285977 - Should one who does not pray be treated as an apostate?

the question

Should one who does not pray be treated as an apostate with regard to marriage, eating meat slaughtered by him, inheritance and so on?

Summary of answer

Conclusion:

The view that the one who does not pray is a disbeliever does not imply that a specific individual is to be deemed an apostate with consequences such as annulling his marriage, depriving him of inheritance, not burying him in the Muslim graveyard, and so on. Such measures cannot be taken until after the shar'i judge (qadi) has ruled that he is an apostate. Before that, he is to be treated as one who is outwardly Muslim.

Detailed answer

Praise be to Allah.

Firstly:

The issue of the ruling on one who does not pray out of laziness and carelessness is one of the most well-known issues concerning which there is a difference of opinion among the scholars. There are two well-known scholarly views concerning this matter:

The first view is that he is Muslim, but he is an evildoer and sinner. This is the view of the majority of fuqaha.

Based on this view, the one who does not pray is to be treated as a Muslim who is an evildoer, in all matters.

The second view is that he is a disbeliever in the sense of major kufr [i.e., he is beyond the fold of Islam].

We have previously discussed this ruling in more than one answer on this website, quoting the evidence for it, and stating that we favour the view that he is a disbeliever if he completely abandons the salah (ie, never prays).

Nevertheless, this is one of the matters concerning which there is a considerable difference of opinion among the scholars, and there should be no blame on any scholar who favours either of these two views, so long as he has striven to work out the ruling (ijtihad), if he is one of those who are qualified to engage in ijtihad, or he is following a scholar of that calibre.

See the answers to questions no. 2182, 5208, 194309.

Secondly:

Based on what has been mentioned concerning the considerable difference of opinion as to whether the one who does not pray is a disbeliever or not, the issue of whether to treat him as an apostate is subject to further discussion:

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If he is from a country where the well-known opinion, and the fatwas of the scholars whose fatwas are relied upon, state that the one who does not pray is Muslim but is a sinner, who is not beyond the fold of Islam, then he is to be treated according to the view of the scholars in his country.

Shaykh Muhammad ibn ‘Uthaymeen (may Allah have mercy on him) said:

If he grew up in a country where they do not think that the one who does not pray is a disbeliever, and this opinion is the best-known and prevalent opinion among them, then he is not to be deemed a disbeliever, because he is following the scholars in his country, just as he is not to be regarded as a sinner for doing a haraam deed that the scholars in his country do not think is haraam, because the duty of the ordinary Muslim is to follow [the scholars], as Allah, may He be

exalted, says (interpretation of the meaning): “So ask the people of knowledge if you do not know” [an-Nahl 16:43]. And Allah is the source of strength.

End quote from Majmoo‘ Fataawa ash-Shaykh Ibn ‘Uthaymeen (2/138).

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But if he is in a country where the well-known view of the scholars and their fatwas state that the one who does not pray is a disbeliever,

Then when it comes to matters having to do with the rights of others, such as annulling his marriage, preventing him from inheriting, cancelling his guardianship and so on, he is not to be treated as an apostate in such matters until after the shar‘i judge (qadi) has ruled that he is an apostate.

This is in accordance with the view of the Hanbalis, who say that the one who does not pray is not deemed to be a disbeliever until after the qadi has issued a ruling to that effect.

Ibn an-Najjar said:

Whoever does not pray because he denies that it is obligatory has disbelieved; in other words, he has become an apostate and the ruling concerning him is the same as the ruling on all those who apostatise from Islam…. The same ruling applies if he does not pray out of carelessness or laziness, but in this case the ruling is to be applied after the leader or his deputy has urged him to pray but he refuses to do so, until there is not enough time left to offer the prayer that is currently due. In that case he is to be executed, as was stated by Imam Ahmad, because he has disbelieved. This is the view favoured by the majority.

End quote from Ma‘oonah Ooli an-Nuha Sharh al-Muntaha (1/454).

Al-Mirdawi said:

The one who should urge him to pray is the leader or his deputy. If he omitted many prayers before being urged to pray, then he is not to be executed or deemed to be a disbeliever, according

to the correct view. This is the view of the majority of our companions, and was stated definitively by many of them.

End quote from al-Insaf fi Ma‘rifat ar-Rajih min al-Khilaf (1/401).

With regard to personal matters, such as offering the funeral prayer for him and praying for mercy for him after he dies, eating meat slaughtered by him, and so on, in such matters each person should act according to what he believes and what he thinks is most likely to be correct regarding this matter.

And Allah knows best.