21029 - Tribal laws and the call to revive them

the question

Some of them have published articles calling for the revival of tribal law, saying that this is a heritage which should not be lost and that they should be compiled and studied, that academic studies should be conducted on them comparing them to one another and to other laws. What is the ruling on that?

Detailed answer

Praise be to Allah.

All Muslims must refer for judgement to the Word of Allaah and the Sunnah of His Messenger Muhammad (peace and blessings of Allaah be upon him) in all matters, and not to tribal customs and traditions, or to man-made laws. Allaah says (interpretation of the meaning):

“And in whatsoever you differ, the decision thereof is with Allaah (He is the ruling Judge).”[al-Shoora 42:10]

“Have you not seen those (hypocrites) who claim that they believe in that which has been sent down to you, and that which was sent down before you, and they wish to go for judgement (in their disputes) to the Tâghût (false judges) while they have been ordered to reject them. But Shaitân (Satan) wishes to lead them far astray”[al-Nisaa’ 4:10]

“Do they then seek the judgement of (the days of) Ignorance? And who is better in judgement than Allaah for a people who have firm Faith”

[al-Maa’idah 5:50]

“O you who believe! Obey Allaah and obey the Messenger (Muhammad), and those of you (Muslims) who are in authority. (And) if you differ in anything amongst yourselves, refer it to Allaah and His Messenger, if you believe in Allaah and in the Last Day. That is better and more suitable

for final determination”[al-Nisaa’ 4:59]

Every Muslim must submit to the ruling of Allaah and His Messenger, and not give precedence to the ruling of anyone other than Allaah and His Messenger – no matter who they may be – over their ruling. Just as worship must be for Allaah alone, so too the hukm (judgement, command) belongs to Him alone, as Allaah says (interpretation of the meaning):

“The command (or the judgement) is for none but Allaah”

[Yoosuf 12:40]

Referring for judgement to anything other than the Book of Allaah or to anything other than the Sunnah of His Messenger (peace and blessings of Allaah be upon him), is one of the gravest of evil actions and one of the worst of sins; indeed, a person may become a kaafir by referring for judgement to anything other than the Book of Allaah and the Sunnah of His Messenger (peace and blessings of Allaah be upon him), if he believes that this is permissible or he believes that the ruling of anyone other than Allaah and His Messenger is better. Allaah says (interpretation of the meaning):

“But no, by your Lord, they can have no Faith, until they make you (O Muhammad) judge in all disputes between them, and find in themselves no resistance against your decisions, and accept (them) with full submission”

[al-Nisa’ 4:65]

He is not a believer who does not refer for judgement to Allaah and His Messenger both in basic matters of religion and in minor issues, and with regard to rights and duties. Whoever refers for judgement to anyone other than Allaah and His Messenger as referred for judgement to Taaghoot (false judges).

Hence we conclude that it is not permissible to revive tribal laws, customs and systems to which they refer for judgement instead of to the pure sharee’ah which has been prescribed by the Most Just of the Judges and the Most Merciful of those who show mercy. Rather we must bury it, kill it off

and turn away from it, and be content to refer for judgement to the laws of Allaah, in which there is good for all people and protection for their religious and worldly affairs. The tribal shaykhs should not judge between the people according to customs which have no basis in Islam and for which Allaah has sent down no authority. Rather they should refer matters concerning which their tribes dispute to the sharee'ah courts. This will by no means prevent reconciliation between disputing parties by removing hatred and uniting people and pleasing both parties without forcing anyone, in a manner that does not go against the sharee'ah, because Allaah says (interpretation of the meaning):

"and making peace is better"[al-Nisa' 4:128]

"There is no good in most of their secret talks save (in) him who orders Sadaqah (charity in Allaah's Cause), or Ma'roof (Islamic Monotheism and all the good and righteous deeds which Allaah has ordained), or conciliation between mankind"[al-Nisa' 4:114]

"So fear Allaah and adjust all matters of difference among you"

[al-Anfaal 8:1]

And it was narrated that the Messenger of Allaah (peace and blessings of Allaah be upon him) said: "Reconciliation among Muslims is permissible, apart from a reconciliation which forbids something that is permitted or permits something that is forbidden."

What is obligatory is to adhere to the Book of Allaah and the Sunnah of His Messenger (peace and blessings of Allaah be upon him), and to refer to them for judgement, and to beware of anything that goes against them; and we must repent sincerely from anything that has been done in the past which went against the laws of Allaah.

May Allaah help us all to do that which He loves and which pleases Him; may He grant us all refuge from the misguidance of fitan (tribulation) and the misguidance of the Shaytaan, for He is All-Hearing, Ever Near. May Allaah bless our Prophet Muhammad and his family and companions, and grant them peace.