

THE STATING OF THE IJMA' ON THE KUFR OF THE RULERS WHO RULE BY WHAT ALLAH HAS NOT REVEALED.

(Preface) Concerning the illustration of the first (people) amongst those who belong to Islam to fall into the changing of the Shariah.

Indeed, it has become clear from what has been mentioned about the reason behind the revelation of His saying Ta'ala: "And whosoever does not judge by what Allah has revealed, such are the Kafirun" * Al-Madina, verse 44, that the Jews turned away from the ruling of Allah Ta'ala on the stoning of the married person (to death), by inventing another ruling as a substitute for it. This invented ruling became a law which was practiced amongst them.

Of those who belong to Islam the first to ever fall into this were the Tartars, in the end of the seventh hijri century, as Shaikh Ahmed Shakir, may Allah have mercy on him, said: "Is it permissible in the Shariah of Allah, however, that the Muslims are ruled in their lands by a law which was taken from the laws of the pagan, atheist Europe? - Until he said. Verily, the Muslims were never tribulated by that - as far as we know of their history - except in that period, the era of the Tartars, which was one of the evilest periods of oppression and darkness". 'Umdat At-Tafseer", Vol 4, p.173. And it was as he said, indeed. *Quoted from "The Noble Quran" without the addition of (i.e. disbelievers of a lesser degree as they do not act on Allah's law). This is against the Ijma' of scholars as it shall be seen in the future fataawa of Ibn Taymia and Ibn Kathir.

As for the belonging of the Tartars to Islam, this happened after their invasion of Baghdad in 656 hijri, under the leader of Hulakoo, when they were pagans. The first person amongst them to accept Islam was King Ahmed bin Hulakoo in 680 hijri. See the book named "Wathaiq-ul-Hurub-os-Salibiyyah wal Ghazw-il- Maghuli" by Dr.Muhammad Mahir Hamadah, p.8, edition of Muassasator- Risalah, 1986.

In addition their claim of Islam appears in the questions posed concerning them to Sheikh-of-Islam, Ibn Taymia, may Allah have mercy on him. So it was mentioned in one of the questions : "what do the Fuqaha, the Imams of the religion, say about these Tartars who came over in 699 and did what has been famous as far as killing the Muslims is concerned? - until they said - and despite that they having claimed the adherence to the shahadah and the unlawfulness of fighting against their combatants, because of the origin of Islam which they have alleged to be following". Majmua' Al-Fataawa, Vol 28, p.501-502. 2

It was also mentioned in another question : "what do the honorable scholars say about these Tartars who have come over to Ash-sham from time to time, pronounced the shahadah, belonged to Islam and did not remain upon the kufr which they had been upon at first". Majmua' Al-Fataawa, Vol 28, p.509.

This concerns their belonging to Islam. As for their ruling by what Allah has not revealed while claiming to be Muslims, it was illustrated by the saying of Ibn Taymia in his description of the Tartars in his fataawa regarding them, for he said : "In judging between themselves, they do not abide by Allah's rule. In contrast, they rule by things laid down by them, and which are compatible with Islam sometimes and against it in another". Majmua' Al-Fataawa, Vol 28, p.505. Ibn Kathir said : "And as

the royal politics that the Tartars rule by, which were taken from their king, Genghis Khan, who laid down for them Al- Yasiq, which is a book comprising laws which he took from different laws, from Judaism, Christianity, the Islamic religion and others. Also, it contains many laws which he took from his sheer thinking and desire. Thus, it has become in his sons a followed law to which they have been giving precedence over ruling by the book of Allah and the Sunnah of His messenger (SAW). Whoever does this is a Kafir who must be fought until he returns to the rule of Allah and His messenger. So no one other than He should rule neither minorly or majorly". Tafseer Ibn Kathir, Vol 2, p.67. Genghis Khan was the grandfather of Hulakoo who invaded Baghdad.

Therefore, this was indeed the first time in that which is known of the history of the Muslims that a people who belonged to Islam ruled by other than the Shariah. So it was one of the calamities for which there was no precedent. However, Ibn Taymia and Ibn Kathir issued Fataawas on it and related the Ijma' on the kufr of the one who does that.

As far as the fataawa of Ibn Taymia is concerned, it is his saying, may Allah have mercy on him, in his Fataawa regarding the Tartars : "And it is known from the religion (of Islam) by necessity and by the consensus of all Muslims that whoever legalizes to follow other than the religion of Islam or a Sharia other than the Sharia of Muhammad (SAW), he is a Kafir. And his kufr is similar to that of the one who believes in some part of the book (Quran) and reject some of it", as He Ta'ala said: "Verily, those who disbelieve in Allah and his Messengers and wish to make a distinction between Allah and his Messengers (by believing in Allah and disbelieving in his Messengers) saying, "we believe in some but reject others", and wish to adopt a way in between, they are in truth disbelievers. And we have prepared for the disbelievers a humiliating torment". An-Nisa, Verse 150-151. Majmua' Al-Fataawa, Vol 28, p. 524.

In addition, in other places in his fataawa, Sheikh-ul-Islam related the Ijama' on the kufr of the one who 3 rules by laws which contain the legalizing of haram and the forbidding of halal, or the abolition of the enjoining and forbidding of the Shariah, and all of these characteristics apply to the present laws. Part of this is his saying, may Allah have mercy on him : "And whenever a person legalized the haram - that is agreed upon - or forbids the halal - that is agreed upon - , he is a Kafir by the consensus of the Fuqaha". Majmua' Al Fataawa, Vol 3, p.267. He also said : "it is known that whoever abolishes the enjoining and forbidding with which Allah sent his messengers, he is a Kafir by the consensus of the Muslims, the Jews and the Christians". Majmua' Al-Fataawa, Vol 1, p.106.

Sheikh-ul-Islam has other sayings which we shall quote in the next issue Insha-Allah Ta'ala.

As for the fataawa of Ibn Kathir wherein he related the Ijma' on the kufr of the one who rules by what Allah has not revealed, it is his saying : "So whosoever abandons the wise Sharia which was revealed upon Muhammad bin Abdullah, the seal of the prophets, and goes to other abrogated Sharia for judgment, he becomes a Kafir. So how about the one who goes to Al-Yasa for judgment and gives it precedence (over the Sharia of Muhammad (SAW))? Whosoever does this has become a Kafir by the Ijma' of the Muslims. He Ta'ala said : "Do they then seek the judgment of (the Days of) Ignorance? And who is better in judgment than Allah for a people who have firm faith". Al-Maidah, Verse 50.

He Ta'ala also said : "But no, by your Lord, they can have no faith, until they make you (O Muhammad (SAW)) judge in all disputes between them and find in themselves no resistance against your decisions, and accept (them) with full submission". An-Nisa, Verse 65. Allah the greatest is all

true". "Al-Bidayah wan-Nihayah". Vol 13, p.119, in the events of 624 hijri in his biography on Genghis Khan. Indeed, it has been aforementioned - in the "Criticism of Ar-Risalah Allimanniyah" in the end of the research on belief - that the Ijma' is an evidence, and that when it is proven Sahih as far as narration is concerned, while no - one (amongst the scholars) is known to have opposed it, it is a compulsory evidence. Also, it is not permissible to abrogate it or change it. See 'Irshad-ul-Fuhal' by Ash- Shawban, p.67 and Shash-ut-Talwah" by At-Taffazani, Vol 2, p.61. Therefore, the Ijma' on the kufr of the one who rules by what Allah has not revealed - which was related by Ibn Taymia and Ibn Kathir - is a compulsory evidence for us and an independent evidence upon which we rely in the fataawa concerning the kufr of the rulers who are judging by the man - made laws. Moreover, the Ijma' on this issue only happened in the era of Ibn Taymia (728 hijri) and Ibn Kathir (774 hijri), because this issue occurred in their time and never before then, as far as history is concerned. Similar to this was the issue of the creation of the Quran, which occurred in the time of Ahmed bin Hanbal, then the Ijma' of Ahl-us- Sunna on its ruling was established (that the Quran is the speech of Allah 4 and is not created, and that whosoever says that it is created is a Kafir). However, the ruling was not related from anyone amongst the Sahabah, because this issue did not happen in their time - thus, no saying was related from any of them about it. This shows you that the fataawas on the new issue are taken from the scholars of their time.

DRAWING THE ATTENTION TO AN IMPORTANT DIFFERENCE BETWEEN THE TARTARS AND TODAY'S RULE

Some of them who argue in the favour of the Tawagheet rulers have claimed that it is irrelevant to apply the fataawas of Ibn Taymia and Ibn Kathir regarding the Tartars to today's rulers, because the Tartars were pagans. But this is wrong, for, indeed, it has become clear to you from that which has been aforementioned that the Tartars embraced Islam, but they kept ruling by other than its Shariah. And these equalities are the very same qualities of today's rulers. Therefore, their verdict is like theirs, and their situation is like theirs.

Additionally, the truth is that today's rulers are greater in kufr and deviance than the Tartars. This is because the Tartars, even though they took over several lands of the Muslims such as Khurasan, Iraq and As-sham sometimes, some times they did not impose on these lands to rule by their man - made law (Al-Yasiq). On the contrary, they ruled by it between themselves, while the judgment between the Muslims remained in accordance with the Shariah rulings. As for today's rulers, they have imposed on the Muslims to rule by these Kafir laws.

As for that which illustrates that ruling by Al-Yasiq remained restricted to the Tartars and did not exceed them to all Muslims, it is proven by the saying of Ibn Taymia regarding them (In judging between themselves, they do not abide by Allah's rule) Majmua' Al-Fataawa, Vol 25, p.505. It is also in the saying of Ibn Kathir (And as the royal politics that the Tartars rule by, which were taken from their king, Genghis Khan, who laid down for them Al-Yasiq-until his saying - "Thus, it has become within his sons a followed law"). Tafseer Ibn Kathir, Vol 2, p.67.

Thus the saying of Ibn Taymia (In judgment between them) and the saying of Ibn Kathir (Thus, it has become in his sons), show that ruling by Al-Yasiq was for the Tartars people only, and that they did not impose it on the Muslims in the lands which they colonised. Indeed, Sheikh Ahmed Shakir pointed this difference out by saying (Have you seen this strong description by Al-Hafidh Ibn Kathir - in the eight century - about that man - made law, which was fabricated by the enemy of Islam,

Genghis Khan? Do you not see that it describes the situation of the Muslims at present, in the fourteenth century? Except for one difference that we pointed out before, which was that it was within a particular group of rulers, who were destroyed so quickly. Then they were mingled within the Islamic ummah, and the effect of that which they did was removed. Then the Muslims are now in a worse situation and severer 5 oppression and darkness than them. This is because most of the Islamic ummah are now about to be mingled within the laws which are opposed to the Shariah, and which are similar to that "Yasiq". Umdat At-Tafseer, Vol 4, p.173-174.

Concerning the fact that the rule between the Muslims remained in accordance with the rulings of Islam in the lands which were invaded by the Tartars, it is proven by the letter sent by the sovereign of the Tartars, Qajan (or Ghazan) to his delegate in ruling over the land of Ash-sham, Saifod-Deen Qajbaq. That letter was read over the pulpits of Damascus in 699 hijri, which was the same year wherein Ibn Taymia was asked for a fataawa regarding them as it has been aforementioned. In (this letter) Qazan said : "the king of the Amirs (governors) Saifod-Deen, must have Taqwa from Allah in his rulings, fear in him in his revoking and sentences, glorify the Sunnah and its ruler and carry out the verdict of every judge according to the saying of his Imam. And let him rely on sitting for justice and fairness and take the sight of the layman from the noble people. Also, let execute the punishment on everyone against who it becomes obligatory, restrain the oppressive hands from everyone who is oppressed". Quoted from "Wathaiq-ul Hurub As-Salibiyyah wal Ghazw-il- Maghuli" by Dr. Muhammad Mahir Hamadah, p.403-406, edition of Muassasar-ur-Risalah, 1986

Moreover, concerning the description of the situations of those lands after the Tartars colonization of them, Siddiq Hasan Khan said : "As for the country over which there are Kafir rulers it is permissible in it, also, to establish Jumua and Eid (prayers), and the judge is making the decisions with the consent of the Muslims. For indeed, it was confirmed that the ruling remains (valid) as long as some of its causes remains. Indeed, we have decided, without dispute, that these lands were part of the lands of Islam before the Tartars colonization. And after their colonization, the adhan, Jumua (prayer), Jama'ah (prayers) and ruling according to the Shariah were declared, and the fataawa was spreading without being denied by their kings". "Al-Ibrah Mimma Jaa'a fil Ghazwi wa Ash- Shahadati wal Hijra". By Sddiq Khan, p.232. Edition of Al-Kutub-el- Ilmiyyah, 1405 hijri.

In conclusion, ruling according to the Shariah in the lands of the Muslims which the Tartars invaded is confirmed historically. And this is part of which shows to you that today's rulers, who are imposing the laws of kufr on the Muslims, are greater in kufr and deviance than the Tartars, and that the cause, because of which the fataawa regarding the kufr of the Tartars was issued, is applicable on the present (rulers) more strongly.

This research was taken from a book entitled "Al-Jamit Fi Talab-el- Ilm-esh-Sharif", by Abdul-Qadir bin Abdul Aziz, Vol 2, p.880-882, the second edition, Dhul Hijjah 1415 hijr

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