10061 - Are the scholarly differences concerning one who does not pray and ruling by laws other than those revealed by Allaah to be taken into account?

the question

I was told in the time of the Salaaf they would differ on issues such as the one who did not perform prayer and the on the one who ruled by laws other than what Allah has revealed, is it true this is called Khilaf Al Mu`tabar (A difference which is taken into consideration)?. If the Salaaf did differ may I please ask whom of the Salaaf differed on both of these issues? May Allaah increase you my beloved shaykh in good and give you the ultimate reward, heaven with the messenger of Allah (Sal`Allahu Alaihi Wa Sallam).

Detailed answer

Praise be to Allah.

There are differences between the Islamic madhhabs whose views may be taken into consideration concerning the ruling on one who does not pray. The dispute is only with regard to the one who does not deny that the prayer is obligatory. The person who denies that prayer is obligatory is definitely a kaafir. The majority of the Salaf, of the Sahaabah and Taabi'een, were of the view that the person who does not pray is a kaafir, because of the saheeh texts which clearly state that. The dispute arose after their time, but the scholars who examined this issue said that the opinion stated is the more sound view, that the person who does not pray is guilty of major kufr which puts him beyond the pale of Islam. This is the opinion according to which fatwas are issued nowadays.

With regard to ruling according to laws other than those revealed by Allaah, whilst acknowledging that the ruling of Allaah is more complete and more perfect, and more beneficial to mankind than any other (law), a group of scholars said that this is a lesser form of kufr. But giving preference to man-made laws and giving them precedence over the laws (sharee'ah) of Allaah, and believing

that the laws of Allaah are not suitable for our times, for example, this is a form of major kufr which puts a person beyond the pale of Islam. The dispute among the scholars in this case has to do with the person who judges according to laws other than those revealed by Allaah, whilst still believing that the laws of Allaah are more perfect and more fitting – is he guilty of major kufr or a lesser form of kufr? Because Allaah has described those who rule according to laws other than His in different ways, sometimes as kaafirs, sometimes as faasiqoon (evildoers), sometimes as zaalimoon (wrongdoers). This is to be interpreted either as referring to different cases in which people rule according to laws other than those revealed by Allaah, or as meaning one and the same thing, because the kaafir is also a faasiq and a zaalim.