapers in November 1985 saying that “the judge was a biased Jew” and as “Qadianis are agents of Israel” therefore he ruled in their favour.

But now history is turned on its head and we are told that the Ulama actually themselves asked the court to determine if Ahmadis are Muslims, and the court gave a ruling in favour of the Ulama . What happened to the “biased Jewish judge” story that was splashed in Pakistani newspapers in November 1985 by these Ulama?

I am prepared to make a statement sworn on the Holy Quran that the facts I have put forward above are true and within my personal knowledge. Is the Maulana prepared to swear on the Quran that his reply is true?

Zahid Aziz
13th June 2008.

Ref. Slide 39:

**Article about the life of
Hafiz Sher Mohammad.**

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Some impressions of Maulana Hafiz Sher Mohammad

by Dr. Zahid Aziz, Nottingham, England

(originally published in *The Light & Islamic Review*, September–October 1991; minor revisions in June 2005)

I shall give my impressions of the Hafiz Sher Mohammad Sahib based on my experiences with him, and what he used to recount to us.

Hafiz Sahib joined the Lahore Ahmadiyya Movement at the hand of Maulana Muhammad Ali, and worked under him on the Anjuman's staff for about ten years. Maulana Muhammad Ali's virtuous character, noble example, and his sympathetic concern for the members of the Jama`at, made a deep and indelible impression on Hafiz Sahib. He used to speak of Maulana Muhammad Ali with the greatest affection and respect; in fact, love and devotion. He often said that the Maulana was “a very great man”, and that in over ten years of working with him, he had never had cause to entertain the slightest grievance or complaint about the Maulana.

After Maulana Muhammad Ali's death, Hafiz Sahib worked closely with, and sat at the feet of, those stalwarts of this Movement whose scholarship as well as saintliness are recognised on all hands, men such as Maulana Abdul Haque Vidyarthi, Shaikh Ghulam Qadir, Hafiz Muhammad Hasan Cheema and Sayyid Asad-ullah Shah. In those days of the 1950s, an Urdu periodical entitled *Ruh-i Islam* was published, under the overall editorship of Maulana Abdul Haque Vidyarthi, which largely consisted of contributions from these great scholars. Hafiz Sahib was responsible for getting the articles prepared and the magazine printed, and his own first writings appeared in it as well.

Hafiz Sahib's scholarship and research was of considerable assistance in the compilation of several of our Urdu books published during the 1960s. Two such books are: *Mujahid-i Kabir* (biography of Maulana Muhammad Ali), and *Shahadat-i Haqqah* (compilation of tributes paid by prominent Muslims to Hazrat Mirza Ghulam Ahmad and to the Lahore Ahmadiyya Movement).

In our time.

It was in 1972 that Hafiz Sahib ventured abroad, and went to the Fiji Islands as missionary. Two years later certain events befell our Movement (which are too well-

known to need elaboration) which changed the future course of this Jama`at, namely, that the Pakistan government declared Ahmadis to be non-Muslims and imposed restrictions on our activities. This was a critical time when Ahmadis had suffered a severe shock, and attempts were being made all over the world to overwhelm us with poisonous propaganda. Hafiz Sahib, while stationed in Fiji, toured our Jama`ats around the world on various occasions, giving them the benefit of his wisdom, scholarship and guidance, both as regards matters of religion and affairs of organisation. Hafiz Sahib's exposition and defence of our beliefs did much to restore people's confidence in the mission and the truth of this movement.

I shall speak only about his visits to the U.K., and later about South Africa, which I can do from personal knowledge. Hafiz Sahib came here (to the U.K.) for the Ahmadiyya Convention in 1975, and delivered a speech, in his inimitable style, about the Finality of Prophethood. This opened the eyes of many of us, not only about the views of the Founder of the Ahmadiyya Movement, but also about the kind of claims made by Sufi saints who are revered by all Muslims. It was at that time that Hafiz Sahib assisted Hazrat Ameer Dr. Saeed Ahmad Khan in laying the foundations of the U.K. Lahore Ahmadiyya Jama`at.

At about that time, he wrote his masterly book *La Nabiyya Ba`di*, dealing with the finality of prophethood, and the usage of terms *nabi* and *rasul* for non-prophets, by Islamic scholars, consistent with the finality.

An interesting and significant incident of this period may be mentioned, which Hafiz sahib used to relate. When visiting Canada in 1975, Hafiz sahib fell so ill that at one stage he was on the verge of death. He used to say that his soul had started to leave the body, and had reached as far as the window of the room, from where he could see his own body lying on the sick bed. He prayed to God to grant him respite as he had yet much work to do. The prayer was heard, and the decree of death postponed. And indeed, Hafiz sahib did his most important work after this experience.

During the next few years, we received many of the Urdu articles and booklets written by Hafiz Sahib, and learnt much from his lucid and logical writings. He wished us to translate some of these into English, and in fact we had been so inspired by them that we too entertained the same desire. It was a privilege and a great education for me in those years to translate his booklets such *Death of Jesus, A Brief Review of Khilafat in the Ahmadiyya Movement*, and *True Facts about the Ahmadiyya Movement (A Reply to S. P. Tayo)*.

Cape Town Case 1983-1985.

I now describe the great service rendered, and the sacrifices made, by Hafiz Sahib in connection with the two Cape Town cases, and also mention some inspiring events which took place at the time.

The first case was brought by a member of our Jama`at in Cape Town, Mr. Ismail Peck, against the Muslim Judicial Council (and some other bodies). Despite its name, the MJC is no more than an association of theologians, and is not a legal body of any sort. The grounds for the action were that the defendants were defaming Ahmadis by vilifying them as *kafir*, and were denying them their due rights as Muslims to use a certain cemetery and a certain mosque. The plaintiff sought court orders to stop the defamation and the denial of rights. Hafiz Sahib first went to Cape Town in 1983 for this case, and stayed there for a few months. His knowledge and personality immediately made a deep impact on the people he came into contact with, whether it was members of our Jama`at, other friends, or the advocates involved in the case. On the one hand, he would be discussing highly technical and scholarly, legal and religious matters with the lawyers, and impressing them with his masterly grasp of the issues. Yet on the other hand, he was daily meeting ordinary people, answering their questions at a level they could understand, and was able to arouse their interest and hold their attention. He sometimes even had to deal with silly questions asked by very ignorant people, and yet he showed no impatience or disdain towards them. This is a rare combination of qualities.

The date of the court hearings was set for 1984, and Hafiz Sahib again went to Cape Town that year. I went there to join him in October 1984 as interpreter and translator, and stayed with him for about four weeks. It was just amazing to see the intensely hard work he was devotedly and laboriously doing there, under the most trying circumstances. He faced a language barrier, as only two or three people there could speak Urdu. The environment was an unfamiliar and difficult one. Above all, he was suffering from several serious medical complaints such as diabetes, high blood pressure and heart disease. His room was a sea of pile upon pile of books and journals, making it near impossible to move around in it. Day and night he was preparing submissions on various issues, searching for references, entirely unassisted. In a letter to me the year before, he had described these problems as follows:

“Due to heavy work, I have been suffering from heart problems for the last two weeks. I read and write a little, and then feel pressure on my heart. The

doctor advises rest, but that is impossible because there are numerous issues to be dealt with. Who knows what question may be raised in court. ... As we are the plaintiffs, the burden of proof is on us. They [the opponents] have only to quote *fatwas*, while we will have to produce books and journals to prove each and every thing we say. These are the problems I face here. There is no one here who can assist me. ... Since two weeks I have to take a sleeping tablet at night, and then I can work in the morning. Each day I die and then come to life again. There is no other way except prayer.”

I saw for myself that we would often be having meetings with the advocates from the start of the day till the afternoon. To explain all the issues of difference to advocates who have little knowledge of even the basics of Islam, and spending day after day doing it, is considerably exhausting. Frequently, the advocates would ask for a paper to be prepared on a certain issue within two or three days, and much of the evening would be taken up with that work. On top of this, there was a constant stream of visitors wishing to meet him. Yet despite all this, he was invariably cheerful, smiling, pleasant, and uncomplaining. If anything worried him, it was only a problem with the case or with the Jama`at.

Hafiz Sahib had never appeared in court before. In a letter to me, written during his 1983 visit, he expressed this with typical humility as follows:

“I shall have to testify as an expert witness. ... Please pray for me and ask all friends to do the same, because I have never appeared in any court, and this is the Supreme Court too. And who knows whom the opponents may call from Pakistan and Saudi Arabia. I have great trust in God. *Insha-Allah*, He will definitely decide in our favour.”

Against him, the defendants submitted a list of some 13 expert witnesses, six of them being judges, constitutional and legal experts, and Islamic law specialists from Pakistan. It was just daunting to read the qualifications of these eminent men and the lofty positions they held in Pakistan. One was described, among other things, as “Chairman of the Constitution Commission appointed by the President of Pakistan”; another as “Judge of the Supreme Court of Pakistan (Shariat Bench)”; a third as “Standing Counsel of the Government of Pakistan in the Federal Shariat Court”; and a fourth as “Acting President of Pakistan, May 1963, Judge of the West Pakistan and Lahore High Courts, Elevated as a Judge of the Supreme Court of Pakistan, October 1974”. And facing them was a solitary villager from Khoshab who hardly knew any

English. Notwithstanding all this expertise available to the defendants, when the hearings began in November 1984 they advanced a technical point of law, in order to prevent the actual religious issue from being discussed. (Their contention was that the court was not qualified to decide, on the basis of religious evidence, as to whether a certain person was a Muslim according to Islamic teachings, and that it must accept their authority to make such determinations.) The case was postponed, pending the judgment on the point of law, and Hafiz Sahib returned from Cape Town.

1985 proceedings.

A few months later the judgment was delivered, rejecting the defendants' plea, and the hearings were set for November 1985. Hafiz Sahib went to Cape Town again, and was later joined by me. We found that we now had different advocates, who had to be briefed from the beginning on all the issues! So the previous year's laborious work was repeated with the new advocates, and the written submissions to be presented in court were finalised.

The defendants, who did not want to go to court (as only became clear later on), tried various ways (through intermediaries) of persuading us to withdraw our claim. Once a group of five or six muscular men came to visit us to exert pressure on us to withdraw. Hafiz Sahib explained to them, in simple terms which they could understand, that our beliefs were exactly the same as theirs, and we were only seeking our just civil rights. He told them that we had the same Kalima, prayer, fasting, etc., the same Quran, books of Hadith and so on. As he explained this, the men's attitude began to change, their hostility diminished, and their interest was aroused by what Hafiz Sahib was saying. At the end of the meeting, they accepted to take some of our booklets to read! And these were men who, we later learnt, had come with revolvers in their pockets. This was all due to Hafiz Sahib's shrewd and wise handling.

Hafiz Sahib's personal security was at risk during this and the later 1987 case. Yet his concern was not for what he might suffer, but for the court case if he was unable to testify as a result of some malicious act against him.

Final hearings, November 1985

When the hearings opened on 5 November 1985, the defendants, acting according to pre-arranged tactics which had been kept secret, announced in court that they were withdrawing their defence, as they could not (so they claimed) accept that the court could give a verdict based on a consideration of Islamic law. They and their hundreds of supporters then left the court, leaving just our side and the court officials. As they

turned their backs and walked out, the thought struck us that they were really turning their backs on, and walking away from, the judgment of Allah and His Messenger, because the court was going to hear evidence based on the injunctions of the Quran and Hadith as to who was entitled to be called a Muslim and to be treated as such, and it was this that they could not accept. That day and those scenes will live in our memories as long as we are on this earth.

Although this meant that we now only needed to present our case briefly to satisfy the court as to the reasonableness of our claim in the absence of opposing arguments, nonetheless we decided to present all the evidence which had been prepared. Hafiz Sahib entered the witness box (with myself standing just outside it as interpreter). The judge asked him one or two questions about Islam, presumably with a view to ascertaining his competence as an expert. His answers at once seemed to impress the judge. Hafiz Sahib then proceeded to go through his evidence on various topics. It was not only the scholarly content of Hafiz Sahib's evidence, but his whole demeanour and bearing which made a deep impression on the judge. The judge asked Hafiz Sahib if he would like a seat to sit on while giving his lengthy evidence, but the Maulana declined, and stood in the witness box day after day for almost six days. In the judgment, the judge wrote:

“Second plaintiff placed before this court the evidence of one Hafiz Sher Mohammad ... I am satisfied that he is an expert in this field and able to speak with authority on it. ... In my estimation the witness is a man of great learning and integrity. He gave evidence before me for some six days and created an extremely favourable impression. I accept his evidence without hesitation.”

These words cannot fully convey the high degree of respect and regard with which the learned judge looked upon Hafiz Sahib, as I could see. This highly-experienced judge told our advocate in private that Hafiz Sahib was the best witness that had ever appeared before him in court. The impression made by Hafiz Sahib was all the more remarkable when one considers that there was a language barrier and he could not speak directly to his hearers.

After Hafiz Sahib's six days of evidence, our senior advocate, Mr Edwin King, presented his summary of argument to the court. From memory I recall that he began with some introductory words, departing from the prepared text, which were something like the following:

“This case has been a story of three remarkable men — Mirza Ghulam Ahmad, Maulana Muhammad Ali, and Hafiz Sher Mohammad.”

How it occurred to him to say this, I do not know, but it sums up things most aptly.

The judgment was delivered in our favour, granting the orders sought for by the plaintiff. It was a remarkable victory, morale-boosting for our members everywhere, to which the following verse of the Holy Quran may justly be applied: “Surely We have granted thee a clear victory” (48:1). The proceedings of this case, including the background events, the judgment, and the documents of evidence, have been compiled in the book entitled *The Ahmadiyya Case*, published in 1987.

Hafiz Sahib's scholarship and approach.

I must make some points about the evidence presented by Hafiz Sahib, and these will be of benefit to all those who wish to serve this Movement by means of knowledge and scholarship.

(1) In response to the opponents' charges, he could have merely repeated the well-known beliefs proclaimed by the Lahore Ahmadiyya Movement since its inception, and that would have been sufficient to answer allegations directed against this Jama`at. But he adopted the approach of directly defending and explaining the writings of Hazrat Mirza Ghulam Ahmad himself. This had the advantage of both rebutting the allegations, and showing that our beliefs derive from his. Hafiz Sahib's great anxiety was, in his own words, “to clear the position of Hazrat Mirza Sahib”.

(2) Hafiz Sahib's knowledge went far beyond what is contained in our standard books. And even as regards the things which we are familiar with from our books, he knew many background details about them which were extremely valuable.

(3) A valuable point which Hafiz sahib used to teach, as a result of his life-long study of the works of Hazrat Mirza Ghulam Ahmad, is that his writings encompass all the Islamic theology, philosophy and metaphysics of the entire history of the faith. Therefore, many references occurring in his books to various doctrines and issues cannot be fully understood unless one is familiar with the writings and views of previous religious commentators, thinkers and Sufi saints. Lack of such requisite knowledge has led both to objections raised against him by his critics, and to a lack of correct understanding by many of his own followers.

Often, when Hazrat Mirza expresses some belief which happens to conflict with the picture of Islam in today's common Muslim imagination, he is actually summing up the views held by eminent theologians of the past, and not giving some novel, unorthodox interpretation. It is only through ignorance of these matters, as well as prejudice and blinkered vision, that most allegations have been made against him.

(4) As regards the quotations we commonly give in our literature from other people (for example, what prominent Muslims wrote when the Founder died), Hafiz Sahib was never merely content with just having those quotations in our own books. He tried to keep the original books, journals and newspapers in which those views were first published. His realisation of the importance of these sources shows him to be a true and thorough research scholar of the highest order. His life-long work of saving these references was found to be invaluable in the court case, for if challenged we could show the original sources containing the extracts which we quote (for example, Muhammad Husain Batalvi's review of *Barahin Ahmadiyya* in his magazine *Isha`at-us-Sunna*). This encouraged me, during the period of postponement in 1985, to try to obtain the originals of certain English references from old journals available in British libraries. I managed to obtain a copy of Iqbal's original article in the *Indian Antiquary* (September 1900), in which, discussing a certain metaphysical doctrine emphasised by a Sufi saint of old, Iqbal writes:

“— a doctrine which has always found favour with almost all the profound thinkers of Islam, and in recent times has been readvocated by M. Ghulam Ahmad of Qadian, probably the profoundest theologian among modern Indian Muhammadans.”

I also obtained Mr. Pickthall's review of *The Religion of Islam*, as published in *Islamic Culture* from Hyderabad Deccan. The whole of that review is even more remarkable than the extract which we usually quote from it. For instance, he writes about Hazrat Maulana Muhammad Ali:

“... his premises are always sound, we are always conscious of his deep sincerity; and his reverence for the holy Quran is sufficient in itself to guarantee his work in all essentials. There are some, no doubt, who will disagree with his general findings, but they will not be those from whom Al-Islam has anything to hope in the future.”

(5) Hafiz Sahib was very precise and clear in giving his arguments and in his use of terminology, whether in his writings previously or in the court case, so that it was difficult to find contradictions and loopholes in his statements. Moreover, he would anticipate beforehand the kind of reply or objection that could come from the opponents, and therefore frame his statements in such a way as to make them immune from such criticism in advance.

(6) Much of Hafiz sahib's contributions on the subject of the life, work and beliefs of Hazrat Mirza Ghulam Ahmad were original. He learnt from the great scholars of the Lahore Ahmadiyya Movement, and he then added to and refined the body of knowledge which he acquired from them. A notable aspect of his research was the tracing and finding of opinions expressed by recognised Sunni leaders, ancient and modern, which corroborate Hazrat Mirza's stand-point on various issues. The style and manner of explanation which he developed was uniquely his, and it made his arguments both simple and effective.

In London briefly.

In 1986, after the tragic martyrdom of our Imam Mr. Anwar, the Anjuman asked Hafiz Sahib to go to London for a few months. Despite serious ill-health, Hafiz Sahib accepted and was with us for a while.

1987 court case.

Unknown to us, since December 1985 events had been laying the foundations of a second court case in Cape Town. This action was initiated by a Sunni Imam, Shaikh Jassiem, who had been mistreated because he had refused to condemn members of our Jama`at as *kafir* and ostracise them. The defendants were the Muslim Judicial Council, again, and its President. The defence case largely revolved around their claim that for someone to hold the office of imam, he must be prepared to condemn Ahmadis since their beliefs are so un-Islamic. Therefore, Hafiz Sahib was again required to testify as an expert witness on behalf of the plaintiff. However, his health had now deteriorated considerably. Our President and Ameer, Dr. Saeed Ahmad Khan Sahib, told him that as a doctor he was advising him not to go. But Hafiz Sahib was undaunted, and in May 1987 flew to Cape Town via London, a journey of some eleven thousand miles in all, about one half of the way around the world. He did this solely for the sake of truth and the honour of the Founder of the Ahmadiyya Movement. In the first case too, his main anxiety had been that the defendants would try to vilify and ridicule the person of the Founder in public, sling mud at his character, and make a play to their supporters in court to get cheap laughs. As it

turned out, they did not appear in that case. In this second case, in violation of their own previous so-called *ijma*, they did appear and, in the hearings before Hafiz Sahib's arrival, had adopted exactly these tactics which he was worried about.

Hafiz Sahib's marathon evidence.

Hafiz Sahib began his testimony in July 1987, and gave his evidence-in-chief for about 10 days. After that he was under cross-examination by the opposing advocate, and then a brief re-examination by our own advocate, for another 17 days. He was thus on the witness stand for a total of 27 days, over a period of nearly seven weeks. The interpreters in court were Mr Shahid Aziz from England and Choudhary Masud Akhtar from the U.S.A. In the court room, sitting behind the opposing advocate was an imposing array of advisors including eminent Ulama, legal experts, Shariah scholars and specialists in Islamic law from Pakistan. During Hafiz Sahib's evidence-in-chief, the opposition left no stone unturned in raising every possible objection they could think of, at every available opportunity. They objected to references and to the translation. When the cross-examination began, the opposing advocate, aided by his expert advisors close at hand, launched a fierce assault against Hafiz Sahib. Needless to say, they could hardly touch the substantial issues in the case. Their line of attack was to raise secondary, irrelevant points to try to discredit the Founder of the Ahmadiyya Movement, and to pressurise and intimidate Hafiz Sahib in the witness box into making a slip or contradicting himself. The attacks of the hostile advocate would come like mighty waves of the ocean, and Hafiz Sahib would repulse them firmly, standing like a solid rock.

It should be recorded that during this time Hafiz Sahib along with his helpers had to work literally day and night. After the day's hearings in court, there would be lengthy consultations and work to get certain things prepared for the next day. Sometimes they would work through the night till 4 o'clock in the morning, and then after a brief sleep get ready to appear in court at 10 o'clock. Despite all this exertion, there were many occasions when Hafiz Sahib simply confounded the opponents. From the witness-box he was able to point out to them, several times, references in their own acknowledged books (and English books at that) which supported our stand-point. For instance, there was Yusuf Ali's translation of verse 6:88 (“and some of their fathers ...”) which supports the belief that Jesus had a father.

At one stage it was objected that the saying attributed to the Holy Prophet *ulama ummati ka anbiya' bani Israil* (“the righteous learned ones among my followers shall be like the prophets of the Israelites”), which is cited by Hazrat Mirza Sahib in

his support, is not to be found in any collection of Hadith, and is thus not a hadith at all. Hafiz Sahib replied that tomorrow he would bring references from eight (I forget the exact number) recognised Sunni theologians who have accepted this as a hadith. That night Hafiz Sahib searched for the references, and his helpers translated them. The following day, when the hearing resumed, the opponents' advocate asked Hafiz Sahib sarcastically: *Well Hafiz, did you find those references?* Hafiz Sahib turned to the lady judge and began: *I must apologise to the court that I had promised yesterday to find eight references.* The opposition bench beamed with delight when they heard this, but their smiles soon vanished when Hafiz Sahib continued: *I did not find eight references, but I did find five.* Hafiz Sahib then started reading them out one by one. After one or two quotations, as the opponents' faces fell, their advocate said: *All right, all right, that will be enough.* Hafiz Sahib said to the judge: *We spent all night finding these references for him, and it is only fair that I read them all out now.* Then Hafiz Sahib read out all the references. He also explained the principle that if a hadith is cited by numerous classical scholars in their writings, then it can be considered as reliable even though it may not be found recorded in any compilation of Hadith as such.

I have it on good authority that, while Hafiz Sahib was in the witness box, the defendants used to transmit the transcript of his evidence, at daily or regular intervals, to Pakistan by Fax, where it was studied by a committee of top-level religious and legal experts, who would then advise the defendants on how to cross-question him in court.

The defence's evidence.

After Hafiz Sahib's mammoth evidence was over, there soon came the turn of the defendants to present their religious expert witnesses, of whom there was no shortage. But none of these dignitaries, who are famous for their writings and speeches in condemnation of the Ahmadiyya movement, was brought forward to support the defendants' case and to face cross-questioning about it. Instead of these public figures, it was a Professor of Arabic from Pakistan, Mahmud Ahmad Ghazi, who testified for the defence. (*Note: He is at present President of the International Islamic University, Islamabad, and has held the post of Minister of Religious Affairs in the government.*) Ghazi's evidence bore no comparison whatever to the excellent calibre of Hafiz Sahib's testimony, as is indicated by the judge in her judgment. Professor Ghazi was rigorously and thoroughly cross-examined by our advocate, at great length, and the superficiality and weakness of the defendants' case was made abundantly plain for all to see. At one point, Professor Ghazi admitted that Maulana Muhammad Ali had

rendered great services to the religion of Islam; however, he then added that this was just as many non-Muslims had rendered services to Islam! (Can he name any non-Muslims who tried to convince the world that Islam is the true religion, and tried to spread it?)

Another issue which the opposition misrepresented concerns Hazrat Mirza's claim that he excelled the Israelite Messiah in certain respects. This was no doubt raised to inflame Christians against Hazrat Mirza. However, our Christian advocate said to the Professor: "I also excel Jesus, in one respect, because I am a qualified lawyer and he was not!" The lady judge, too, could see what Hazrat Mirza had actually meant, and at one stage she said to the witness: "Professor, can't you see that what Mirza is saying is that *the Prophet Muhammad is so great* that even his followers, without being prophets, can excel Jesus in certain respects". Hafiz sahib used to say that even these lawyers and judges, belonging to a different religion, could understand so readily what Hazrat Mirza had said, but our Ulama could not understand after a hundred years.

Our opponents are used to writing books and delivering speeches against us in which they make the wildest allegations and claims, without having to prove them and without being challenged. However, testifying in an impartial court of law is a different matter altogether, and was therefore quite a novel experience for our critics, which perhaps explains their performance. I may also add that usually it is Ahmadis who are on the defensive against their critics, which perhaps creates the impression that our opponents' own beliefs are somehow entirely correct and beyond criticism. However, during Professor Ghazi's cross-examination it was our opponents, for once, whose beliefs were being scrutinised and who had to answer objections raised against them.

When one considers the clash between Hafiz Sahib's evidence and the defence's standpoint, the following verse of the Holy Quran comes to mind:

"Nay, We hurl the truth against falsehood, so it knocks out its brains, and lo! it vanishes." (21:18)

After Professor Ghazi's testimony was over, the defence obtained an adjournment (from December 1987 to February 1988), claiming that their next witness, the well-known former minister, religious writer and Senator from Pakistan, Khurshid Ahmad of the Jamaat-i-Islami, needed time to collect evidence showing that

all Muslims regard Ahmadis as outside the fold of Islam. When the hearings resumed in February, the Senator was nowhere to be seen! Instead, the defence presented the Imam (or deputy Imam) of the Washington D.C. mosque, a gentleman of Egyptian origin. As he knew nothing about the case or the issues, he only made conflicting remarks, which contradicted the defendants' own standpoint. One statement he made became memorable. He said that the reason why non-Muslims could not be buried near graves of Muslims was that the Muslims would then feel the heat from the hell-fire in which the non-Muslims burn in their graves! The hearings ended only three days after being resumed as the defence could not present any more witnesses.

The Judgment.

Hafiz Sahib returned from Cape Town in March 1988. The judgment of the case was reserved, and given much later in February 1990. Hafiz Sahib's stand had been completely vindicated, and the position of Hazrat Mirza Sahib had been cleared. It may be noted that in the hearings in this case before Hafiz Sahib's arrival in Cape Town, the defendants had made Hazrat Mirza Sahib's name a dirty word in that court by misquoting from his writings to allege that he had vilified and abused Jesus. The Christian officers of the court had been outraged at hearing these so-called statements condemning Jesus. What a complete change of view was brought about by Hafiz Sahib!

Let me say that, in both the court cases, it was the person of the Founder of the Ahmadiyya Movement who was himself on trial. Hafiz Sahib represented him and cleared his name. Once, in my presence, someone by a slip of the tongue addressed Hafiz Sahib as "Mirza Sahib", which was more significant than just a mistake.

These cases bear a certain analogy to an event in early Islamic history. To escape persecution by the Quraish, it was to a place in *Africa* (Abyssinia) that some Muslims emigrated. The Quraish sent a delegation after them to the *court of the Christian* king of that country, and to incite him against the Muslims they put forward the case that the Muslims *spoke disparagingly about Jesus*. However, the king, on listening to the reply given by the Muslims, exonerated them, and the delegation returned disappointed.

Causes live and perish by argument.

The Quran says, regarding the battle of Badr, that:

“... he might perish who perished by clear argument, and he might live who lived by clear argument” (8:42).

The real victory, therefore, is not by means of force of any kind, but by means of argument. And it is by the triumph of argument and truth that one side lives and the other perishes. There are those who think that their cause has the upper hand because they have political power or because they are numerically superior, but these are only self-delusions. In both these court cases, as well as in his many other encounters, Hafiz Sahib made the cause of this Jama`at to live and the cause of its opponents to perish through argument. He had compiled long lists of questions, which are published in Urdu as well as English and some other languages, addressed to various opponents such as the general Sunni *Ulama* and the Qadianis, regarding the differences in our beliefs. None was ever able to answer these questions.

There is one other quality of Hafiz Sahib, leaving aside his scholarship and services, which I must mention. He showed the most intense loyalty and devotion to the Central Anjuman. Wherever he went, he presented himself as a representative of the Anjuman, and did his level best to protect and further the interests of the Anjuman. He never mentioned any personal complaints or grievances, despite having worked in the Anjuman for fifty years. He never tried to make a name for himself or attract a personal following. Just these qualities, even leaving aside his scholarship and services, set a great example for us to emulate. Due to his loyalty to the cause of the Anjuman, he showed great faithfulness to Maulana Muhammad Ali, and to Dr. Saeed Ahmad Khan Sahib in our time.

When, in the distant future, the history is recorded of how this Movement survived and rose up again, against all odds and in the face of the most powerful attempts to annihilate it, the name of Hafiz Sher Mohammad will appear in golden letters as one of its greatest fighters.

In the end, it only remains for me to add my prayers that may Allah admit Hafiz Sahib to His eternal mercy and shower His blessings on him! May the prayer of Zacharias be accepted on Hafiz Sahib's behalf:

“My Lord, leave me not alone, and Thou art the best of inheritors.” (21:89)