92650 - Referring for judgement to courts of man-made law in cases of necessity

the question

Is referring for judgement to man-made laws or working in that field haraam?.

Detailed answer

Praise be to Allah.

Referring for judgement to courts of man-made law which is contrary to sharee'ah is not permissible; the same applies to working in them and applying those laws among people, because Allaah says (interpretation of the meaning):

"And so judge (you O Muhammad صلى الله عليه وسلم) among them by what Allaah has revealed and follow not their vain desires, but beware of them lest they turn you (O Muhammad صلى الله عليه وسلم) far away from some of that which Allaah has sent down to you. And if they turn away, then know that Allaah's Will is to punish them for some sins of theirs. And truly, most of men are Faasiqoon (rebellious and disobedient to Allaah).

50. 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 5:49-50]

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

60. 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 Taaghoot (false judges) while they have been ordered to reject them. But Shaytaan (Satan) wishes to lead them far astray.

61. And when it is said to them: “Come to what Allaah has sent down and to the Messenger (Muhammad صلى الله عليه وسلم),” you (Muhammad صلى الله عليه وسلم) see the hypocrites turn away from you (Muhammad صلى الله عليه وسلم) with aversion” [al-Nisa’ 4: 59 -61]

“But no, by your Lord, they can have no Faith, until they make you (O Muhammad صلى الله عليه وسلم) 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]

And there are other verses which enjoin referring for judgement to that which Allaah has revealed and forbid referring for judgement to anything that goes against it.

But if a person is forced to refer for judgement to man-made laws, in order to ward off wrongdoing or get back his rights, it is permissible for him to do that subject to certain conditions:

1.That he cannot get his rights except by this way.

2.That he should do it reluctantly and hate this way of referring for judgement.

3.That he should not take more than his due, even if the law gives it to him.

The scholars of the Standing Committee for Issuing Fatwas were asked: What is the ruling on referring for judgement to American law in a dispute between Muslims, with regard to cases of divorce, commerce and other matters?

They replied: It is not permissible for a Muslim to refer for judgement to man-made laws except in cases of necessity if there are no sharee’ah courts. If he is awarded something that is not his right, it is not permissible for him to take it. End quote. Fataawa al-Lajnah al-Daa’imah, 23/502

Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) was asked: What is the ruling on the work of a Muslim who studies man-made law, then opens a law office and represents cases in civil

courts on behalf of companies? What is the ruling on the money that he accumulates?

He replied: Putting man-made laws that are contrary to sharee’ah in the place of sharee’ah is kufr, because it is removing sharee’ah and putting taghoot (falsehood) in its place, and this is included in the verse in which Allaah says (interpretation of the meaning): “And whosoever does not judge by what Allaah has revealed, such are the Kaafiroon (i.e. disbelievers — of a lesser degree as they do not act on Allaah’s Laws” [al-Maa’idah 5:44].

With regard to a person learning man-made law, if he is learning it in order to ward off falsehood with truth, there is nothing wrong with that. But if he is learning it in order to follow what is contains of laws contrary to sharee’ah, this is haraam. Concerning that we say: even with regard to the lawyer in a country that is governed by sharee’ah, we say that if the lawyer wants to bring people's rights to them, there is nothing wrong with practising this profession, but if he wants to prove the other party wrong, whether it is true or false, this is haraam. End quote from Liqa’ al-Baab al-Maftooh, 33/6.

And Allaah knows best.