SALAFIMANHAJ.COM
EEMAAN AND KUFR SERIES
VOL.17

DID MODERN SALAFĪ SCHOLARS INVENT THE NOTION OF 'ISTIHLĀL' WHILE IT WAS NOT MENTIONED BY SCHOLARS OF THE PAST?

A CRITIQUE OF YĀSIR QĀDHĪ'S THEORY[1]

A lecture entitled 'The Reception of Ibn Taymiyya's Fatwa on "Ruling by Other than God's Law" Amongst Modern Salafi Scholars' was given on 7 September 2009 at an academic conference at the *University of Edinburgh* by Yāsir Qadhī (or "Kazi" as he has now begun using), now Ph.d student at *Yale University*. Qadhī asserted and attempted to argue that the concept of *Istihlāl* had been invented and concocted by contemporary Salafī scholars from whence it was neither emphasised nor known of by scholars of the past. Such a bold assertion necessitates therefore that we investigate this serious issue in order to demonstrate whether his hypothesis is accurate or not. Hence, in this brief paper we will demonstrate that Qādhī's theory is totally flawed, erroneous and contains an element of intellectual denial. Yāsir Qādhī states in his lecture, after mentioning the fatwā of Ibn Taymiyyah regarding the Mongols and the issue of ruling by other than what Allāh reveals, that:

> **The thrust of the paper[2] is about modern Salafī scholars and it is quite strange and interesting to know that <u>amongst modern Salafī scholars all of a sudden this classical understanding seems to have been completely disoriented</u>. There are three scholars who are considered to be the leaders of the modern Salafī movement, all three of them have passed away in our times: the first of them was 'Abdul'Azeez**

[1] By Abū Ameenah 'AbdurRahmān as-Salafi and 'AbdulHaq al-Ashanti. **The authors of this paper attempted to notify Yāsir Qadhī of their observations via email three months ago, emailed to two email addresses for Yāsir Qadhī, yet a response from Yāsir Qadhī was not forthcoming.**

[2] Meaning Yāsir Qadhī's paper 'The Reception of Ibn Taymiyya's Fatwa on "Ruling by Other than God's Law" Amongst Modern Salafi Scholars'. The lecture can be heard here: http://podcast.is.ed.ac.uk:8080/Podcasts/casawadmin/2009-12-18/The_Reception_of_IbnTaymiyya_s_Fatwa_on__Ruling_by_Other_than_God_s_Law__Amongst_Modern_Salafi_scholars-audio.mp3

© SalafiManhaj 2009

bin 'Abdullāh ibn Bāz who died in 1999. He was the Grand Muftī of Saudi Arabia. The second is Muhammad ibn Sālih al-'Uthaymeen who died 2000 and the third is Muhammad Nāsiruddeen al-Albānī a Syrian trained, of Albanian origin, scholar of hadeeth who died in 1999. <u>All three of these scholars held differing positions amongst themselves none of which fully agree with what I would call the "classical understanding" of Ibn Taymiyyah's fatwā.</u>

Yāsir Qādhī states:

Ibn Bāz clearly disagreed with his own teacher Muhammad ibn Ibrāheem when he said that judging by other than God's law does not make you a kāfir, the action is not an action of kufr he said – unless it is accompanied by a state of the heart in which such laws are deemed to be permissible, the Arabic is istihlāl. If you consider it permissible to judge by other than God's law then you are a kāfir, but the mere act does not make you a kāfir. Then he asked "how would you ever know the inner thoughts of a ruler, therefore we merely cannot pronounce takfeer on the rulers because we don't know their inner thoughts." And when he was asked "your own teacher disagrees with you" he said "my teacher was but a human no matter how great he was, the evidence is in the Qur'ān and the Sunnah." And he (i.e. Imām Bin Bāz) interpreted Ibn Taymiyyah's fatwā to mean that the Mongols are kāfirs because they considered it permissible and not because they actually did the deed (of ruling by other than what Allāh has revealed).

Qādhī is yet to give the source for wherein Imām Bin Bāz **"interpreted Ibn Taymiyyah's fatwā to mean that the Mongols are kāfirs because they considered it permissible and not because they actually did the deed (of ruling by other than what Allāh has revealed)"**.

Yāsir Qādhī then states about Imām al-Albānī *(rahimahullāh)*:

Muhammad Nāsiruddeen al-Albānī, who definitely had the most mild, if you like, understanding <u>and in fact outright rejected this understanding and he said that in all situations and scenarios judging by other than God's law is never kufr, in and of itself it cannot be kufr</u>; and he actually disagreed with the understandings of Ibn Taymiyyah and others in this regard.

Yāsir Qādhī then states in his conclusion that:

In modern times, most, all, of the Salafī scholars have been forced to modify their understanding of Ibn Taymiyyah's fatwā...

© SalafiManhaj 2009

This is what we will discuss in this paper as many, besides Qādhī, make this assertion.[3]

THE VIEW OF IMĀM AHMAD IBN HANBAL

Imām Ahmad *(rahimahullāh)* stated, as recorded in *Masā'il 'Abdullāh ibn Imām Ahmad ibn Hanbal*, vol.3, p.1085, no.1498:

« نرَى – والله أعلم – أن ذلكَ منه على الاستحلال »

"We view, and Allāh knows best, that from him was out of istihlāl."

This was in regards to the hadeeth, which Ibn ul-Qayyim *(rahimahullāh)* relayed from Yahyā ibn Ma'een as being saheeh, and which Ibn Hajar *(rahimahullāh)* deemed as hasan, in at-Tirmidhī, an-Nasā'ī and Ibn Mājah *(rahimahumullāh)* about one who was executed for marrying his father's wife. Imām at-Tahāwī *(rahimahullāh)* stated in *Sharh Ma'ānī al-Āthār*, vol.3, p.150 that because al-Fay' was taken from the man in the form of a fifth of his property and wealth this indicates that the man was executed on account of apostasy and him believing that what was harām was halāl. This was also mentioned by al-'Allāmah as-Sindī *(rahimahullāh)* in his *Sharh* of Sunan an-Nasā'ī under hadeeth no.3332 and by al-'Allāmah ash-Shawkānī in *Nayl ul-Awtār*, vol.7, p.131.[4]

THE VIEW OF IMĀM AT-TAHĀWĪ IN HIS CREED

Imām Abū Ja'far at-Tahāwī (circa 239-321 AH/853-935 CE) stated in his *'aqeedah*, vol.2, pp.432, with the *Sharh* of al-'Allāmah Ibn Abi-l-'Izz al-Hanafī:

> **We do not make takfeer of any of the people of the Qiblah on account of a sin as long as he does not make it halāl (ma lam yastahalluhu).**

The explainer (i.e. Ibn Abi-l-'Izz al-Hanafī, rahimahullāh) stated:

> **At-Tahāwī restricted what he stated by the words "...as long as he does not make it halāl (ma lam yastahalluhu)" indicating that his intent of this negation is general to all sins, sins practiced (al-'Amaliyyah) not sins with (pre-conceived) knowledge (al-'Ilmiyyah).**

Shaykh 'Ali Hasan al-Halabī al-Atharī stated:

---

[3] Such as Abū Muhammad al-Maqdisī, Muhammad bin Sālim ad-Dawsarī, Abū Hamza al-Misrī, Abdullah ('el') Faisal al-Jamaykī and Abū Zubair Saleem Begg ("al-'Azzāmī"); the latter currently the Imām of Lewisham Islamic Centre in south-east London who has also sunk into intellectual denial of late.

[4] For more on this refer to Shaykh Bandar bin Nāyif al-'Utaybī, *al-Hukm bi Ghayr mā Anzala Allāh: Munāqashatun Ta'seeleeyatun 'Ilmiyyatun Hādi'atun* [Ruling by Other than What Allāh Has Revealed: A Sober Introductory Academic Discourse], Cairo: Maktabah 'AbdulMusawwir bin Muhammad bin 'Abdullāh, 1427 AH, 1st Edn., pp.18-20.

© SalafiManhaj 2009

His words "al-'Ilmiyyah" mean "al-'I'tiqādiyyah" (creedal, believing that it is okay to commit such sins). Then he (rahimahullāh) clarified that "yastahalluhu" means "ya'taqidahu" (he believes in it). Refer to at-Ta'leeqāt al-Mukhtasirah 'alā Matn il-'Aqeedat it-Tahāwiyyah [Abridged Comments to the Text Tahāwī's Creed], p.139 by Shaykh Sālih al-Fawzān and my book Sayhat un-Nadheer [The Cry of the Warner], pp.39-49.[5]

Ibn Abi-l-'Izz al-Hanafī *(rahimahullāh)* also stated in *Sharh al-'Aqeedah at-Tahawiyyah*, pp.323-324:

وهنا أمر يجب أن يتفطن له، وهو: أن الحكم بغير ما أنزل الله قد يكون كفراً ينقل عن الملة، وقد يكون معصية: كبيرة أو صغيرة، ويكون كفراً: أما مجازاً؛ وإما كفراً أصغر، على القولين المذكورين. وذلك بحسب حال الحاكم: فإنه إن اعتقد أن الحكم بما أنزل الله غير واجب، وأنه مخير فيه، أو استهان به مع تيقنه أنه حكم الله؛ فهذا أكبر. وإن اعتقد وجوب الحكم بما أنزل الله، وعلمه في هذه الواقعه، وعدل عنه مع اعترافه بأنه مستحق للعقوبة؛ فهذا عاص، ويسمى كافراً كفراً مجازيا، أو كفراً أصغر

Here there is a matter which has to be understood, which is that ruling by other than what Allāh has revealed can be kufr which ejects one from the religion or disobedience: major or minor. It can be kufr: figuratively or minor kufr and that depends on the condition of the ruler: for if he believes that ruling by what Allāh has revealed is not obligatory and that he has a choice in the matter, or he neglects it while being convinced that it is the rule of Allāh, this is major kufr. Yet if he believes that it is obligatory to rule by what Allāh has revealed and knows this reality, yet leaves it while admitting that he is worthy of being punished for that – then he is disobedient and this is called figurative or minor kufr.

[5] Shaykh 'Ali bin Hasan bin 'AbdulHameed al-Halabī al-Atharī, *at-Tahdheer min Fitnat il-Ghulū fi't-Takfeer* [A Warning from the Tribulation of Extremism in Takfeer] (Palestine, an-Nūr Company, 1423 AH/2002 CE, 3rd Edn.), pp.114-115, ftn.3.

© SalafiManhaj 2009

THE VIEW OF SHAYKH UL-ISLĀM IBN TAYMIYYAH

As Yāsir Qādhī has claimed that the contemporary Salafī Imāms have, as he oddly claims, differed from **"the classical understanding of Ibn Taymiyyah"** it necessitates us assessing the statements of Ibn Taymiyyah in order to observe if there is indeed any congruence between the views of the contemporary Salafī Imāms and Shaykh ul-Islām Ibn Taymiyyah on this issue. Shaykh ul-Islām Ibn Taymiyyah *(rahimahullāh)* stated:

> **The believer should be warned from making permissible (istihlāl) the Mahārim of Allāh, and he should know that this is of the main reasons for punishment and is of the gravest errors and acts of disobedience.**[6]

He also said in *Minhāj us-Sunnah*, vol.5, p.130-131:

> "ولا ريب أن من لم **يعتقد** وجوب الحكم بما أنزل الله على رسوله فهو كافر، فمن **استحل** أن يحكم بين الناس بما يراه عدلاً من غير اتِّباعٍ لما أنزل الله فهو كافر..."ا.هـــ.

> **There is no doubt that <u>whoever does not believe</u> in the obligation of ruling by what Allāh has revealed to His Messenger is a disbeliever. <u>Whoever makes it permissible (istahalla) to</u> judge between the people by what he views and he is just, without following what Allāh has revealed – is a disbeliever.**

Then Ibn Taymiyyah stated shortly after this:

> فإن الناس أسلموا ,ولكن مع هذا لا يحكمون إلا بالعادات الجارية لهم ,التي يأمر بها المطاعون ,فهؤلاء إذا **عرفوا** أنه لا يجوز الحكم إلا بما أنزل الله فلم يلتزموا ذلك , بل **استحلوا** أن يحكموا بخلاف ما أنزل الله : فهم **كفار**, وإلا : كانوا جهالا –كمن تقدم أمرهم – " .

> **For some people embrace Islām however with this they only rule by their traditional customs which their leaders order. If they knew that it was not permissible to rule except by what Allāh has revealed and they do not commit to this, <u>rather they made it permissible to rule by contrary to what Allāh had revealed</u> – then they are kuffār. Except if they are ignorant as their affair is.**

[6] Shaykh ul-Islām Ibn Taymiyyah, *Iqāmat ud-Daleel 'alā Ibtāl it-Tahleel* within *al-Fatāwā al-Kubrā*, vol.3, p.120.

© SalafiManhaj 2009

Shaykh ul-Islām Ibn Taymiyyah said also stated in *as-Sārim al-Maslūl*:

> Istihlāl (to make something permissible) is the belief that the *Mahārim* (prohibitions) which the Qur'ān has prohibited are *halāl*. At times this can be with the belief that Allāh has made them permissible; and at times it can be with the belief that Allāh did not prohibit them; and at times it can be *without* the belief that Allāh has prohibited it. This is all due to the deficiency of *īmān* in *ar-Rubūbiyyah* (Lordship) or due to a deficiency in *īmān* in the *Risālah* (message). It is pure rejection not based on an introduction. At times one knows that Allāh has prohibited them and that the Messenger had prohibited what Allāh had prohibited yet the person refrains from being obligated by this *tahreem* (prohibition) and is stubborn towards the prohibition – this is of the severest forms of *kufr*. It can also be out of his knowledge that whoever does not obligate himself to this *tahreem* will be punished by Allāh. Also this refraining and stubbornness is due to his deficiency in believing in the wisdom of the One who gave the order and His Ability. This deficiency goes back to the lack of *tasdeeq* (affirmation) of this Attribute of Allāh. It could also be with the knowledge of all what is to be believed in yet he goes against it or out of following his desires – his reality is kufr. This is because he admits to Allāh and His Messenger and everything which they have informed about; and he also believes in everything that the believers believe in however he dislikes it, hates it and displeased with it due to it not agreeing with his own aims and desires and he says **"I do not acknowledge this and I do not commit to it, I hate this truth and I stay away from it."** This type is not like the first type and *takfeer* (of this type) is well-known by necessity in the *deen* of Islām. The Qur'ān is filled with *takfeer* of the likes of this type and the punishment for this type is even more severe. For the likes of this type it is said: *"The people who will have the most severe punishment on the Day of Judgement are those scholars who do not benefit from the knowledge Allāh gave them."* This is Iblees and those who follow his way. With this, the difference between the one who is disobedient is clear, for the disobedient one believes in the obligation of the action yet does not do it as his desires prevent him from doing it. He has *īmān* in the form of *tasdeeq, khudū'* and *inqiyād*, in speech and action, however he did not perfect the action.[7]

Ibn ul-Qayyim, the student of Ibn Taymiyyah, stated similar to this in *Ighāthat ul-Lahfān*, vol.1, p.531:

فحقيق بمن اتقى الله وخاف نكاله أن يحذر استحلال محارم الله بأنواع المكر والاحتيال

[7] *As-Sārim al-Maslūl*, vol.3, pp.971-972

© SalafiManhaj 2009

Whoever truly fears Allāh and His punishment should beware of Istihlāl (making permissible) Allāh's prohibitions by the various types of plotting and fraud.

Shaykh ul-Islām Ibn Taymiyyah said:

"والإنسان متى حلل الحرام المجمع عليه ، أو حرم الحلال المجمع عليه ، **أو بدل الشرع المجمع عليه كان كافراً مرتداً باتفاق الفقهاء** ، وفي **مثل هذا** نزل قوله على أحد القولين: {ومن لم يحكم بما أنزل الله فأولئك هم الكافرون} **أي هو المستحل** للحكم بغير ما أنزل الله

When a person makes halāl whatever is harām by consensus, or prohibits whatever is halāl by consensus, or replaces whatever is from the Divine Legislation by consensus - is a disbelieving apostate by agreement of the fuqahā. With regards to the likes of these people Allāh revealed,

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{al-Mā'idah (5): 44}

Meaning: the one who makes it lawful (Mustahil) to rule by other than what Allāh has revealed.[8]

Shaykh ul-Islām Ibn Taymiyyah also stated in *Majmū' al-Fatāwā*:

وَ مَعْلومٌ بالاِضْطِرار مِن دين المسلمين وَ بِاتفاق جميع المسلمين ان مَن سَوَّغ اتباع غير دين الاِسْلام أوْ اتباع شريعة غير شريعة محمد صلى الله عليهِ وَ سلم: فَهُوَ كافِر وَ كَكفرِ مَن آمَنَ بِبَعْضِ الكِتابِ وَ كَفَرَ بِبَعْضِ الكِتابِ

It is well-known by necessity that the deen of the Muslims, and with the agreement of all of the Muslims, that whoever makes it permissible (sawwagha) to follow a deen other than Islam or to follow a Sharee'ah other than the Sharee'ah of

[8] *Majmū' al-Fatāwā*, vol.2, p.267

© SalafiManhaj 2009

Muhammad (sallallāhu 'alayhi wassallam) – is a disbeliever and is like the kufr of one who believes in some of the Book and disbelieves in some of it…[9]

This is from: Ibn Taymiyyah, *Majmū' al-Fatāwā* (KSA: Tarteeb of 'AbdurRahmān Qāsim, 1997 CE/1418 AH), vol.8, p.524.

Ibn Taymiyyah also stated in *Minhāj us-Sunnah*, vol.5, p.130:

"ولا ريب أن من لم يعتقد وجوب الحكم بما أنزل الله على رسوله فهو كافر، فمن استحل أن يحكم بين الناس بما رآه هو عدلاً من غير اتباع لما أنزل الله فهو كافر، فإنه ما من أمة إلا وهي تأمر بالحكم بالعدل، وقد يكون العدل في دينها ما رآه أكابرهم، بل كثير من المنتسبين إلى الإسلام يحكمون بعاداتهم التي لم ينزلها الله ــ سبحانه وتعالى ــ كسوالف البادية، وكأمر المطاعين فيهم، ويرون أن هذا هو الذي ينبغي الحكم به دون الكتاب والسنة!... [وكثير]من الناس أسلموا، ولكن مع هذا لا يحكمون إلا بالعادات الجارية لهم التي يأمر بها المطاعون، فهؤلاء إذا عرفوا أنه لا يجوز الحكم إلا بما أنزل الله فلم يلتزموا ذلك بل استحلوا أن يحكموا بخلاف ما أنزل الله فهم كفار وإلا كانوا جهالاً كمن تقدم أمرهم"اهـــ.

There is no doubt that <u>whoever does not believe</u> in the obligation of ruling by what Allāh has revealed to His Messenger is a disbeliever. <u>Whoever makes it permissible (istahalla) to</u> judge between the people by what he views and he is just, without following what Allāh has revealed – is a disbeliever. There is no nation except that it orders ruling with justice and sometimes justice, as perceived by its senior leaders, can exist in its religion. Many of those who ascribe themselves to Islām judge by their customs that Allāh has not revealed. This is like the traditional customs of the Bedouins and the chiefs were obeyed in this regard and they used to consider that it was desirable to rule by such customs without referring to the Book and the Sunnah, this is kufr. As many people became Muslim but they did not rule except by their traditional customs which were

[9] In Yāsir Qādhī's lecture he also mistranslates this quote from Shaykh ul-Islām and translated it as **"…whoever follows a law…"** missing out the bit before about

ان مَن سَوَّغ اتباع غير دين الإِسْلام

"…whoever makes it permissible to follow a deen other than Islām…"

© SalafiManhaj 2009

passed down to them and which were ordered by those leaders who they obeyed. So if they know that it is not allowed to rule except by what Allāh has revealed and did not adhere to that but in fact **declared it to be lawful (istihallū) for themselves to rule in opposition to what Allāh has revealed, then they are disbelievers.** And if not (i.e. did not declare it lawful) then they are merely ignorant people as has been mentioned prior about them.

Shaykh ul-Islām Ibn Taymiyyah did not make *takfeer* of them unless they declared and believed it lawful and with the condition that they know it is not permissible to rule except by what Allāh has revealed. So do you see how Shaykh ul-Islām Ibn Taymiyyah ruled them as having Islām if they do not know that it is not permissible to rule by anything except what Allāh has revealed? Also can you see how Ibn Taymiyyah ruled them as having Islām even though they only judged by traditional customs which had been passed down like man-made laws? So why does Qādhī misrepresent Ibn Taymiyyah and the contemporary Salafī 'Ulama and make out that there is a conflict in their approaches? Also the *tafseer* of Ibn Taymiyyah of one of the important Qur'ānic verses in this topic rebuts Qādhī's theory, as Ibn Taymiyyah beneficially explained the issue in *Majmū' al-Fatāwā*, vol.7, p.70-71:

"وهؤلاء الذين اتخذوا أحبارهم ورهبانهم حيث أطاعوهم في تحليل ما حرم الله، وتحريم ما أحل الله، يكونون على وجهين:

أحدهما: أن يعلموا أنهم بدلوا دين الله فيتبعونهم على التبديل، فيعتقدون تحليل ما حرم الله، وتحريم ما أحل الله، اتباعاً لرؤسائهم مع علمهم أنهم خالفوا دين الرسول، فهذا كفر، وقد جعله الله ورسوله شركاً، وإن لم يكونوا يصلّون لهم ويسجدون لهم، **فكان من اتبع غيره في خلاف الدين مع علمه أنه خلاف الدين، واعتقد ما قاله دون ما قاله الله ورسوله مشركاً مثل هؤلاء.**

الثاني: أن يكون اعتقادهم وإيمانهم بتحليل الحلال وتحريم الحرام ثابتاً لكن أطاعوهم في معصية الله، كما يفعل المسلم ما يفعله من المعاصي التي يعتقد أنها معاصي، ولهم حكم أمثالهم من أهل الذنوب" اهـــ.

© SalafiManhaj 2009

> Those who took their scholars and monks as lords obeyed them in making lawful what Allāh had prohibited and prohibited what Allāh had made lawful and this has two aspects:
> **Firstly:** That they know that they have substituted the *deen* of Allāh and then followed them in that change and **believed in the making lawful of what Allāh had prohibited and in the prohibition of what Allāh had made lawful.** So they did this following their leaders while knowing that it opposed the *deen* of the Messenger *(sallallāhu alayhi wassallam)* and this is *kufr* and Allāh and His Messenger have classified such an individual a disbeliever, even though they do not pray or prostrate to them. **Whoever follows other than Allāh in opposing the deen, while knowing that it opposes the deen and believes in what other than Allāh and His Messenger have stated is a Mushrik.**
> **Secondly:** That they have firm belief and *īmān* about legalising the *halāl* and prohibiting the *harām*, however they obeyed them in disobedience to Allāh. This is like a Muslim who commits an act of disobedience which he firmly believes is wrong and disobedience, they have the same ruling as them as being sinful.

Therefore, the verses intend whoever takes scholars and worshippers as lords is in regards to *tahleel* (legalising) and *tahreem* (prohibiting) in belief and action, not in just mere action alone. The *shirk* that Banī Ismā'eel was via placing Rabbis and religious scholars at the same level as Allāh in making lawful and making unlawful and turning away from the commandments of Allāh. What also indicates this is the *tafseer* of the Prophet *(sallallāhu alayhi wassallam)* which we have mentioned. The saying of Hudhayfah *(radi Allāhu 'anhu)* when he asked about the verse was: *"They did not fast for them or pray to them, but they made lawful for them what Allāh had prohibited and they would prohibit for them what Allāh had made lawful. This was how they made them lords besides Allāh."*[10]

Therefore, the issue of ruling and referring to other laws for judgement according to Shaykh ul-Islām Ibn Taymiyyah, and which is the school of thought of the Companions and the Imāms after them, is that merely referring judgement to other than the Divine Legislation is not disbelief rather it is disobedience and *kufr* less than *kufr*. The reason why Ibn Taymiyyah made *takfeer* of the Mongols is on account of the Mongols claiming their Mongol Yāsiq (Yasā) codes were of divine origin. The seventh ruler of the Mongol Ilkhanate during the time of Ibn Taymiyyah was Qazān (Ghazan) bin Arghun bin Abaqa bin Hulagu bin Tolui bin Chingiz (aka Genghis) Khan, (1271-1304 CE). Qazān (Ghazan) claimed Islām in 1295 CE yet still practiced Mongol Shamanism and ascribed to his family's tradition of Yāsiq as he honoured his ancestors' worship, thus he still worshipped Tengri (a Mongolian deity). He also dabbled in *Rafd* and *Tashayyu'*. The

[10] Ibn Jareer, vol.10, pp.114-15

© SalafiManhaj 2009

Mongolian Great Khāns of the 13th century (though a different branch of Mongol rulers than the Ilkhanids) ideologically based their power on a mandate from Tengri himself, and began their declarations with the words "*by the will of Eternal [Blue] Heaven*".[11] The Persian historian Rasheed ad-Deen al-Hamadānī (1247-1318 CE) reported in his landmark work on Ilkhanid history *Jāmi' ut-Tawārīkh* [Compendium of Histories], as relayed by the leading Western expert of Mongol history David O. Morgan in his paper *"The Great Yasa of Chingiz Khan and Mongol Law in the Ilkhanate"*,[12] that Qāzān (Ghazan) would also address his troops beginning with praise of the Mongol Yāsiq which he believed was the reason for Mongol military success, prowess and dominance in the world. It was Ghāzan's Mongol ideals of world conquest was what led to Ghazan attacking Syria even though it was a Muslim land.[13] Ghazan also played a role in the Franco-Mongol alliance wherein in 1299 CE he invited the Knights Templar, the Hospitallers, the Teutonic Knights and other Christian military orders to join him in invading the Muslim Mamluks in Syria. Malcolm Barber, the world's leading expert on the Knights Templars, states:

> **The aim was to link up with Ghazan, the Mongol Il-Khan of Persia, who had invited the Cypriots to participate in joint operations against the Mamluks.**[14]

In 1303, Ghazan had again sent a letter to Edward I, via the Mongol ambassador to Europe from 1289 to 1305 CE Buscarello de Ghizolfi, reiterating Hulagu Khān's promise that they would give Jerusalem to the Franks in exchange for help against the Mamluks. That year, the Mongols appeared in great strength (about 80,000) together with the Armenians, but they were defeated at Homs on March 30, 1303, and at the decisive Battle of Shaqhab in southern Damascus on April 21, 1303 wherein the Mongols was massively defeated and crushed and Ghazan's invasion were put to an end. Ibn Taymiyyah mentioned in his refutation of al-Bakrī which has been published as *Talkhees Kitāb ul-Istighātha* (vol. 2, pp. 731-732):

> **When the people rectified their affairs and were truthful in seeking help from only Allāh, Allāh gave them victory over their enemy with a mighty victory indeed. The Mongols had not suffered such a defeat as they did on that occasion. The realisation of the tawheed of Allāh was corrected and obeying the Messenger from**

[11] Christopher Pratt Atwood, *Encyclopedia of Mongolia and the Mongol Empire* (New York: Facts on File, 2004), p.199

[12] Rasheed ad-Deen, *Jāmi' ut-Tawārīkh*, vol.3, p.511 – see David O. Morgan, "The Great Yasa of Chingiz Khan and Mongol Law in the Ilkhanate, *Bulletin of the School of Oriental and African Studies*, 49 (1986), p.172.

[13] Reuven Amitai-Preiss and David O. Morgan (eds.), *The Mongol Empire and its Legacy* (Leiden: E.J. Brill, 1999), p.68

[14] Malcolm Barber, *The Trial of the Templars* (New York: Cambridge University Press. 2006, 2nd Edn.), p.22

© SalafiManhaj 2009

whence they did not beforehand. Allāh gave victory to His messenger and those who believed with him in this life and in on the day when the witnesses will be established.

Yāsiq was a compendium of mystical, philosophical, legal and creedal codes, which signified a divine origin for them. This is also mentioned by al-Hāfidh Ibn Katheer in *al-Bidāyah wa'n-Nihāyah*, vol.13, p.118:

(وقد ذكر بعضهم أنه كان يصعد جبلاً ثم ينزل ثم يصعد ثم ينزل مراراً حتى يعي ويقع مغشياً عليه ، ويأمر من عنده أن يكتب مما يلقى على لسانه حينئذ)

Some of them mentioned that he (i.e. Genghis Khān) used to go to the top of a mountain and then descend and then climb back up and then descend, frequently, until he would become overtaken by tiredness and unconscious. Then he would instruct those with him to write down whatever came out of his mouth at the time.

Ibn Taymiyyah stated:

وذلك أن اعتقاد هؤلاء التتار كان في جنكسخان عظيماً فإنهم **يعتقدون أنه ابن الله** من جنس ما يعتقده النصارى في المسيح

And that is because the belief (i'tiqād) of those Tartars in Genghis Khān was great indeed and <u>they used to believe that</u> he was the son of Allāh similar to what the Christians believe regarding the Messiah.[15]

Then Ibn Taymiyyah states just after this:

"وهم (التتار) مع هذا يجعلونه (أي جنكس خان) أعظم **<u>رسول عند الله</u>** في تعظيم ما سنّه لهم وشرعه بظنه وهواه".

For they (the Tartars) with this (fact that he was born out of wedlock) make him (Genghis Khān) <u>the greatest of Messengers with Allāh</u> in venerating what he outlined for them which was from his own views and desires.

Imām adh-Dhahabī stated in *Tāreekh ul-Islām* [History of Islām]:

[15] Ibn Taymiyyah, *Majmū' al-Fatāwā*, vol.28, p.521

© SalafiManhaj 2009

He (Genghis Khān) is the tyrant ruler of the Tartars and also their first king...they obeyed him in the manner the companions of a Prophet would obey their Prophet, in fact in the same way that the sincere servants would show obedience to the Lord of the Worlds...and he died upon their religion and their disbelief.[16]

Imām adh-Dhahabī also stated:

And he (i.e. Genghis Khān) neither adhered to the religion of Islām nor to anything else, and killing a Muslim was more insignificant to him than killing a flea.[17]

Hence, al-Hāfidh Ibn Katheer transmitted in his *tafseer* that there was an *ijmā'* of the Muslims on the *kufr* of the Mongols due to their application of Yāsiq (Yasā) which they also claimed was of divine origin. He stated in his *Tafseer ul-Qur'ān il-Adheem*, vol.2, p.68:

﴿أَفَحُكْمَ الْجَـــهِلِيَّةِ يَبْغُونَ وَمَنْ أَحْسَنُ مِنَ اللَّهِ حُكْماً لِّقَوْمٍ يُوقِنُونَ﴾

"Then is it the judgement of [the time of] ignorance they desire? But who is better than Allāh in judgement for a people who are certain [in faith]."

{*al-Mā'idah (5): 50*}

Allāh criticizes those who ignore Allāh's commandments, which include every type of righteous good thing and prohibit every type of evil, but they refer instead to opinions, desires and customs that people themselves invented, all of which have no basis in Allāh's religion. During the time of Jāhiliyyah, the people used to abide by the misguidance and ignorance that they invented by sheer opinion and lusts. The Tatar (Mongols) abided by the law that they inherited from their king Genghis Khān who wrote Al-Yāsiq, for them. This book contains some rulings that were derived from various religions, such as Judaism, Christianity and Islam. Many of these rulings were derived from his own opinion and desires. Later on, these rulings became the followed law among his children, <u>preferring them to the Law of the Book of Allah and the Sunnah of His Messenger</u>. Therefore, whoever from them (i.e. the Mongols) does that, he is a disbeliever who deserves to be fought against until he returns back to Allāh's and His Messenger's rule, so that no law, minor or major, is referred to except by His Law.[18]

[16] Adh-Dhahabī, *Tāreekh ul-Islām*, p.128

[17] Adh-Dhahabī, *Siyar A'lām un-Nubalā'*, vol.22, p.234

[18] For Online English version of this refer to:
http://www.qtafsir.com/index.php?option=com_content&task=view&id=768&Itemid=60

© SalafiManhaj 2009

This quote is primarily in referral to the Mongols, it is not a general statement, and the evidence is that Ibn Katheer *(rahimahullāh)* stated towards the end of his speech:

" فمن فعل ذلك [منهم] فهو كافر"

"Whoever from them (i.e. the Mongols) does that is a disbeliever".

MODERN SALAFĪ SCHOLARS ON ISTIHLĀL, ANY DIFFERENCE FROM THE CLASSICAL SCHOLARS?

IMĀM BIN BĀZ

The newspaper *ash-Sharq al-Awsat* (no.6156, dated 12/5/1416 AH corresponding to 6 October 1995 CE) published an article wherein the Muftī Imām 'Abdul'Azeez Bin Bāz stated:

> **I came across a beneficial answer from the noble Shaykh Muhammad Nāsiruddeen al-Albānī, may Allāh grant him success, which was printed in the newspapers ash-Sharq al-Awsat and al-Muslimūn wherein the noble Shaykh answered a question that was put to him regarding takfeer due to not ruling by what Allāh has revealed without explanation. He made it clear, may Allāh grant him success, that it is not permissible for anyone to make takfeer of whoever does not rule by other than what Allāh has revealed due to the mere action without knowing if he considered it lawful to do that in his heart. He made use of what is found from Ibn 'Abbās (radi Allāhu 'anhuma), and others from the Salaf of the ummah. There is no doubt that what he mentioned in his answer in the tafseer of the verse,**

وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الْكَافِرُونَ

"Whoever does not rule by what Allāh has revealed, then they are the disbelievers."

{*al-Mā'idah: 44*}

وَمَن لَّمْ يَحْكُم بِمَا أنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الظَّالِمُونَ

"Whoever does not rule by what Allāh has revealed then they are the transgressors."

{*al-Mā'idah: 45*}

© SalafiManhaj 2009

وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الْفَاسِقُونَ

"Whoever does not rule by what Allāh has revealed then they are the sinful."

{*al-Mā'idah: 47*}

Is correct, and he, may Allāh grant him success, made it clear that kufr is of two types, major and minor, just as transgression is two, and likewise sin is major or minor. So whoever makes it lawful to rule by other than what Allāh has revealed or makes it lawful to make zinā or to legalise interest or legalises anything else from the prohibited acts, which are agreed upon as being impermissible, has disbelieved due to major kufr. Whoever does such actions however, <u>without making them lawful</u>, then his kufr is minor kufr and his transgression is minor transgression and likewise is his sin.

This is what the *Lajna ad-Dā'imah* [Standing Committee for Research and Legal Verdicts] was upon under the presidency of Imām 'Abdul'Azeez ibn Bāz and this same explanation is also found in an answer within the *Fatāwā* of the *Lajnah ad-Dā'imah* (*fatwa* no.5741)[19] in answer to the question:

"Whoever does not rule by what Allāh has revealed, is he a Muslim or a disbeliever who has committed major kufr whose actions will not be accepted?"

Answer:

All praise is due to Allāh and may prayers and peace be upon His Messenger, his family and companions, to proceed: Allāh says,

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{*al-Mā'idah (5): 44*}

﴿وَمَن لَّمْ يَحْكُم بِمَا أنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الظَّالِمُونَ﴾

[19] When it was headed by Imām Bin Bāz *(rahimahullāh)*, with Shaykh 'AbdurRazzāq al-Afīfī its deputy and with Shaykhs 'Abdullāh Ghudayyān and 'Abdullāh bin Qu'ūd as members. See *Fatāwā of the Permanent Committee for Research and Verdicts*, compiled by Shaykh Ahmad bin 'Abdur-Razzaq ad-Duwaysh,vol.1 ('Aqeedah),Question No. 11 of Fatwa No.5741.

© SalafiManhaj 2009

"And whoever does not judge by what Allāh has revealed then it is those who are the wrongdoers."

{*al-Mā'idah (5): 45*}

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْفَاسِقُونَ﴾

"And whoever does not judge by what Allāh has revealed then it is those who are the defiantly disobedient."

{*al-Mā'idah(5): 47*}

> **However, <u>if he makes that lawful</u> and believes that it is allowed then he has committed major kufr, major dhulm and major fisq which expels him from the religion.** But if he did it due to a bribe or for any other reason yet he believes that it is prohibited then such a person is sinful and is considered a disbeliever in that he has committed minor *kufr*, and has committed minor *dhulm* and minor *fisq*. Such a person has not left the fold of the religion as the people of knowledge have explained in the tafseer of these verses. With Allāh is success and may peace and prayers be upon our Prophet Muhammad, his family and companions.

Imām 'Abdul'Azeez Bin Bāz *(rahimahullāh)* emphasised this again in his commentary of *Nawāqid ul-Islām* of Shaykh Muhammad ibn 'AbdulWahhāb *(rahimahullāh)*[20] wherein he said:

> Included in the fourth category is whoever believes that a system or man-made laws which people implement are better than the Divine Legislation of Islām, or that the Islamic system should not be applied in the 20th Century, or that the Islamic system is the reason for the Muslims being backward, or he restricts the individuals connection with his Lord to some affairs of life. Also in the fourth category includes whoever regards the rule of Allāh in cutting the hand of the thief, stoning the married adulterer etc., is not suitable for the current era, also included is whoever believes that it is not allowed to rule by other than the Divine Legislation of Allāh in social interactions, the punishments or anything else, yet does not believe that it is better than the rule of the Divine Legislation, **<u>yet he males permissible what Allāh has prohibited</u>** which is well known in the *deen* by necessity such as *zinā*, drinking alcohol, interest and ruling by other than the Divine Legislation of Allāh – such a person is a disbeliever according to the consensus of the Muslims.

[20] This is also the case in the explanations of *Nawāqid ul-Islām* that have been done by Shaykh Sālih al-Fawzān, Shaykh 'Abdul'Azeez ar-Rājihī and Shaykh 'Abdul'Azeez bin Rayyis ar-Rayyis and others. It is interesting how the *takfīrīs* drone on about this point but they never refer or try to even contact those who are present today have more knowledge of the text *Nawāqid ul-Islām* than they do!?

© SalafiManhaj 2009

Imām Bin Bāz *(raheemahullāh)* in a clear *fatwā* differentiating between the ruler by other than what Allāh has revealed without *istihlāl* and the one who rules by making it permissible, for this reason when Imām Bin Bāz was asked about the ruling of the one who studies man-made laws or institutes studying it, he answered:

> SECOND CATEGORY: Whoever studies man-made laws or institutes its study, **while having īmān in the prohibition to rule by other than what Allāh has revealed**, yet his desires and love of wealth overcome him, those in this category are no doubt sinful and within them is *kufr*, dhulm and fisq, however it is minor *kufr*, minor *dhulm* and minor *fisq* which does not expel the person from the fold of Islām. This view is well-known among the people of knowledge and is the saying of Ibn 'Abbās, Tāwūs, 'Atā', Mujāhid and a group of the *Salaf* and the *Khalaf* as mentioned by al-Hāfidh Ibn Katheer, al-Baghawī, al-Qurtubī and others. Al-'Allāmah Ibn ul-Qayyim *(rahimahullāh)* in *Kitāb us-Salāh* and Shaykh 'AbdulLateef bin Hasan *(rahimahullāh)* both mention this also. Shaykh 'AbdulLateef has a good treatise which is published in the third volume of the compilation *ar-Rasā'il al-Ulā*. There is no doubt that those of this category are upon great danger and it is feared that they will fall into apostasy.

Then Imām Bin Bāz stated:

> THIRD CATEGORY: Whoever studies man-made laws **or says that it is halāl to study it**, whether he believes that the Divine Legislation is better or does not believe that it is better, is a disbeliever according to the consensus of the Muslims. Such a person has committed major kufr because he has made it lawful to rule by man-made laws which contradict the Divine Legislation of Allāh and is therefore making lawful what is known in the religion by necessity as being unlawful, so such a person has the ruling of making *zinā*, alcohol and the likes lawful.

IMĀM MUHAMMAD BIN SĀLIH AL-'UTHAYMEEN

Imām Muhammad bin Sālih al-'Uthaymeen stated in his published and printed *al-Qawl ul-Mufeed 'ala Kitāb it-Tawheed*, ('Unayzah, KSA: Dār Ibn ul-Jawzī, Muharram 1424 AH, 2nd Edn.) vol.2, pp.159-160, in regards to the one who rules by other than what Allāh has revealed:

He will be a disbeliever in three cases:

a. **If he believes that it is permissible to rule by other than what Allāh has revealed, the proof being when Allāh says**

﴿أَفَحُكْمَ الْجَـــهِلِيَّةِ يَبْغُونَ﴾

"Then is it the judgement of [the time of] ignorance they desire?"

{*al-Mā'idah (5): 50*}

© SalafiManhaj 2009

All which opposes the rule of Allāh is from the judgment of ignorance – the proof being the decisive consensus on it not being permitted to rule by other than what Allāh has revealed; so the one who makes it permissible and makes it allowed to rule by other than what Allāh has revealed has opposed the decisive consensus and this type of individual is a Kāfir Murtad [disbeliever and apostate] and that is like the one who believes that zinā or khamr is permissible or that bread or natural yogurt is prohibited.

b. **If he believes that ruling by other than Allāh is like Allāh's rule.**

c. **If he believes that ruling by other than Allāh is better than Allāh's rule, the proof being when Allāh says**

﴿ وَمَنْ أَحْسَنُ مِنَ اللَّهِ حُكْماً لِّقَوْمٍ يُوقِنُونَ ﴾

"But who is better than Allāh in judgement for a people who are certain [in faith]."

{al-Mā'idah (5): 50}

The verse contains the fact that the rule of Allāh is the Best of judges, the proof affirming this being when Allāh says

{at-Teen (): 8}

So if Allāh is the Best of judges in terms of judgement then He is the Wisest of judges, so whoever claims that ruling by other than Allāh is like Allāh's Rule or better – is a disbeliever because he has denied what is in the Qur'ān.

The individual will be deemed as a Dhālim (transgressor) if: he believes that ruling by what Allāh has revealed is the best of judgement and that it is more beneficial to the believing servants and countries and that it is obligatory to apply it yet out of hatred and animosity towards those over whom he rules he rules by other than what Allāh has revealed – he is a transgressor.

The individual will be deemed as a Fāsiq (sinner) if: his ruling by other than what Allāh has revealed is out of a desire within himself yet has his belief that Allāh's Rule is the truth, yet he rules by other than what Allāh has revealed due to a desire within him meaning: loving what he rules by but neither out of hating Allāh's Rule nor wishing to bring harm to someone. For example, taking bribes from someone, or from a relative or friend, or seeking a need from an inheritance and whatever is similar to these examples wherein the person believes that Allāh's Rule is the best and that it is obligatory to follow it – this person is a Fāsiq even

© SalafiManhaj 2009

though he is also a Dhālim, however the description of fisq in regards to this person is more adequate than the description of dhulm.

As for the one who puts into place man-made legislations with the knowledge of Allāh's Rule and that these laws oppose Allāh's Law then this is substituting the Sharee'ah with these laws – and such a person is a disbeliever because he does not want these laws other than Allāh's Sharee'ah unless he believes that they are better for the servants and countries than Allāh's Sharee'ah. When we say he is a disbeliever we mean by this that the action leads to kufr. Yet, the one who puts these (laws) into place may be excused, like for example the one who is deceived as if he says "this does not oppose Islām" or says "this is from the Masālih ul-Mursalah" or says "this is from what Islām wants for the people".

Then Imām 'Uthaymeen mentions that some 'Ulama, who he refers to as "'Ulama of the State" and some Fuqahā may give erroneous views in regards to this and thus deceive others. He then concludes the section with discussing the danger of rushing to make takfeer of individuals and that this should especially not be conducted by those who are not qualified. Imām Muhammad bin Sālih al-'Uthaymeen was asked with regards to *istihlāl* and if a person commits an act of disobedience, whether it be major or anything else, and continues doing it:

1. Is his mere action of disobedience and his persistence in doing it enough to judge him as one who has istihlāl of this thing?
2. Or is istihlāl an action of the heart which is not apparent unless the person openly proclaims it?

Answer from Imām 'Uthaymeen:

Yes, the second point is correct because many people continue doing disobedience and believe that it is harām and say "we're unable to refrain from it" and you will find that if he commits an act of disobedience he will seek forgiveness from Allāh. Some people even make erroneous vows to never commit such actions of disobedience yet they are unable to refrain themselves, so there has to be this (open proclamation that he has made istihlāl of the action before the hukm of kufr can be applied).[21]

Yāsir Qādhī stated after 15:47 into the lecture[22] that:

[21] Refer to *Silsilah Sharh Saheeh Muslim, Kitāb ul-Jihād wa's-Siyar wa'l-Imārah* (produced by Fihirst Ahl ul-Hadeeth wa'l-Athar), tape 9, side b, after 7 minutes and 40 seconds.

[22] http://podcast.is.ed.ac.uk:8080/Podcasts/casawadmin/2009-12-18/The_Reception_of_IbnTaymiyya_s_Fatwa_on__Ruling_by_Other_than_God_s_Law__Amongst_Modern__Salafi_scholars-audio.mp3

© SalafiManhaj 2009

> **However, I have recordings of his which are more private and available to his closer students where he's asked this question and he says "yes, judging by other than God's Law is kufr even if the person doesn't make istihlāl, however" he then adds, and he always does this, I've never heard a recording where he doesn't add this point, where he says: "however, a person who doesn't understand the importance of God's Law might be excused for his ignorance." In other words he's using a maxim called al-'Udhr bi'l-Jahl: if you don't know you're excused. And he keeps on stressing that rulers of our times generally do not know the religion and in one cassette that I heard he actually said: "the rulers of our times cannot be called Kāfir because they don not know the status of Islām and Islamic law." So the bluntness of Ibn Taymiyyah's fatwa is kinda {sic} mitigated by Ibn 'Uthaymeen.**

Hereby Qadhī insinuates that Imām 'Uthaymeen contradicted or opposed the view of Ibn Taymiyyah on the issue of ruling by other than what Allāh has revealed. Firstly, Qadhī's assertion that **"I have recordings of his which are more private and available to his closer students where he's asked this question..."** – is not an academic method and it would be more apt to refer to that which is either printed and published or available on audio for public consumption. As for referring to mere alleged **"private recordings"** then this carries no weight academically in contrast to material which is easily accessible and openly available for public consumption or information which was witnessed and then documented and printed by a number of credible students.

IMĀM AL-ALBĀNĪ

As for Yāsir Qādhī's statement about Imām al-Albānī *(rahimahullāh)* that:

> **Muhammad Nāsiruddeen al-Albānī, who definitely had the most mild, if you like, understanding <u>and in fact outright rejected this understanding and he said that in all situations and scenarios judging by other than God's law is never kufr, in and of itself it cannot be kufr</u>; and he actually disagreed with the understandings of Ibn Taymiyyah and others in this regard.**

This again is a total misrepresentation and an utter falsification of the stance of Imām al-Albānī *(rahimahullāh)*. In which sources and what instances did Imām al-Albānī ever say that **"in all situations and scenarios judging by other than God's law is never kufr, in and of itself it cannot be kufr"**? Can Yāsir Qādhī be kind enough so as to furnish us with the sources for this statement which he made in an open academic lecture at a Western university? Why this

© SalafiManhaj 2009

accusation of Yāsir Qādhī is particularly worrying is because it is well-known that according to Imām al-Albānī ruling by other than what Allāh has revealed: is *kufr* however it could either be minor *kufr* which does not expel the doer out of the religion (meaning it is *fisq*) if it is done as an action; or it could be major *kufr* which expels one from the religion when one makes it lawful with his heart and the likes, see *at-Tahdheer min Fitnat-Takfeer* and *Silsilah as-Saheehah*, vol.7, p.134. According to the Murji'ah however ruling by other than what Allāh has revealed: does not affect a person's *īmān* to become weaker. The person who rules by other than what Allāh has revealed does not commit any *kufr* whatsoever, because *īmān* is perfect and complete and it does not go increase or decrease. See *Majmū' al-Fatāwā*, vol.7, p.363, vol.12, p.471. The leading student of Imām al-Albānī to defend, support and aid Imām al-Albānī is Shaykh 'Ali bin Hasan al-Halabī al-Atharī. He asked Imām al-Albānī, as is recorded in *Silsilat al-Hudā wa'n-Nūr*, audio no.218, after 30 minutes:

What is the correct tafseer of the saying of our Lord:

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{al-Mā'idah (5): 44}?

Answer from Imām al-Albānī:

> **The correct tafseer is what is found in Tafseer Ibn Jareer at-Tabarī and Tafseer Ibn Katheer ad-Dimishqī that: the intent of "disbelievers" here are those who do not believe in Allāh's Sharee'ah meaning: they do not rule by what Allāh has revealed because they do not view what Allāh has revealed as legislation is not applicable to be ruled by during all times and places. All who have this belief (that Allāh's Sharee'ah is not applicable for all times and places), such as the yahūd about whom this noble verse was revealed, is a disbeliever who has apostated from his religion.**

Hence, we see a clear statement from Imām al-Albānī which immediately rebuts Yāsir Qādhī's void theory that Imām al-Albānī believed ruling by other than what Allāh has revealed **"is never kufr, in and of itself it cannot be kufr"**. Then Imām al-Albānī continues:

> **However, here there is something which has to be mentioned which is that: whoever believes in Allāh's Sharee'ah and that it is applicable for all times and places, however he does not rule by it, totally or partially, takes a portion of this**

© SalafiManhaj 2009

verse however this portion does not reach the level wherein he is expelled from the fold of Islām.

Again, Imām al-Albānī has not stated anything here which opposes the classical scholars, as Yāsir Qādhī would have us believe! If Yāsir Qādhī thinks that what Imām al-Albānī has stated here is somehow at variance with the **"classical scholars"** we like to know exactly with which "classical scholars" this is in conflict. Imām al-Albānī continues:

> We have to know that there is *īmān* and there is Islām, *īmān* is what is established in the heart and Islām is an effect of this *īmān* which is manifest on the limbs. The righteousness which manifests on a person, his limbs and body depends on the strength of this *īmān* which is in the believer's heart, as our Prophet indicated when he said in the hadeeth of an-Nu'mān bin Basheer: *"The halāl is clear and the harām is clear"* up until he said: *"Indeed in the body is a piece of flesh, if it is rectified the whole body will be rectified and if it is corrupted then the whole body will be corrupted – that piece of flesh is the heart."*[23] Thus, rectification of the outer is connected to rectification of the inner with the testimony of this *hadeeth* and some other *ahādeeth*. However, the amount of strength in *īmān* is linked to the rectification of the body and this apparent rectification is: Islām. If a Muslim fails to fulfil anything from the Islamic rulings this deficiency does not expel him from the fold of Islām, even though yes, it could expel him from the fold of complete and perfect īmān. Some of the 'Ulama explain the saying of the Prophet *(sallallāhu 'alayhi wassallam)* within the authentic hadeeth: *"One does not commit zinā while being a believer"* – has the one who commits zinā disbelieved and apostate from his religion? The answer is: no, no one from the Muslims, who is upon the way of Ahl us-Sunnah wa'l-Jama'ah says that the one who commits zinā or any other act of disobedience or major sin has been expelled from the fold of Islām.[24] Therefore, the meaning of the hadeeth: *"One does not commit zinā while being a believer"* is: that he is not a believer with perfect īmān yet with this he is not expelled from the fold of Islām.

---

[23] Bukhārī (hadeeth no.52) and Muslim (hadeeth no.1599)

[24] Indeed, none of Ahl us-Sunnah wa'l-Jama'ah says this, yet we find those from Ahl ul-Bida' saying this. Even recently a person who tries to call people to Islām in London, Abdullāh al-Andalūsī, who should take time out to learn Islām before trying to call people to it- stated in a programme with Tāriq Ramadān and Usāma Hasan on 27 March 2009 on the channel Press TV: that whoever drinks alcohol has committed *kufr*!? He also said that **"not every kāfir is a kāfir"** (!?) a statement of irjā'! When we approached him over this he became defensive due to his lack of knowledge and was clearly making up his *'aqeedah* as he goes along! The "debate" can be seen here (see 13:35 and 23:58): http://www.youtube.com/watch?v=-eOij9ViCsU –
Abdullāh al-Andalūsī says: **"if a person drinks let's say alcohol which in Islām is called an act of kufr, an act of disbelief"**!!

© SalafiManhaj 2009

Some of them resemble īmān to a circle[25] and around this sphere is another circle which encompasses the first one. When a person commits zinā he is ejected from the first circle of complete īmān however he has not been ejected from the other circle which is that of Islām, the person is still a Muslim. Thus, all who commit acts of disobedience to Allāh, whatever this disobedience is, it is not permissible to expel him from the other circle, which is Islām except if he rejects something linked to the first circle, the circle of īmān. If he rejects what the Shar' came with then this rejection is linked to īmān and at that point he is expelled from the fold of īmān and the fold of Islām.

The ayah mentioned beforehand:

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{al-Mā'idah (5): 44}

Is understood with consideration that: if the one who does not judge rejects the accuracy of the Sharee'ah being ruled by in all times and places has been expelled from both circles that of īmān and Islām, meaning: he has become an apostate from Allāh's deen. Yet if he believes in what is in the first circle about the obligation of ruling by what Allāh has revealed but he, in his action, as we stated previously, does not rule by what Allāh has revealed either totally or partially – at that time he has left the circle of īmān however he is still within the other circle of Islām. For this reason, Tarjumān ul-Qur'ān 'Abdullah bin 'Abbās (radi Allāhu 'anhu) stated "the tafseer of the verse is not as they say" meaning not as the extremists past and present say that it is kufr itself, Ibn 'Abbās said "no, it is kufr less than kufr."

Again we see that Imām al-Albānī has not differed whatsoever with any of the "classical scholars" in his recognition of "kufr less than kufr", also Imām al-Albānī has demonstrated that ruling by other than what Allāh has revealed can be kufr (which expels one from the deen) and can also be kufr less than kufr, which is what Yāsir Qādhī totally neglected to mention. Imām al-Albānī continues:

[25] Shaykh 'Ali Hasan stated: the larger circle is that of Islām while the smaller circle within this one is that of īmān.

© SalafiManhaj 2009

This sentence which was uttered by Tarjumān ul-Qur'ān with which he explained the noble verse has numerous supporting evidences from the Sunnah: in the authentic hadeeth which is agreed upon regarding its authenticity by Shaykhayn that the Prophet *(sallallāhu 'alayhi wassallam)* said: *"Cursing a Muslim is sin and fighting him is kufr"* – so when a Muslim fights his brother Muslim he has committed kufr, based on the words of the hadeeth, however memorise well the saying of 'Abdullāh ibn 'Abbās *(radi Allāhu 'anhu)*: **"kufr less than kufr"**, what is the proof for this? There are many evidences, as I said before, such as when Allāh says

"And if two factions among the believers (Mu'mineen) should fight, then make settlement between the two. But if one of them oppresses the other, then fight against the one that oppresses until it returns to the ordinance of Allāh."

{*Hujurāt (49): 9*}

Therefore, here are two factions of believers who are fighting against each other: one of the factions was transgressing and oppressive and thus the rightful faction was instructed to fight the transgressing and oppressive faction. However, we see here in the text of this verse that Allāh did not remove the title of īmān when he said:

"And if two factions among the believers (Mu'mineen) should fight..."

{*Hujurāt (49): 9*}

Therefore, those transgressors who fight the people of truth are still believers from an angle however they have fallen into kufr from another angle. **This is the meaning of statement of Ibn 'Abbās: "kufr less than kufr". Therefore, the verse which was asked about means kufr of rejection (juhūd) or kufr of action ('amal).[26] Whoever rejects the legislative authority of acting by the Qur'ān is a kāfir who has apostated from his deen. Whoever admits and acknowledges this (the legislative authority of acting by the Qur'ān), is a believer however he has deficient īmān because he is not acting by what he believes in. From here, the people of knowledge say that īmān increases and decreases and that it increases with obedience and decreases with disobedience.[27]**

[26] Meaning minor kufr and this does not mean, as some insinuate, that kufr by actions can never be major kufr! This is bātil as kufr can occur via statement, actions or belief. However, from a number of 'Ulama the kufr ul-'Amal (kufr of actions) carries the meaning of Kufr ul-Asghar (minor kufr).

[27] From Shaykh 'Ali Hasan al-Halabī al-Atharī's *(hafidhahullāh)* new book *Su'alāt 'Ali bin Hasan bin 'AbdulHameed al-Halabī al-Atharī li'sh-Shaykhihi Imām al-'Allāmah al-Muhaddith al-Faqeeh Shaykh*

© SalafiManhaj 2009

So here we have it straight from the words of Imām al-Albānī, and there is nothing here at all which supports Yāsir Qādhī's unsubstantiated contention that:

> **Muhammad Nāsiruddeen al-Albānī, who definitely had the most mild, if you like, understanding <u>and in fact outright rejected this understanding and he said that in all situations and scenarios judging by other than God's law is never kufr, in and of itself it cannot be kufr</u>; and he actually disagreed with the understandings of Ibn Taymiyyah and others in this regard.**

The final words that Imām al-Albānī wrote on the issue of ruling by other than what Allaah has revealed are found in his introduction to the book *Hukm bi Ghayri Mā Anzala Allāh* [Ruling by Other than what Allāh has Revealed] by Shaykh, Dr Khālid al-'Anbarī.[28] Imām al-Albānī stated in his introduction to the book *Hukm bi Ghayri Ma Anzala Allāh* by Shaykh, Dr Khālid al-'Anbarī:

> All praise is due to Allāh, the Lord of the Worlds, Who said in His Noble Book
>
> **"...and do not be from the Mushrikeen, from those who divided their religion and became sects each party rejoicing in what they have."**
>
> {*ar-Rūm (30): 31-32*}
>
> And may peace and blessings be upon Muhammad who made the sign of the Firqat un-Nājiyah as being holding firm to what he and his companions were upon and made it a Jama'ah, instructed to be from it and warned from opposing them, for he said *(sallallāhu 'alayhi wassallam)*: *"Stick to the Jama'ah as the wolf eats up the lone sheep."*
>
> And may peace and blessings be upon his family and his companions who were guided about whom the Lord of the Worlds warned from opposing their way, for He said in His Noble Book:
>
> **"And whoever opposes the Messenger after guidance has become clear to him and follows other than the way of the believers – We will give him what he has taken and drive him into Hell, and evil it is as a destination."**
>
> {*an-Nisā' (4): 115*}
>
> And upon whoever follows and implements their way up until the Last Day, to proceed:

Muhammad Nāsiruddeen al-Albānī (rahimahullāh). Makkah al-Mukarramah, KSA: Dār 'Abdullāh Bū Bakr Barakāt, 1430 AH/2009 CE, First Edition, vol.2, pp.64-69

[28] Scanned copies of Imām al-Albānī's introduction to Shaykh Khālid's book appear on pages 5-6 of the fifth edition of *al-Hukm bi Ghayr Mā Anzala Allāh: Wa Usūl ut-Takfeer fī Dau' il-Kitāb wa's-Sunnah wa Aqwāli Salaf il-Ummah* [Ruling By Other Than What Allāh Has Revealed: Principles of Takfeer in Light of the Book, Sunnah and Statements of the Salaf of the Ummah] (Shāriqah, UAE: Maktabah as-Sahābah, 1425 AH/2004 CE).

© SalafiManhaj 2009

The noble brother Khālid bin 'Ali al-'Anbarī gave me his book *al-Hukm bi Ghayr Mā Anzala Allāh wa Usūl ut-Takfeer fī Dau' il-Kitāb wa's-Sunnah wa Aqwāl Salaf ul-Ummah* – **and I found that he has given the topic its right and has expended in it that in which there is no room for addition in the topic, in terms of clarity and elucidation. Within the book he has explained, may Allāh reward him with goodness, with a comprehensive explanation, that the kufr which expels one from the religion is Kufr al-Qalbī.**[29] **And that this can sometimes manifest via statements, and this is well-known from all types of kufr, and at other times it can manifest via actions such as Istikbār (arrogance) towards submitting to the Shar' [Divine Legislation] and objecting to it** like what occurred with the accursed Iblees when he was arrogant to submit to the Lord of the Worlds command and withheld from making sajdah to Adam and said:

"Will I prostrate to what You have created from mud?"

{*al-Isrā' (17): 61*}

So there is no difference between statement and action which spring from kufr firmly held within the heart.[30] Some extremists who write about the takfeer of those who do not rule

[29] Shaykh Khālid says about this:

The Shaykh (al-Albānī) said in one of his recorded statements:

Our brother (Khālid al-'Anbarī), may Allāh reward him with goodness, has a very beneficial treatise in this topic entitled *al-Hukm bi Ghayr Ma Anzala Allāh* in which he compiled the evidences from the Book , Sunnah and statements of the Salaf us-Sālih and Imāms. He gave the topic its right and expended much and he did not leave any room for anyone (to argue with it) according to what I know, and Allāh knows best.

[30] Shaykh Khālid says about this:

Some people, who do not understand the applications of the 'Ulama, have found problems with Shaykh al-Albānī saying: "the kufr which expels one from the religion is Kufr ul-Qalbī" and have used this to throw doubt on a Shaykh of the Sunnah and accuse him of being "affected by the Madhhab of the Murji'ah" who view that kufr can only be committed by *takdheeb* (denial) and *juhūd* (rejection) and restrict the types of kufr to just Kufr ul-I'tiqād! The Shaykh (Imām al-Albānī) is free from Irjā', the Murji'ah and all who oppose the 'aqeedah of Ahl us-Sunnah. The Shaykh (Imām al-Albānī, rahimahullāh) did not say "Takdheeb ul-Qalbī" he is far from saying this as this is the statement of the Murji'ah who restrict kufr to "Takdheeb ul-Qalbī". Rather the Shaykh *(rahimahullāh)* said "Kufr ul-Qalbī" and this includes Kufr ut-Takdheeb wa'l-Juhūd and Kufr ul-Ibā' wa'l-Istikbār and Kufr ul-I'rādh. So if the īmān which is in the heart includes tasdeeq and actions of the heart such as *inqiyād, tawqeer*, love, humility and other than that then kufr of the heart likewise includes an absence of tasdeeq, meaning takdheeb, and an absence of actions of the heart. The Shaykh *(rahimahullāh)* explained this when he said:

"And that this can sometimes manifest via statements, and this is well-known from all types of kufr, and at other times it can manifest via actions such as Istikbār (arrogance) towards

© SalafiManhaj 2009

> by what Allāh has revealed are heedless and make takfeer merely on account of the action without restricting that action with kufr of the heart or not; and they thus base on this the lengthy claim of making takfeer merely on account of the action. As a result, they fall into the obstacle of khurooj whether they perceive it or not. What is also strange is that the one who makes this claim also relies upon the example of the kufr of Iblees, Fir'awn and their likes who have statements and actions which indicate Kufr ul-'Inād and Istikbār, and they thus include in this those who are not like that.

Imām al-Albānī *(rahimahullāh)* clearly and frankly praised the book by Shaykh Khālid al-'Anbarī **and this was the last that Imām al-Albānī (rahimahullāh) ever wrote on takfeer and ruling by other than what Allāh has revealed.** This in itself is sufficient a commendation against any aspersions cast, for Imām al-Albānī *(rahimahullāh)* was not known for hasty sanctimonious praise or rash commendations of individuals and their works except after thorough examination, investigation and analysis of their works. Any detailed commendation from Imām al-Albānī therefore, let alone an introduction to a work, is very significant indeed.

> **submitting to the Shar' [Divine Legislation] and objecting to it, like what occurred with the accursed Iblees"**.

Iblees did not disbelieve out of *takdheeb* rather out of stubbornness and arrogance and thus was from the disbelievers, so this expression from the Shaykh was also used by Shaykh ul-Islām Ibn Taymiyyah *(rahimahullāh)* in his *Fatāwā*, vol.14, p.120 when he stated:

> **It was not kufr on account of apparent actions such as prostrating to idols, cursing the Messenger and the like. Rather, it was on account of it necessitating inner kufr.**

So to conclude then, what was stated by Shaykh al-Albānī is neither problematic nor Irjā', rather the intent of it is to emphasise and affirm the issue of the necessary link between the outer and inner. These words from the Shaykh also, which is of the last of what he wrote on the issues of takfeer, refute the ignorant fools and small-minded ones who spread that Shaykh al-Albānī does not make takfeer due to actions.

For more on this defence of Shaykh al-Albānī in regards to the issues of īmān, takfeer and irjā' refer to the book the *Murji'at ul-'Asr*. Also refer to *at-Ta'reef wa't-Tanbi'ah* by the Atharī Shaykh, 'Ali bin Hasan al-Halabī, may Allāh protect him from the evils of the envious ones. Also see the book by our noble brother Shaykh 'Abdul'Azeez bin Rayyis ar-Rayyis *(hafidhahullāh) al-Imām al-Albānī wa'l-Irjā'*.

Translator's note ('AbdulHaq al-Ashanti): *Murji'at ul-'Asr* has been translated by Abū Hayyān Salal bin 'AbdulGhafūr here: http://www.salafimanhaj.com/pdf/TheMurjiahOfTheEra_ebook.pdf

The claim of restricting kufr to just *takdheeb* (denial) and *juhūd* (rejection) was also erroneously levelled at Shaykh 'Ali Hasan al-Halabī al-Atharī by the likes of the Muhammad ibn Sālim ad-Dawsarī (the unknown one who was later arrested by Saudi authorities for being linked to terrorists and rebels). Ad-Dawsarī, in a clear example of intellectual denial and partisan polemic, claimed in his *Raf' ul-Lā'imah* that Shaykh 'Ali Hasan al-Halabī al-Atharī restricted and limited kufr to just *takdheeb* (denial) and *juhūd* (rejection), even though in *Sayhat un-Nadheer* [The Call of the Warner] Shaykh 'Ali Hasan al-Halabī al-Atharī clearly mentions in detail the types of kufr.

© SalafiManhaj 2009

Shaykh 'Isām Mūsā Hādī, who is close to Muhammad Ibrāheem Shaqrah, stated in his book *Muhaddith ul-'Asr: al-Imām Muhammad Nāsiruddeen al-Albānī, Kamā 'Araftuhu* [The Muhaddith of the Era: Imām Muhammad Nāsiruddeen al-Albānī As I Knew Him] (Dār us-Siddeeq), p.75:

> **The last that al-Albānī wrote on the issue of takfeer:**
>
> **I came across, in my possession, the commendation of our Shaykh (Imām al-Albānī) to the book by the brother Khālid al-'Anbarī, but he did not complete it all due to our Shaykh's illness and hospitalisation. <u>It was the last that our Shaykh (rahimahullāh) authored on the issue of takfeer</u>, his commendation was after the publication of the two books of 'Ali al-Halabī at-Tahdheer and Sayhat un-Nadheer [The Cry of the Warner].**

So here we have a clear corroboration, from one *who is not linked* to the Shaykhs of the *Imām al-Albānī Centre* in Jordan – such as Shaykh Mashhūr Hasan, Shaykh Husayn al-'Awāishah, Shaykh, Dr Bāsim bin Faysal al-Jawābirah, Shaykh Muhammad Mūsā Nasr, Shaykh and Khateeb Abū Islām, Shaykh 'Ali Hasan al-Halabī al-Atharī, Shaykh Akram Ziyādah, Shaykh Abū Talhah 'Umar bin Ibrāheem and Shaykh Ziyād bin Saleem al-'Abbādī - clearly testifying to the fact that the introduction to Shaykh Khālid al-'Anbarī's book from Imām al-Albānī was the last that Imām al-Albānī *(rahimahullāh)* wrote on the issue of takfeer and ruling by other than what Allāh has revealed.[31]

We thus wait for Yāsir Qādhī's open retraction of this statement and if he is unwilling to retract then we regard this as a further indication of academic snobbery and intellectual denial. Imām al-Albānī therefore fully corroborated what was stated by classical scholars vis-a-vis "kufr less than kufr":

CLASSICAL SCHOLARS ON "KUFR LESS THAN KUFR"

Imām al-Albānī's view on **"kufr less than kufr"** therefore not only rebuts Yāsir Qādhī's claim that Imām al-Albānī viewed ruling by other than what Allāh has revealed **"cannot be kufr"** but also we find that the classical scholars said exactly the same as Imām al-Albānī in regards to **"kufr less than kufr"**. Here we provide a list of reputable classical scholars, ending with Imām

[31] In fact, some of the brothers in Jordan, as relayed by Abu'l-Azhar as-Salafī, have recently heard Shaykh 'Isām Mūsā Hādī say: **"Shaykh 'Ali al-Halabī is correct in all that he has written on the Usūl and Furū' of Īmān."**

© SalafiManhaj 2009

al-Albānī and Imām 'Uthaymeen, to show that there is no conflict among the recognised Salafī scholars, past and present on kufr less than kufr being accepted:

1 - al-Hākim *(rahimahullāh)* said in *al-Mustadrak*, vol.2, p.393: **"This hadeeth (i.e. "kufr dūna kufr") has a Saheeh isnad and Bukhārī and Muslim did not transmit it."** Adh-Dhahabī agreed.

2 – al-Hāfidh Ibn Katheer *(rahimahullāh)* transmitted in *Tafseer ul-Qur'ān ul-Adheem*, vol.2, p.64: "It is Saheeh according to the conditions of Shaykhayn." He utilised it as a proof.

3 – The Shaykh of the Mufassireen, at-Tabarī *(rahimahullāh)* stated in *Jāmi ul-Bayān*, vol.6, pp.166-167:

> **The first of these statements is correct according to me, which is the view of the one who says that: "These verses (from al-Mā'idah) were revealed in regards to the kuffār of Ahl ul-Kitāb". Because the verses which come before and after it were revealed in regards to them and they are the ones intended. The context of these verses are informing about them firstly. If someone says: "Allāh, exalted is His mention, informed of this generally about all who do not rule by what Allāh has revealed, so how can you make it specific?" Then it is to be said (in response): "Allāh made the report general in regards to a people who used to reject what Allāh judged in His Book. So He informed of those people that due to their abandonment of the judgement are disbelievers." Such is the view of all who do not rule by what Allāh has revealed while rejecting it, such a person is a disbeliever as Ibn 'Abbās stated.**

4 – The Imām Muhammad bin Nasr al-Marwazī *(rahimahullāh)* stated in *Ta'dheem Qadr is-Salāh* vol.2, p.520:

> ولنا في هذا قدوة بمن روى عنهم من أصحاب رسول الله صلى الله عليه وسلم والتابعين؛ إذ جعلوا للكفر فروعاً دون أصله لا تنقل صاحبه عن ملة الإسلام، كما ثبتوا للإيمان من جهة العمل فرعاً للأصل، لا ينقل تركه عن ملة الإسلامة، من ذلك قول ابن عباس في قوله: ﴿ **وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ** ﴾.

> **Unto us in this is a precedent in what has been reported from the Companions of the Messenger of Allāh (sallallāhu 'alayhi wassallam) and the Tābi'een, in that they**

© SalafiManhaj 2009

considered kufr had branches less than the main foundation which do not expel one from the religion of Islām. Just as they affirmed for īmān branches of actions from the main foundation which if left do not expel one from the religion of Islām. From these reports is the statement of Ibn 'Abbās in regards to Allāh's saying,

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{*al-Mā'idah (5): 44*}

5 – Imām Abū Madhfar as-Sama'anī *(rahimahullāh)* stated in *Tafseer ul-Qur'ān*, vol.2, p.42:

Ibn 'Abbās said "The verse is about the Muslims and intends kufr less than kufr and I know that the Khawārij make deductions from these verses and say that: "whoever does not rule by what Allāh has revealed is a disbeliever" but the people of Sunnah say: "he is not to be considered a disbeliever due to leaving off judgement." The ayah has two interpretations:

First meaning: Whoever does not rule by what Allāh has revealed out of apostasy and rejection then those are disbelievers.

Second meaning: Whoever does not rule entirely by what Allāh has revealed then those are disbelievers. The disbeliever is the one who abandons ruling by all of what Allāh has revealed as opposed to a Muslim.

6 – Imām al-Baghawī *(rahimahullāh)* mentioned in *Ma'ālim ut-Tanzeel*, vol.3, p.61:

Ibn 'Abbās and Tāwūs stated: "It is not the kufr which expels one from the religion. Rather if one does it then he is a disbeliever yet he is not like the one who disbelieves in Allāh and the Last Day."

7 – Abū Bakr bin al-'Arabī *(rahimahullāh)* stated in *Ahkām ul-Qur'ān*, vol.2, pp.624-625:

The Mufassireen have differed over this, for some of them say: "The Kāfirūn, Dhālimūn and Fāsiqūn – are all to be ascribed to the Yahūd." Yet some of them say: "The Kāfirūn are the Mushrikeen, the Dhālimoon are the Yahūd while the Fāsiqūn are the Nasārā." The latter is what I say because this is what is apparent from the verses. This is also the choice of Ibn 'Abbās, Jābir bin Zayd, Ibn Abee Zā'idah and Ibn Shabramah. Tāwūs and others said: "It is not the kufr which expels from the religion, however it is kufr less than kufr." This may differ if he

© SalafiManhaj 2009

rules by his own self claiming that it is from Allāh, this is tabdeel and necessitates kufr. Yet if one rules by his own (rules) out of desire and disobedience then this is a sin and the person will be forgiven according to the basis of Ahl us-Sunnah in regards to the belief that the sinful will be forgiven.

8 – al-Qurtubī *(rahimahullāh)* stated in *al-Jāmi' li-Ahkām il-Qur'ān*, vol.6, p.190:

As for the Muslim then takfeer is not to be made of him even if he commits a major sin. Meaning: whoever does not rule by what Allāh has revealed has out of apostasizing from the Qur'ān and rejecting the saying of the Messenger of Allāh (sallallāhu 'alayhi wassallam) is a disbeliever, as stated by Ibn 'Abbās and Mujāhid.

9 – al-Baqā'ī *(rahimahullāh)* stated in *Nudhm ud-Durur*, vol.2, p.460:

Leaving ruling by the Book is due to: disregarding it; out of fear of ruling by it; hope or desires. The end of the verses connected kufr, dhulm and fisq. Ibn 'Abbās (radi Allāhu 'anhumā) said: "Whoever rejects the rule of Allāh has disbelieved and whoever does not rule by what Allāh has revealed while acknowledging that it has to be ruled by, is a dhālim and a fāsiq."

10 – al-Wāhidī stated in *al-Waseet*, vol.2, p.191:

عن طاووس قال: قلت لابن عباس: من لم يحكم بما أنزل الله فهو كافر؟قال: هو به كفر، وليس كمن كفر بالله وملائكته وكتبه ورسله واليوم الآخر

Tāwūs said: I said to Ibn 'Abbās: "Whoever does not rule by what Allāh has revealed is he a disbeliever?" Ibn 'Abbās replied: "Within him is kufr, yet it is not like the kufr of the one who disbelieves in Allāh, the Last Day, His Angels, His Books and His Messengers."

11 – Siddeeq Hasan Khān *(rahimahullāh)* stated in *Nayl ul-Marām min Tafseer Āyāt il-Ahkām*, vol.2, p.472:

Al-Fareeyābī, Sa'eed bin Mansūr, Ibn ul-Mandhūr, Ibn Abī Hātim and al-Hākim all authenticated it. Al-Bayhaqī in his Sunan reported that Ibn 'Abbās stated about the ayah (al-Mā'idah: 44) that: "It is not the kufr that you are going towards. It is kufr which does not expel one from the religion, rather it is kufr less than kufr."

12 – Shaykh Muhammad al-Ameen ash-Shinqītī *(rahimahullāh)* stated in *Adwā' ul-Bayān*, vol.2, p.101:

It is reported from Ibn 'Abbās that he said in regards to this verse: "It is not the kufr that you are going towards". This is reported from him by Ibn Abī Hātim and

© SalafiManhaj 2009

al-Hākim who said: "It is Saheeh according to the conditions of Shaykhayn, and Shaykhayn did not report it, as stated by Ibn Katheer."

13 – Abū 'Ubayd al-Qāsim bin Sallām *(rahimahullāh)* stated in *al-Īmān* (p.45):

As for what is mentioned in the revelation,

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{*al-Mā'idah (5): 44*}

Then Ibn 'Abbās stated: "It is not the kufr which expels one from the religion" and 'Atā' said: "kufr less than kufr." It therefore becomes clear to us that if it does not expel one from the religion of Islām then the person's deen remains, yet if he mixes some of this then this is sinful. So the meaning is nothing except the characteristics of the kuffār and their ways because ruling by other than what Allāh has revealed is from the ways of the kuffār.

14 – AbĪ Hibbān *(rahimahullāh)* stated in *al-Bahr ul-Muheet*, vol.3, p.492:

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{*al-Mā'idah (5): 44*}

It is apparent that this is general and includes this Ummah and others who were before him. What is apparent is: that it is in the context of addressing the yahūd and generally applies to them and others. However, Ibn Mas'ūd, Ibrāheem, 'Atā and a group of scholars said that the ayah means: "kufr less than kufr, dhulm less than dhulm and fisq less than fisq." Which means that if a Muslim commits the kufr (as mentioned in the ayah) then it is not like the kufr of the disbeliever, likewise his dhulm and fisq do not expel him from the religion as Ibn 'Abbās and Tāwūs.

15 – Abū 'Abdullāh bin Battah included a chapter in *al-Ibānah*, vol.2, p.723 **on 'sins which lead the one who committed them to kufr but do not expel him from the religion.'** Then he mentioned (in vol.2, pp.733-734): ruling by other than what Allāh has revealed, and mentioned

© SalafiManhaj 2009

the narrations from Ibn 'Abbās, Ibn Mas'ūd and the Tābi'een which indicate that ruling by other than what Allāh has revealed is minor kufr which does not expel one from the religion.

16 – Ibn 'AbdulBarr *(rahimahullāh)* stated in *at-Tamheed*, vol.4, p.237:

It has arrived from Ibn 'Abbās, who is one of those from whom takfeer of the one of abandons the Salah has been reported, that he said about the ruling on the unjust ruler: "kufr less than kufr".

Then he mentioned its chain of transmission.

17 – al-Khāzin stated in his *Tafseer*, vol.1, p.310 (of the abridged version):

A group of scholars from the Mufassireen stated: "The three verses were revealed in regards to the kuffār and those who change the rule of Allāh from the yahūd." Because even if a Muslim falls into a major sin it is not to be said about him: "he is a kāfir". This is the view of Ibn 'Abbās, Qatādah and ad-Dahhāk. What indicates the accuracy of this view is what has been reported from al-Barā' bin 'Āzib.

18 – Jamāluddeen al-Qāsimī *(rahimahullāh)* stated in *Mahāsin ut-Ta'weel*, vol.6, p.1998:

The one who rules by other than what Allāh has revealed has disbelieved if he disregards or rejects (ruling by what Allāh has revealed). This is what many adhere to and narrate it from 'Ikrimah and Ibn 'Abbās.

19 – Imām as-Sa'di *(rahimahullāh)* stated in *Tayseer ul-Kareem ur-Rahmān*, vol.2, pp.296-297:

" فالحكم بغير ما أنزل الله من أعمال أهل الكفر، وقد يكون كفرً ينقل عن الملة، وذلك إذا اعتقد حله وجوازه، وقد يكون كبيرة من كبائر الذنوب، ومن أعمال الكفر قد استحق من فعله العذاب الشديد .. ﴿ **وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ** ﴾ قال ابن عباس: كفر دون كفر، وظلم دون ظلم، وفسق دون فسق، فهو ظلم أكبر عند استحلاله، وعظيمة كبيرة عند فعله غير مستحل له".

Ruling by other than what Allāh has revealed is from the actions of the people of kufr. It can be kufr which expels one from the religion, if he believes that it is halāl and permitted for him to rule by it; or it could be a major sin. Of the actions of kufr are that which deserve a severe punishment.

© SalafiManhaj 2009

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{*al-Mā'idah (5): 44*}

Ibn 'Abbās said: "Kufr less than kufr, dhulm less than dhulm and fisq less than fisq." It is major dhulm when there is istihlāl and a major sin when the person does it without making istihlāl.

20 – Shaykh ul-Islām Ibn Taymiyyah *(rahimahullāh)* stated in *Majmū' al-Fatāwā*, vol.7, p.312:

Therefore, from the statements of the Salaf were: "A person can have within him both īmān and kufr" and likewise within their saying: "that one can have within him īmān and kufr, it is not the kufr which expels one from the religion." Just as Ibn 'Abbās and his companions (students) stated in regards to the saying of Allāh,

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{*al-Mā'idah (5): 44*}

They said it means: "They disbelieved with a type of kufr which does not expel one from the religion", and Ahmad and other Imāms of the Sunnah followed him in that.

Ibn Taymiyyah also said in *Majmū' al-Fatāwā*, vol.7, p.522:

Ibn 'Abbās and others from the Salaf stated in regards to Allāh's saying,

وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الْكَافِرُونَ

"Whoever does not rule by what Allāh has revealed, then they are the disbelievers."

{*al-Mā'idah: 44*}

وَمَن لَّمْ يَحْكُم بِمَا أنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الظَّالِمُونَ

"Whoever does not rule by what Allāh has revealed then they are the transgressors."

{*al-Mā'idah: 45*}

© SalafiManhaj 2009

وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـــئِكَ هُمُ الْفَاسِقُونَ

"Whoever does not rule by what Allāh has revealed then they are the sinful."

{*al-Mā'idah: 47*}

It is: "kufr less than kufr, fisq less than fisq and dhulm less than dhulm. Imāms Ahmad, al-Bukhāree and others mentioned this.

Ibn Taymiyyah also said in *Majmoo' al-Fatāwā*, vol.7, p.350-351:

He could be Muslim yet within him is kufr less than kufr which does not expel him from Islām absolutely, as the Companions said, such as Ibn 'Abbās and others: "kufr less than kufr" this is the saying of the generality of the Salaf and this is what Ahmad and others documented. This is also what al-Bukhārī bore testimony to in his Saheeh.[32]

Ibn Taymiyyah also said in *Majmū' al-Fatāwā*, vol.7, p.67: **"Ibn 'Abbās and his companions said: "kufr less than kufr and dhulm less than dhulm."**

Ibn Taymiyyah also said in *Majmū' al-Fatāwā*, vol.11, p.140: **"More than one of the Salaf said: 'kufr less than kufr, nifāq less than nifāq and shirk less than shirk.'"**

21 – Ibn Qayyim al-Jawziyyah *(rahimahullāh)* stated in *Madārij us-Sālikeen*, vol.1, pp.335-336:

As for kufr then it is of two types: major and minor. Major kufr necessitates eternity in the hellfire. Minor kufr necessitates a threat but not eternity in the hellfire, like in the hadeeth of the Prophet (sallallāhu 'alayhi wassallam): "Two from my Ummah have kufr within them, the one who abuses the lineages and the one who wails over the dead."[33] **And like when the Prophet (sallallāhu 'alayhi wassallam) said: "Whoever approaches a woman in her anus has disbelieved in what has been revealed to Muhammad." And like in another hadeeth when the Prophet (sallallāhu**

---

[32] He intended by this *(rahimahullāh)* Imām al-Bukhārī's chaptering in his Saheeh: *'Chapter: Kufr Towards Spouses and Kufr Less than Kufr.'* Al-Qādī Ibn al-'Arabī al-Mālikī stated in *Fath ul-Bārī*, vol.1, p.83:

"مراد المصنف [البخاري] أن يبين أن الطاعات كما تسمى إيماناً كذلك المعاصي تسمى كفراً، لكن حيث يطلق عليها الكفر: لا يراد الكفر المخرج من الملة"اهـ.

The intent of the classifier (i.e. al-Bukhārī) is to explain that acts of obedience are named 'īmān' and likewise acts of disobedience are named 'kufr'. However, when kufr is applied in this instance the intent is not the kufr which expels from the religion.

[33] Saheeh Muslim (67) from the hadeeth of Abū Hurayah *(radi Allāhu 'anhu)*.

© SalafiManhaj 2009

'alayhi wassallam) said: "Whoever goes to a soothsayer or magician and believes in what he says has disbelieved in what Allāh revealed to Muhammad."[34] And like in another hadeeth when the Prophet (sallallāhu 'alayhi wassallam) said: "Don't return after me as kuffār striking the necks of each other."[35] This is the interpretation of Ibn 'Abbās and the generality of the Companions in regards to the Allāh's saying,

وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ

"Whoever does not rule by what Allāh has revealed, then they are the disbelievers."

{*al-Mā'idah: 44*}

Ibn 'Abbās said: "It is not the kufr which expels from the religion, rather if one does it he has kufr within him but it is not like the kufr of the one who disbelieves in Allāh and the Last Day", as Tāwūs said. 'Atā' said: "It is kufr less than kufr, dhulm less than dhulm and fisq than fisq." There are those who interpreted the verses in regards to the one who abandons ruling by what Allāh has revealed out of rejection. This is the view of 'Ikrimah and is the accurate interpretation, so if a person rejects it (i.e. ruling by what Allāh has revealed) whether he rules by it or not. Also from them are those who interpret these verses as abandoning all of what Allāh has revealed. Included within this is the ruling of tawheed and Islām and this is the interpretation of 'Abdul'Azeez al-Kanānī, yet this is also far (from being accurate). Also from them are those who interpret the verses as applying to those who oppose the text purposefully not out of ignorance, error or interpreting. This is what al-Baghawī relayed from the 'Ulama generally. Also from them are those who interpret the verses as being applicable to Ahl ul-Kitāb and this is the view of Qatādah, ad-Dahhāk and others, yet this is far (from being accurate) as it opposes what is apparent from the text. Also from them are those who deem these verses as meaning: kufr which expels one from the religion.

What is Saheeh is: that ruling by other than what Allāh has revealed goes between the two types of kufr, minor or major depending on the condition of the ruler (or judge). If he believes in the obligation of ruling by what Allāh has revealed

[34] Reported by Abū Dāwūd (3904); at-Tirmidhī (135), an-Nasā'ī in *al-Kubrā*, vol.10, p.124 *(Tuhfat ul-Ashrāf)*; Ibn Mājah (639) and others. Via the route of Abū Hurayrah *(radi Allāhu 'anhu)* and it is *Saheeh*.

[35] Reported by al-Bukhārī in his *Saheeh* (121); Muslim in his *Saheeh* (65) from the hadeeth of Jareer bin 'Abdullāh al-Bajalī *(radi Allāhu 'anhu)*.

© SalafiManhaj 2009

in this situation yet averts from ruling by it, along with his admittal that he deserves punishment for this, then this is minor kufr. Yet if he believes that ruling by other than what Allāh has revealed is not an obligation or that he has a choice in ruling by it, while accepting that it is the rule of Allāh, then this is major kufr. If he is ignorant or errs then he is mistaken and takes the ruling of those who fall into error. The intent of this is: all of disobedience is a type of minor kufr that is against shukr.

22 – Imām al-Albānī *(rahimahullāh)* stated in *as-Saheehah*, vol.6, pp.109-116:

It has arrived from the Salaf what supports this and this is found in regards to what they said about "kufr less than kufr" and this has been authenticated from Tarjuman ul-Qur'ān Ibn 'Abbās (radi Allāhu 'anhu), and some of the Tābi'een and others documented this from him. There has to be mention of what has been made easy to deduce from them and maybe this will enlighten the path in front of those who have been misguided today in this dangerous issue and traversed the way of the Khawārij who make takfeer of the Muslims who have committed disobedience, even if such Muslims pray and fast.

Then he *(rahimahullāh)* mentioned some narrations verifying them and explaining their authenticity.

23 – Imām Muhammad bin Sālih al-'Uthaymeen *(rahimahullāh)* stated in his commentary on *at-Tahdheer min Fitnat it-Takfeer*, pp.68-69:

However, due to this narration those who have been tested with takfeer have not been pleased and begin to say "this narration is unacceptable! It is not authentically relayed from Ibn 'Abbās!" so it can be said to them: "How can it not be authentic when those who are more virtuous and greater in knowledge than you in hadeeth have accepted the narration?! Yet you say "we don't accept it!"!?

Let's say the matter was as you say and the narration of Ibn 'Abbās was not authentic, unto us are other texts which indicate 'kufr' is applied yet does not mean the kufr which expels one from the religion, like the aforementioned verses. As the Messenger of Allāh (sallallāhu 'alayhi wassallam) said: "there are two people that have kufr within them: the one who abuses lineages and those who wail over the dead." Yet this is not the kufr which expels one from the religion, however as is said: "A small amount of knowledge coupled with a small amount of understanding of the general Shari' principles necessitates misguidance." Another

© SalafiManhaj 2009

matter that can be appended to that is: evil intent necessitates evil understanding, because when a person wants and intends something this necessitates a person transmitting his understanding in accordance to what he wants and intends, and then he distorts the texts accordingly. From the well-known principles of the 'Ulama was that they used to say: deduce then believe, don't believe and then deduce and be misguided. The three reasons are:

1 – Lack of Shari' knowledge.

2 – Lack of fiqh of Shari' principles

3 – Evil understanding resulting from evil intent and desire.

In relation to the narration of Ibn 'Abbās, then it is sufficient for us that the noteworthy scholars such as Shaykh ul-Islām Ibn Taymiyyah, Ibn Qayyim and others have all received the narration with acceptance and relay it as being an authentic narration.[36]

Hence, from this list we can see that there is no difference whatsoever between the "classical scholars" and the contemporary Salafī scholars in regards to the issue of ruling by other than what Allāh has revealed.

CONCLUSION

Thus, from the classical scholars: Ibn Taymiyyah, Ibn Katheer and adh-Dhahabī *(rahimahullāh)* we conclude the following:

- A clear usage from the classical scholars, and Ibn Taymiyyah in particular, of the relevance of istihlāl which Yāsir Qadhī has tried to assert is only a concept originating with modern Salafī scholars.
- Those who followed Genghis Khān worshipped him in what he ruled and said.
- Genghis Khān was considered by the Mongols to be the **"greatest of Messengers with Allāh"** based on what he legislated and prescribed for them. Indicating their belief in the divinity of whatever emanated from him.
- The ministers of Genghis Khān considered him to have been sent by Allāh.

[36] From his notes to the book *Tahdheer min Fitnat it-Takfeer*, pp.68-69; also see for additional info, Shaykh Saleem al-Hilālī, *Qurrat ul-'Uyūn fī Tasheeh Tafseer 'Abdullāh Ibn 'Abbās 'alā Qawlihi Ta'ala "Wa man lam yahkum bi ma Anzala Allāh fa Ūlayika hum ul-Kāfirūn"* ('Ajmān, UAE: Maktabat ul-Furqān, 1422 AH/2001 CE), pp.87-94.

© SalafiManhaj 2009

- Thus, whatever Genghis Khān ordered and codified in Yāsiq was considered to be divine revelation.
- The Mongol troops of Ghazan would address their soldiers and troops in the name of Yāsiq which they believed gave them their military might, prowess and world dominance.
- Ghazan formed an alliance with the Christian military orders with the specific aim to remove the Muslim Mamluks. Ghazan gained the trust of the Christian orders, including the Knights Templar, by offering them the prospects of gaining Mamluk lands which could return to Christian rule, enticing them with the deals that his ancestor Hulugu Khan had also made with the Crusaders prior.
- Istihlāl therefore is inextricably linked to belief as highlighted by Shaykh Bandar bin Nāyif al-'Utaybī states in his book *al-Hukm bi Ghayr mā Anzala Allāh: Munāqashatun Ta'seeleeyatun 'Ilmiyyatun Hādi'atun* [Ruling by Other than What Allāh Has Revealed: A Sober Introductory Academic Discourse], which features an introduction from Shaykh Muhammad bin Hasan bin 'AbdurRahmān Āli Shaykh (member of the Lajnat ud-Dā'imah wa Hayat Kibār ul-'Ulama in Saudi Arabia). Shaykh Bandar al-'Utaybī states: **"The reality of istihlāl is: belief in it being lawful, as has preceded on page 15, and it is not possible to know the belief, with certainty, except if a person expresses this belief that he has within him. For this reason, we find with those who are disobedient and fall into sins that they admit the sin and are affected by advice (given to them), and it is possible that he will repent often. So what is decisive is that: it is not possible to consider one who is like this as being a Mustahil (one who has make the haram halal). Thus, Istihlāl is not imagined when there is admission of sin."**[37]
- Shaykh al-'Utaybī states: **"Maybe one could object can say "what is apparent from the ayah is that takfeer is to be made" – however Ahl us-Sunnah have a consensus on not taking the ayah on its dhāhir and in fact have described those who take the ayah from al-Mā'idah upon its dhāhir as being from the Khawārij and Mu'tazilah."**[38] Then Shaykh al-'Utaybī relays this from Imāms al-Ājurrī, Ibn 'AbdulBarr,[39] al-Qurtubī,[40] Abū Hayyaan al-Andalūsī[41] and Muhammad Rasheed Ridā.[42]

[37] Shaykh Bandar bin Nāyif al-'Utaybī, *al-Hukm bi Ghayr mā Anzala Allāh: Munāqashatun Ta'seeleeyatun 'Ilmiyyatun Hādi'atun* [Ruling by Other than What Allāh Has Revealed: A Sober Introductory Academic Discourse], Cairo: Maktabah 'AbdulMusawwir bin Muhammad bin 'Abdullāh, 1427 AH, 1st Edn., p.18.

[38] Ibid., pp.31-32

© SalafiManhaj 2009

❖ We would also respectfully ask Yāsir Qādhī: who are the contemporary scholars today who still adhere to, as he claims, the "classical understanding of Ibn Taymiyyah's *fatwā* on ruling by other than God's law" if the likes of the Imāms al-Albānī and Bin Bāz have indeed diverged from the stance of Ibn Taymiyyah?

---

[39] He stated:

A group of Ahl ul-Bida' from the Khawārij and Mu'tazilah were misguided in this issue and utilised these narrations and their likes in order to make takfeer of sinners. They also utilised from Allāh's Book verses which are not to be taken on their dhāhir such as when Allāh says

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{al-Mā'idah (5): 44}

Ibn 'AbdulBarr, *at-Tamheed*, vol.16, p.312

[40] He stated:

﴿وَمَن لَّمْ يَحْكُم بِمَا أَنزَلَ اللّهُ فَأُوْلَـئِكَ هُمُ الْكَافِرُونَ﴾

"And whoever does not judge by what Allah has revealed – then it is those who are disbelievers."

{al-Mā'idah (5): 44}

Those who make takfeer on account of sins utilise the dhāhir of the ayah, they are the Khawārij and they have no proof (for doing that) from this issue.

See al-Qurtubī, *al-Mufhim*, vol.5, p.117

[41] He said:

The Khawārij utilize this ayah to say that all who disobey Allāh are disbelievers and they say: "it is a text for all who rule by other than what Allāh has revealed that they are disbelievers. All who commit a sin has ruled by other than what Allāh has revealed and must be a disbeliever."

See Abū Hayyān al-Andalūsī, *al-Bahr ul-Muheet*, vol.3, p.493

[42] He said:

As for (taking it upon) the dhāhir of the ayah then none of the well-known Imāms of fiqh said that, indeed no one said that!"

See Muhammad Rasheed Ridā, *Tafseer ul-Manār*, vol.6, p.336

© SalafiManhaj 2009