

رسالة تهكيم القوانين

A LETTER ON RULING
BY MAN-MADE LAWS



Shaykh Muhammad ibn Ibrahim Al ash-Shaykh

Ahlut-Tawhid Publications

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Publisher's Note

All praise belongs to Allah, the Judge, King, and Lord of creation. And may the *salah* and *salam* [of Allah] be upon the one sent with the final revelation, the pure legislation, containing therein clear proofs and the balance in order for mankind to keep justice. As for what follows...

Herein contains the work of a scholar known for not only his knowledge but for his speaking the truth, despite of who it may be against. In his booklet, *Risalah Tahkim al-Qawanin*,¹ Shaykh Muhammad ibn Ibrahim (*rahimahullah*), the former *mufti* of Balad al-Haramayn, begins by showcasing that by proclaiming the truth of the matter right from the start. He states plainly, “Indeed, from the clear major *kufr* is setting the accursed man-made laws in the position of that which the trustworthy spirit (i.e., Jibril) descended with upon the heart of Muhammad (*sallallahu ‘alayhi wa sallam*).”

¹ Translated here as *A Letter on Ruling by Man-Made Laws*.

And how could the Shaykh not state this plain truth when Allah (*jalla wa 'ala*) took a covenant with the people of knowledge to declare the truth openly? He then continues by bringing multiple proofs from the Book of Allah in relation to the disbelief of whoever does not judge by the *Shari'ah* of Islam; commenting and elaborating on them to help the reader understand this clear reality.

Here there is a need to comment on some of the terms the Shaykh uses, even though the examples he uses explains them. They are namely:

1. *Kufr i'tiqadi* (belief)
2. *Kufr 'amali* (action)

Both of these terms are synonymous for the more well-known terms of '*kufr akbar*' and '*kufr asghar*.' However, some people fell into a misconception in understanding these terms and understood them on the pattern woven by the people of *irja* in that no one disbelieves through an action alone and instead only

through a belief.² That is wrong and goes against the ‘*aqidah* of the Prophet (*sallallahu ‘alayhi wa sallam*), his companions (*radiyallahu ‘anhum ajma’in*), and the leading scholars of Ahlus-Sunnah wal-Jama‘ah (*rahimahumullah*). Others maliciously used these terms in an attempt to justify their *irja* and the religion of the *tawaghit* in the Arabian Peninsula and elsewhere.³

We would like to elaborate on this point at some length and bring a longer quote from the book *Al-Hukm bi-Ghayri ma Anzal Allah Abwalahu wa Abkamahu*⁴ authored by Dr. ‘Abdur-Rahman ibn Salih al-Mahmud:

It is known that the texts of the Quran and Sunnah which describe certain things as *kufr* may refer to matters which put a person beyond the fold of Islam, or things which do not do so. In contrast to the Khawarij and the Wa‘idiyyah, whose views were similar, the *Salaf* and the leading scholars spoke of the

² An example being the *mubaddith*, Shaykh al-Albani (*rahimahullah*). See *From Dabiq To Rome*, issue #14, for some elaboration on his *irja*.

³ An example being the Murjiah rejects at “Salafi” Publications.

⁴ Translated as *Man-Made Laws vs. The Shari‘ah*. We highly recommend anyone wanting to gain a deeper understanding of this issue to read and go through that book.

difference between the two matters and distinguished between the two types of *kufr*, so that the truth became clear and so that the Khawarij were refuted. Thus they divided *kufr* into two types, one of which puts a person beyond the fold of Islam and one which does not. However, the terminology used by the *Salaf* and leading scholars to describe that varied:

- Some of them distinguished between them by calling one of them *kufr akbar* and the other *kufr asghar*.
- Some of them distinguished between them by calling one of them *kufr* which puts a person beyond the fold of Islam and the other *kufr* which does not put a person beyond the fold of Islam.
- Some of them distinguished between them by calling the second type - that which does not put a person beyond the fold of Islam - *kufr duna kufr* (a *kufr* less than *kufr*).
- Some of them distinguished between them by calling one of them *kufr* of belief (*al-kufr al-'itiqadi*, lit. ideological *kufr*) and the other *kufr* of action (*al-kufr al-'amali*, lit. practical *kufr*). By *'amali* they meant that which has to do with actions - doing or not doing them - such as the obligations of *ṣalāh*, fasting, honoring one's parents, and abstaining from forbidden things such as *zina*, theft, drinking alcohol, and killing a soul unjustly. They regarded all of these

as coming under the heading of *kufr 'amali* which does not put a person beyond the fold of Islam, unless he believes these actions to be permitted.

These expressions which have been narrated from the *Salaf* concerning the differentiation between major and minor *kufr* are synonymous, and all boil down to the same meaning, that is, what they all understood and what they were all referring to, and none of them disputed these meanings - unlike those who differed from them such as the Khawarij and Murjiah.

But in later times there were those who were influenced to a great extent by some of the views of the Murjiah, either in general terms or in a specific issue, so they would pay attention to the phrases of some of the leading scholars they had picked up concerning the differentiation between major and minor *kufr*, namely the words *al-kufr al-i'tiqadi* and *al-kufr al-'amali*. They made this into a principle which they then applied in general terms, basing on that the specious argument that no one could be classified as a *kafir* except the one who believed that the forbidden action he was doing was permitted, and they applied this specious argument to all the things that may constitute *kufr*.

It became the habit of these people, when commenting on matters of creed or when refuting the Khawarij, to quote this principle and say: this is a matter of *kufir* of action, and *kufir* of action does not put a person beyond the fold of Islam. For example, it might be said that ruling by something other than what Allah revealed, such as man-made laws - so long as one does not regard that as being permissible - is the matter of *kufir* of action, and *kufir* of action does not put one beyond the fold of Islam. Thus the matter for them would be settled in definitive terms, because it was based - or so they claimed - on one of the principles laid out by the *Salaf*.

As I have said, there is no problem with the terminology itself, unless it leads to a misunderstanding which in turn could lead to a defective understanding of issues of *'aqidah*, or some of them, including the issue under discussion here... As there are phrases used by the *Salaf* which do not cause confusion - such as 'minor *kufir*', or '*kufir* less than *kufir*', or '*kufir* which does not put one beyond the fold of Islam' - it would be good idea to avoid using the phrase '*kufir* of action' because it can be confusing, as we have seen above.⁵

⁵ *Man-Made Laws Vs. Shari'ah*, p. 265-271, with minor adjustments.

Shaykh Muhammad ibn Ibrahim (*rahimabullah*) then immediately after using those terms makes mention of a disputed narration attributed to ibn ‘Abbas (*radiyallahu ‘anhu*) in which he was asked about the *ayah*, “And whosoever does not judge by what Allah revealed, then it is those who are the disbelievers,” he (i.e., ibn ‘Abbas) said, “*Kufr duna kufr.*” Scholars, old and new, have not agreed on using or abandoning this narration, and if it is understood correctly and in which setting it was asked and answered in is taken under consideration, then no problem should come in using it.⁶ And even though Shaykh al-Albani authenticated this narration, multiple other scholars weakened it. The equally knowledgeable *muhaddith* - not more knowledgeable than Shaykh al-Albani - Shaykh al-‘Alwan declared,

⁶ An example is the understanding of Shaykh Muhammad ibn Ibrahim in this letter and in other places. It is mentioned in his collection of *fatawa* (v. 12, p. 280) that he said, “As for that which is said to be *kufr duna kufr*, it is if he refers to other than Allah with the belief that he is a sinner and that the ruling of Allah is the truth, and this is that which comes from him once or twice (i.e., a minimal amount). Regarding whoever places the man-made laws in implementation and subjugates [the people to them], then this is *kufr* even if they say they are mistaken and the ruling of Allah is more just; it is *kufr*, nonetheless, that removes one from the *Millah* [of Islam].”

What is narrated from ibn ‘Abbas (*radiyallahu ‘anhu*) that he said, “*Kufr duna kufr*,” as it is mentioned by al-Marwazi in *Ta’dhim Qadr as-Salah* and al-Hakim in *Al-Mustadrak*, from the path of Hisham ibn Hujayr from Tawus from ibn ‘Abbas is not authentic. Hisham was weakened by Imam Ahmad, Yahya ibn Ma‘in, and al-‘Uqayli, as well as another group. ‘Ali ibn al-Madini said, “I read upon Yahya ibn Sa‘id saying: ‘Ibn Jurayj narrated to us from Hisham ibn Hujayr...’ So Yahya ibn Sa‘id said, ‘It is befitting that I disregard him.’ I said, ‘Should I cross out his narrations?’ He said, ‘Yes.’” And ibn ‘Uyaynah said, “We did not used to take from Hisham ibn Hujayr that which we did not find with other than him.” And this is something that Hisham narrated alone. Furthermore, he went against others besides him from those who are trustworthy, as it was mentioned by ‘Abdullah ibn Tawus from his father and narrated by ‘Abdur-Razzaq in his *tafsir* (1/191), ibn Jarir in his *tafsir* (6/256), Waki’ in *Akhbar al-Qudhat* (1/41), and others with an authentic chain, who said, “Ibn ‘Abbas was asked about His (*ta’ala*) saying, ‘And whosoever does not judge by what Allah has revealed, then it is those who are the disbelievers.’ He said, ‘It is *kufr*.’” And in another narration, “It is disbelief (*kufr*) with him.” And in another [narration], “This is sufficient for his *kufr*.” This is what is

preserved from ibn ‘Abbas (*radiyallahu ‘anhu*), as he generalized the phrasing and did not restrict it.

The path of Hisham ibn Hujayr is *munkar* (rejected) from two angles: (1) The isolated (*tafarrud*)⁷ narration of Hisham. (2) He goes against those who are more trustworthy than him. His saying, “It is *kufr*,” and in the other wording, “It is *kufr* with him,” carries the meaning that the *ayah* is upon its generality and the basic rule (*asl*) concerning *kufr* if it is preceded with the ‘*lam*’⁸ is that it is major *kufr* as Shaykhul-Islam (*rahimahullah*) established in *Al-Iqtida [as-Sirat al-Mustaqim]* (1/208), unless it is restricted or something comes to alter it.⁹

Thus there is no need to mention it or use it, and how absurd it is that the neo-Murjiah, with their various sects within, have built their schools upon such a weak narration, like aforementioned, all to justify their *irja* and the religion of the *tawaghit*.

⁷ *Tafarrud* is synonymous to ‘*gharib*’, and it means that a specific narration comes to us by one narrator some place in the chain. They are weak narrations in general.

⁸ Meaning, the Arabic letter ‘*lam*’ as in the *ayah* in question ‘*al-kafirun*.’

⁹ *Verily, The Victory of Allah Is Near*, p. 9-11.

After he makes a reference to the weak above-mentioned narration, he then outlines the circumstances that are major *kufir* and puts the person outside the fold of Islam. And the category that the people of misguidance cannot stand, and attempted to fabricate lies about, is the fifth. Therein he wrote,

This is the greatest, the most encompassing, and the clearest in obstinate opposition to the legislation [of Allah], stubborn arrogance to its rulings, insulting to Allah and His messenger (*sallallahu 'alayhi wa sallam*); rivaling the *Shar'iyah* courts on their preparations, types, appearances, formations, and their applications. Just as the *Shar'iyah* courts have references, all returning back to the Book of Allah and the Sunnah of His messenger (*sallallahu 'alayhi wa sallam*), these courts have references. And they are laws taken from the various legislations; like the French law, the American law, the British law, and other than them from the man-made laws. Also, from the schools of some innovators who affiliate themselves to the Shari'ah etc.

These courts are now fully operational in the lands of Islam, their doors open and people entering them one after another. Their judges rule between them with

that which opposes the Sunnah and the Book, from those man-made laws, and they impose that on them and approve it for them. Thus what *kufr* is above this *kufr*? And what nullification of the testimony that Muhammad is the Messenger of Allah is there after this?

Let this be written in another wording from a *mujahid* scholar from the Islamic State and see how the accusations of *kharjiyyah* come flowing out. The Murjiah rejects could not stand this clarity from this particular eminent scholar so they assumed their normal positions of lying upon the scholars of Ahlus-Sunnah wal-Jama‘ah. Some sought to explain these words away from what is clearly written and in reference to, others, however, realized that the matter was too apparent. Thus they started to spread that the Shaykh had went back on his ‘first’ opinion. In reply to that, one of the Shaykh’s closest students,¹⁰ Shaykh ‘Abdullah ibn Jibrin said,

¹⁰ Another one of his students, Shaykh Hamud ibn ‘Uqla, wrote a longer reply in response to those who fabricated that particular lie. If Allah grants us success, we hope to publish it as a separate treatise entitled *The Refutation of The Lies of al-‘Anbari*.

I do not recall that he retracted from that, nor that he has any speech that justifies ruling by other than what Allah revealed, nor to facilitate seeking judgement from the *tawaghit*; those who judge by other than what Allah revealed. Indeed, Shaykh Muhammad ibn ‘Abdil-Wahhab (*rahimahullah*) counted them from amongst the heads of the *tawaghit*. Thus whoever narrated from me that he retracted (*rahimahullah ta’ala*) from his speech, then he has made a mistake in that. And the reference in this regard is to the *Shari’ah* texts from the Book and the Sunnah, with the speech of the scholars about them, like what is in *Kitab at-Tawhid*, chapter “The Statement of Allah: ‘Have you not seen those who claim that they believe in that which has been sent down to you.’” And [also] the explanations from the *Aimmah ad-Da’wah* [*an-Najdiyyah*] (*rahimahullah ta’ala*), and other than them, from their explicit and clear works.¹¹

In closing, we ask the reader to not be deceived by the callers of *irja* that have spread throughout the lands. Stick to the path of the righteous scholars and with the permission of Allah, as time passes the truth

¹¹ *Fatawa ‘Ulama al-Balad al-Haram*, p. 49-51.

will manifest and you will be upon the straight path concerning it.¹²

All references to the *ayat* of the Quran in the main body of the Arabic text have been put into footnotes. Any additional footnotes have been added by the publisher. And Allah knows best. May Allah send *salah* and *salam* upon our leader Muhammad, his companions, and all those who sincerely follow him. And we end by saying that all praise belongs to Allah, the Lord of creation.



¹² Be wary, *akhi fillah*, of the agents of the *tawaghit* who distort this path, the likes of ‘Abdul-‘Aziz and Salih Al ash-Shaykh, Salih al-Fawzan, and the others, for they are donkeys carrying books who sit in the path of Allah as by the text of the Quran. They have betrayed the legacy left behind by Shaykh al-Mujaddid Muhammad ibn ‘Abdil-Wahhab and the *Aimmah ad-Da’mah*, who combined knowledge with *jihad*, and have allied with the *musbrikin* against the *muwabbidin*.

**Shaykh al-Mujaddid Muhammad ibn
‘Abdil-Wahhab said:**

O my brothers! Allah Allah! Hold onto the foundation of your din; its beginning, its end, its core, and its head: the testimony that la ilaha illallah. Learn its meaning, love it, love its people, and make them your brothers, even if they are far away. Disbelieve in the tawaghit, oppose and hate them and whoever loves them or defends them or does not make takfir of them, or says that nothing is upon them in relation to them or that “Allah has not obligated me anything with regards to them.” Verily, whoever said that has fabricated a lie against Allah. Verily, Allah has obligated to disbelieve in them and to disassociate from them, even if they were your brothers and children. So Allah Allah! Hold steadfast upon that so that perhaps you may meet your Lord not having committed any shirk with Him. O Allah, take us as Muslimin and join us with the righteous.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Indeed, from the clear major *kufr* is setting the accursed man-made laws in the position of that which the trustworthy spirit (i.e., Jibril) descended with upon the heart of Muhammad (*sallallahu 'alayhi wa sallam*), so that he should be a warner in the clear Arabic language, judging between the creation with it, and referring back to it when a dispute arises in contradiction to, and in obstinate rejection to the statement of Allah (*'azza wa jall*), “Oh you who believe! Obey Allah and obey the Messenger, and those of you (*Muslimin*) who are in authority. [And] if you differ in anything amongst yourselves, refer it to Allah and His messenger, if you believe in Allah and the Last Day. That is better and more suitable for final determination.”¹³

Verily, Allah (*subhanahu wa ta'ala*) negated the *iman* of those who do not refer to the judgments of the Prophet (*sallallahu 'alayhi wa sallam*) in their disputes

¹³ Surah an-Nisa: 59.

between them, an assured negation that is repeated by utilizing the linguistic tool of negation coupled with an oath. He (*ta'ala*) said, “But no, by your Lord, they will not believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in full submission.”¹⁴

He (*ta'ala*) did not make it sufficient that they should merely seek judgement from the Prophet, but further that they should not find any resistance in themselves, rather their hearts must extend to accommodate that; not being disturbed or uneasy in the slightest according to His, may He be exalted, statement, “then find within themselves no discomfort (*harj*) from what you have judged and submit in full submission.”¹⁵ And *harj* is: narrowness and restriction. More precisely, their chest must expand to accept that, free from any indifference.

¹⁴ Surah an-Nisa: 65.

¹⁵ Ibid.

He (*ta'ala*) did not make just these two things sufficient until complete submission is added to it, which is beautiful compliance to his (*sallallahu 'alayhi wa sallam*) ruling, that they are free from any attachment to the self (i.e., desires), and that they submit fully to the right judgment. He, may He be exalted, emphasizes this by stating the verbal root (*taslim*), showing that He is not satisfied only with submission, but that it has to be total and complete submission.

Reflect over what is contained in the first *ayah*, which is His (*ta'ala*) statement, “[And] if you differ in anything amongst yourselves, refer it to Allah and His messenger, if you believe in Allah and the Last Day. That is better and more suitable for final determination,”¹⁶ and how He has left the thing about which they dispute open and general, which is His statement - “anything” - in the context of the condition, and it is His, may He be exalted, statement - “[And] if you differ” - which is general and encompasses all types and forms of disagreements.

¹⁶ Surah an-Nisa: 59.

Then reflect how He has made that a condition for the presence of *iman* in Allah and the Last Day, by His saying. “If you believe in Allah and the Last Day.” Then He, may He be exalted, said - “That is better” - thus anything which He calls good can never be approached by evil, rather it is totally and purely good for the present and future.

Then He said - “more suitable for final determination” - that is, better in the end of this world and the Hereafter, showing that referring back to other than the Messenger (*sallallahu ‘alayhi wa sallam*) when there is disagreement is absolute evil and has the worst outcome in this world and the Hereafter; in contrast to what the *munafiqin* say, “We intended nothing but good and accommodation.”¹⁷ And, “We are but reformers.”¹⁸

For [saying] that, Allah rebukes them saying, “Verily, they are ones who cause mischief, but they perceive not.”¹⁹ Contrary to what the supporters of the

¹⁷ Surah an-Nisa: 62.

¹⁸ Surah al-Baqarah: 11.

¹⁹ Surah al-Baqarah: 12.

man-made laws claim, that the people have a need, rather they must, refer to it for judgement. This is thinking evil of what the Messenger (*sallallahu 'alayhi wa sallam*) came with, treating the explanation of Allah and His messenger, and seeking judgement from it, as being insufficient for the people when disputes arise. And this will necessarily bring about an evil end for them in this world and in the Hereafter.

Reflect as well what is in the second *ayah* regarding the generalization, that being His (*ta'ala*) statement - "in all disputes between them." For verily, the relative noun with its indefinite clause is a format of generalization according the scholars of *usul* and others besides them. It covers all types and forms, and likewise covers the extent, so there is no difference in that as regards to the type of disagreement, whether great or small. And indeed, Allah negated the *iman* from those who wish to take judgment to other than that which the Messenger (*sallallahu 'alayhi wa sallam*) came with, as He (*ta'ala*) said, "Have you not seen those who claim that they

believe in that which has been sent down to you, and that which was sent down before you, and they wish to go for judgement [in their disputes] to the *taghut* while they have been ordered to disbelieve in it. And Shaytan wishes to lead them far astray.”²⁰

His (*‘azza wa jall*) statement - “claim” - is belying their assertion of possessing *iman*. For indeed, seeking judgment from other than that which the Prophet (*sallallahu ‘alayhi wa sallam*) came with and *iman* cannot be gathered together in the heart of anyone. Rather, one of them negates the other. *Taghut* being a derivative of *tughyan*, and it is: exceeding the limits. Thus everyone who rules by or refers back to judgement to other than that which the Messenger (*sallallahu ‘alayhi wa sallam*) came with, has indeed ruled by the *taghut* and sought judgment from it.

Therefore, it is the right upon everyone to judge only by that which the Prophet (*sallallahu ‘alayhi wa sallam*) came with only and nothing else. Likewise, it is the right upon everyone to seek judgment according to

²⁰ Surah an-Nisa: 60.

that which the Prophet (*sallallahu ‘alayhi wa sallam*) brought. Thus whoever rules or seeks judgment by that which opposes it, then undoubtedly they have transgressed and exceeded the bounds. Whether he ruled or sought judgment, he thus became a *taghut* and went beyond the limits.

Reflect on His (*‘azza wa jall*) saying - “while they have been ordered to disbelieve in it.” You come to realize from this the obstinate rejection of the upholders of man-made laws and their desire for that which is contrary to what Allah wants in this respect. As what is required of them and what has been prescribed as part of worship is *kufr bit-taghut* and not referring to it for judgment. “But those who wronged changed [those words] to a statement other than that which had been said to them...”²¹

Then ponder over His saying - “and Shaytan wishes to lead them far astray” - how He indicated that it is misguidance. Whereas those supporters of the man-made laws regard it as guidance, just as the *ayah* illustrates that it is the want of Shaytan; contrary to

²¹ Surah al-Baqarah: 59.

what the supporters of those man-made laws imagine in that they are far from Shaytan and that the well-being of mankind lies in what are the designs of Shaytan and that which ar-Rahman desires and with which the best of the descendants of ‘Adnan was sent with does not contain that and is far removed from such a purpose. It is from that aspect that He (*ta’ala*) rebuked this type of person and confirmed that they seek the ruling of ignorance and made it clear that there is no better ruling than His. “Do they seek the judgement of ignorance? And who is better in judgement than Allah for a people who have certainty?”²²

Reflect on this noble *ayah* and how it illustrates that judgement is one of two categories, and that there is nothing after the ruling of Allah except the ruling of ignorance, whether they like it or not. Rather, they (i.e., the supporters of man-made law) are in worse condition than them and more steeped in falsehood than them, because the people [in the time] of ignorance did not contradict themselves in this

²² Surah al-Maidah: 50.

respect. As for those who support the man-made laws, they are self-contradictory since they profess belief in that which the Messenger (*sallallahu ‘alayhi wa sallam*) brought, then contradict that and try to follow their own way. Allah (*ta‘ala*) said about their likes, “Those are the disbelievers in reality. And We have prepared for the disbelievers a humiliating punishment.”²³ Look then to how this noble *ayah* refutes the claim of the supporters of man-made laws regards to the garbage of their minds and the dust of their thoughts, in which they consider to be good, with His (*‘azza wa jall*) saying, “And who is better in judgement than Allah for a people who have certainty?”

Al-Hafidh ibn Kathir in his *tafsir* of this *ayah* said,

Allah rebukes those who leave the ruling of Allah, which contains all that is good and forbids all that is evil, and instead turns to the opinions, desires, and laws laid down by men without any recourse to the *Shari‘ah* of Allah, just as the people [in the time] of ignorance used to judge according to the misguidance and ignorance which they laid down according to their

²³ Surah an-Nisa: 151.

own ideas and desires. And just as they (i.e., the Tatar) used to judge according to the laws laid down by their rulers, taken from their king Genghis Khan who put together for them a book of law taken from different laws, from the Jews, Christians, the *Millah* of Islam, and other sources.

It also contained many rulings taken solely from his own opinion and wishes which later became a system of law followed by the people and given precedence over the laws of the Book of Allah and the Sunnah of His messenger (*sallallahu 'alayhi wa sallam*). Therefore, whoever does that is a *kafir* who must be fought until he returns to the rule of Allah and His messenger and does not govern in any matter except by it, whether a little or alot. He (*ta'ala*) said, “Do they seek the judgement of ignorance?” Meaning, they seek it, want it, and turn away from the ruling of Allah.

“And who is better in judgement than Allah for a people who have certainty?” Meaning, who is more just than Allah in judgement for one who comprehends His legislation, believes in Him, are certain, knows that Allah is the best of judges, that He is more merciful to His creation than a mother is with her child, that He (*ta'ala*) has perfect knowledge of

everything, is able to do all things, and that He is just in all matters?

He, may He be exalted, said before that, addressing His prophet Muhammad (*sallallahu ‘alayhi wa sallam*), “So judge among them by what Allah has revealed and do not follow their vain desires, diverting away from the truth that has come to you.”²⁴ And He (*ta’ala*) said, “And so judge among them by what Allah has revealed and follow not their vain desires, but beware of them lest they turn you far away from some of that which Allah has sent down to you.”²⁵ He (*ta’ala*) said, giving His prophet Muhammad (*sallallahu ‘alayhi wa sallam*) the choice between judging between the Jews or turning away from them if they come to him for that, “So if they come to you, either judge between them or turn away from them. And if you turn away from them, they cannot harm you in the least. And if you judge, judge between them with *al-qist*. Indeed, Allah loves those who are *al-muqsitin*.”

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²⁴ Surah al-Maidah: 48.

²⁵ Surah al-Maidah: 49.

²⁶ Surah al-Maidah: 42.

Qist is justice, and there is no justice except with the ruling of Allah and His messenger. And the ruling which opposes it is injustice, *dhulm* (oppression), misguidance, *kufr*, and *fisq*. As such, He (*ta'ala*) said after that, “And whosoever does not judge by what Allah revealed, then it is those who are *al-kaafirun*.”²⁷ “And whosoever does not judge by what Allah revealed, then it is those who are *adh-dhalimun*.”²⁸ “And whosoever does not judge by what Allah revealed, then it is those who are *al-fasiqun*.”²⁹

So look how He (*ta'ala*) records the *kufr*, *dhulm*, and *fisq* of those who rule by other than what Allah revealed, and it is not possible for Allah (*subhanahu*) to call the ruler who judges by other than what Allah revealed a *kaafir* and for him not to be a *kaafir*. Rather, he is a *kaafir*, either with the *kufr 'amal* or *kufr i'tiqad*.³⁰ That which is reported from ibn 'Abbas (*radiyallahu 'anhuma*) by way of Tawus, and others, in explaining this *ayah* shows that the ruler who rules by other than

²⁷ Surah al-Maidah: 44.

²⁸ Surah al-Maidah: 45.

²⁹ Surah al-Maidah: 47.

³⁰ Publisher's note: Return to p. 3-10 for an elaboration of these terms, as well as for what is narrated by ibn 'Abbas (*radiyallahu 'anhuma*).

what Allah revealed is a *kaafir*, with either the *kufr i'tiqad* which takes him outside the *Millah*, or with the *kufr 'amal* which does not take him outside the *Millah*.

As for the first, and it is *kufr i'tiqad*, then it is of different types:

Its first type: That the ruler who judges by other than what Allah revealed denies the precedence of the ruling of Allah and His messenger; that is the meaning of what is reported by ibn 'Abbas and is preferred by ibn Jarir [at-Tabari], that being rejecting what Allah revealed from the *shar'i* ruling. There is no difference of opinion amongst *ablul-'ilm* (the people of knowledge) regarding this, since one of the well-known and agreed upon principles according to them is that whoever denies a principle from the principles of the *Din*, or a branch that is agreed upon, or rejects a letter from what came to the Messenger (*sallallahu 'alayhi wa sallam*), then he is a *kaafir* with the *kufr* that expels one from the *Millah*.

The second type: The ruler who judges by other than what Allah revealed does not deny the ruling of

Allah and His messenger, but believes that the ruling of other than the Messenger (*sallallahu 'alayhi wa sallam*) is better than his ruling and more complete and comprehensive for the needs of the people when dispute arises; either in general or in particular cases such as those things occurring due to the modern age and changing conditions. There is also no doubt that he is *kafir*, as he has preferred the judgments of the creation, which are merely the garbage of people's minds and the scum of their ideas, over the ruling of the All-Wise, the worthy of all praise. The judgment of Allah and His messenger (*sallallahu 'alayhi wa sallam*) does not change in its substance along with the changing times, developments, and new situations, as there is no new situation that occurs except that its ruling is contained in the Book of Allah and the Sunnah of His messenger (*sallallahu 'alayhi wa sallam*), either in the text explicitly, implicitly, or to be derived therefrom, whether the people know it or not. And what the *'ulama* (scholars) have said about the *fatwa* (verdict) changing according to the changing situations is not as those ignorant of the rulings of Allah think; that they can

be adapted to suit their base desires, worldly goals, and ideals, which are false and disastrous. Because of this you find them adamantly defending and trying to bend the texts to suit their purposes and support them however possible by twisting the words from their intended meanings.

However, what is meant by the *'ulama* in speaking of the *fatwa* changing depending upon the changing situations and times is that which has been derived by using the principles of the *Shari'ah* and its intended aims and noble goals which are of the types of that which Allah (*ta'ala*) and His messenger (*(sallallahu 'alayhi wa sallam)*) want. And it is known that the "lords" who lay down the fabricated man-made laws are far-removed from all of that and that they only say that which they themselves desire. Whatever the case, the reality is a witness.

The third type: That he does not believe it as being better than the ruling of Allah and His messenger, but he believes it to be equivalent. Thus this is like the previous two types in that he is a *kafir* with the *kufr* that expels him from the *Millah*, due to him

equating the creation with the Creator and contradicted and obstinately opposed the saying of His (*'azza wa jall*), “There is nothing like Him,”³¹ and its like from the noble *ayat* that indicate the perfection of Allah and [that He is] not like anything from creation; neither in His self, His attributes, His actions, or His ruling between the people in that which they dispute.

The fourth type: That he does not consider the judgment of the ruler who judges by other than that which Allah revealed to be like the ruling of Allah and His messenger, not to speak of preferring it to it, but he believes that it is permissible to judge by that which goes against the ruling of Allah and His messenger. This one is just like the previous ones since he believes it is permissible that which is forbidden by the clear, explicit texts.

The fifth type: This is the greatest, the most encompassing, and the clearest in obstinate opposition to the legislation [of Allah], stubborn arrogance to its rulings, insulting to Allah and His

³¹ Surah ash-Shura: 11.

messenger (*sallallahu 'alayhi wa sallam*); rivaling the *Shar'iyah* courts on their preparations, types, appearances, formations, and their applications. Just as the *Shar'iyah* courts have references, all returning back to the Book of Allah and the Sunnah of His messenger (*sallallahu 'alayhi wa sallam*), these courts have references. They are laws taken from the various legislations; like the French law, the American law, the British law, and other than them from the man-made laws. Also, from the schools of some innovators who affiliate themselves to the *Shari'ah* and so forth.

These courts are now fully operational in the lands of Islam, their doors open and people entering them one after another. Their judges rule between them with that which opposes the Sunnah and the Book, from those man-made laws, and they impose that on them and approve it for them. Thus what *kufr* is above this *kufr*? And what nullification of the testimony that Muhammad is the Messenger of Allah is there after this?

All the proofs that have passed are all well-known and are too many to mention here. Oh people of intelligence, how can you be pleased to accept the laws of men like yourselves and the thoughts of people similar to yourselves, or lesser than you, who are open to error? Rather, their errors outnumber their correctness, and there is nothing in their rulings that is correct except that which is taken from the ruling of Allah and His messenger (*sallallahu 'alayhi wa sallam*), whether in letter or derived therefrom. How can you leave them to judge between yourselves, your blood, your honor, your families, your wives, your offspring, your wealth, and the rest of your rights?

They leave and turn away from judging by the ruling of Allah and His messenger, which is free from error, nor can it be approached by falsehood from in-front of it or behind it; a revelation from the All-Wise, the One worthy of all praise. The submission of the people to and their compliance with the rule of their Lord is to submit and comply with the rule of the One (*ta'ala*) who created them, worshiping only Him.

And so just as the creation do not prostrate except to Allah and do not worship except Him, not worshipping anything created, similarly it is binding that they do not comply, surrender, and submit except to the ruling of al-Hakim, al-‘Alim, al-Hamid, ar-Ra’uf, and ar-Rahim; not submitting to the ruling of the creation, the oppressive and ignorant who is destroyed by doubts, desires, uncertainty, and whose hearts are over taken by heedlessness, cruelty, and oppression.

Therefore, it is necessary for those with intellects that they consider themselves above that, as it enslaves them to it and causes them to be ruled by vain desires, selfish interests, errors, and mistakes; on top of all that being *kufir* by the text of His (*ta‘ala*) saying, “And whosoever does not judge by what Allah revealed, then it is those who are *al-kafirun*.”³²

The sixth type: What many of the tribal chiefs, from the desert bedouins and others, judge with, which they inherited from their fathers and forefathers, as well as the customs they refer to as their “*Sallum*”.

³² Surah al-Maidah: 44.

Judging with it and seeking judgment from it when dispute arises from what remains from the rulings of *jabiliyyah* and turning away from the ruling of Allah and His messenger (*sallallahu 'alayhi wa sallam*). There is no might nor power except with Allah.

As for the second category from the categories of *kufr* of the ruler who judges by other than what Allah revealed, and it is that which does not take a person outside of the *Millah*, then it preceded in the explanation of ibn 'Abbas (*radiyallahu 'anhu*) with regards to the saying Allah (*'azza wa jall*) “And whosoever does not judge by what Allah revealed, then it is those who are *al-kaafirun*.”³³ Thus it falls into this category of his saying, “*Kufr duna kufr*,” and, “It is not the *kufr* which they (i.e., the Khawarij) go for.”

This is in reference to one who was tempted to judge in an issue by his desires instead of what Allah revealed, with the belief that the ruling of Allah and His messenger is the truth, and that he is in the wrong and left the guidance. This, even if it is not the *kufr* which expels one from the *Millah*, is from the

³³ Ibid.

major sins like *zina*, drinking alcohol, stealing, and taking false-oaths, etc. Indeed, that which Allah calls *kufr* in His Book is greater than that sin which He does not refer to as *kufr*.

We ask Allah that He unties the *Muslimin* upon seeking judgment from His Book, complying to it, and being pleased with it. Verily, He is capable of that.

