The Present Rulers and Islam
Are they Muslims or not?

by Sheikh Omar Ahmed Ali Abdurrahman

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The original title of this book was 'Pillars Of The State', first published in Kuwait in 1988 under the title of 'Al-Maw’ithat ul-Hasana', translated into english by Omar Johnstone published by Firdous Ltd, under title 'The Present Rulers and Islam are they Musim or not?' in 1990. This web-text version is based entirely upon web edition of the book which first appeared on the 'Abu Suhayb' & 'Jihaaad ul-Kuffaari wal-Munaafiqueen' websites around about 1998-2001, Please note the web edition uses the 'Hilali- Khan' English translations for the Quranic verses instead of 'Marmaduke Pikthall' translation, also absent is
Praise be to Allah, peace and blessing be upon the Messenger of Allah.

A great deal of confusion has arisen, either by accident or by design, in the course of discussions about the rulers of the Muslim world and their regimes. When is obedience to them required? When is it forbidden? When is patience enjoined and when is revolt obligatory? A large section of those who claim to be knowledgeable have inclined towards the rulers of our times, concealing what they know of the truth and distorting discussion out of a desire for this fleeting world and its wretched ephemeracy.

We shall embark then, by the Grace of Allah and His pleasure, upon a crystallisation of the truth and a clarification of the right path through these difficult matters, bearing thereby the responsibility which Allah has placed upon the shoulders of the Ulema.

We have divided our research in two sections: In the first we will discuss types of rulers. These we have considered as belonging to four categories:

- the just Muslim
- the oppressive Muslim
- the heretical Muslim
- the non-Muslim

Each of these has his characteristic type of rule which we will discuss separately. Then we will examine the relevant hadith pertaining to each of them as well as the comments and judgements (fatawa)* of the Ulema finally summarising their positions. In this fashion we will attempt to clarify and to distinguish between each of these four categories.

Sheikh Omar Ahmed Ali Abdburrrahman

* 'fatawa' - plural for 'fatwa'
The Just Ruler

The Just Ruler is he who establishes Islaam and leads the people according to the Qur’aan and the Sunnah of the Prophet (sallallaahu ’alayhi wa sallam). He is the one, both Just and fair, about whom the Prophet (sallallaahu ’alayhi wa sallam) has said:

"Indeed the fair-minded will be upon raised platforms of light."
(Muslim and Nisaa’i)

And again:

"A day of his rule is better than sixty years of worship."
(At-Tabarani)

Obedience to his rule is obligatory upon the Muslims, for it is obedience to Allaah and His Prophet as stated in the Qur’aanic Verse,

{O you who Believe! Obey Allaah, and obey the Messenger, and those of you who are in authority.}
(Qur’aan: 4 - 59)

Withdrawal of obedience to him is unlawful, to say nothing of revolting against his rule, or of [attempting] his assassination. This was explained by Ibn 'Abbaas (radhiallaahu ‘anhu) with reference to the Verse,

{We Ordained for the Children of Israel, that if anyone killed a person not in retaliation of murder, or to spread mischief in the land - it would be as if he killed all mankind, and if anyone saved a life, it would be as if he saved the life of all mankind.}
(Qur’aan: 5 - 32)

This he interprets as meaning that, "Whoever kills a Prophet, or a Just ruler, it is as if he has killed all of humanity, and whoever hastens to the aid of a Prophet, or a Just ruler, it is as if he has saved all of humanity."

In addition to this, there are numerous Ahadeeth about the obligation [of] ready service and obedience (as-sam’a wat-taa’a) to the Just Imaam, prohibiting both
disobedience to him and revolt against him. Thus Anis bin Maalik (radhiallaahu 'anhu) relates that the Prophet(sallallaahu 'alayhi wa sallam) said,

"Hasten to service and obey, even though there be placed above you an Abyssinian slave whose head is as black as a sun-dried grape."

(Muslim, Kitaab ul-Imaaraat)

Abu Hurayrah (radhiallaahu 'anhu) reports that the Prophet (sallallaahu 'alayhi wa sallam) said,

"Whoever obeys me has obeyed Allaah, and whoever disobeys me has disobeyed Allaah. Whoever obeys my Ameer has obeyed me, and whoever disobeys my Ameer has disobeyed me."

(Muslim)

The same narrator relates that the Prophet (sallallaahu 'alayhi wa sallam) also said,

"Whoever is disobedient and withdraws from the community, ere he dies, he dies in a state of jaahiliyyah (i.e. ignorance)."

And finally, Umm Husayn (radhiallaahu 'anha) has said, relating the words of the Prophet(sallallaahu 'alayhi wa sallam),

"I was with the Messenger of Allaah (sallallaahu 'alayhi wa sallam) on his farewell pilgrimage. He spoke at length and then I heard him say,

'I have imposed upon you unqualified service - if a black man guides you with the Book of Allaah, hasten to his service and obey him.'"

(Muslim)

Turning now to the discussions of the 'Ulamaa we find that they have unanimously agreed that ready service and obedience are obligatory to a Just Imaam, and that disobedience to him is forbidden as is revolt against his rule or withdrawal of one's allegiance to his leadership. As for his obligations, Al-Mawridi (rahimahullaah) has summarised them under ten headings:

- The preservation of the Faith, true to it's origins and in keeping with the consensus of those who participated in the founding of the Ummah.
- Defence of the Realm.
- Maintenance of Borders.
- The implementation of the principles of [Islaamic] Law, governing disputes, and the bringing to an end of conflicts within the community.
- The fortification and defence of ports.

- The *active* propagation of the Faith, so that the people (i.e. *Kuffaar*) may either adopt it, or [at least] enjoy it's protection.

- The collection of various taxes and *Sadaqah* as is required by the *Sharee'ah*.

- The provision of financial assistance and the assessment of claims against the Treasury.

- To be solicitous of the public confidence, and to consider fully the council of his advisors in their areas of responsibility.

- To actively oversee all aspects of government, and to keep himself well and widely informed.
The Rule of the Ruler:

The Oppressive Ruler

The oppressive, or corrupt ruler earns his reputation by his immorality and excess, drunkenness, sexual misconduct, arbitrary punishment, or by abandoning rule according to the Sharee'ah (in certain instances). His abandonment of the Sharee'ah [in this case] is an act of disobedience since he neither repudiates it, nor attempts to replace it with any other law. He accepts that the basis of his authority is that he rules by what has been revealed by Allaah, [and] were this principle to be abandoned then he would no longer be considered a Muslim.

Zayid bin Wahab (radhiallaahu 'anhu) said,

"I heard the Messenger of Allaah (sallallaahu 'alayhi wa sallam) say,

'Indeed you will witness after me a selfishness, and a conduct which you will despise.'

The people asked him, 'What shall we do, oh Messenger of Allaah?' He (sallallaahu 'alayhi wa sallam) said,

'Render unto them their due, and ask Allaah for what is due to you.'

(Muslim, Kitaab ul-Imaaraat)

Ibn 'Abbaas (radhiallaahu 'anhu) reports that the Prophet (sallallaahu 'alayhi wa sallam) said,

"Whoever is displeased with his Ameer in anyway let him be patient, for whoever withdraws from his authority but by a hand-span would die in a state of ignorance."

(Muslim, Kitaab ul-Imaaraat)

Abu Hurayrah (radhiallaahu 'anhu) relates that the Prophet (sallallaahu 'alayhi wa sallam) said,

"There will come to pass great tribulations (i.e. fitanun) in which he who sits is better than he who stands, and he who stands is better than he who walks, and he who walks is better than he who runs.

He who seeks it, will be sought out by it."

(Bukhari, Kitaab ul-'Alaamaat an-Nubuwa)
Zubair bin 'Adi said,

"When Anis bin Maalik came to us we began complaining to him about Al-Hajjaaj and he said,

'Be patient, for indeed you will not know a time other than that which is followed by something worse, until you meet your Lord.'

This is a Hadeeth which I heard from your Prophet (sallallaahu 'alayhi wa sallam)." (Bukhari and Tirmidhi)

These Ahadeeth imply an obligation to patience before the injustice of the leaders of the Muslims. This is the position of a portion of the 'Ulamaa, another section of the 'Ulamaa, however, encourage revolt against repugnant and despotic rulers, as well as their overthrow. And they support this position with the following evidence:

Ibn Mas'ood (radhiallaahu 'anhu) reports that the Prophet (sallallaahu 'alayhi wa sallam) said,

"There was no Prophet sent by Allaah to the nations of old who did not have disciples and companions from amongst his own people - adopting his manner and executing his instructions - who later came to differ amongst themselves; saying what they did not do, and doing that for which they had no authority.

Whoever fights against them with his hands is a Believer, and whoever fights them with his tongue is a Believer and whoever fights them with his heart is a Believer, for behind this there lies not a mustard seed of Faith."

(Muslim)

'A Abdullaah bin 'Umar (radhiallaahu 'anhumaa) said that the Prophet (sallallaahu 'alayhi wa sallam) said,

"The Muslim is bound to obedience both in what pleases him and in what displeases him, except when he is ordered to disobedience [of Allaah], for if he is ordered to disobedience he neither hears, nor does he obey."

'Alee bin Abi Talib (radhiallaahu 'anhu) related that the Prophet (sallallaahu 'alayhi wa sallam) said,

"There can be no obedience to error, indeed obedience is only due to rightful action."

(Bukhari)

'Ubada bin as-Samit (radhiallaahu 'anhu) related that the Prophet (sallallaahu 'alayhi wa sallam) said,
"Obedience is not due to one who rises against Allaah, [the] Most High."

Abi Sa'ad al-Khudri (radhiallaahu 'anhu) reported that the Prophet (sallallaahu 'alayhi wa sallam) said,

"Whichever of you sees a wrong-doing let him right it by his hand, [but] if he cannot [do that] then let him right it by his tongue, and if he cannot [do that], then let him right it by his heart. This is the least degree of Faith."

One group advises patience, and the other urges action.

A third party of the 'Ulamaa qualify their opinion thus; if in the maintenance of an oppressive or despotic regime it's despotic and reprobate nature are also preserved then it's very maintenance is a form of corruption. [And] if the masses rise against it and spill blood, then this would also represent a kind of corruption. If we determine which is the greater of the two evils we can repudiate it (i.e. the greater evil), though this would necessitate an acceptance of the lesser evil. If perseverance under, and maintenance of a corrupt regime - with it's despotism and tyranny - is worse than the evil and tyranny represented by revolt, then the people should rise and overthrow it. Yet if the evil and tyranny of revolt is the greater [evil], then the people should persevere and refrain from revolution.

Al-Qurtubi remarks that Abu Haneefah (rahimahullaah) said,

"If a regime becomes corrupt, overthrow it, for if it is not overthrown then every successive regime issuing from it becomes illegitimate."

Al-Qurtubi then adds,

"This does not admit any divergence of views, corruption derives from unrighteousness, and the unrighteous may not rule."

Al-Mawrdi (rahimahullaah) adds,

"There are two things which may affect a ruler, or Imaam, and render him incompetent. The first is that he falls into moral disrepute, and the second is that he becomes physically incapacitated. His moral disgrace may result directly from his yielding to desire, or it could be the result of his following a course which is laden with doubt.

The first of these relates to physical actions, committing what is forbidden or flagrantly violating the public mores; this behaviour both annuls his leadership of
the State and the continuance of his regime. Were this to happen to one who held the reigns of power his leadership would come to an end. If he were to be rehabilitated he would not be reinstated except by a fresh appointment. Some 'Ulamaa however, maintain that his rehabilitation could lead to reinstatement without any new appointment or renewal of the bay’ah, or public pledge, though it is admitted that such a renewal of the bay’ah would be fraught with difficulty."

Ibn Hazm (rahimahullaah) writes,

"They will be asked:

'What would you say of a king who takes jews as advisors and christians as his defenders, who demands the Jizya of Muslims, puts their children to the sword and sells their women into prostitution?... Or what of a king who seeks out and slaughters Muslims and seizes their women and children to use for the public amusement, though throughout this, the avowed Realm of Islaam, there is no call to prayer?

Some would advise that it is forbidden to rise against the ruler.

Tell them then that they only call the Muslims to their complete destruction, that by ignoring their duty they only insure that none should remain but themselves and the disbelievers. Such a call to patience is at complete variance with Islaam, it is nothing more than an attempt to absolve oneself of one's responsibilities.

If they say that fighting them is certain death, then we would reply that even if nine-tenths of the Muslims were to be killed, or all of them save one, and their women and property [were] to be seized, the alternatives would remain unchanged, for if they oppose revolt then they are surely lost. (1)

We are still, nevertheless, agreed upon the fact that the killing of just one Muslim, the seizure of his property or the abuse of his person is oppression. If anyone disagrees about this then his position could not be maintained, and he would find no basis for it in Islaam.

What then, of the man whose wife and children are seized by a tyrannical lord, seeking to corrupt them and himself with them?... Would he be capable of submission whilst his wife and children are exposed to all manner of depravity, or is he obliged to defend them against it?

If his reply is that submission is obligatory upon both himself and his family then he has descended to a point which no Muslim has ever reached. And if he says that his obligation is to prevent such a thing happening and to defend his people, to fight, then he has, once again, grasped the Truth. [And] this is the obligation of every Muslim to every other Muslim, with regard to his person and his property.
Whenever an element of injustice appears, the Imaam must be approached in order that he be corrected or restrained. If he agrees and returns to what is right, and submits to the guidance of the common people and of his peers, if he accepts his punishment as prescribed by the Sharee’ah for what he has done, then there is no legal means of removing him, he is Imaam, as he was before. But if he refuses to fulfil any of his duties and is unrepentant then his removal is obligatory, and he should be replaced by a man who will stand by Truth.

In the Words of Allaah,

\[\text{Help one another in Al-Birr and At-Taqwa (Virtue, Righteousness and Piety); but do not help one another in sin and transgression.}\]

\{(Qur’aan: 5 - 2)\}

The Sharee’ah must be applied in it's entirety, Allaah is the Source of all Success.”

Dr. Mahmood Hilmi observes that,

"There is no objection to the removal of the Khaleefah from office before his death should he become corrupt, or oppressive."

According to Imaam Shaafi'i (rahimahullaah),

"The leader of the community may be removed for corruption or tyranny."

Al-Baghdadi maintains that,

"Should he (i.e. the Imaam) depart from the Law, then the Nation should condemn him. There is merit in making him desist as there is in foregoing him for another. Their response to him should be akin to his response to his officers and magistrates, to his clerks and messengers, whenever they digress from his standards - he either corrects them, or dismisses them. This was the policy established by the Rightly Guided Caliphs."

Ismaa’el al-Kilani remarks in his book, 'Fasl ud-Deen ‘an ad-Dawla' that,

"Any leader who is abusive or tyrannical in his rule has negated his own authority, and may not be permitted to rule." (2)

'Abd ul-Qadir 'Awda, speaking on the subject of the overthrow of the Khaleefah points out that,

"Those who support the overthrow of the Khaleefah for Kufr alone cite the Hadeeth related on the authority of 'Ubada bin as-Samit, which says,
'The Messenger of Allaah pledged us to ready service and obedience in what was pleasing to us, and in what was unpleasant for us, in what was difficult for us and in what was easy for us, and to give freely of what we had. He said that we should not challenge those in authority over us,

"...unless you see clear Kufr (i.e. disbelief), and you have a proof of it from Allaah."'

(Muslim)

Partisans of overthrow consider that the significance of Kufr in this Hadeeth is, 'disobedience before Allaah'. There are other reports of this Hadeeth in which the word 'Kufr' is replaced with [the word] 'm'asia' or, disobedience, and also with 'ithm' or, iniquity. Whenever the Khaleefah or Imaam is guilty of wrongdoing, and the people recognise it from their Knowledge of the standards of Islaam, they should denounce him and remove him from his position of authority.” (3)

The 'Ulamaa are unanimously agreed that the Muslims should, as a general rule, depose their leaders (i.e. Khulafa') for corruption, or indeed for any other justifiable reason. Such justifiable reason could be deemed to include social disorder and the undermining of Religion. This is because one of the fundamental reasons for appointing a Khaleefah is to assure the establishment of a social order, the foundations of which are firmly planted in Religion. The agreement of the'Ulamaa on this point does not, however, extend to the case of the man whose overthrow may result in 'fitnah', or social and political strife. While some Scholars maintain that the Khaleefah should be replaced whenever there is a justifiable cause, others hold that this may be conditional upon the social and political cost. This latter group say that if a choice is to be made between an undesirable leader, and social and political upheaval, then it becomes a matter of [choosing] the lesser of two evils. Still, a third group hold that in such a situation the Khaleefah should remain in place regardless of his actions, so long as his removal threatens to become problematical.

In our view, the strongest case may be made for the first of these three options; that theKhaleefah should be overthrown whenever there is a justification for doing so, even though this may lead to 'fitnah'. We would not, in fact, consider any resulting social discord to be 'fitnah' at all, rather we would regard it as a struggle for reform since it's ultimate aim would be the elevation of Truth, the uprooting of corruption, and the reaffirmation of Islaam.

The very existence of a threat to the social order is in itself justification for the overthrow of the regime. This is because the most serious of threats is ultimately that which comes from within the regime, [and] the responsibility to preserve and establish Islaam remains with every Muslim.
Those who place conditions upon the overthrow of the oppressor cite Ahadeeth of the Prophet (sallallaahu ‘alayhi wa sallam) which urge the avoidance of confrontation with the Khulafaa’ and the Imaams, and stress the unity of the Islaamic Community:

"Whoever sees in his Ameer anything which he dislikes, let him be patient. Indeed, whoever differs from the Community but by a hand-span, ere he dies, he dies in a state of jaahiliyyah (i.e. ignorance)."

(Muslim, Kitaab ul-Imaaraat)

They also mention the following Hadeeth,

"The best of your Imaams are those whom you love and who love you, those whom you bless and who bless you. The worst of your Imaams are those whom you despise and who despise you, those whom you curse and who curse you."

The people asked, "Oh Messenger of Allaah, should we not resist them?" To which he (sallallaahu 'alayhi wa sallam) replied,

"Not so long as they establish the prayer. Indeed, whoever takes for himself a protector and then sees him commit an act of disobedience to Allaah, let him feel hatred for that act, and not diverge from his obedience."

(Muslim, Kitaab ul-Imaaraat)

Finally, they refer to the above mentioned Hadeeth related on the authority of 'Ubada bin as-Samit (radhiallaahu 'anhu).

These Ahadeeth should not be taken literally, but should rather be seen in the light of the Qur’aan and the Sunnah, and of the obligations which bind the Muslims to the establishment of Islaam, and to the Struggle in it's Cause. To Struggle with one’s heart, soul and wealth, to reject those who oppose Islaam and who attempt to undermine it, to encourage the people in virtue and to discourage wrongdoing and impiety, [and] to fight oppression... This is the Islaamic perspective, and once this becomes clear then we can see that the meaning of the Ahadeeth is that the Muslims are bound to patience with their leaders in whatever is not detrimental to Islaam and to the Islaamic Community, in whatever does not infringe upon the guidelines of what is permitted and what is prohibited, and in whatever can ultimately support the legitimacy and dignity of the leadership by it's commitment to Truth, and it's constant reference to it.

Ibn Hazm (rahimahullaah) has considered these Ahadeeth and others like them and explains that they do not mean what some jurists have understood them to imply. He says that,
"If tyranny begins to surface, even though it is small or insignificant, (the Muslims) should approach the leader about it and restrain him. If he accepts their counsel, yields to the guidance of the people and his peers, and establishes the Laws of Islaam then there is no means of removing him. But if he refuses to fulfil any of his obligations and is unrepentant then his removal is imperative. Someone who will stand by Truth should replace him, as Allaah has Said,

\[
\text{Help one another in Al-Birr and At-Taqwa (Virtue, Righteousness and Piety); but do not help one another in sin and transgression.}\]

(Qur'aan: 5 - 2)

No part of the Sharee'ah may be abrogated. Yet some jurists still adopt the view that we should choose the lesser of two evils if revolt were to lead to strife, or fitnah. This view should be explained in the light of both historical experience and of contemporary reality in order to clarify to everyone that if continuing under the regime results in the undermining of Islaam, or the weakening of it's position then the lesser of the two evils must be revolt, and nothing less." (4)

Al-Qurtubi (rahimahullaah) writes,

"It is unanimously agreed that an unworthy individual may not be confirmed into the leadership of the Community. The jurists have said that if an Imaam, after being confirmed into the leadership, then deviates and falls into corruption, he would be impeached for his blatant and acknowledged wrongdoing. This is because the leader is only accredited in order to establish the rule of Law and it's protection, to assure the public welfare, the care of orphans and the infirm. In effect, deviance from his mandate and corruption are both factors mitigating against the performance of these functions. Were the Imaam allowed to continue under such circumstances the Imaamate itself would be threatened, this is self-evident from the start."

One dissenting opinion, however, maintains that the leader may only be removed for apostasy, renouncing prayer, or for some other serious infraction of the Sharee'ah. This is supported by a Hadeeth of the Prophet (sallallaahu 'alayhi wa sallam), related by 'Ubada bin as-Samit (radhiallaahu 'anhu), who says,

"...Do not challenge those in authority over you unless you see clear Kufr (i.e. disbelief), and you have a proof of it from Allaah."

(Muslim)

And by another Hadeeth related on the authority of 'Awf bin Maalik (radhiallaahu 'anhu), saying,

"...Not for so long as he convenes the Salaat."

(Muslim)
Finally, Umm Salama (radhiallaahu 'anha) states that the Prophet (sallallaahu 'alayhi wa sallam) said,

"There will be placed over you Ameers whom you will acknowledge and whom you will disavow, whoever feels aversion to them is without blame and whoever denies them is free, but whoever is pleased with them follows."

They asked, "But Messenger of Allaah, shall we not fight them?" He (sallallaahu 'alayhi wa sallam) said,

"Not so long as they perform Salaat."

(Muslim)

Meaning that aversion and denial were in the heart.

Ibn Katheer (rahimahullaah) remarks in his 'Tafseer ul-Qur'aan al-'Athim',

"Were the Imaam to become corrupt, would he be overthrown or not?... Here there is a difference of opinion but rightly he should not be overthrown, this is in keeping with the words of the Prophet (sallallaahu 'alayhi wa sallam),

'Unless you see clear Kufr, and you have a proof of it from Allaah.'" (5)

Abu Yighla (rahimahullaah) writes in his book 'Al-Ahkam as-Sultaniyya',

"If, after the appointment of an Imaam, the qualities of leadership for which he had been chosen were to vanish his position as Imaam would not be affected. This is the case regardless of the source of his corruption and it's nature, whether it is the result of his own action in committing any forbidden act, violating the public mores or following his own whims and fancies, or whether it is the result of his adoption of some unfounded religious doctrine which takes him away from Truth. This is the gist of what Al-Marwazi has related with reference to the Ameer whose excessive drinking leads him to an abuse of his power." (6)

Ibn 'Abadin (rahimahullaah) related that,

"The authority of the leader disappears if he is incapable of fulfilling his functions. Apostasy, insanity, being taken prisoner with no hope of release, and disease leading to physical handicap can all affect his office in this way. If, as a result of some incapacity, he is unable to assure the welfare of the Community then he should step down voluntarily. This is also so should he be overthrown, though Imaams Shaaafi'i and Abu Haneefah leave this option open."

Muhammad Rawaiyatan (rahimahullaah) adds,
"He may be overthrown by agreement, but if he were just upon his appointment and only subsequently became tyrannical and corrupt, then he would not be forcibly overthrown."

Ash-Shawkani (rahimahullaah) writes,

"It is reported on the authority of Ibn Tin that Ad-Dawdi has said,

'The position of the 'Ulamaa with regards to tyrannical rulers is that they should be removed when it is possible to do so without causing discord (i.e. fitnah), or injustice. If not, then patience with them is obligatory. It is not permitted to appoint a corrupt individual as Khaleefah, though should a just man become corrupt after his appointment he should not be removed except for Kufr (i.e. disbelief). In this case revolt becomes obligatory. The 'Ulamaa do however differ on this point." (7)

Ibn Rajab (rahimahullaah) mentions a Hadeeth of Ibn Mas'ood (radhiyallaaahu 'anhu) which states,

"After them there will succeed a group of people... whoever struggles against them with his hand is a Believer..."

"This is said to authorise armed struggle against the leadership. Imaam Ahmed observes that this Hadeeth, which was reported by Abu Dawud, is at variance with other Ahadeeth in which the Prophet (sallallaahu 'alayhi wa sallam) enjoined patience before tyrannical authority. He adds that to change something with one's hand does not necessarily imply violent confrontation. He supports this with a report on the authority of Saaleh, who says,

'To change a thing by your hand does not mean by the sword, or by force of arms. To struggle with your hand is to prevent, by your hand, wrongdoing. To pour wine onto the ground, to smash idols and to correct an injustice where you are able, all of this is permitted though it is not considered 'fighting'. To prevent them from something is not to revolt against them.'" (8)

Imaam an-Nawawi (rahimahullaah) has reported that the Prophet (sallallaahu 'alayhi wa sallam) said,

"...Unless you see clear Kufr, and you have proof of it from Allaah."

"In the majority of reports the word here rendered as 'clear' appears as (بَوْاَهْانِ) 'buwaahan' though some other reports read (بَرَااهَانِ) 'baraahan'. Both words mean 'clear and apparent'. The word 'Kufr' here is to be read in the context of disobedience to Allaah. 'To have proof of it from Allaah' is to be able to recognise and demonstrate this with the teachings of Islaam. The interpretation of the Hadeeth is that those in authority should not be challenged in their capacity as
leaders, nor opposed unless there is definite proof of Kufr which can be supported
with reference to the universally accepted standards of Islaam. If this is the case
then they should be denounced and Truth should be confirmed whenever possible.

According to the consensus of opinion, violently rising and confronting authority is
forbidden. Even though the leadership may be corrupt and repressive the sources
are clear in this prohibition. The Sunni schools of jurisprudence are agreed that a
leader cannot be overthrown for corruption alone. Though there is a position
expressed in some books of fiqh which advises the overthrow of such persons, it is
incorrect and at odds with the majority view. The 'Ulamaa have explained that the
prohibition of revolution is due to the great tribulation and hardship which it
brings in it's wake. The bloodshed and chaos which accompany it are considered to
be a greater evil than that represented by the object of revolt.

Al-Qadi 'Ayad states that should the leader fall into disrepute and become morally
unworthy of his office then he should be removed provided that this does not lead to
fitnah and war. This is the opinion of some of the judges, though the majority of the
Ahl as-Sunnah, their fuqahaa, and their experts on Ahadeeth say that he should not
be removed for corruption, repression or abuse of civil rights alone. They hold that
his overthrow, or removal, is not permitted, and urge his admonishment and
reprobation whenever justified by events.

Abu Bakr bin Mujaahid had once demanded a consensus on this [issue], and was
reminded of the uprising of al-Hussayn and Ibn az-Zubair, and the people of
Madeenah against the Umayyads, and of the uprising of the Tabi'een and many
prominent members of the Community against al-Hajjaaj; As for the Hadeeth,

"Do not challenge those in authority over you."

It was said that this meant, 'Just (i.e. Righteous) Imaams'. They add that the rising
against al-Hajjaaj was not merely for his corruption but was also in response to
what he had changed of the Sharee'ah and to what was plainly Kufr.

Al-Qadi 'Ayad adds, it is said that,

'First they differed about it, and then a consensus was reached preventing revolt,
and Allaah is Most Knowledgeable about it." (9)

According to Salah Dabous,

"The two disciplines of fiqh and kalam (i.e. theology) do not concur with regards to
sound justification for the overthrow of the leadership. Al-Mawriri, speaking for
the Shaafi’i position, maintains that if corruption is the result of a physical action,
that is, the commission of what is forbidden or the flagrant violation of the public
mores, of yielding to one's desires and following caprice, then the Khilaafah of
such a man would come to an end just as if an article of Faith had been involved. This is Al-Mawridi's view and others disagree.

The Hanafis agree upon the overthrow of the leader in the case of despotism or corruption; If a man, at the time of his becoming Imaam, is just, but then becomes oppressive and corrupt he should not be overthrown, though this is possible if it would not lead to fitnah. It is preferable to invite him to reform rather than to rise against him. They refer to a remark of Abu Haneefah to the effect that, '...they are completely in agreement in this respect.'

It would appear that the position of the Hanbalis, as demonstrated by Imaam Abu Yighla and the Maalikis, which was put forward by Az-Zarqani in his commentary of the Muwatta, disallows the overthrow of the leader for corruption [alone]. Abu Yighla maintains that corruption in itself does not affect the continuity of the Imaamate unless it is the result of his own action, the commission of what is forbidden, of his flagrant violation of the public mores in the pursuance of his desires, or if it were related to an article of Faith or doctrine the vagary and unfounded nature of which leads him to differ from Truth. Thus the position of Az-Zarqani in his commentary of the Muwatta reads,

'Patience before oppression comes before revolt against it, since in revolt we expect the exchange of security for fear and bloodshed, for the spread of evil and violence, and this is weightier than patience under oppression. From the sources of Religion and Tradition it is clear that of these two evils, the first; patience under the oppressor, is to be preferred.'

It would appear [to be] that this is the preponderant view of Ahl as-Sunnah who maintain that corruption [alone], even if it is linked to the person of the Khaleefah, has not sufficient influence to prevent him from the fulfillment of his legal obligations and would not thus reach the degree of seriousness which would require the rescission of his mandate.” (10)

Abd ul-Qadir 'Auda (rahimahullaah) writes that,

"If the Imaam has taken one of these paths then revolt against him is desirable, and if he has not, then neither dissent nor revolt is recommended. Whilst justice is one of the conditions of the Imaamate the four mathaahib of the Sunnis and that of the Zayidis forbid the overthrow of the corrupt or profligate Imaam, even were this to be in order to stand by what is right and to forbid wrongdoing. This is because revolt against the Imaam usually leads to an even worse situation and so it falls within the obligation to prevent wrongdoing, since one of it's conditions is that a wrong should not lead to what is worse than itself, to fitnah and bloodshed, to confusion and chaos, to the misleading of the pious, to the undermining of Faith and the destruction of order.
The guiding principle is that the ummah should remove the Imaam when there is just cause and whenever this would not lead to fitnah. The majority concurs that this is the correct response to corruption, oppression, and abuse of the Law. When the conduct of the Imaam is detrimental to the condition of the Muslims and undermines Religion then it is for the Ummah to overthrow him since the reason for his appointment was, in fact, the ordering and improvement of the affairs of the Ummah. Some within this body of opinion still hold that where his removal would lead to fitnah the course is determined by the lesser of the two evils.

The Zhahirites consider that rising against the Imaam is prohibited unless he is a tyrant. It may be that a man, more or less like himself, rises to challenge one whose wrongdoing is more than apparent. If he is the more just of the two then the people would fight alongside him. If they are all wrongdoers then the least tyrannical of them should be supported against the greater tyrant. This is the view of some of the Maaliki 'Ulamaa, including 'Abd us-Salaam Sahnoun, who maintains that it is obligatory to fight fanatic opposition if the Imaam is indeed just, and to defend him from all sedition. In the case of his being unjust, and thus the object of revolt, then it becomes obligatory to support the revolt and to establish the Supremacy of Islaam. If all that one is capable of is the defence of one's person or property, then he should defend them. It is not permitted to support an oppressor.

In the view of Shaykh 'Iz ud-Deen 'Abd us-Salaam, if the Imaams become corrupt then they have failed. Say one is a murderer, another an adulterer and a third an embezzler; should the embezzler be preferred to the murderer or the adulterer? Should it be permitted to support one of these in order to bring him to power and establish his authority over the others though he is himself rebellious before Allaah?... Some would say yes, that we have chosen from amongst the corrupt. From the point of view of the leader this is a position which conveniently supports him in his rebelliousness and disobedience, but in fact, it is calculated to prevent the occurrence of something worse. In this way the fuquhaa of Kairouan rode out with Abu Yazeed al-Khariji against one of the Bani 'Aubayd for his Kufr. Although Abu Yazeed was himself corrupt, the Kufr of the Bani 'Aubayd was the greater threat.

In substance, the views of Sahoun and Shaykh 'Iz ud-Deen 'Abd us-Salaam are those of the Zhahirites. This is in spite of the view of the majority of the Maalikis who believed that revolt against an oppressive Imaam is prohibited. They agree that he may not be opposed for corruption or oppression and that in any case his obligation is to abandon his corruption and to call the people back to obedience to him, if they do not respond, then he should fight them." (11)

According to Abil Ma'ala al-Jayuni (rahimahullaah),

"Some groups of the 'Ulamaa hold that although corruption does not necessarily require the overthrow of authority, it remains the duty of those in positions of
responsibility to remove (the Imaam) should conditions warrant it. In fact the idea that the corruption of the Imaam should lead to his overthrow is far from well founded. Their position neglects the possibility of the Imaam repenting and returning to a just course.

It is clear that if one calls for deposition or overthrow at every turn then the institution of the Imaamate itself is threatened. Whatever benefit is to be derived from it would be destroyed, public confidence in it would be undermined and the people would be encouraged to renege on their commitment to obedience.

If the disobedience and aggression of the Imaam continue, and depravity becomes widespread and guidance is lost, if the rights of the people are suspended and the limits of the Law cease to be observed, if protection is denied and treachery becomes manifest, if oppression is bold and the oppressed know no succour, [and] if wrongdoing reaches an unprecedented degree, then we must grasp the seriousness of the situation; that this is in fact contrary to the very aims of the Imaamate.

Measure must be taken both of the act which a person may, in a moment of weakness, be tempted to commit, and the act the avoidance of which requires constant vigilance. If conditions are such that it is not possible to achieve the desired standards then the existing standards must be accepted in order to avoid what is worse. If one's hopes and aspirations are clearly beyond the bounds of realisation then it is not permitted to strive towards them, indeed what is required is the preservation of the established order.

Leaving aside short lapses and omissions, those major trespasses which, being isolated incidents, present no genuine continuity, would not normally require us to remove or to overthrow the leader. This is borne out with reference to some of our former Imaams. As for those who are allured to corruption, if their rule is oppressive and arbitrary, confused and without direction, then they should be isolated and removed." (12)

Imaam an-Nawawi (rahimahullaah) quotes Abil-Ma'ala al-Jayuni in his 'Sharh Saheeh Muslim' as saying,

"If the Imaam of the times abuses his power, and oppression and tyranny become apparent and he cannot be restrained from the worst of his deeds by mere words, then it becomes incumbent upon those who enjoy positions of responsibility to secure his removal, even were this to be by force of arms, and a declaration of war."

His mention of the overthrow of the Imaam is in itself significant, notwithstanding the proviso that there be no risk of it's provoking a worse evil. (13)
Ibn al-Wazir *(rahimahullaah)* maintains that,

"It is clear that the fuquhaa do not say that revolt against the Imaam is in any way wrong, or sinful. This is clear from their teaching, several aspects of which we will now examine:

First of all, as lmaam an-Nawawi has put it in his book 'Ar-Rawada',

'The oppressor, in the usage of the 'Ulamaa, is the antithesis of the Just Imaam. One withdraws from obedience to him by refusing to honour one's obligations to him, or to his minions.'

He goes on to discuss the subject of struggle against the Imaam which all of the 'Ulamaa have treated without exception.

The second aspect of this is that while opinion regarding revolt may be divided, these differences do not present serious difficulties. The Shaafi'is for example present two well known, yet divergent opinions, both of which an-Nawawi discusses in 'Ar-Rawada'. Suffice it to say that were such a divergence to be prohibited then it would not exist.

Lastly, considering the circumscription of revolt against oppression, allowances are made in exceptional cases where the ruler has exceeded all bounds of rectitude and probity, such as in the case of Yazeed bin Mu'aawiyah and in that of al-Hajjaaj bin Yusuf. Indeed none of the 'Ulamaa of any regard have ever considered that such people could be 'Imaams'. Those who have been under the impression that this was in fact the case, have not bothered to look beyond the surface of their words. The position of the 'Ulamaa is clearly and specifically stated as well as being generally apparent throughout their works. We can demonstrate this with reference to Imaam al-Jayuni who says in his book 'Al-Ghiyathi', that,

"This is the height of corruption, for if his disobedience and aggression continue, if depravity becomes widespread and guidance is lost, if the rights of the people cease to be observed, if protection is denied and treachery becomes manifest, then it is imperative that we grasp the seriousness of the situation, for if it is possible to be rid of him and to replace him with one more suitable, then the sooner it is done the better." (14)

In his Tafseer of the Qur'aan, 'Jam'a al-Bayan', Imaam al-Qurtubi writes with reference to the Qur'aanic Verse:

\{My Covenant includes not Dhaalimoon (polytheists and wrong-doers).\} 
(Qur'aan: 2 - 124)

"The 'Ulamaa are agreed that this verse stipulates that the Imaam must be a pious and upright person who has attained a high degree of spiritual development. His
precedence and his power are conditional upon this quality. This is consistent with the instructions of the Prophet (sallallaahu 'alayhi wa sallam) when he said not to rise up against those placed in positions of responsibility.

As for those who spread corruption and tyranny, those who are oppressors, they have no privilege nor protection. [And] this rests upon the Verse:

\[
\text{\{My Covenant includes not Dhaalimoon (polytheists and wrong-doers).\}}
\]

\[(Qur'aan: \text{2 - 124})\]

Thus was provided the legal basis for the rising of Ibn Zubair and Hassan bin 'Ali, and thus many prominent people of Iraq and their 'Ulamaa rose up against al-Hajjaaj, and thus the people of Madeenah revolted against the Umayyads. The majority of the 'Ulamaa advise patience before oppression, and perseverance before a despotic Imaam. This is because revolt would replace security with fear and bloodshed, provide an opportunity to the foolish and the imprudent, subject the Muslims to attack and become a source of misery and discord. Revolt was the practice of a party of the Mu'tazalites, and it was the policy of the Khawaarij.

According to Ibn Khawiz Mandad,

'The oppressor may not be Khaleefah, nor ruler, nor Mufti, nor Imaam of a masjid. His opinion on legal matters is not acceptable and neither may he offer testimony in any court of Law. If his own corruption does not bring him down those in positions of responsibility should hasten to remove him. However, his previous judgements in legal matters would stand.'

Imaam Maalik has said that in the case of rebels and tyrants, those of their judgements which were found to contain an element of independent thought (ijtihaad), and neither threatened the consensus nor departed from the sources, would stand." (15)

'Abd ul-Kareem Zaydan, speaking on the overthrow of the Khaleefah observes that,

"Though the Ummah possesses the right to remove the Khaleefah should there be justifiable legal grounds, it is still important to realise that the mere existence of a legal mechanism for his removal in no way establishes the necessity of removing him. When considering such a course we must take into account both its practicability and its likely consequences. For it could be that his removal, though possible, would result in more damage to the Ummah than his remaining in place. In this case one would require, or at least incline towards, not removing him. This is because one of the principles derived from 'al-'amr bil m'aruf wan-nahi 'an al-munkar' (i.e. the encouragement of good works, and the discouragement of impiety and wrongdoing), is that a particular act should not provoke a greater difficulty than the original matter to be resolved. The removal of the Khaleefah is part and parcel of 'an-nahi 'an al-munkar', and so it is subject to the general principles
In conclusion he (i.e. 'Abd ul-Kareem Zaydan) asks,
"Should the Khaleefah not be reproached for acting unjustly towards any individual?... If a person transgressed the bounds of Allaah, Most High, should he not be punished according to the Sharee'ah?... Or rather, does the Khaleefah enjoy a special status, or immunity, from [the] castigation and punishment prescribed by the Sharee'ah?"

Al-Qurtubi (rahimahullaah) writes,
"The 'Ulamaa are agreed that the Sultaan is obliged to apply the same standards to himself, as he applies to the common people. He is, in fact, the first among equals and his superior position involves him in a superior responsibility. Whilst he is the guardian and protector of the Ummah this does not exempt him from any sanction of the Law. There can be no distinction between him and the ordinary people with regard to the standards required by Allaah, Most High."

He quotes the following Verse in support,

\[
\text{O you who Believe! Al-Qisaas (the Law of Equality in punishment) is prescribed for you in the case of murder.}\n\]
(Qur'aan: 2 - 178)

According to Salah Dabous,
"The 'Ulamaa are united in considering the Khaleefah as [subject] to the letter of the criminal law. This is so regardless of the type of punishment prescribed for an offence. The Khaleefah, like anyone else, is completely responsible before the Law and enjoys no special privilege or immunity. As for his criminal responsibility in cases which require a 'Hadd', such as theft, or zinaa or libel, the view of the Hanafi scholars differs from that of the majority." (17)

'Abd ul-Qadir 'Auda (rahimahullaah) maintains that,
"If there is any special condition placed by the fuquhaa upon the lmaam, or Khaleefah, it is that he be fully accountable before the Law. There is however disagreement about the maximum penalties applicable to the Khaleefah for certain crimes.

It is Abu Haneefah's view that in the case of such crimes as zinaa and the use of alcohol that the Khaleefah would not he punished, not because he is exempted from
punishment but because punishment in this case would be impracticable. This is because the authority of the State to punish such offences is vested in him, and there is no person other than he with this authority.

Abu Haneefah's view is that what is forbidden is recompense for his murder of another, for there could be no blame on them since they would only be exercising their right. Some of the Hanafis however believe that since the Khaleefah would have placed judges in authority to prosecute criminals, their jurisdiction would also extend to the Khaleefah [himself], and they could consequently prosecute him for any offence he may commit, be it against Allaah, or against another human being.

In contrast to this position the majority of the 'Ulamaa make no distinction between types of crime and they hold the Khaleefah completely responsible for whatever crime he may commit regardless of its nature. They maintain that all crime is forbidden and no one may enjoy any privilege with respect to the Law. They do not take into consideration the feasibility of implementing legal sanctions as does Abu Haneefah. Indeed, they hold that implementation of legal sanctions is not the sole prerogative of the Khaleefah but a right vested in him in his capacity as the representative of the Ummah, and that it is equally the right of others who are also representatives of the Ummah. If the Khaleefah perpetrates a crime and punishment is prescribed for him, then another authorised representative of the Ummah should see that his punishment is implemented.” (18)

This section we may now summarise as follows:

- It is not permitted to appoint a corrupt individual as head of State.
- If a Just man is appointed and he later becomes tyrannical or corrupt, then either his authority would be maintained and he would not be overthrown, or else his authority would be nullified, but still he would not be overthrown.
- As for revolt, the 'Ulamaa have expressed three opinions regarding it:

  The majority believe it to be prohibited, because of the fitnah which it would create, others support revolt in order to overthrow the State, the last party maintain that given the choice of either perseverance under corrupt rule, or struggle through a period of fitnah in order to be rid of it, the best choice is the lesser of the two evils.

- The 'Ulamaa are agreed that the Khaleefah is completely subject to the full force of the Law, as is everyone else, and they add that he is liable to the same punishments (hudud). Abu Haneefah (rahimahullaah) adds that this last condition may be dispensed with if it is unfeasible.
n.b. Ibn Hazm reiterates this position in his work, 'Kitaab ul-Milal wa'n-Nihal' (i.e. The Book of Religions and Sects.) Here he contrasts the above stated position with that of the Rawaafid, a word which was used to refer to the most extreme of the Shi'ah sects. He says:

"The command to do right and the prohibition of doing wrong must be carried out with the heart and, if possible, with the tongue. It must not be executed by (employing) the hand nor in any way by drawing the sword, or using arms... This is the position of all of the Rawaafid, who cling to it even in the face of death, believing no other action to be possible so long as the 'Speaking Imaam' has not come forth. In his absence there is no combat, yet in his presence it becomes obligatory.

Certain sects of the Sunnis, all of the Mu'tazilites, all of the Khawaarij and the Zayidi Shi'ah are of the opinion that, with reference to the command to do right and the prohibition of doing wrong, the drawing of swords is obligatory, since the repulsion of wrong is impossible without it." (Al-Milal wa'n-Nihal, vol. IV p. 171 - Arabic Text)

2) Al-Kilani, 'Fasl ud-Deen 'an ad-Dawla', p. 71
3) Nil al-'Awhar, p.81-87
4) 'Abd ul-Qadir 'Awda, 'Al-Islaam wa 'Auda 'na as-Siyassiya
5) Ibn Katheer, Tafseer ul-Qur'aan al-'Athim, vol. 1, p. 72
6) Abu Yighla, Ahkam as-Sultaniyya, p. 21
7) Nil al-'Awhar, v. 7, p. 175 and Fath al-Bari 13/8
8) Ibn Rajab, Jami'a 'Aloom al-Hukm, p. 343
9) An-Nawawi, Sharh Saheeh Muslim, vol. 12, pp. 228-229
10) Salah Dabous, Al-Khaleefatu Tawliyatuhu wa 'Azlahu, pp. 370-373
12) Al-Jayuni, Ghyat al-Imaam, pp. 100-120 and 155-157
13) An-Nawawi, Sharh Saheeh Muslim, vol. 2, p. 25
14) Ibn ul-Wazir, Ar-Rad al-Basim fithahab an Sunnati Abil Qasim, p. 186
15) Al-Qurtubi, Al-Jami' al-Ahkam ul-Qur'aan, pp. 494-495
16) 'Abd ul-Kareem Zaydan, Usul ad-Dawa', p. 203
17) Salah Dabous, Al-Khaleefatu Tawliyatuhu wa 'Azlahu, pp. 42-43
18) 'Abd ul-Qadir 'Awda, 'Al-Islaam wa 'Auda 'na as-Siyassiya, pp. 157-160
The Rule of the Ruler:

The Mubtad'a Ruler

Bid'ah is whatever is found to diverge from what makes Religion strong and the Path Straight, with regards to Knowledge or works, that is; the Truth received from the Prophet (sallallaahu 'alayhi wa sallam). It is whatever changes this Truth - in any way - whether it is the result of error, or of reasoned argument. Examples of Mubtad'a rulers are to be found among the Abbasid Caliphs; Ma'moun, Mu'atasim and al-Wathiq (19) who subscribed to the Mu'tazalite doctrine of the createdness of the Qur'aan. They ruled, despite their bid'ah, according to the Book of Allaah and the Sunnah of His Prophet (sallallaahu 'alayhi wa sallam).

Ibn Hajr al-Askalani (rahimahullaah) quotes Ibn Tins as having said,

"It is agreed that if the Khaleefah calls the people to Kufr, or to bid'ah, that they should rise against him."

To which Ibn Hajr (rahimahullaah) adds,

"The claim of the majority is that revolt against the Khaleefah for bid'ah is conditional upon whether it leads clearly to Kufr or not. They point out that Ma'moun and al-Mu'atasim, as well as al-Wathiq, sought to spread the bid'ah of the createdness of the Qur'aan and that they persecuted the 'Ulamaa on account of it. They beat them, imprisoned them and killed them, they subjected them to all manner of abuse and yet no one claimed that there was any obligation to rise against them for this reason. And so the situation continued for some ten years until al-Mutawakil became Khaleefah and abolished the Mihna, or the Mu'tazalite 'inquisition', and ordered adherence to the Sunnah." (20)

Imam an-Nawawi (rahimahullaah) quotes al-Qadi 'Ayad saying,

"The Ulamaa are agreed that the Imaamate may not be conferred upon a kaafir, and that if the Imaam abandons Islaam he should be overthrown. Likewise, if he abandons the prayer and the call to it. [And] this is the view of the majority also with regards to bid'ah. Some of the Ulamaa of Basra have said that in the case of bid'ah his rule would continue, though if he were to become a kaafir and change the Sharee'ah then he would have exceeded his authority, [and] obedience would no longer be due to him and the Muslims would be obliged to rise against him, to remove him and to appoint a just Imaam, if this is possible. With regards to a mubtad'a ruler, revolt is not required unless it seems likely to succeed, if something
prevents revolt then it is not obligatory, though the Muslims should seek a solution in migration for the sake of their Religion." (21)

Al-Mawrî (rahimahullaah) writes,

"There are two things which may affect a ruler, or Imaam, and render him incompetent; The first is that he falls into moral disrepute, and the second is that he becomes physically incapacitated. His moral disgrace may result either directly from his yielding to desire or it could be the result of his following a course [which is] laden with doubt."

As for this last point it may be related to any vague doctrine or practice the following of which would lead one astray, but about this point the 'Ulamaa are not agreed. Some maintain that it would prevent both his appointment and his continuance in office as Imaam; that in fact, it disqualifies him. This is because if he fails to discriminate between [different] kinds of Kufr, [then] he must also fail to discriminate between [different] kinds of evil. The 'Ulamaa of Basra however, disagree, saying that this neither prevents the appointment, nor disqualifies the Imaam. They add that the same applies to judges and to witnesses.

Abu Yighla (rahimahullaah) has said that,

"If the qualities of leadership, for which an Imaam had been chosen, were to vanish his position as Imaam would not be affected. This is the case regardless of the source of his corruption and it's nature, whether it is the result of his own action in committing any forbidden act, violating the public mores or following his own whims and fancies, or whether it is the result of his adoption of some unfounded religious doctrine which takes him away from Truth.

This position is supported by an account of Imaam Ahmed (rahimahullaah) which was reported by al-Marwazi with reference to the Imaam whom he had followed on a campaign, even though he was a drunkard and a cheat. It is said that Imaam Ahmed used to refer to al-Mu'atasim as 'Ameer ul-Mu'mineen' (i.e. Leader of the Faithful) even though he supported the doctrine of the Mu'tazalites. Hanbal, speaking of the Khaleefah, al-Wathiq, said that the 'Ulamaa of Baghdad had met with Abi 'Abdullaah (i.e. Imaam Ahmed) and had said that the matter (of the Mu'tazalite heresy) had become both serious, and widespread. They sought his advice saying that they were neither pleased with the leadership of al-Wathiq, nor with his authority. Abu 'Abdullaah replied,

'You should disapprove of him in your hearts, but do not raise your hand in disobedience to him or take yourselves away in disobedience to the Muslims.'

Al-Marwazi adds that they saw the sword but were loath to use it." (22)
In the *Mujaddid*, Ibn Khaldoun (rahimahullaah) remarks,

"As for justice, it is the Religious quality upon which the sum of all other qualities (of leadership) reside, and it's prerequisite condition. There is no disputing it's absence in one who is guilty of corruption by his own hand, involvement in illegality and such like. It's absence in cases of doctrinal bid'ah is a point of contention."

Regarding heretical doctrines and beliefs 'Abd ul-Qadir 'Awda mentions that according to al-Mawridi and others their adoption is not different from an offence committed by one's own hand, so the same ruling applies; it prevents both the appointment of the Imaam and his continuance in office. But some of the 'Ulamaa of Basra believe that corruption related to doctrine does not lead to the overthrow of the Imaam.

Abu Yighla again refers to an incident related in the book 'Al-Muhsina' about Imaam Ahmed who had referred to the Khaleefah al-Mu'tasim on more than one occasion as 'Ameer al-Mu'mineen';

"...even though he had tried to press upon him the doctrine of the Mu'tazalites and had beaten him physically. Likewise he called al-Mutawakil 'Ameer al-Mu'mineen' although he was not the most learned of his time, nor even a Scholar."

In contrast to this, there is another report of Hanbal (rahimahullaah) which states,

"What greater calamity could befall one, than that he earn the enmity of Allaah and of Islaam through [his] refutation of the Sunnah?"

He was referring to the time before al-Mutawakil since it was he who re-established the Sunnah (after Mu'tazalite rule). 'Abd ul-Fath bin Mani'a, speaking of his grandfather said,

"He told me that Imaam Ahmed, whenever the name of Ma'moun was mentioned would say, 'laa Ma'moun', meaning that he was a scoundrel."

Finally, there is the account of al-'Athram regarding the guardianship of a woman who has no guardian. It was said that her guardian would be the Sultaan. The question was put to him,

"You said it is the Sultaan, and [yet] you see what the situation is today?"

This was in the time of the Mihna, he replied,

"I did not say, according to our present situation, I said that it is indeed the Sultaan."
This position is of course worthy of the criticism which it has received, and it was indeed severely criticised at the time. We have only to look at the response of 'Abdous and others to see whether there was any impediment which stood in the way of establishing a Just regime; that is, that generally the people remained silent, and in their silence the disorder was increased.

To summarise the above discussion we can now conclude that,

- The majority hold that the leadership may not be conferred upon a Mubtad'a, though should the ruler fall into bid'ah then he could be overthrown, the obligation to do so is commensurate with it's likelihood of success.
- Imaam Ahmed (rahimahullaah) does not agree that one depart from ones pledge to obedience, and does not advise revolt.
- Many of the 'Ulamaa of Basra claim that bid'ah does not disqualify a man from the Imaamate, nor does it affect its continuity.
- As for bid'ah which clearly leads to Kufr then the ruling which applies to it is the same as that for a Kaafir ruler. All are agreed that Kufr nullifies all authority; whenever it occurs it becomes obligatory to rise against it.

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~ Footnotes ~

19) They were:

- 'Abdullaah bin Haroun ar-Rashid al-Ma'moun, reign: 180-218 A.H.
- Muhammad bin Haroun ar-Rashid al-Mu'tasimbillah, reign: 218-227 A.H.
- Haroun bin al-Mu'tasim al-Wathiqbillah, reign: 227-232 A.H.

20) Fath ul-Bari, Al-Askalani

21) Sharh Saheeh Muslim, 12/229

22) Al-Ahkam as-Sultaniya
The Rule of the Ruler:

The Kaafir Rule

'Ubada bin as-Samit (radhiallaahu 'anhu) relates that the Messenger of Allaah (sallallaahu 'alayhi wa sallam),

"Pledged us to ready service and obedience, [both] in what was pleasing to us and in what was unpleasant for us, in what was difficult for us and in what was easy for us, and to give freely of what we had been given. And he said that we should not challenge those in authority over us,

'...unless you see clear Kufr, and you have proof of it from Allaah.'"

Ibn Ha’ajr (rahimahullaah) considers this to be irrefutable, it will not admit [any] varying interpretations. It means that no one may rise against their leaders so long as there is any doubt about their actions (i.e. Kufr). Imaam an-Nawawi (rahimahullaah) remarks,

"What is intended here by Kufr is disobedience to Allaah (i.e. m’asiya). The Hadeeth means that we should not rise against those in authority over us, nor oppose them, unless we see from them true wickedness (i.e. munkar) which can be proven with reference to the standards of Islaam. If this is the case then we must denounce it openly and speak the Truth, wherever we are."

Others have observed that what is intended by the word 'ithm', (i.e. sin or iniquity) is 'm'asiya' (i.e. disobedience) and also Kufr. (All these words appear in different reports of the same Hadeeth.) They add that we should not oppose those in authority unless they fall clearly into Kufr. In this reading it appears that Kufr is understood to be that infraction which undermines the integrity of the State; the leadership should not be opposed unless this is the case. M'asiya, or disobedience to Allaah, is to be interpreted as that which is contrary to the State (i.e. theSharee'ah), though not truly detrimental to it. In this case the struggle against it would take the form of public denunciation and correction without recourse to violence. We should correct this whenever [we are] able, and Allaah is Most Knowledgeable of it.

AI-Jayuni (rahimahullaah) has said that,

"Islaam is the heart and soul of the State, so should it happen that the Imaam draw away from the Faith then one should have no fear of removing him, stripping him
of his rank and cutting him off utterly. If he happens then to return to Islaam he would not be Imaam again except by a fresh appointment."

As-Shawkani (rahimahullaah) adds that,

"Obedience to the Imaams is obligatory except in cases of rebellion against Allaah. There may be no rising against them for so long as they convene the Prayer, and there is no appearance of manifest Kufr."

These positions can be simply put as follows,

- The 'Ulamaa are agreed that leadership cannot be conferred upon a Kaafir.

- If the leader, or the Khaleefah, should leave Islaam then there is no obeying him, he may not rule and the obligation of the Muslims is to rise against him to remove him, and to replace him with a Just Imaam.
And whoever does not Rule by what Allaah has Revealed...

Introduction:

The Sharee'ah and the Muslim Ruler

So far we have examined four types of rulers; the just Muslim ruler, the oppressive Muslim ruler, the heretical, or Mubtad’a Muslim ruler and the Kaafir ruler. The arguments and opinions surrounding each of these has been examined in the light of the vast experience, and deep understanding of some of our most brilliant ‘Ulamaa, both past and present. But what then of the man who chooses to rule without regard to the Sharee'ah, to whom Allaah refers in the Qur’aan with the words,

\[
\text{And whoever does not rule by what Allaah has revealed...} \\
\text{(Qur’aaan: 5 - 44)}
\]

What does Ibn ‘Abbaas (radhiyallaahu ‘anhu) mean when he says, ‘kufrun doona Kufr’?... Could it be that the ruler who abandons rule by what Allaah has revealed may [only] be in a state of disobedience, rather than rebellion?...

In fact, we find ourselves here before two types of ruler.

The first is the Muslim who, while ruling by the Sharee'ah in most cases, diverges from it occasionally, knowing full well that this is forbidden to him, and that it is a sin. The second is the ruler who claims to be a Muslim but refuses rule by what Allaah has revealed, preferring rather to rule according to legislation which he himself, and others like him, have devised and promulgated. This secular legal code is then imposed on the people in substitution of the Divine Sharee'ah.

What is to be our attitude towards this, and how should we understand it in the light of the Qur’aanic Verse,

\[
\text{And whoever does not rule by what Allaah has revealed, indeed they are of the Kaafiroon. (i.e. Disbelievers)} \\
\text{(Qur’aaan: 5 - 44)}
\]

What of the man who rules - and founds his rule in Islaam - recognising that he is but a servant of Allaah bearing a responsibility to establish His rule and to
implement His Sharee'ah but who, out of human weakness, commits an act of disobedience and departs from the Sharee'ah, who neither denies it's authority nor attempts to replace it, [and] who adopts no other creed or code preferring it to the rule of Allaah, who does not legislate independently and who does not order others to follow his example?...

Is he to be equated with the man who founds his rule upon the shifting sands of secular law, who does not rule by what Allaah has revealed and does not even acknowledge his own position as viceregent, [and] as a servant of Allaah?... Is this man to be equated with the one who considers himself, and others like him - whether they be party or parliament, organisation or ideological movement - to be endowed with the sovereign right to legislate like Allaah, or in partnership with Him?...

Of course these two are not the same.

The first is clearly a Muslim who has fallen into error; He has diverged from the Path of his Lord and left aside rule by what Allaah has revealed in an act of simple disobedience which is neither disbelief, nor repudiation of the Sharee'ah. It is he of whom Ibn 'Abbaas has said,

"Those who follow him are not to be styled [as] disbelievers, his is not the disbelief which takes one out of Islaam, it is kufrun doona Kufr, (i.e. a semblance of disbelief)." (1)

The second, however, is an enemy of Allaah and a kaafir. Indeed he seeks to make himself, or others [like him], as partners with Allaah; he even presumes to ascribe to himself Divine qualities and attributes, for is not one of His (Ta'aala) qualities the determination of the Law?...

In the Words of Allaah:

\{Or have they partners with Allaah who have made lawful for them in religion that which Allaah allowed not?\}
(Qur'aan: 42 - 21)

Whoever does this is without doubt a kaafir, and his is the major disbelief which reflects directly upon the community which he governs. He is a kaafir even though he may pray and fast and claim to be a Muslim, this is the opinion of the 'Ulamaa about which there is no divergence.

Once we all come to understand this point then we will no longer be beset by the prattling of the ignorant, nor the sophistry of the pundits; those high priests of fitnah who have sold their Religion for power in the world, [and] who would have us believe that this is still a point of contention.
Their argument is as follows:

"Would you say that the Muslim leader who abandons rule by what Allaah has revealed, while clearly not denying the legitimacy of the Sharee'ah, nor attempting to replace it, is disobedient though not necessarily a kaafir?"

Your response may well be, "Yes, it is disobedience rather than Kufr, so long as he maintains that his authority to rule is dependent on his ruling in accordance with the Sharee'ah."

"But if he persisted in his disobedience - if it became habitual - what then, would he then become a kaafir?"

"No, He is rather a corrupt Muslim. This is not Kufr in the wider sense."

[Then he says,] "Of course, but this is only half of the picture. The man who, ruling by his Kufr, replaces the Sharee'ah with another law is in fact only behaving in a disobedient fashion but, by persisting in his disobedience he has come to abandon rule by what Allaah has revealed in most, or indeed in all cases. You see, he too is only a corrupt Muslim, certainly not a kaafir."

"You must be joking. If you consider the source of legislation you will see that this is clearly Kufr. This man has not simply abandoned the Sharee'ah in one or two instances of disobedience, but he has made himself a partner with Allaah, Most High, the Glorious, the Sublime.

He has left the Sharee'ah of Allaah with the intention of legislating himself.

He, and others like him, would draft their own law and give it precedence to the Sharee'ah and by this act usurp the Divine attribute of Legislator hoping to acquire for himself and for others like him the sovereign right to rule, denying that this is the right of Allaah, Lord of the Worlds, for Allaah has said,

"The Hukm (i.e. Command, or the Judgement) is for none but Allaah."
(Surah Yusuf: 40)

Whoever replaces the Sharee'ah is a kaafir, there is no disputing the matter, Kufr is his state; of this, there can be not even a shadow of a doubt."

Ahmed Shaakir (rahimahullaah) mentions, with relation to the report of Ibn 'Abbaas regarding 'kufrun doona Kufr',

"Those who follow him are not to be styled [as] disbelievers, his in not the disbelief which takes one out of Islaam, it is kufrun doona Kufr, (i.e. a semblance of disbelief)."
"...Some people though, have taken these words out of context and used them wrongly to justify their position - claiming impudently to be people of Knowledge - while playing with words to distort their meaning in their eagerness to apologise for, and to justify recourse to the secular law which has been imposed throughout the Islamic world."

Reference may also be made to an incident involving Abu Majlaz who once came into conflict with the Ibadi sect regarding a group officials who had, either deliberately or in ignorance of the Law, occasionally passed judgements in contradiction to the Sharee'ah. Now, the Ibadi are a sect of the Khawaarij who distinguished themselves with the assertion that whoever is the author of a major sin, or Kabeerah, is by virtue of this act a disbeliever. The Ibadi had called for the execution of these two officials on the grounds that they could he nothing other than kuffaar since they had passed judgements contrary to the Sharee'ah. To this end they unsuccessfully attempted to force Abu Majlaz to support them. At-Tabari has reported both this incident, and that of the abuse of Ibn Abbaas' opinion as follows:

At-Tabari (12025) relates on the authority of 'Imraan bin Jadir that a group of people belonging to the Banu Amm bin Sudus, an Arab tribe, came to Abu Majlaz asking,

"Oh Abu Majlaz, have you heard the words of Allaah, exalted is He, saying

\{And whoever does not rule by what Allaah has revealed, indeed they are of the Kaafiroon.\}

(Qur'aan: 5 - 44),

Does He not Speak the Truth?", "Indeed, He does.", came the reply.

"And have you not heard,

\{And whoever does not rule by what Allaah has revealed, such are the Dhaalimoon (polytheists and wrongdoers)\}

(Qur'aan: 5 - 45),

Does He not Speak the Truth?", "Indeed He does.", again he replied.

Then they said,

"\{And whoever does not rule by what Allaah has revealed, (then) such (people) are the faasiqoon (rebellious or disobedient).\}

(Qur'aan: 5 - 47),

Is this not so?" "It is so.", was his only reply.
Then they asked, "Oh Abu Majlaz, do they rule by the Revelation of Allaah?"

He said,

"Islaam is their Religion and their obligation, thus they maintain, and to it they call the people. Should they forsake anything of it, then know that it is an offence against Allaah and all humanity."

"By Allaah - they said - You make excuses for them!",

"You were the first to do so.", he said:

"I know not why, having witnessed their offence, you did not rise up against them. This was the affliction of the Jews and the Christians before you, and so too of the idol worshippers."

Then at-Tabari relates another similar incident (12026) and states that he is satisfied as to the reliability of it's source, saying it is Saheeh.

Our Brother, Muhammad Shaakir (rahimahullaah), commented on this saying,

"Some people today are concerned to apologise for those in positions of authority over us who have abandoned rule by what Allaah has revealed, be it in criminal, civil or commercial matters, who prefer the secular statutes of the non-Muslims to the Law of Allaah which was revealed in His Book, and whose intent it is to establish this as a kind of Sharee'ah in the land of Islaam.

An examination of these two reports of at-Tabari should provide us with a good general view of the matter. The conclusion which we can draw from it is that neither the perpetrator of the act, nor he who approves of it, can immediately be dismissed as a disbeliever. [But] it is not possible to consider these events without first knowing something of both the person who is being questioned, and his interlocutors.

Abu Majlaz Lahaq bin Hamid ash-Shaibani as-Soudousi was a partisan of 'Ali (radhiullaahu 'anhu). His people, the Banu Shaiban, had been amongst 'Ali's supporters both at the Battle of the Jamal (i.e. Camel) and at Siffeen. On the day 'Ali accepted arbitration at Siffeen, the Khawaarij withdrew, and the Bin Thahal clan of the Banu Shaiban revolted against 'Ali. The people who came to Abu Majlaz were from the clan of Banu 'Amru bin Soudous (who were mentioned by at-Tabari, reference 12025). They were with the lbadi sect as attested also by at-Tabari, (reference 1202).

The lbadi were a group Kharaji extremists taking their name from their leader, 'Abdullaah bin 'Ibad at-Tamimi. They were the most uncompromising of the Khawaarij with regards to the Arbitration and the [so-called] 'disbelief' of 'Ali.
They claimed that in accepting arbitration 'Ali had not acted in accordance with the Revelation of Allaah. The position of 'Abdullaah bin lbad was that whoever came to differ with the Khawaarij was a disbeliever, though not a 'mushrik'. This may seem to be a small point but it was what distinguished the Ibadi from the rest of the Khawaarij who held that whoever disagreed with them were polytheists, and had fallen into shirk.

The followers of 'Abdullaah bin lbad then split again, and from this second schism came the group who addressed Abu Majlaz. All of the Ibadi agreed that what separated them from their opponents was their attitude to Tawheed. Saying that Allaah had made Faith, or Imaan, to be an obligation they surmised that any major sin or, 'Kabeerah', would be proof of both shirk and Kufr and that the author of such a sin would be condemned to Hell for all eternity.

It is clear that those who asked Abu Majlaz about this matter were in fact attempting to force him to declare these officials to be kuffaar since they had perhaps acted in disobedience to Allaah and infringed upon something which had been forbidden. Thus Abu Majlaz replied in the first instance - (12025) - that if they had abandoned any part of their Religion then clearly it was a sin, and in the second instance, that if they were aware of what they were doing then they would be aware that it was a sin.

Once it is placed in its proper context it is easy to see that this has nothing to do the situation facing us today, with the substitution of the Sharee'ah of Allaah, with its replacement by laws which impose upon the Muslims systems of 'justice' other than that of Allaah. This, in fact, is Kufr and no Muslim should entertain the slightest doubt that those responsible for it - and those who support it - are one and the same.

Today, we are witnessing the complete abandonment of the Sharee'ah and its replacement by laws which have no relation either to the Qur'aan, or to the Sunnah of the Prophet (sallallaahu 'alayhi wa sallam). Today, any law derived from Islaam is deemed to be null and void. [And] secular law has come to take precedence over that which was revealed by Allaah. Some people now maintain that the Sharee'ah is unsuited to our times, that it's revelation was accomplished within an historical context which is no longer relevant. They claim that for this reason it has now become obsolete, and that its continued enforcement would be anachronistic at best.

So what has this to do with the incident involving Abu Majlaz and the Ibadi?... Their intention was to demonstrate a divergence between the actual political leadership, and the leadership which is guided by the Sharee'ah.

In this example either the Sultaan is ruling in ignorance of the Sharee'ah, or else he is aware of its provisions but is acting in disobedience to them. Disobedience is of
course a sin and calls for penitence and the seeking of forgiveness. If the Sultaan had ruled according to his own convictions, differing in them with the totality of informed opinion, then his case would be as with anyone else who sought to rule by his own understanding, leaving aside both the Book of Allaah and the Sunnah of His Messenger (sallallaahu ‘alayhi wa sallam), whether it be in the time of Abu Majlaz, before him, or after him. The judgement upon him would be as with anyone else who had denied the authority of the Sharee’ah and [who had] given precedence to the law of the community of the disbelievers over that of the community of Islaam. As regards the case of Abu Majlaz, this was never an aspect of the problem which had been presented to him, so his words could not be applied to such a situation.

Clearly, those who make reference to these incidents are seeking to establish a point of law; that obedience is still due to those who rule in contradiction to the Sharee'ah. Taking events out of context they draw false conclusions from them. Their aim is to preserve the established order and to deceive the people into accepting a form of rule other than that which Allaah has revealed, and made obligatory upon His servants.

The only possible verdict in the case of this Sultaan is that he be called to repent since he has rejected Allaah's Authority. If he persists in his arrogance and rejection of the Sharee'ah, aiming to replace it with some other law, then the Islamc response to uncompromising and unyielding Kufr is well known to all who follow this Religion."

Thus Mahmoud Muhammad Shaakir (rahimahullaah) has written. (2)

There should be no confusion between these two cases; the one of the ruler who replaces the Sharee'ah with another law, and the one of the Muslim who rules by the Sharee'ah - and maintains the necessity of its application - who has no plan, or design, to implement any kind of secular law, but who does in fact abandon rule by what Allaah has revealed in an act of disobedience.

Let us consider the example of the man who, [while] ruling by the Book of Allaah, finds that his son has committed theft and out of pity for him he refrains from having his hand cut off. This is an instance of abandonment of the Revelation of Allaah. It is disobedience in so far as he has refused to implement the Sharee’ah, but he has not preferred any other law to it, nor did he make any new law of his own to apply to all cases of theft, imposing his own punishment in place of that prescribed by the Sharee’ah. Had he done so, it would be replacement of the Sharee'ah and clearly an act of disbelief.

We will return to this theme again. But for the moment let us simply say that the Islaamic position with regard to anyone who deliberately and wantonly denies the authority of the Sharee'ah is crystal clear.
~ Footnotes ~


2) Mahmoud Muhammad Shaakir, *‘Amda at-Tafaseer*, vol. 4, pp.155-158
Disobedience of Divine Writ
(i.e. The Disobedient and Sinful Ruler)

Al-Qurtubi (rahimahullaah), explaining the Verse,

{And whoever does not rule by what Allaah has revealed, indeed they are of the Kaafiroon.}
(Qur’aan: 5 - 44)

says that a distinction should be made between the ruler who replaces the Sharee’ah - whilst maintaining that his authority is equal to it - and the ruler, who rules according to his own wishes out of simple disobedience; The first is a kaafir, but the second is a sinner who should seek forgiveness.

Al-Qurtubi also relates that both Ibn Mas'ood and al-Hassan have said,

"'Such is the case of anyone who abandons rule by the Revelation of Allaah be he a Muslim, a Jew or a disbeliever, [if] he maintains that he may rule as he pleases, and so he permits himself to do it. Any Muslim who does such a thing knowing that it is not permitted, is corrupt, and has no right before Allaah; if Allaah wishes he will punish him, and if He wishes he will forgive him.'

Ibn 'Abbaas (radhiallaahu 'anhu) mentions the same Hadeeth with a variant reading,

'His behaviour is that of the Kuffaar.' (4)

Ibn Katheer (rahimahullaah), in his explanation of the same Verse relates that,

"Ibn Taws said,

'He isn't the same as someone who disbelieves in Allaah, and His Angels, His Books and his Messengers.'"

And ath-Thawri, as well, has said that it is,

'...a semblance of Kufr, and of oppression and of corruption.'

Again, Ibn Taws says,
'This is not the Kufr to which they refer.'

This has been related on the authority of Ibn Hajr al-Askalani who said that while this does not appear in either Bukhari or Muslim, it meets their criteria for Saheeh Hadeeth.(5)

Ibn al Qayyim says that while ruling by other than what Allaah has revealed is characteristic of the disbelievers the extent to which this applies to Muslims depends upon the state of the ruler; for if he believes that it is obligatory for him to rule by what Allaah has revealed, yet he disobeys, and in his disobedience he knows that Allaah's Right is to punish him, then this is 'lesser disbelief'. [But] if he says that it is not obligatory to rule by what Allaah has revealed, and that in fact he can do better himself, then this is the 'greater disbelief'. And if he is ignorant, or acting in error, then his action is mistaken and would be regarded as such. (6)

Ibn Abil Az points out that to rule by other than what Allaah has revealed could be disbelief which will take one out of Islaam, [or] it could be simple disobedience, or Kufr, great or small - as we have discussed above - and its precise nature depends upon the state of the ruler; If he believes that there is no obligation to rule by what Allaah has revealed, or that he could improve upon it, or if he belittles it knowing full well that it is from Allaah then this is Kufr in the larger sense. If he recognises the obligatory nature of the Sharee'ah yet still does not apply it knowing that his is an act which may be punished then this is an act of disobedience, which may be called 'excusable disbelief', or 'lesser disbelief'.

If he is ignorant of the Sharee'ah, and despite his efforts to discover its Guidance, true understanding evades him then he is simply acting in error; his reward is for his effort to discover Truth, and his mistakes would be forgiven. (7)

Summary:

- A Muslim leader who abandons rule by what Allaah has revealed as a result of disobedience, and not out of rejection, nor out of design to change the legal basis of society, is to be regarded as a refractory Muslim [and] not a kaafir, whether his infraction is solitary, or multiple.

- The 'Ulamaa have spoken about revolt against the ruler who does not rule according to what Allaah has revealed, it should be pointed out that this was specifically with reference to the tyrannical ruler (i.e. jaa‘ir).

~ Footnotes ~

4) Ibid.


6) Ibn ul-Qayyim, *Midraaj as Saalikeen, as Saalikeen*, vol. 1, p. 331

Rejection of Divine Writ

(i.e. The Kaafir Ruler)

[Ibn Katheer (rahimahullaah) wrote:]  

"Ghengis Khan imposed upon the conquered nations a system of law known as the 'Yasa'. This law consisted of rulings culled from various other legal codes including those of the Jews, the Christians and of the various Islaamic peoples.

It superficially incorporated a diversity of legal systems, the result was a caricature of legality which eventually came to represent the basis of their law. They gave this law precedence over the Book of Allaah, and the Sunnah of His Prophet (sallallaahu 'alayhi wa sallam).

According to the Yasa, sexual intercourse outside marriage would be punishable by death regardless of marital status, sodomy likewise was punishable by death, as was intervention in a quarrel in order to assist one party against the other. A person who swam in standing water would be killed, as would one who [had] urinated in it. Death was the punishment for giving food or drink to a captive without the permission of one's family, as well as for failure to return an escaped prisoner to custody. Tossing food to another rather than handing it to him brought death, failure to feed one's companions brought death, [and] eating before a guest was served - whether he be a prince, or a prisoner - brought death. [And] whoever failed to slaughter an animal other than by opening it's breast and ripping out it's heart bare handed would also be killed.

Of course, all of this is against the Sharee'ah of Allaah [as] revealed to the Prophets, Peace and Blessings be upon them all." (8)

Al-Juraishi (rahimahullaah) has written,

"Whoever turns [away] from the Sharee'ah of Allaah to another Sharee'ah, has equated the one with the other. He has likewise equated other 'gods', or lords, to Allaah because the determination of the law is Allaah's absolute right by virtue of the fact that this is one of His Divine Attributes. The same is true of one who does not completely turn away from the Sharee'ah, but who rejects some part of it. This is because it is not possible to reject any part of the Sharee'ah other than from a position of power or authority at least equal to, if not greater than, that of Allaah; whoever does this has assumed such a position.
The act of forbidding a thing, and that of making a thing permissible both involve this deviation from the Sharee’ah. For example, whoever rejects the illegality of intoxicants and considers them to be permissible has, in fact, permitted what Allaah has forbidden, and is not only guilty of Kufr but also of Shirk. The true nature of his denial becomes clear once he declares what is haraam to be halaal. Denial of Divine Authority is naturally a part of this process. The prohibition of intoxicants is derived from both textual sources and from the universal consensus of the Muslims. If a new ruling were passed regarding it, [either] abolishing it’s punishment or suspending it, then the nature of the act in the eyes of the Law would be changed, it would become ‘mubah’, that is to say: not an offence. Since the question of it’s being forbidden would then be unresolved, it would fall into the category of things which are 'halaal'. Finally we see that what Allaah has forbidden has become permissible.

Sexual intercourse outside of marriage is likewise forbidden, both by our textual sources and by the universal consensus of the Muslims, but if a law were passed suspending it’s punishment - even in restricted cases - its effect would be to call into question the haraam nature of the act. Once this is done sexual acts outside marriage would [eventually] become 'halaal'.

A second aspect of this problem concerns the modification of the Law. In this case the nature of the Law remains the same, that is to say, there is no movement from halaal to haraam, but there is a modification in so far as the response to the act is concerned. What Allaah has forbidden is still to be regarded as forbidden, and it is still punished, but the punishment is somehow changed; whipping becomes imprisonment for example. This could still be considered a form of rejection of Divine Authority since we cannot know the importance of a punishment which Allaah has prescribed for an act. Punishment is to be seen as a remedy for an illness, and Allaah is Most Knowledgeable of those who Know.

To reject a direct Qur’anic ruling, or to modify it, is in effect to take a thing which was permissible and to prohibit it, or to take a thing which was prohibited, and to permit it. This act is, according to the Qur’aan, both Kufr and Shirk, because it results in an abrogation of the Sharee’ah."

Ibn Katheer (rahimahullaah) remarked with reference to the Yasa,

"All of this is at odds with the Sharee’ah of Allaah which was revealed to all the Prophets, Peace be upon them. Whoever knowingly gives preference to any man-made secular law over that which was revealed to Muhammad bin ‘Abdullaah; the Seal of the Prophets, is a kaafir. So what of those who preferred to rule by the Yasa?... Of course, the Muslims are agreed that whoever does such a thing is a kaafir.

Allaah has said,
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.

(Qur'aan: 5 - 50)

Allaah rejects whoever rejects His Wisdom which encompasses all that is Good, and repels all that is evil. Whoever places his opinions and desires, or the customs of his people beside the Sharee'ah is like those who came before Islaam and ruled according to custom, without Guidance or Knowledge, and who followed their own fleeting desires and dreams. Thus the Tartars ruled the kingdom forged by their leader, Ghengis Khan, by the law which he gave them, the 'Yasa'. To this law they gave precedence before that [which was] revealed by Allaah. Whoever does this is a kaafir.

It is the obligation of the Muslims to oppose such a ruler by all necessary means, until they are returned to the rule of Law ordained by Allaah, and his Messenger (sallallaahu 'alayhi wa sallam).

His rule is intolerable, [even] if only for a day." (11)

Addressing this same point, a modern scholar, Ahmed Shaakir remarks,

"Can it be permitted within the Divine Sharee'ah, that the Muslims rule by laws borrowed from the secular Europeans?...

This is indeed a law permeated with the whims and mistaken ideas of its promulgators, people who afford themselves the liberty to mix it, and to change it as they please. Whether this law is in agreement with the Sharee'ah, or diverges from it on a given point, is a matter of total indifference to its authors. The Islaamic position with regards to this is as clear as day; This is Kufr which boldly refuses to hide itself, or to attempt any deceit about its true nature.

There can be no conceivable excuse for any Muslim, regardless of who he is, who acts in accordance to it, submits to it, or participates in its promulgation." (12)

Muhammad Hamad al Fiqi (rahimahullaah) says, with reference to Ibn Katheer's analysis,

"Even worse than this is the one who takes an alien law to rule by in all matters, placing it before what he knows to be from Allaah, and His Prophet (sallallaahu 'alayhi wa sallam). If a man persists in this and does not return to the Sharee'ah then he is certainly a kaafir and an apostate. Any name he chooses for himself is without consequence and all of his public acts of prayer, his fasting, his Hajj and so forth, will be of no use to him." (13)

According to Yusif al-'Atham,
'This is really the state of affairs in the Islamic world today. How much can we see today of the Tartar law and the rule of Ghengis Khan?... Was it not that every leader then took his own law, and every land chose its own means of government, substituting this for the Qur'aan?... Is this not precisely the evil of which Ibn Katheer has spoken?" (14)

Imaam an-Nawawi (rahimahullaah) relates,

"When they (i.e. the Companions) asked, 'But should we not fight against them?' They were told,

'Not so long as they keep the prayer.'

This however should be placed in its proper context, that is to say that it is not permitted to revolt against the Khulafaa' merely because of oppression, or corruption, so long as they have not changed any part of the Sharee'ah. According to al-Qadi 'Ayad,

'The 'Ulamaa are agreed that the Imaamate cannot be conferred upon a kaafir, and that should the Imaam apostise then he must be overthrown. Likewise they agree about [the issue of] heterodoxy. If he changes the Sharee'ah or introduces innovations into it, then he would be exceeding his authority; obedience would no longer be owed to him. The duty of the Muslims would be to rise up against him in order remove and replace him with a Just Imaam, so long as they are able to do so. If only a party of the Muslims were capable of carrying this out then, in the case of a kaafir ruler, it would be incumbent upon them to do so, though in the case of a heterodox ruler there would be no obligation to revolt so long as there was no possibility of success. Any factor preventing success removes the obligation, but the response of the Muslims should then be to emigrate from their land in order to preserve their religion.'" (15)

Imaam an-Nawawi explains this further in his commentary of Saheeh Muslim.

"These words of al-Qadi 'Ayad render themselves to two possible readings, both of which depend upon the root, (کفر) which may be read as either 'kafara' or, 'kufrun'. The first, a verb, means to apostise or to renounce one's Religion and the second, a noun, means 'apostasy'. From the second reading, 'kufrun' we can understand that the obligation to revolt is conditional upon the actual changing of the Sharee'ah, and that apostasy in itself is not sufficient to warrant it: [However], this is limiting in a number of ways, and remains open to a variety of interpretations. It could mean that changing the Sharee'ah is not the same as Kufr, which in turn opens the possibility that, in order for revolt to become obligatory, the ruler must both change the Sharee'ah, and also be a kaafir.
This contradicts the consensus of the Muslims [though], which holds that revolt against the ruler is obligatory in the case of a kafir leader; no other conditions being admissible. If this were so, then the implication would be that revolt against a kafir ruler may not always be permissible - regardless of whether the ruler was a Christian, a Jew, a Pagan or an apostate from Islaam - [for], as long as he ruled according to the Sharee’ah he could protect his position claiming that this fact has secured his right to rule. I can not think of a more mistaken argument than this.

It is not permitted to rebel against the Khulafaa’ merely because of oppression, or corruption, so long as they do not change any part of the Sharee’ah. That is to say, changing the Sharee’ah is itself justification for revolt, with no further conditions being placed upon it.

Finally, it has been argued that to change the Sharee’ah is an act of Kufr, and that it is obligatory for the Muslims to revolt against a leader who does this, in order to remove him. The options then are two: either the changing of the Sharee’ah constitutes Kufr and so calls for revolt, or it is not Kufr, but nevertheless the act of changing it requires revolt [anyway]. [However], the 'Ulamaa are of the opinion that the act of changing the Sharee’ah constitutes Kufr, and necessitates revolt. And Allaah is Best informed of those who Know." (16)

Ibn Hajr al-Askalani (rahimahullaah) relates to us that,

"Ismail al-Qadi has written in his 'Ahkaam ul-Qur’aan', that whoever imitates those who devise systems of government which contradict Revealed Truth, or who take this as their guide as if it were itself religion would share the fate of those whom they imitate; it matters not whether they be governors, or [the] governed." (17)

Then he cited the Verse,

{And whoever does not rule by what Allaah has revealed, indeed they are of the Kaafiroon.}
(Qur’aan: 5 - 44)

Ibn Taymiyyah (rahimahullaah) was once asked about the case of a man who seized power by force of arms and so claimed a right to rule; would his authority stand even though the Scholars and 'Ulamaa were opposed to him?...

He replied,

"No one may govern either the Muslims or the Kuffaar, neither by consent nor by force, not a soldier, nor a civilian nor anyone else, except by the Law of Allaah and his Messenger (sallallaahu 'alayhi wa sallam). This is made explicit by the Verse,

{Do they then seek the judgement of (the days of) Ignorance? And who is better in Judgement than Allaah}
The Muslims must refer all disputes to Allaah and his Messenger. Whoever knowingly chooses another law, and differs with that of Allaah and his Messenger is no different to the Tartars who gave precedence to the 'Yasa' over the Sharee'ah. Whoever does such a thing has rejected both Religion and Justice, and in time must be deposed." (18)

Ibn ul-Qayyim points out that 'Abd ul-Azeez al-Kanani said, with reference to the Verse,

{And whoever does not rule by what Allaah has revealed, indeed they are of the Kaafiroon.}  
(Qur’aan: 5 - 44)

"This is a complete abandonment of the Revelation of Allaah, and so the issue becomes one of Tawheed." (19)

Ibn Katheer said with reference to the Verse,

{...and if you obey them, you would indeed be Mushrikoon (i.e. Polytheists).}  
(Qur’aan: 6 - 121)

"Should anyone turn away from the Command of Allaah and the Sharee'ah and favour something else, then he would have put something else before Allaah. That this is Shirk is clear from the Verse,

{They took their Rabbis and their Monks to be their lords beside Allaah...}  
(Qur’aan: 9 - 31)

Imaam at-Tirmidhi, explaining the same Verse, mentions a hadeeth on the authority of ’Adi bin Hatim who asked the Messenger of Allaah (sallallaahu ‘alayhi wa sallam),

'Oh Messenger of Allaah, what is it that they worship?', to which he replied,
'Some have made lawful what was forbidden, and [have] prohibited what was lawful, and others followed them in it (i.e. they obeyed them in that), thus they worship those whom they follow.'" (20)

Al-Qurtubi says that some have understood the hadeeth of 'Abada bin as-Samit related earlier,

"Do not rise up against those who are in positions of authority over you, unless you see clear Kufr."

(to mean that the ruler may not be deposed except for Kufr, or abandonment of the prayer, or any other part of the Sharee'ah. (21)

According to Hamad bin 'Ali bin Atiq an-Najdi the Verse,

\{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.\}

(Qur'aan: 5 - 50)

refers to such communities as the Desert Arabs, or Bedouins, who governed themselves according to their ancient traditions and the practices of their forefathers:

"Their common law was called 'shara' ar-rafiq'. If any of them were to give their traditional law precedence over the Qur'aan and Sunnah then it would be evidence of Kufr. The Muslims would be required to struggle against them until they returned to the rule of Allaah and his Messenger (sallallaahu 'alayhi wa sallam).

Ibn Taymiyyah points out that,

'There is no doubt, that whoever does not believe in the obligation to rule according to the Revelation of Allaah is a kaafir. [And] whoever permits himself to rule a people according to what he thinks is just, without reference to the Revelation of Allaah, is a kaafir. Indeed there is no nation which does not demand to be ruled with justice, but justice is contained in 'Deen', and not in the opinions of even the greatest of leaders.

It is true that many who have styled themselves as 'Muslims' rule by their traditions which are not part of the Revelation, such was the case with the Desert Arabs before, whose chiefs demanded obedience and were of the opinion that one should rule by tradition, rather than by the Book and the Sunnah. This is Kufr.

Although many submit to Islaam they continue to be ruled by the ancient practices which their rulers impose upon them. Even if these rulers are told that it is not permitted for them to rule by other than the Revelation of Allaah they still refuse,
insisting upon a course which is at variance to the Revelation of Allaah - these are kuffaar.' (22)

'Abd ul-Qadir ‘Auda (rahimahullaah) comments that,

"Amongst the visible types of Kufr is that represented by the current opposition to Islaamic Law as a system of government, and the substitution of secular laws in its stead. Some say that the Sharee'ah does not concern itself with relations between the individual and the society, or between the government and the governed. They maintain that its application is not mandatory in every case, or to every issue, and that its provisions are not perpetually valid.

Sometimes the claim is made that the Sharee'ah is relevant only within a particular historical context, [and] that its relevance to modern times is limited, and that a secular legal system would be more suitable today. This premise is a challenge to Divine Authority; both the idea, and those who support it, are outside Islaam." (23)

Sallah Dabous (rahimahullaah), explaining the legal position regarding the overthrow of a leader says,

"The Khaleefah makes apparent his desire to avoid an uprising by adhering clearly to the requirements of the Sharee'ah in such a way as to insure that no one could believe that he is a kaafir, since a kaafir would have no claim to the obedience of the people. An important element in this is the distance which the person in authority enjoys from the affairs of the people.

From his vantage point he should be able to prevent the ordinary citizen from accusing him of Kufr. This is because the Prophet (sallallaahu 'alayhi wa sallam), enjoined [upon] the Muslims to obey those in authority over them for so long as they do not see clear evidence of Kufr, as has been related in the hadeeth reported on the authority of 'Ubada bin as-Samit earlier. There is no reference in this hadeeth to 'fitnah', but there can be no greater fitnah than the apostasy of the Khaleefah, or of those in authority, and the estrangement of the Community from Islaam." (24)

'Ali Juraishi points out that the worst kind of oppression is Shirk, and one of it's fundamental characteristics is to make permissible something which Allaah has forbidden,

{Or have they partners with Allaah who have made lawful for them in religion that which Allaah allowed not?}
(Qur'aan: 42 - 21)

"According to the Qur'aan, those who rule by other than the Revelation of Allaah are oppressors, corrupters and disbelievers. Oppression and disbelief are joined
together in secular law. [And] the implementation of this secular legislation brings corruption in its wake." (25)

Any rejection of Religion is Kufr, regardless of the extent of the rejection. To challenge the Right of Allaah to legislate is to reject Religion totally, [for] this is precisely the same as challenging the right of Allaah to create. This challenge can be seen in the attempt to claim the right to establish (man-made) fundamental, or constitutional law. This is an absolute Right of Allaah, and so any claim against it must ultimately lead to Kufr and Shirk.

A distinction has been made between the total, and the partial rejection of Religion, that is, between the total rejection of the Sharee'ah, and the rejection of only parts of it. The question was raised, "Does this type of distinction not lead fitnah?" Juraishi (rahimahullaah) replied,

"The total rejection of Religion is fitnah because it leads away from the Straight Path of Allaah. [And] the partial rejection of Religion is also fitnah, because it to leads away from the Straight Path of Allaah.

[But] that fitnah represented by the division of Law into two domains, secular and Religious, is more dangerous than the simple refusal to implement the Sharee'ah [in it's totality], because it can bring a greater oppression by claiming that what is wrong is in fact Justice, that what is harmful is wholesome. The people who see that the masaajid are open may be mislead by the cry of the mu'adthin which causes them to think that they are under the protection of the Sharee'ah. But the Sharee'ah demands comprehensive application.

Of course, the attempt to destroy Religion totally represents the greatest fitnah, but infinitely more treacherous is the process of its slowly, and deliberately, being undermined."(26)

The substitution of another law for the Sharee'ah is Kufr; this has been made quite clear; it does not matter if one substitutes a complete legal code abolishing the Sharee'ah, or if one simply replaces part of the Sharee'ah with some new laws. Substitution, 'istibdaal', is the act of giving human wisdom precedence over Divine Wisdom, making human reason the central point of reference - for this reason it is Kufr.

Whenever this 'istibdaal' raises its head, then it becomes obligatory to fight against it,

{...until there is no more fitnah (disbelief, polytheism etc.), and the Religion will all be for Allaah Alone.}

(Qur'aan: 8 - 39)
This Verse says all of Religion, not a part of it... so when a part of it is for something else, then we must fight.

'Abd ul-Qadir al-'Auda (rahimahullaah) has said that,

"Whoever refuses to implement the prescribed punishment for theft, or for bringing false accusations, or for zinaa because he prefers to apply some secular law instead is, without doubt, a kaafer." (27)

Ibn ul-Qayyim (rahimahullaah) said, explaining the Verse,

{And whoever does not rule by what Allaah has revealed, indeed they are of the Kaafiroon.}
(Qur’aan: 5 - 44)

"The same sanctions apply to the rescission of any part of the Sharee’ah, as to that of the whole of it." (28)

Ibn Katheer (rahimahullaah) adds that,

"...whoever does this is a kaafer whom it is obligatory to oppose until he returns to the rule of Allaah and his Messenger. It is intolerable that his ilk should rule Muslims, for even a moment." (29)

'Ali Juraishi observes,

"If Allaah had declared that both He and His Messenger are in a state of war for just one act which abrogated the Sharee’ah, that is the act of permitting ribaa (i.e. interest), what then would be the response to one who had revoked many parts of it?... Who is capable of sustaining a war against Allaah? The 'Ulamaa are agreed that whoever abrogates any part of the Sharee’ah should be opposed.

We do not know what our learned forefathers would say about those who forbid the implementation of the greater part of the Divine Law were they ever to be confronted with them. [But] there is no disagreement as to the sanctity of the Jihaad against whoever prohibits any portion of the Sharee'ah, [and] the worst of these is the one who abolishes the Sharee'ah in its entirety, because this is fitnah,

{...but a greater (transgression) with Allaah is to prevent mankind from following the Way of Allaah, to disbelieve in Him, to prevent access to Al-Masjid Al-Haraam (at Makkah), and to drive out it's inhabitants, and Al-fitnah is worse than killing.}
(Qur’aan: 2 - 217)

{And fight them until there is no more fitnah (disbelief, polytheism etc.), and the Religion will all be for Allaah Alone.}
(Qur’aan: 8 - 39)
To refrain from Jihaad is itself a threat, and Allaah has forbidden it.” (30)

\[
\text{And spend in the Cause of Allaah, and do not throw yourselves into destruction (by not spending your wealth in the Cause of Allaah).}
\]

(Qur’aan: 2 - 195)

In conclusion, it is perhaps important to point out that the Sharee'ah is more than simply the imposition of the 'hudud', that is, the prescribed punishment for a given offence. If the aim of the Sharee'ah is to be the general improvement and elevation of humanity, then it must be seen to affect every aspect of both public, and private life. It is concerned with business transactions and economics, domestic and foreign policies, war and peace, as well as family relations, marriage, divorce and inheritance.

A Muslim ruler must abide by it's Guidance in every respect because it is Divine Guidance: it is the Guidance of Allaah (Subhaanahu wa Ta'aala).

If a ruler begins to 'tinker' with it, to change it and to contradict it, then he is simply contradicting what Allaah has ordained. He is, in fact, placing his opinions and judgements above Divine Guidance. [And] as we have seen, the Islammic position on this is quite clear.

It is not enough that a ruler simply applies the hudud, integrating them into a novel legal system of his own which stands, in fact, in contradiction to the Sharee'ah in many ways. Some rulers would do so and then claim that their implementation of the hudud is ample evidence of their adherence to Islaam. But where does this leave the rest of the Sharee'ah? Are the hudud really all that is worthwhile in Islaam?... Should we be content to serve Allaah by observing [only] the hudud, and [on the other hand], serve our rulers by observing their laws?

Ibn Katheer (rahimahullaah) said that whoever does this, that is, refuses to implement the Sharee'ah in its entirety, is a kaafir against whom it is necessary to struggle until he returns to the rule of Allaah, and his Messenger (sallallaahu 'alayhi wa sallam).

Summary:

- The classic case of 'istibdaal' is that of the ruler who establishes an entire system of law without reference to the Sharee'ah, and who replaces the Sharee'ah with it. The adoption of secular legal systems is without doubt clear evidence of Kufr.
A mustabdil leader is simply a kaafir against whom it is waajib to struggle in every possible way, until he returns to the Sharee'ah. He must not remain unopposed for even a moment.

~ Footnotes ~


9) This discussion revolves around the words halaal, waajib, mandoub and mubah. Waajib, mandoub and mubah are all categories of halaal, as attested to in the books of Usool ul-Fiqh. (Authors note)

10) 'Ali Juraisha, Usul us-Sharee'ah al-Islaamiyyah, pp. 22 - 23


12) Ahmed Shaakir, 'Amda at-Tafaaseer, vol. 4, pp. 171

13) Muhammad Hamad al Fiqi, Fath al Majid, p. 397

14) Ismail al Kilani, Fast ud Deen 'an ad Dawla, p. 234

15) Imaam an Nawawi, Sharh Saheeh Muslim, vol. 12 p. 242

16) ibid. vol. 12, p. 242


19) Ibn al Qayyim, Madraaj as Saalakeen, vol. 1 p. 331

20) Ibn Katheer, Tafseer al Qur'aan al 'Athim, vol 2 p. 171

21) al Qurtubi, Jami' al Ahkaam al Qur'aan, p.232

22) an Najdi, Majmou' at Tawheed, pp. 306, 307

23) 'Abd ul-Qadir 'Auda, at Tashri' al jana'i, vol 2. p. 708 - 710

24) Salah Dabous, al Khaleefatu tawliyyatuhu wa ghazlahu, p. 373

25) 'Ali Juraisha, Usul us-Sharee'ah al Islaamiyyah, p. 99

26) 'Ali Juraisha, Usul us-Sharee'ah al Islaamiyyah, p. 71 - 72

27) 'Abd ul-Qadir 'Auda, at Tashri' al jana'i, vol 2. p. 709

28) Ibn al Qayyim, Madraaj as Saalakeen, vol. 1 p. 331

30) 'Ali Juraisha, *Usul us-Sharee'ah al Islaamiyyah*, p. 74
CONCLUSION

How could a Muslim be so bold, after all we have seen, as to replace even one part of the Sharee'ah?...

How could a ruler *claim* to follow Islaam, and still do such a thing?... Wouldn't he be aware that by giving preference to his own legislation over that of Allaah he would inevitably have excluded himself from the Islaamic Community?

Allaah has Said,

\[
\text{\{Do they then seek the judgement of (the days of) Ignorance?}
\text{And who is better in Judgement than Allaah}
\text{for a people who have firm Faith.\}}
\]

(Qur’aan: 5 - 50)

Ahmed Shaakir (rahimahullaah) remarks,

"Those objectionable people at the margins who associate themselves with Islaam, and those who would like to be with them, would be asked, "Do you believe in Allaah, and that he is the Creator?", to which they will say "Yes".

"And do you believe that he knows what was and what is, that he is Most Knowledgeable about creation, that he knows mankind, [both] what is good for him and what is bad?" "Yes", they will say.

"And do you believe that he sent his Messenger Muhammad with Guidance and the True Faith, and revealed to him this Qur’aan in which there is Guidance for mankind to set right by it both their Religion, and their worldly affairs?" To which they will reply, "Yes."

\[
\text{\{And (as for) the male thief and the female thief, cut off (from the wrist joint) their (right) hands...\}}
\]

(Qur’aan: 5 - 38)

"And do you believe that this Verse is truly from the Qur’aan?" To which they will say, "Yes".

'How much longer then will you ignore it?... What then is your law?" (31)
Those who claim to be Muslims cannot deny any of these things. It is common knowledge. The common people and their rulers, the educated and the ignorant, the cultured and the illiterate, all agree that these things are fundamental to Islaam. Someone who denies any part of this has left Islaam, and must perish in the mire of apostasy.

_How could it be permissible for a Muslim to attempt to rule by secular law, and to govern the Muslims with it?... Are they not aware of the Verse,_

> {Or have they partners with Allaah who have made lawful for them in religion that which Allaah allowed not?}

(Qur’aan: 42 - 21)

Ibn Taymiyyah (rahimahullaah) addresses this point when he says,

"It is not permitted that anyone should rule over any part of Allaah’s creation, be it amongst Muslims or Kuffaar, by agreement or by coercion, not over the army, and not over the poor, nor over anyone else except by the rule of Allaah and his Messenger. Whoever chooses other than this, the words of Allaah would apply to him,

> {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.}

(Qur’aan: 5 - 50)

Ahmed Shaakir (rahimahullaah) asks,

"Would it then be permitted for any Muslim to adopt a new religion, or a new legal code, or to follow any judgement derived from outside of Islaam, and to implement a thing such as the 'Yasa' (of Ghengis Khan) and thus reject the clear Guidance of the Sharee'ah?" (33)

Mawdudi (rahimahullaah) explains the Verse,

> {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 (i.e. false judges) while they have been ordered to reject them? But Shaytaan wishes to lead them far astray.}

(Qur’aan: 4 - 60)

"This is clearly a denunciation of anyone who governs by laws other than those contained in the Sharee’ah, as well as of any system of government which is not in agreement with the Supreme Authority of Allaah, and which comes from outside the Revelation of Allaah." (34)
How is it then, that the Muslims would be allowed to voluntarily adopt secular laws, and base legal judgements upon them...

\[\text{\textit{...But Shaytaan wishes to lead them far astray.}}\]
\(\text{(Qur'aan: 4 - 60)}\)

"These courts which have been imposed [upon us] by tyrants in order to judge, to order our affairs and to resolve our difficulties, in a manner which is contradictory to our Faith in Allaah and His Revelation, can have no authority over us. In the view of the Qur'aan, denial of the tyrant is as necessary as having Faith in Allaah. To submit to both Allaah and to the tyrant is clearly nifaaq (i.e. hypocrisy)." (35)

Could it be permissible then for the Muslims to submit to these mustabdil rulers?

\[\text{\textit{They took their Rabbis and their Monks to be their lords beside Allaah...}}\]
\(\text{(Qur'aan: 9 - 31)}\)

Ibn Taymiyyah (rahimahullaah) relates,

"Those who take their priests and their monks to be lords; who follow them in permitting what Allaah has forbidden, and in forbidding what Allaah has permitted, and know that they have changed the Religion of Allaah, [and] who believe that what Allaah has forbidden can become permitted and that what Allaah has permitted can become forbidden, are following human beings at the expense of Religion.

This is Kufr.

Indeed, Allaah and his Messengers, Peace and Blessings be upon them, have called it Shirk, even though they do not bow down their heads to their leaders. Nevertheless they follow them and contradict Religion in the full Knowledge that this is a denial of Allaah, His Messenger and His Revelation, they are as much mushrik as those they follow.

Yet, if they firmly believe in the Revelation, that Allaah has defined the prohibited and the Lawful, but persist in following their leaders even though they know it is wrong to do so, then they are disobedient, and should be regarded as such. This approach is confirmed by several Ahadeeth of the Prophet (sallallaahu 'alayhi wa sallam) stating,

"Obedience is due to praiseworthiness."
\(\text{(Muslim & Bukhari)}\)

and,
"The Muslim is bound to ready service and obedience [both] in what pleases him, and in what displeases him, so long as he is not ordered to sin."

and,

"Creation is not bound to disobedience to the Creator."

(Muslim & Bukhari)

and finally,

"Whoever orders you to disobedience of Allaah, do not follow him."

(Muslim & Bukhari)

Now we come to the prohibition of the Lawful and the license of the prohibited which results from a [sincere] effort to follow the Messenger (sallallaahu 'alayhi wa sallam). Though the effort is sincere, the Truth of the matter is illusive. Such a case would not be punished by Allaah, indeed the people would be rewarded for their effort because by it they had sought to obey Allaah." (36)

Abu Bakr al-Jaza'iri (rahimahullaah) has mentioned that,

"One of the manifestations of Shirk is submission to non-Muslim rulers and servility towards them. These people make legal what has been prohibited and prohibit what has been made Legal. Obedience to them is acceptable only under compulsion, for their rule is unjust and they should be despised and rejected. Surely choosing such rulers, supporting them, being content with them and maintaining their legitimacy is nothing less than Shirk." (37)

How should the Muslims persevere under these laws, and under these rulers?...
How can we divest them of power?

Allaah has Said,

{And fight them until there is no more fitnah (disbelief, polytheism etc.), and the Religion will all be for Allaah Alone.}

(Qur'aaan: 8 - 39)

Imaam Maalik (rahimahullaah) has said that,

"Whoever prohibits any of the obligations of the Muslims before Allaah, can never be accepted by them, it is their duty to struggle against him until they remove him." (38)

Imaam an-Nawawi (rahimahullaah) said,
"One of the obligations of Islaam is to fight those who prohibit Zakaat, or Salaat, or any other of the obligations of Islaam, whether their prohibitions be few, or many."

Ibn Taymiyyah (rahimahullaah) said,

"Any party which abandons any part of the clear and ordered Sharee'ah of Islaam is to be the object of struggle. About this the Muslims are agreed, even though such people may pronounce the Profession of Faith (i.e. Shahaadatayn). [For] this is the consequence of their abandonment of the Sharee'ah." (39)

~ Footnotes ~

31) Ahmed Shaakir, 'Amda at-Tafaaseer, vol. 4, p. 147
32) Ibn Taymiyyah, Majmou' al Fataawa, vol 35. p. 408
33) Ahmed Shaakir, 'Amda at-Tafaaseer, vol. 4, p. 174
34) Maududi, Islamic Government
35) Ibid.
36) Ibn Taymiyyah, Kitaab ul-Imaan, p.67 (Mohammed Yasin ed.)
37) Abu Bakr al Jaza'iri, Minhaaj ul-Muslim
38) Hukm at Ta'a'ifat il Mumtana'ati 'an Shara'i' il Islaam, thesis.
39) Ibid.