

Refuting Extremism

Saying of the scholars regarding judgement by other than what Allah revealed.



Part 3

by Abdul Qadir Baksh

SAYINGS OF THE SALAAF AND THE SCHOLARS OF THIS UMMAH REGARDING JUDGEMENT BY OTHER THAN WHAT ALLAH REVEALED

In this part of the series we will prove how all the renowned scholars of the past and present took the opinion that a Muslim cannot be excommunicated from the religion unless he makes halal that which Allah made haram or vice versa.

We clarified in the principles in part one of this series: that a Muslim is not pronounced a disbeliever in Allah except if he denies or rejects something from the religion known by necessity; or makes halal what Allah made haram, and haram what Allah made halal; or if he belittles the shari'ah; or believes he has a choice in the matter of judging by other than what Allah has revealed.

Also that kufr (disbelief) is of two types: Kufr Akbar - which is major disbelief, or kufr in belief - that takes one out of the fold of Islam; and kufr Asgar: which is minor kufr, or kufr in action, that does not take one out of the fold of Islam but renders him upon major sin.

A Muslim is not pronounced a disbeliever by his sayings, actions or belief until the proof is established against him.

The explanations of the verse in Surah Ma'aidah verse 44 are understood within the boundaries of all the principles mentioned in part three of this series and do not exceed the five sayings discussed in part two.

In this part three, for the noble reader, we will bring sayings from thirty nine of the salaaf, and scholars after them, that affirm the above statements regarding the issue of not judging by what Allah has revealed. We could indeed have brought many more but the limits of this research allowed only thirty nine. Let us start with the best of the salaf - the companions - from them Ali ibn Abi Talha and Ibn Abbas:

1-2: Ali Ibn Abi Talha narrates from Ibn Abaas in the tafseer of his (Allah) saying “..And whoever does not judge by what Allah reveals then such are the disbelievers ”. That which is the root in this issue he said is “ Whoever denies what Allah reveals then he has disbelieved and whoever accepts it and does not judge by it then he is a dhalim (oppressor), faasiq (sinner).¹

3-6: Al-Qurtabi said: That Ibn Masood and Al-Hassan said “it is general for all that do not judge by what Allah has revealed, meaning believing in that and making it halal.”²

Also As-So'di and Ibraheem An-Nakaae said similar.³

7: And Mujaahid said regarding these three verses: “Whoever leaves judging by other than what Allah revealed rejecting the book of Allah then he is a kaafir, (disbeliever) dhaalim (oppressor), faasiq (sinner).⁴

8: And Ikraama said: “And whoever does not judge by what Allah reveals by denial of it has indeed disbelieved, and

whoever accepts it and does not judge by it then he is a dhaalim, faasiq." 5

And Al-Khaazinu said in connection: "this is the saying of Ibn Abbaas also."

9: And what was mentioned above is also the opinion of Az-Zajjaaj. 6

10: The Sheikhu Mufasireen At-Tabari said: "The foremost of these sayings with me is the saying of those who said: These verses were revealed upon the kuffar from the people of the book.7 That is because of the information in the verses which come before it and after it, so upon them it was revealed. They are who were meant, by these verses and these verses bring information about them. So the fact that it brings information about them is to be taken foremost....."8

11: And Al-Fakhro Ar-Raazi said: "Ikrama said: "his saying ...Whoever does not judge by what Allah reveals This is regarding the one who rejects with his heart and denies with his tongue. "As for one who knows with his heart, it is the law of Allah and he accepts upon his tongue that it is the law of Allah, but he comes with something which is in opposite to that then such a person is a judge by what Allah has revealed but he is one who has left it. (Taarik lahu) so he does not belong under these verses. And this is the correct saying, and Allah knows best." 9

12: Az-Zamakshari said: "And whoever does not judge by what Allah reveals....." despising it "Such are the disbelievers, and oppressors, and sinners, a description for them because of their transgression in their disbelief."10

13: And Al-Qurtubi said: meaning, believing in that, making that halal. As for the one who does that whilst he believes that he is boarding something haram then he is from the Muslims that sin. His affair is with Allah if He wishes He will punish him, or if He wishes He will forgive him." 11

14: And Aboo So`ood said: "meaning, whoever does not judge with that despising rejecting....."then such are the disbelievers " because of their despise of it ." 12

15: And Al-Nasafee said "and whoever does not judge by what Allah has revealed, scornfully..., then such are the disbelievers." 13

16: Sheikh Aboo Mansoor said: "it is permitted to mean denial in all the three verses so he would be a disbeliever, oppressor, and a sinner. This is because a complete sinner and a complete oppressor are disbelievers."14

17-25: Aboo Bakr Al-Jassas said: "and his (Allah) sayingAnd whoever does not judge by what Allah has revealed then such are the disbelievers. "- It is not free from that its meaning is either: kufru-shirk (a disbelief that reaches the level of shirk) and kufr ul johood (denial), or kufr-neama (a disbelief of Allah`s blessings) without denial. So if its meaning is denial of Allah`s laws, or judging by other than it claiming that it is the law of Allah then this is kufr that takes one out the fold of Islam and its doer is an apostate if before that he was a Muslim. Upon this is

the explanation, of the one who said: That it was revealed upon the children of Israel and applied upon us, meaning - the one who denied the law of Allah or judged by other than the law of Allah then said "this is the law of Allah "such a person is a disbeliever, just as the children of Israel disbelieved when they done just that. ¹⁵ Whilst if the meaning of it was kufru-neama (a disbelief of Allah s blessings) then the disbelief of Allah's blessings, may be because of not showing thanks to Allah for it without a denial, then its doer is not out of the fold of Islam. That which is apparent is the first meaning (disbelief of shirk and denial) because of his usage of the word kufr upon the one who does not judge by what Allah reveals." ¹⁶

26: Al-Baydaawi said: "... and whoever does not judge by what Allah reveals... ` despising, in rejection of it ` ...then such are the disbelievers" because of their despise for it and arrogance to judge by other than it. So that is why he described them by his saying "disbelievers" and "Oppressors" and "sinners." Their disbelief was because of their rejection of it, and their oppression because of their judging in opposition to it, and their sin because of their transgression from it." ¹⁷

27: The explainer of At-Tahaawi said: "here is an issue which is an obligation to be understood and that is judging by other than what Allah has revealed at times may be disbelief (kufr) that takes one out of the fold of Islam or at times it could be major sin or minor sin and it could be relative disbelief (kufrul majazee) or minor disbelief (kufr al-asghar) and that depends on the condition of the leader:

-If he believes that judging by Allah's law is not obligatory or that he can choose or not choose it, or he despises it with awareness that it is the law of Allah then this is major disbelief.

-but if he believes that it is an obligation to judge by what Allah has revealed and he understood it in this situation, then did not judge by it with knowledge that he is deserving of punishment, then he is a sinner. This is called relative disbelief or minor disbelief.¹⁸

28: Ibn Al- Jowzi said: "And the final conclusion:

That whoever does not judge by Allah's law denying it whilst he knows that Allah revealed it just as the Jews done then such a person is a disbeliever (kaafir).

And whoever does not judge by Allah's law leaning toward desire without denial then he is an oppressor (dhaalim), sinner (faasiq). Ali Ibn Abi Talha narrates from Ibn Abbas that he said "whoever denies what Allah has revealed then he has disbelieved and the one who accepts it but does not judge by it then he is an oppressor (dhaalim) sinner (faasiq)." ¹⁹

29: Sheikh ul Islaam Ibn Taymiyyah said: "There is no doubt that whoever does not believe in the obligation of judging by what Allah has revealed upon his messenger is a disbeliever. Whoever deems it permissible to judge between the people by what he sees to be just without following what Allah has revealed, is a disbeliever. For there is no ummah except that they have to judge with justice. The justice in its religion may be what their respected people have adjudged to be correct. Furthermore, many judge by their customs, (which Allah did not reveal), such as the

tribal leaders in the deserts and those who obey them do so as it is desirable; however, without the Book and the sunnah this is kufr (disbelief).

For indeed many of the people embrace Islam but along with this they do not judge except by their known customs and orders given to them by their leaders. If these people knew that it was not permissible to judge except by what Allah revealed and continued regardless i.e., they made it permissible to judge in opposition to what Allah revealed, they are then rendered disbelievers, or at the very least, they are ignorant." ²⁰

And he also said:

"Mankind, when he makes halal that which the consensus deems haram; or makes haram that which the consensus deems halaal; or changes the legislation upon which there is consensus upon – that individual becomes a disbeliever by consensus of the jurists and as well as according to the verse: "And whoever does not judge by what Allah reveals then such are the disbelievers "meaning he makes halal the judging by other than what Allah reveals." ²¹

30: The learned Imam Ibnul Qayyim al Jowzi (rahimahullaah) said: "Judging by other than what Allah reveals includes two types of kufr (disbelief): Minor and Major dependent upon the condition of the judge (leader).

So if he believes in the obligation of judging by what Allah revealed in this incident then abandoned it out of disobedience, he deserves to be punished. This is rendered kufr al asghar (minor disbelief). However, if he believes that it is not obligatory or he has a choice in the matter with his understanding, this is deemed kufr al akbar (major disbelief). If he is ignorant of it or made a mistake, then he has the ruling of those who make mistakes." ²²

31: And Al-Haafidh Ibn Katheer (rahimahullaah) said: "...And those that do not judge by what Allah has revealed then such are the disbelievers "because they denied the law of Allah intentionally, in opposition and deliberately. He said right here "...then such are the oppressors "because they did not treat without discrimination the oppressed from the oppressor in the matter where Allah ordered with justice and equality between all. Therefore, they differed and oppressed and transgressed." ²³

32: The learned one of Shaam Ash-Sheikh Jammal ul Kaasimi (rahimahullaah) said: "the disbelief of a leader that does not judge by what Allah has revealed out of despise and denial is kufr in belief, this is the direction which many had taken and were more impressed by, and this is what is from Ikrimah and Ibn Abbaas." ²⁴

33: And As- Saahib ul Manaar ²⁵ (rahimahullaah) said: "and many of the Muslims have introduced legislations, and rulings like those before them had introduced, in these instances they abandoned judging by Allah law. As for those who abandon what Allah had revealed in his book from the rulings without false interpretation - they believe their actions to be correct. Then it is truly upon them, what Allah said in the three verses or in some of them. They are all accounted for, based upon their condition:

Whoever turns away from the ruling of punishment for theft or false accusation of fornication because of his dislike of it, and preference for legislation of Man, is a clear kaafir (disbeliever). And whoever does not judge by it due to other faults then he is a dhaalim (oppressor) if it involved the neglect of rights or abandonment of justice and equality, otherwise he is merely a faasiq (sinner).

34: And the Sheikh Aboo Hibbatu Allah Ismaael bin Ibraheem Al-Isaredee may Allah have mercy upon him said:

"And whoever does not believe in the obligation of judging by what Allah has revealed upon his messenger, and made permissible to judge between the people by that which he sees to be justice, without adhering to what Allah has revealed then he is a disbeliever.....so these people if they knew that it was not permissible to judge except by that which Allah had revealed and then did not adhere to that, rather they made it permissible to rule in opposition to what Allah has revealed then they are disbelievers, otherwise they are ignorant, astray, and they do not know." ²⁶

35: His Excellence the Sheikh Ash-Shanqitee - may Allah have mercy upon him said: "So know that the liberating stance in this study is that kufar, dhulm, and fisq (disbelief, oppression, and sin) each one of them is expressed in the shariah to sometimes give a meaning of sin, and sometimes give a meaning of kufr that takes one outside the fold of Islam.

So whoever does not judge by what Allah has revealed in opposition to the messenger and invalidating the rules of Allah then his oppression, sin, and disbelief all of them takes him out of the fold of Islam.

And whoever does not judge by what Allah has revealed believing that he has boarded that which is haram (impermissible) and is ugly. His disbelief, oppression, and sin are not of that which takes him out of the fold of Islam."²⁷

36: His excellence the Sheikh As-Sa'dee may Allah have mercy upon him said: "Judging by other than what Allah has revealed is from the actions of the people of disbelief. It maybe the disbelief that takes one out the fold of Islam, and that is if he believes in its permissibility and its allowance. And sometimes it maybe a major sin , and from the actions of disbelief that the doer may deserves a fierce punishment`And whoever does not judge by what Allah reveals then such are the disbelievers...` Ibn Abbaas said: kufr doona kufr (a disbelief less than the disbelief that takes one out of the fold of Islam), and dhulm doona dhulm (an oppression less than that which takes one out of the fold of Islam), and fisq doona fisq (sin less than that which takes one out of the fold of Islam). So it is a major oppression when it is made permissible, and a great major sin when it is done without it being made permissible." ²⁸

37 : The Mujadid of the religion, the Imaam of the Ahla- Sunna wa al jamat Abdul Aziz bin Abdallah bin Baaz may Allah increase his days with us and benefit us by his knowledge, and give him the best of rewards in all his efforts for Islam and the Muslims. He said: "whoever judges by other than what Allah has revealed then he does not go out of four positions:

1) One who says that I judge by this because it is better than the

Islamic Shari'ah then he is a disbeliever kufar al Akbar .

2) One who says that I judge by this because it is like the Islamic Shari'ah and judging by this is permissible just as judging by the Shariah is permissible. He is a disbeliever kufar al Akbar.

3) One who says that I judge by this and the ruling of the Islamic Shari'ah is better, but the judging by other than what Allah has revealed is allowed. He is a disbeliever kufr al Akbar.

4) One who says that I judge by this whilst he believes that judgment by other than what Allah has revealed is not allowed and he says: that the judgment of the Islamic Shariah is better, and it is not permissible to judge by other than it, but he is easy in the matter, or he does this because of an order issued from his government. He is a disbeliever with kufr al asghar minor disbelief that does not take him out of the fold of Islam and it is considered to be from the greatest of major sins." ²⁹

38: This saying has also come from the Muhadith of our time, the faqeh, the Imaam, the mujadid of Islam, the learned Sheikh Naasirud-deen Al-Albaanee, may Allah protect him, make him a source of benefit, and may Allah reward him with the best reward for his efforts with Islam and the Muslims.³⁰

The opinion of the Sheikh was clearly published in the newspapers: `As-Sharq ul Awsaat` and Al Muslimoon. The Noble sheikh Ibn Baaz commented on the opinion of Sheikh Al-Albaanee and affirmed it in the above mentioned newspapers by his saying:

`I have seen the beneficial reply which his eminence the Sheikh Naasirud-Deen Al Albaanee had produced which was publicized in the newspapers: `As Sharq ul Awsaat` and Al Muslimoon. Which his eminence replied as an answer for the Questioner regarding Takfeer of the one `who does not judge by what Allah has revealed without explanation. I call it a valuable speech for indeed he spoke the truth, followed and clarified the path of the believers may Allah grant him ability. He made clear that it is not permissible for anyone to judge someone who judges by other than Allah law based just upon his action without finding out did he make it halal by his heart, and he brought of evidence for that, what was narrated by Ibn Abaas (radiyallaahu anhu) and other than him from the salaf of this Ummah...'³¹

39: Then the speech of the two scholars ³² was read to the Imaam, the Sheikh Ibn Uthaimeen who approved of it and strengthened it.

So all the above sayings are from the scholars of old and present. We find no difference between the early scholars and our contemporary scholars, in this dangerous issue of takfeer. So nothing remains after the truth except falsehood.

- 1 Narrated by Ibn Jareer in his tafseer 19/357 No.12063 & n Ibn al Mundir & Ibn Abi Hatim. Also see Dur al Manthoor 3/87, and the Saheefa of Ali Ibn Abi Talha from Ibn Abaas 179. Imaam Ahmad said regarding this Saheefa `in Egypt there is a Saheefa of Tafseer narrated by Ali Ibn Abi Talha, if a man travels to Egypt with an intention to see it, that would be sufficient for him.' Bukhari use to rely on this Saheefa extensively for his collection of Authentic Ahadeeth in that which he narrated from Ibn Abaas. The truth is, that it is of the most authentic chains in the tafseer of Ibn Abaas, although Ibn Abi Talha did not hear them directly from Ibn Abaas. They were known by the middle narrators whom Ibn Abi Talha took them from. For indeed he did take them from Mujaahid and Ikrama so there is no defect in that. And Allah knows best.
- 2 Al Jaami le Ahkaam il Quraan 6/190 and see Ahkaam ul Quraan lil Jassas 2/533.
- 3 See Tafseer At-Tabari 10/356-357
- 4 See Mukhtasir Tafseer Al-Khazini 1/310.
- 5 As above 10/310.
- 6 See Mukhtasir Tafseer al Kaazini 1/310
- 7 The Kuffar disbelieved in the whole Quran and the messenger let alone the shariah!
- 8 See Tafseer At Tabari 10/358.
- 9 See Tafseer Al Kabeer 6/6
- 10 Al Khashaaf 1/341
- 11 Al Jaame le Ahkaam al Quraan 6/190
- 12 Tafseer Aboo Su`ood 2/64
- 13 At-Tafseer An Nasfee 1/285
- 14 At-Tafseer An-Nasfee 1/285.
- 15 (on this point it is imperative that we add the names of those who are of this saying which we found to be many, from them are Al-Barra, Hudaayfa, Dhahaak, Qataada, Aboo Saalih, Aboo Majliz, Abaidullah bin Abdullah bin Utbaa bin Masood, Aboo Ya`la Al-Faraai, so all these said that these verses are specific for the people of the book. These eight names will now be added to the list making so far a total of twenty five sayings of the scholars).
- 16 Ahkaam ul Quraan of Al-Jassas 2/439.
- 17 At-Tafseer ul Baaydaawi 1/268.
- 18 Al-Aqeeda at Tahaawia p-323-324 With checking by Sheikh Naasir ud Deen Al-Albaanee
- 19 Az-Zaad ul Maseer 2/366.
- 20 Al-Minhaaj As Sunnah an Nabawia 5/130.
- 21 Majmoo al Fatawa Shiek ul Islaam 3/267.
- 22 Madaarij as Saalikeen 1/337.
- 23 Tafseer ul Quraan al Adheem 2/61.
- 24 Muhaasin at Ta`weel 6/1998.
- 25 His name is Mohammad Rasheed Ridha died 1353 hj
- 26 His name is Mohammad Rasheed Ridha died 1353 hj
- 27 Tahdheer Ahlu Imaan unil Hukm bi ghairi maa unzal Rahmaan. p-141
- 28 Adwaa al Bayaan 2/104.
- 29 Tayseer ul Kareem ur Rahmaan p-2/296-297.
- 30 Qadiat tu Takfeer baina Ahli Sunnah wa firq ud dalaala p-72-73.
- 31 See the cassette `Fitna tu Takfeer` and others from the recordings of the noble brother Aboo Layla Al Athery.
- 32 Sheikh Ib.n Baaz and Sheikh Al-Albaanee.



Masjid Al-Ghurabaa'

116 Bury Park Road, Luton. LU1 1HE Tel: 01582 724647