

The Khilafah

From the publications of Hizb ut Tahrir

Authenticated Edition

2003 CE, 1424 AH

Authenticated Updated Edition

2024 CE, 1446 AH

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THE KHILAFAH

The Khilafah (Caliphate) is the generalized, collective leadership over all the Muslims of the entire world, to implement the Shariah rulings of Islam, and to convey the Islamic Dawah to the whole world. It is also known as the Imamah. Imamah and Khilafah have the same meaning. Many Sahih Ahadith have specified these two words, with the same meaning. None of these two words differed in their meaning from the other in any Shariah text. This is whether the Shariah text is from the Noble Qur'an or from the Prophetic Sunnah, for they are the only divine (Shari') texts.

As for the title given to the ruler in the Caliphate state, it could be the Khaleefah (caliph), or the Imam or the Ameer of the believers. These titles have been narrated in sound Ahadith and in the Ijma' of the Sahabah. The 'Khulafa'a Al-Rashideen' (first four Khulafa'a) have held such titles. Abu S'aid Al-Khudri reported that the Messenger of Allah ﷺ said, «إِذَا بُوِيعَ لِخَلِيفَتَيْنِ فَأَقْتُلُوا الْآخَرَ مِنْهُمَا» **“If the pledge of allegiance (Bay'ah) has been taken for two Khulafa'a kill the latter of them.”**

[Muslim] ‘Abdullah ibn ‘Amru Ibn al-‘Aas reported that he heard the Messenger of Allah ﷺ say, «وَمَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَتَمْرَةَ قَلْبِهِ فَلْيَطِغْهُ»
“Whoever pledged allegiance to an Imam giving him the clasp of his hand and the fruit of his heart shall obey him as long as he can...” [Muslim]. Auf Ibn Malik reported: I heard the Messenger of Allah ﷺ say, «خَيْرُ أِمْتِكُمُ الَّذِينَ تُحِبُّونَهُمْ وَيُحِبُّونَكُمْ، وَيُصَلُّونَ عَلَيْكُمْ وَتُصَلُّونَ عَلَيْهِمْ»
“The best of your Imams are those whom you love and they love you and who pray for you and you pray for them ...” [Muslim]. As for title “Ameer al-Mu’mineen,” the first to be called by this title was Umar ibn al-Khattab (ra). Then they continued to call the Khulafa’a after him with this title at the time of the Sahabah (ra) and those who came after them.

Appointing a Khaleefah is obligatory upon all Muslims in all the regions (aqtaar) of the world. Executing such a duty, just like executing any other duty which Allah ﷻ has decreed on Muslims is compulsory, in which no choice or complacency is allowed. Failure in performing this duty is one of the gravest sins, which is deserving of Allah’s severe punishment.

The evidence concerning the obligation of appointing a Khaleefah over all the Muslims is understood from the Noble Quran, the Prophetic Sunnah and the Ijmaa' of the Sahabah (Consensus of the Companions).

As for the Noble Quran, Allah ﷻ commanded His Messenger ﷺ to rule the Muslims by all that He ﷻ revealed to him. The command of Allah ﷻ was conveyed in the most decisive manner. Allah ﷻ addressed His Messenger ﷺ,

﴿فَأَحْكُم بَيْنَهُم بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنَ الْحَقِّ﴾

“And rule between them by that which Allah revealed to you, and do not follow their vain desires away from the truth which came to you” [TMQ Surah Al-Maidah 5:48].

He ﷻ said,

﴿وَأَنْ أَحْكُم بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَأَحْذَرَهُمْ أَنْ يَفْتِنُوكَ عَنْ

بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ﴾

“And rule between them by that which Allah revealed to you and do not follow their whims, and beware (be on the alert) that they may deviate you away from even some part of what Allah revealed to you.” [TMQ Surah Al-Maidah 5:49].

The address of Allah ﷻ to His Messenger ﷺ is also an address to the Ummah of the Messenger, unless there exists Shariah evidence that indicates that the address is limited to him. In this case there is no evidence limiting this speech to the Messenger of Allah ﷻ. Thus, the verses call upon Muslims to establish the rule of Allah. The appointment of a Khaleefah does not mean other than the establishment of the rule of Allah and the authority (Sultan) of Islam. Furthermore, Allah ﷻ obliges the Muslims to obey those in authority (wali al-amr), i.e. the ruler, which is an indication that the existence of a man in authority upon Muslims is obligatory. Allah ﷻ says,

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولَى الْأَمْرِ مِنْكُمْ﴾

“O you who believe obey Allah and obey the Messenger and those in authority amongst you.” [TMQ Surah An-Nisa 4:59].

Allah ﷻ does not command obedience to those who do not exist. Therefore, the existence of a man in authority (wali al-amr) is Fard, this finding is not based on recommendation or permissibility, but rather on obligation, because ruling by what Allah has revealed is obligatory.

The order of Allah ﷻ to obey those in authority is also an order to establish them.

The existence of the wali al-amr results in the establishment of the Shariah ruling, and not realizing his existence results in the loss of the Shariah ruling. Therefore, realizing the existence of the wali al-amr is obligatory due to the forbidding of what results from not realizing it, which is the loss of the Shariah ruling.

As for the Sunnah, Muslim narrated on the authority of Nafi' said: Ibn Umar told me: I heard the Messenger of Allah ﷺ say, «مَنْ خَلَعَ يَدًا مِنْ طَاعَةٍ، لَقِيَ اللَّهَ يَوْمَ الْقِيَامَةِ لَا حُجَّةَ لَهُ، وَمَنْ مَاتَ وَلَيْسَ فِي عُنُقِهِ بَيْعَةٌ مَاتَ مِيتَةً جَاهِلِيَّةً» **“Whoever takes off his hand from an obedience to Allah, he will meet Him on the Resurrection Day without having any proof for himself; and whoever dies while there was no Bayah on his neck, his death would be that of the days of Jahilyah (ignorance).”** [Narrated by Muslim] So, the Messenger ﷺ made it obligatory upon every Muslim to have a Bayah on his neck. He described the one who dies without having a Bayah on his neck as if he died the death of Jahiliyyah. The Bayah is not to be valid except for the Bayah given to the Khaleefah. The

Messenger of Allah ﷺ made it an obligation that every Muslim should have a Bayah on his neck for a Khaleefah. However, he ﷺ did not oblige every Muslim to give a Bayah to the Khaleefah. The obligation therefore, is the existence of a Bayah, on the neck of every Muslim. This necessitates the existence of a Khaleefah, who, through his existence, is entitled to a Bayah. Thus, the existence of the Khaleefah is the issue that necessitates a Bayah on the neck of every Muslim, whether he actually gave the Bayah or not. Therefore, the Hadith is evidence that the appointment of a Khaleefah is an obligation and that every Muslim is obliged to have Bayah on his neck. It is not evidence suggesting that giving the Bayah by every Muslim is an obligation. This is because the Messenger of Allah ﷺ rebuked the absence of the Bayah of allegiance on the neck of the Muslim till he dies, and not the abstention from giving the Bayah itself. Muslim narrated from Al-Araj on the authority of Abu Hurairah, from the Prophet ﷺ, who said, «إِنَّمَا» **«Indeed the Imam is a shield, from whose behind (one) would fight, and by whom one would protect oneself.»** Muslim also reported on the authority

of Abu Hazim that he said, "I accompanied Abu Hurayra (ra) for five years, and heard him informing about the Prophet ﷺ who said **«كَانَتْ بَنُو إِسْرَائِيلَ تَسُوسُهُمُ الْأَنْبِيَاءُ، كُلَّمَا هَلَكَ نَبِيٌّ خَلَفَهُ نَبِيٌّ، وَإِنَّهُ لَا نَبِيَّ بَعْدِي، وَسَتَكُونُ خُلَفَاءُ فَتَكْثُرُ، قَالُوا: فَمَا تَأْمُرُنَا؟ قَالَ: فُوا بِبَيْعَةِ الْأَوَّلِ**” **The Prophets ruled over the children of Israeel, whenever a prophet died another Prophet succeeded him, but there will be no Prophet after me. There will soon be Khulafa’ and they will number many.’ They asked: ‘what then do you order us?’ He said: ‘Fulfil the Bayah to them, one after the other and give them their dues for Allah will verily account them about what he entrusted them with.”**” Ibn Abbas reported that the Messenger of Allah ﷺ said **«مَنْ كَرِهَ مِنْ أَمِيرِهِ شَيْئًا فَلْيَصْبِرْ عَلَيْهِ، فَإِنَّهُ لَيْسَ أَحَدٌ مِنْ النَّاسِ خَرَجَ مِنَ السُّلْطَانِ شِبْرًا فَمَاتَ عَلَيْهِ إِلَّا مَاتَ مِيتَةً جَاهِلِيَّةً»** **“If anybody sees in his Ameer (ruler) something which displeases him, he should remain patient, for he who separates himself from the authority of Islam (Sultan) by even so much as a hand span and dies thereupon, he would die the death of the days of ignorance.”** [Narrated by Muslim] These hadiths contain information from the Messenger that

there will be governors over the Muslims, and they describe the Khaleefah as being a shield, which is a protection. The description by the Messenger ﷺ of the Imam as a shield is an indication of the benefits of the existence of the Imam. Therefore, it is a command (talab). This is because when Allah ﷻ or His Messenger ﷺ informs us about something that includes a rebuke (dham), this is taken as a command of leaving (tark), which means forbidding (nahi). When the text contains praise (madh), it is taken as a command (Talab) to perform (fi'l). If the commanded action is necessary to implement the divine Shariah ruling, or if its neglect would cause the divine Shariah law to be abandoned, then this command is decisive (jaazim), so thus, it is an obligation. These Ahadith also inform us that those who take care of the political affairs of the Muslims are the Khulafaa.' This means a command to appoint them. They also include the prohibition of Muslims from separating themselves from obedience of the Sultan. This means the ruling for the appointment of a Muslim as a Sultan is a matter of obligation (wajib). The Messenger of Allah ﷺ ordered the Muslims to obey the Khulafaa,' and to fight those who

dispute with them regarding their Khilafah. This means that it is an obligation to appoint a Khaleefah, and protect his Khilafah by fighting those who dispute his authority. Muslim reported that the Messenger of Allah ﷺ said, «وَمَنْ بَايَعَ إِمَامًا، فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَتَمْرَةَ قَلْبِهِ فَلْيُطِغْهُ إِنْ اسْتَطَاعَ، فَإِنْ جَاءَ آخَرُ يُنَازِعُهُ فَاضْرِبُوا عُنُقَ الْآخَرِ» **“Whosoever gave a Bayah to an Imam, giving him the clasp of his hand, and the fruit of his heart shall obey him as long as he can, and if another comes to dispute with him, you must strike the neck of that man.”** Therefore, the command to obey the Imam is an order to appoint/install him. The command to fight those who dispute with him is a Qareenah (قرينة Contextualizing Evidence) that the command of maintaining the presence of one Khaleefah, is decisive and thus an obligation.

As for the Ijma' of the Sahabah, they (ra) agreed upon the necessity of establishing a successor to the Messenger of Allah ﷺ, after his death. They all agreed to appoint a successor to Abu Bakr, and upon his death, appointing Umar (ra) as successor and upon Uthman's death to appoint Ali (ra) as a successor to him. The Unanimous Consensus of the Sahabah on the appointment of a Khaleefah manifested itself

emphatically upon the death of the Messenger of Allah ﷺ. They engaged themselves in appointing a successor to him, even though it is known that the burial of the dead person after his death is obligatory. It is forbidden for those who are required to work on preparing and burying him to work on anything else until he is buried. The Sahabah that were obliged to engage in preparing the burial of the Messenger ﷺ, some of them engaged themselves in appointing a Khaleefah, instead of engaging themselves in preparing the burial of the Messenger of Allah ﷺ. Some Sahabah kept silent about this and participated in the delaying of the burial for two nights, despite having the ability to deny the delay in the burial of the Messenger of Allah ﷺ. This was a consensus to be occupied with appointing the Khaleefah rather than burying the dead. This could not have been legitimate unless the appointment of a Khaleefah was more obligatory, than the immediate burial of the dead person. Furthermore, all the Sahabah consented throughout their lives, upon the obligation of appointing the Khaleefah. Although sometimes they differed about the person who should be selected as a Khaleefah, they never disagreed

about the fact that a Khaleefah must be appointed, whether in the wake of the death of the Messenger of Allah ﷺ or after the death of each of the Khulafa'a Rashideen. Accordingly, the Unanimous Consensus of the Sahabah (Ijma') is both strong and clear evidence that the appointment of a Khaleefah is obligatory.

Furthermore, establishing the Deen, and implementing the Shariah in every single aspect of life, is an obligation upon Muslims. It is established through evidences definite both in narration and in meaning. This cannot be achieved unless there is a ruler who possesses the authority to do so. Therefore, in this context, the Shariah Qai'dah principle states, مَا لَا يَتِمُّ إِلَّا بِالْوَجِبِ الْوَجِبُ إِلَّا بِهِ فَهُوَ وَاجِبٌ **'Whatever is necessary to accomplish a duty, becomes itself a duty.'** Thus appointing the Khaleefah is obligatory based on this principle. So from this aspect, the appointing of a Khaleefah is also an obligation.

These evidences are explicit (Sareeh) about the obligation of the establishment of the ruling, and the authority, amongst Muslims. It is also an obligation to appoint a Khaleefah, who takes charge of the ruling and authority, in order to implement the divine laws (Hukm

Shari'). He does not take charge merely for the sake of ruling and authority in themselves. Let us contemplate the following Hadith of the Messenger of Allah ﷺ narrated by Muslim from Auf bin Malik, «خَيْرُ أِمَمَّتِكُمُ الَّذِينَ تُحِبُّونَهُمْ وَيُحِبُّونَكُمُ، وَيُصَلُّونَ عَلَيْكُمْ وَتُصَلُّونَ عَلَيْهِمْ، وَشِرَارُ أِمَمَّتِكُمُ الَّذِينَ تُبْغِضُونَهُمْ وَيُبْغِضُونَكُمُ، وَتَلْعَنُونَهُمْ وَيَلْعَنُونَكُمْ، قِيلَ: يَا رَسُولَ اللَّهِ أَفَلَا تُنَابِذُهُمْ بِالسَّيْفِ؟ فَقَالَ: لَا، مَا أَقَامُوا فِيكُمْ الصَّلَاةَ، وَإِذَا رَأَيْتُمْ مِنْكُمْ شَيْئًا سَنِينًا تَكْرَهُونَهُ فَانْكُرُوهُ أَعْمَلُهُ وَلَا تَنْزِعُوا يَدًا مِنْ طَاعَةٍ»

“The best of your Imams are those whom you love and they love you, and you pray for them and they pray for you, and the worst of your Imams are those whom you hate and they hate you, and you curse them and they curse you.” We asked: ‘O Messenger of Allah! Shall we not then raise swords against them?’ He said: “No, as long as they establish Salah amongst you. If you see something detestable in their guardianship, detest their action but do not withdraw from their obedience.” It was asked, يَا رَسُولَ اللَّهِ أَفَلَا تُنَابِذُهُمْ بِالسَّيْفِ، “O Messenger of Allah! Shall we not then raise swords against them?” He said, «لَا مَا أَقَامُوا فِيكُمْ الصَّلَاةَ»

“No, as long as they establish Salah (meaning Islam) among you.” This Hadith

explicitly informs regarding the good and bad rulers, and the prohibition of revolting against them with the sword, as long as they established the Deen, because establishing the Salah (prayer) here is a kinaya (metonym) for the establishing of the Deen and the Shariah ruling. Therefore, the obligation upon Muslims to appoint a Khaleefah, to implement the rulings of Islam, and to convey the Message is beyond any doubt, with regards to its evidencing in the sound Shariah texts. Furthermore, this duty is obligatory because Allah ﷻ made it compulsory upon Muslims to establish the authority of Islam, and to protect the unity (baydah) of the Muslims. However, this obligation is a collective obligation of sufficiency (Fard al-kifayah). If some of the people accomplished it, the obligation would be fulfilled. The responsibility would be discharged from the rest of the Ummah. If a section of the Ummah failed to accomplish this obligation, despite their undertaking all the steps required to fulfil it, then it would remain as an obligation upon all the Muslims. No one would be relieved of the duty as long as the Muslims remained without a Khaleefah.

To refrain from appointing a Khaleefah for Muslims is one of the gravest sins. It is an abstention from fulfilling one of the most important duties of Islam. Upon this obligation depends the implementation of the rulings of the Deen and the existence of Islam in life's affairs. All Muslims would be committing a grave sin, if they refrained from establishing a Khaleefah for themselves. If they all agreed to abandon the obligation, the sin would be upon every single Muslim in the entire world. However, if some of the Muslims embarked upon the work to establish a Khaleefah, whilst others did not, the sin would fall from those who work to establish the Khaleefah. The obligation would remain upon them until the Khaleefah is appointed. The involvement in the work to accomplish the obligation would remove the sin of delaying the accomplishment of the obligation in its due time, as well as the failure to fulfil the obligation. This is because of the involvement in accomplishing the obligation, despite the compulsion of being prevented from its accomplishment. Those who do not participate in the work to accomplish the duty would be sinful after three days, from the departure of the Khaleefah, until the day the

next Khaleefah is appointed. This is because Allah ﷻ has entrusted them with a duty they neither carried out nor participated in. Thus, they deserved a sin and deserve the punishment and humiliation from Allah ﷻ in this life and the Hereafter. The sin would duly be upon them for abstaining from working to establish the Khaleefah, or from performing the actions that would naturally accomplish it. This is because any Muslim who fails to perform any of his duties quite evidently deserves punishment. This is especially so for the duty by which other duties are implemented, the rulings of the Deen are established, the command of Islam is exalted and the Word of Allah ﷻ is raised high in the lands of Islam and throughout the whole world.

With regards to some of the Ahadith concerning isolation from the people, and of confining oneself to adhere to the matters of personal worship alone, these Ahadith do not serve as evidence that permits abstaining from establishing a Khaleefah. They do not remove the sin due to this abstention. When somebody studies these Ahadith thoroughly he finds them related to the adherence to the Deen, rather than permitting the abandonment of

establishing a Khaleefah for the Muslims. For example, al-Bukhari narrated about Bisr ibn Obayd Allah al-Hadhrami that he heard Abu Idrees al-Khoolani say that he heard Huthaifah ibn al-Yaman saying, «كَانَ النَّاسُ يَسْأَلُونَ رَسُولَ اللَّهِ ﷺ عَنِ الْخَيْرِ وَكُنْتُ أَسْأَلُهُ عَنِ الشَّرِّ مَخَافَةَ أَنْ يُدْرِكَنِي، فَقُلْتُ: يَا رَسُولَ اللَّهِ إِنَّا كُنَّا فِي جَاهِلِيَّةٍ وَشَرٍّ، فَجَاءَنَا اللَّهُ بِهَذَا الْخَيْرِ، فَهَلْ بَعْدَ هَذَا الْخَيْرِ مِنْ شَرٍّ؟ قَالَ: نَعَمْ. قُلْتُ: وَهَلْ بَعْدَ ذَلِكَ الشَّرِّ مِنْ خَيْرٍ؟ قَالَ: نَعَمْ، وَفِيهِ دَخَنٌ. قُلْتُ: وَمَا دَخَنُهُ؟ قَالَ: قَوْمٌ يَهْدُونَ بِغَيْرِ هُدًى، تَعْرِفُ مِنْهُمْ وَتُنْكِرُ. قُلْتُ: فَهَلْ بَعْدَ ذَلِكَ الْخَيْرِ مِنْ شَرٍّ؟ قَالَ: نَعَمْ، دُعَاةٌ إِلَى أَبْوَابِ جَهَنَّمَ، مَنْ أَجَابَهُمْ إِلَيْهَا قُدْفُوهُ فِيهَا. قُلْتُ: يَا رَسُولَ اللَّهِ صَفَهُمْ لَنَا، فَقَالَ: هُمْ مِنْ جِلْدَتِنَا، وَيَتَكَلَّمُونَ بِأَلْسِنَتِنَا. قُلْتُ: فَمَا تَأْمُرُنِي إِنْ أَدْرَكَنِي ذَلِكَ؟ قَالَ: تَلْزِمُ جَمَاعَةَ الْمُسْلِمِينَ وَإِمَامَهُمْ. قُلْتُ: فَإِنْ لَمْ يَكُنْ لَهُمْ جَمَاعَةٌ وَلَا إِمَامٌ؟ قَالَ: فَاعْتَرِزْ تِلْكَ الْفُرْقَ كُلَّهَا، وَلَوْ أَنْ تَعْصَّ بِأَصْلِ شَجَرَةٍ حَتَّى يُدْرِكَكَ الْمَوْتُ وَأَنْتَ عَلَى ذَلِكَ»

The people used to ask the Messenger of Allah ﷺ about the good and I used to ask him about the bad in fear that it might catch me. So I said, ‘O Messenger of Allah ﷺ! We were in times of jahilliyah and mischief then Allah brought us this good, so is there any mischief after this good?’ He ﷺ said, ‘Yes.’ I said, ‘Will there be any good after that mischief?’ He said, ‘Yes, and it has smoke.’ I said, ‘What is its smoke?’ He said, ‘(Some) people guide without any guidance, you recognize some (from them) and deny

some.’ I said, ‘Will there be a mischief after that good?’ He said, ‘Yes, (some) people who invite at the doors of hell, whoever accepted their invitation they throw him in it (hell).’ I said, ‘O Prophet of Allah ﷺ, describe them to us’. He said, ‘They are of our own color and talk our language.’ I said, ‘What do you order me to do if that caught me?’ He said, ‘Adhere to the jama’ah of Muslims and their Imam.’ I said, ‘What if the Muslims have no jama’ah nor an Imam?’ He said, ‘Then you abandon all those groups, even if you have to grab with your teeth, the trunk of a tree till death comes to you as such.’” This hadith is clear in its expression that the Prophet ﷺ is ordering Muslims to adhere to the jama’ah of Muslims and to adhere to their Imam, and to leave those who invite people to the doors of hell. When the questioner asked him that in case the Muslims have no Imam and no jama’ah what stance should he take with those who call at the doors of hell, the Messenger of Allah ﷺ ordered him to abandon these groups, not to disassociate himself from the Muslims, nor to abstain from the action of establishing an Imam. So his order is explicit, «فَاعْتَرِلْ تِلْكَ الْفِرْقَ كُلَّهَا» “abandon all those groups,” and he

emphasized the extent to which he must dissociate from those groups, even to the extent that his isolation from them would make him grab onto the trunk of a tree until death comes to him while he is to abandon those groups that are at the gates of Hell. It means adhere to your Deen by staying away from the misleading callers who are at the doors of hell. In this hadith there is no excuse or permission to abandon the work for establishing a Khaleefah. Instead, it is confined to the command of adhering to the Deen, and abandoning the callers at the doors of hell. The sin will remain on him if he does not work to establish a Khaleefah. So, he is ordered to abandon the misleading groups in order to save his Deen from the callers to misguidance, even if he had to cling to the trunk of a tree, but not to distance himself from the Muslim community, and abandon the work for establishing the laws of the Deen and establishing an Imam for Muslims.

Another example is what al-Bukhari narrated about Abu Said al-Khudri (ra), who said, «يُوشِكُ أَنْ يَقْرَأَ الْقُرْآنَ بِأَنْفِهِ وَهُوَ يَكْفُرُ بِمَا فِيهِ» "The Messenger of Allah ﷺ said, «يُوشِكُ أَنْ يَقْرَأَ الْقُرْآنَ بِأَنْفِهِ وَهُوَ يَكْفُرُ بِمَا فِيهِ»

يَكُونُ خَيْرَ مَالِ الْمُسْلِمِ عَنَّمْ يَتَّبِعُ بِهَا شَعْفَ الْجِبَالِ وَمَوَاقِعَ الْقَطْرِ يَفْرُ
«بِدِينِهِ مِنَ الْفِتَنِ» "A time will soon come when the

best property of a Muslim will be sheep, which he will take on the top of mountains and the places of rainfall (valleys), so as to flee with his Deen from afflictions.” This does not mean that one should isolate oneself from the Muslim community, and abandon practicing the divine laws, and from establishing a Khaleefah for Muslims, when there is no Khilafah on earth. This hadith instead explains what is the best wealth of the Muslim at the times of Fitna. It does not encourage anyone to distance himself from the Muslims and isolate the people.

Therefore, there is no excuse for any Muslim anywhere in the world to abstain from performing that which Allah ﷻ obliged on him so as to establish the Deen. It is obliged to work to appoint a Khaleefah for the Muslims, when there is no Khilafah in the world, when there is no Khaleefah who implements the rulings of Allah ﷻ to protect the sanctities of Allah, and establishes the rules of the Deen, and unifies the Muslims under the banner of “لَا إِلَهَ إِلَّا اللَّهُ مُحَمَّدٌ رَسُولُ اللَّهِ” **“there is no God but Allah and Muhammad is His Messenger.”** There is no excuse in Islam that exempts anyone from working to perform this duty until it is accomplished.

THE TIME LIMIT GIVEN FOR MUSLIMS TO APPOINT A KHALEEFAH

The time limit allowed for the Muslims to appoint a Khaleefah is three days with their shared three nights. It is forbidden for a Muslim to spend more than three nights, without having a Bayah on his neck. As for allowing a maximum of three nights, this is because appointing a Khaleefah becomes compulsory from the very moment the former Khaleefah dies, or is removed. However, it is allowed to delay the appointment as long as the Muslims are involved with the task at hand for three days with their shared three nights. If the limit exceeds three nights, and a Khaleefah is not appointed by that time, the matter must be examined. If the Muslims were involved in the appointment of a Khaleefah and failed to do so within the three nights for compelling reasons beyond their control and ability, then the sin would fall from their necks. This is because they were endeavoring in their task to perform this duty and were compelled against their will to delay the execution of that duty. The Messenger of Allah ﷺ said, «رُفِعَ عَنِ أُمَّتِي الْخَطَأُ وَالنِّسْيَانُ وَمَا اسْتُكْرِهُوا عَلَيْهِ» **“My nation is forgiven for mistakes and forgetfulness, and what**

they are forced to do.” [Narrated Tabarani in his al-Kabeer]. However, if they were not involved in the task they would all be sinful until such time that a Khaleefah was appointed, and only then would the sin fall from them. As for the sin they had committed by neglecting the duty of appointing a Khaleefah this would not fall from them, rather it remains, and Allah (swt) would punish them as he would punish for any sin committed by a Muslim for not performing a duty.

As for the obligation of the immediate involvement in the bay’ah of the Khaleefah once the Khilafah post became vacant, this is because the Sahabah addressed that matter in the Saqifah of Bani Sai’dah after the death of the Messenger (saw), on the same day of his death and before his burial (saw); the contracting bay’ah of Abu Bakr was concluded on the day of his death. On the second day, they gathered the people in the masjid to give the bay’ah of obedience to Abu Bakr.

As for the fact that the maximum time limit allowed for the Muslims to appoint a Khaleefah is three days including their nights, its evidence is that when Umar felt that his death was imminent he delegated the people of the Shura to appoint a Khaleefah giving them a time limit

of three days and instructing them to kill anyone who disagreed with the group once the three days had lapsed. He assigned the execution of such instruction, i.e. killing the one who might disagree to fifty people from the Muslims despite the fact that the group was formed people of Shura and senior Sahabah. This took place in the presence of the Sahabah and no one has objected or condemned such instruction. This became a general consensus of the Sahabah stating that it is forbidden for Muslims to remain without a Khaleefah for more than three days including their nights. The Unanimous Consensus (Ijmaa'a) of the Sahabah is Shari'ah evidence just like the Quran and the Sunnah.

Al-Bukhari reported from Al-Miswar ibn Makhramah, he said: "Abdur-Rahman called on me after a portion of the night had passed and knocked on my door till I got up, and he said to me, **طَرَفْتِي عَبْدُ الرَّحْمَنِ بَعْدَ هَجْعٍ مِنَ اللَّيْلِ، فَضْرَبَ الْبَابَ حَتَّى اسْتَبَقَقْتُ، فَقَالَ: أَرَأَيْكَ نَائِمًا، فَوَاللَّهِ مَا أَكْتَحَلْتُ هَذِهِ الثَّلَاثَ بِكَثِيرِ نَوْمٍ** "I see you have been sleeping! By Allah, during the last three nights I have not slept enough," meaning the three nights. Once the people prayed the fajr, the bay'ah was concluded to Uthman.

THE CONTRACTING (انعقاد) OF THE KHILAFAH

The Khilafah is a contract based on mutual consent (ridaa) and choice (ikhtiyaar). It is a Bayah of obedience to whoever is entitled to obedience, from amongst the people in authority. It is therefore imperative to have both the consent of the one who is given the Bayah to take the post, as well as the consent of those who give him the Bayah. Thus, it is forbidden to force anyone to become Khaleefah, if he rejected the post of Khilafah. He must not be forced to accept it. Under such circumstances another person must then be considered to fill the post. It is also forbidden to take the Bayah from the people by force, or by using coercion. In such a case, the contract would not be valid (saheeh). Mutual consent and choice must be observed, without any coercion or compulsion, as in any other contract. However, if the Bayah has been contracted by those whose Bayah is valid, then the Bayah would be contracted. The person for whom the Bayah was given, becomes the person in authority (wali al-amr). Obedience to him is an obligation. The subsequent Bayah

pledge is that of Obedience (Taa'ah). It is not the Bayah pledge of Contracting (in'iqaad) the Khilafah. Then it is allowed for the Khaleefah to force the people to give him the Bayah of Obedience, because it would be imposing obedience to him. This is an obligation under Shariah law. Thus, in origin, Bayah of Contracting is not valid unless it is with consent and choice. As for after the contracting of Bayah to the Khaleefah, there is obedience in submission to the order of the Khaleefah. Coercion is allowed in this obedience, to implement the command of Allah ﷻ. Since the Khilafah is a contract, it is not completed except by a contracting party. This is just as in the judiciary, a person cannot be a judge unless someone appoints him as a judge. Also, in the imarah, no one can be an amir unless someone appoints him the imarah. So, the Khilafah (Caliphate), no one can be a Khaleefah (Caliph) unless someone appoints him as a Khaleefah. From here, it becomes clear that no one can be a Khaleefah unless the Muslims appoint him. He does not have the powers of the Khilafah unless it is contracted for him. This contract is not completed except by two contracting parties.

The first party is the one seeking the Khaleefah and the one who is sought for it. The second party is made up of the Muslims who are consenting of him as their Khilafah. That is why the Khilafah must be established by the Bayah pledge of allegiance of the Muslims. Based on this, if a *mutasalit* (usurper) arises and seizes power by force, he does not thereby become a Khaleefah. This is even if he declares himself Khaleefah of the Muslims. This is because the Khilafah was not established for him by the Muslims. If he takes the Bayah pledge of allegiance from the people by force and coercion, he does not become a Khilafah. This is even if he is pledged allegiance to. This is because the Bayah pledge of allegiance by force and coercion is not considered, and the Khilafah is not established by it. This is because it is a contract of consent and choice that is not completed by compulsion and coercion. So it is not established except by the Bayah pledge of allegiance by consent and choice. However, if this usurper is able to convince the people that the interest of the Muslims is in pledging the Bayah of allegiance to him, and that implementing the Shariah rulings requires

pledging allegiance to him, and they are satisfied with that, and are consenting, and they pledge the Bayah of allegiance to him willingly and by choice, then he becomes a Khaleefah. This is from the moment he was pledged allegiance to, willingly and by choice. This is even if he initially took power by force and domination. The condition is that the Bayah (pledge of allegiance) be given and that it be given by choice and by choice, whether the one to whom the Bayah pledge of allegiance was given is the ruler and authority (sultan) or not.

From reviewing what took place in the Bayah of the 'Khulafaa' Al- Rashideen' and the Unanimous Consensus (Ijmaa') of the Sahabah, one can conclude that the Khilafah is contracted by the Bayah. In the Bayah to Abu Bakr (ra), the Bayah from the People of Dissolution and Contracting (Ahl ul-Hal wal 'Aqd) in Madinah alone was enough to contract the Khilafah. The Muslims of Makkah were not consulted, nor were those living in other parts of the Arabian Peninsula. Indeed, they were not even asked about their opinion concerning the matter. This was also the case in the Bayah to Umar (ra). With regards the Bayah to Uthman (ra), 'Abdul

Rahman Ibnu 'Awf (ra) asked the Muslims of Madinah regarding their opinion and he did not merely content himself by asking the People of Dissolution and Contracting as Abu Bakr did when nominating Umar. When the Bayah was taken for 'Ali (ra), most of the people of Madina and Kufa gave him their Bayah, and he was singled out in the Bayah. His Bayah was valid even for those who opposed him, and fought against him, because they neither gave their Bayah to another man, nor did they object to his Bayah. Instead, they demanded revenge for the blood of Uthman (ra). So the ruling regarding them was that they were rebels who withdrew from obedience to the Khaleefah, over one particular issue. In this instance the Khaleefah had to explain the situation to them, and fight against them if they persisted. These rebels did not establish another Khilafah.

All of this occurred in the previous era, i.e., the Bayah for the Khaleefah by the people of the capital, to the exclusion of the other regions, in the presence of the Sahabah (ra). This is with the exception of the Bayah pledge of allegiance to Imam Ali, when the people of Kufa participated in pledging allegiance to him. There

was no one who disagreed with that, nor did anyone condemn this action in terms of restricting the bayah to most of the people of Medina, despite their disagreement with the person of the Khaleefah and their condemnation of his actions. However, they did not deny that his pledge of allegiance was limited to most of the people of Medina. This is considered to be a Unanimous Consensus (Ijmaa') of the Sahabah. It establishes that those who represent the Muslims' opinion in matters relating to ruling, can contract the Khilafah. This is simply because the People of Dissolution and Contracting, as well as the majority of the people of Madinah, were the majority of those who represented the opinion of the Ummah regarding the ruling matters, throughout the territories of the Islamic State at the time.

Therefore, the Khilafah is contracted if the Bayah was taken from those who represent the majority of the Islamic Ummah that lives under the authority of the previous Khaleefah, in whose place another Khaleefah is sought to be appointed, as it was the case at the time of the Khulafaa' Rashideen. Their Bayah would constitute a Bayah of Contracting (in'iqaad). As

for the others, once the Khilafah has been contracted, their Bayah would be classed as a Bayah of Obedience (Taa'ah) i.e. it is a Bayah of Obedience (inqiyaad) to the Khaleefah and not a Bayah of Contracting (in'iqaad).

This would be the case if there was a Khaleefah who died, or was removed, and a new Khaleefah was sought to replace him. However, if there was no Khaleefah at all in office, and the Muslims were under obligation to appoint a Khaleefah for them to implement the Shariah rulings, and to convey the Islamic Dawah to the world, which has been the case since the destruction of the Islamic Khilafah in Istanbul (Turkey) in the year 1342 Hijri (1924 CE), every country (qaTar) in the Islamic World would be eligible to give Bayah to a Khaleefah. Thus the Khilafah would be contracted to him. If any country, throughout the Islamic World gave Bayah to a Khaleefah, and the Khilafah was contracted to him, then it would become an obligation on all the Muslims living in all the other countries (aqTaar), to give him the Bayah of Obedience. This is the Bayah of Allegiance after the Khilafah was contracted to him, by the Bayah of the Muslims in his country. This is regardless

of the size of that country, whether it is large, like Egypt, Turkey and Indonesia, or small like Jordan, Albania or Lebanon. However, this country (qaTar) must fulfil four conditions:

Firstly: The authority (سلطان sulTaan) in that region must be an autonomous authority dependent on the Muslims only. It must not depend on a non-Islamic (kufr) country or a non-Islamic (kafir) influence.

Secondly: The security (أمان amaan) of the Muslims in that region must be guaranteed in the name of Islam, not in the name of Kufr. This means that the protection of the region, against domestic or foreign threat, must be a protection of Islam solely by a Muslim force, in its capacity as a purely Islamic force.

Thirdly: The implementation of Islam must take place with immediate effect, in a comprehensive and radical manner, and that country must be involved in conveying the Islamic Dawah.

Fourthly: The Khaleefah must fulfil all the contractual conditions of the Khilafah, whilst he need not fulfil the conditions of preference, since what matters are the conditions of the contract.

If that region satisfies these four conditions, then the Bayah of that region alone would have established the Khilafah, even if it did not represent the majority of the People of Dissolution and Contracting within the Islamic Ummah. This is because establishing the Khilafah is a collective obligation of sufficiency (kifayah). Whoever performs that duty legitimately would then have accomplished the obligation. Stipulating that the Bayah must be by most of the People of Dissolution and Contracting only applies if the Khilafah existed, and a Khaleefah was sought to succeed the deceased Khaleefah, or one who had been removed. However, if there was no Khilafah at all, and we strive to establish one, then the fact that it was established legitimately, the Khilafah would be contracted to any Khaleefah who fulfilled the contractual conditions, regardless of the number of Muslims who had given him the Bayah. What matters at that point in time is the establishment of a duty that Muslims have neglected for a period that has exceeded three days. Their neglect of that duty strips them of their right to choose whom they want. Therefore, under these circumstances,

whoever performs the obligation, it would be enough for the Khilafah to be contracted by them. Once the Khilafah was established in that region, and the Khilafah was effectively contracted to a Khaleefah, all the Muslims would be obliged to come under the banner of the Khilafah. They must give their Bayah to the Khaleefah, otherwise they would be sinful before Allah ﷻ. The Khaleefah must invite them to give the Bayah to him. If they were to refuse, then the ruling regarding the rebels (Bughat) would apply to them. The Khaleefah must fight against them, until they entered under his allegiance. If the Bayah were to be given to another Khaleefah in that country, or in any other country for that matter, after the Bayah had been given to the first Khaleefah, whilst the Khilafah had been legitimately contracted to him, with the four conditions being fulfilled, the Muslims are then obliged to fight against the second 'Khaleefah, until he gives his Bayah to the first Khaleefah. It has been narrated on the authority of 'Abdullah Ibn 'Amru Ibn al-'Aas that he heard the Messenger of Allah ﷺ say, «وَمَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةً يَدِهِ وَتَمْرَةً فَلْيُطِيعْهُ إِنْ اسْتَطَاعَ، فَإِنْ جَاءَ آخَرُ يُنَازِعُهُ فَاصْرِبُوا عَنْقَ

«الْأَخْر» **“Whoever pledged allegiance to an Imam giving him the clasp of his hand and the fruit of his heart shall obey him as long as he can, and if another comes to dispute with him you must strike the neck of that man.”** Since the Khaleefah is the one who unifies the Muslims under the banner of Islam. So once the Khaleefah is established, the Jama’ah (community) of the Muslims comes into existence. It becomes an obligation upon the Muslims to join the community. It is a sin to alienate oneself from it. Muslim narrated from Ibnu ‘Abbas that the Messenger of Allah ﷺ said, «مَنْ رَأَى مِنْ أَمِيرِهِ شَيْئاً فَلْيَصْبِرْ عَلَيْهِ، فَإِنَّهُ مَنْ فَارَقَ الْجَمَاعَةَ شِبْرًا فَمَاتَ إِلَّا مَاتَ مِيتَةً جَاهِلِيَّةً» **“If anyone sees in his Ameer something that displeases him, let him remain patient. Indeed, whosoever separates himself from the Jama’ah (community) by even so much as a hand span, and dies thereupon, dies the death of Jahiliyah.”** Muslim also reported on the authority of Ibnu ‘Abbas that the Messenger of Allah ﷺ said, «مَنْ كَرِهَ مِنْ أَمِيرِهِ شَيْئاً فَلْيَصْبِرْ عَلَيْهِ، فَإِنَّهُ لَيْسَ أَحَدٌ مِنَ النَّاسِ خَرَجَ مِنَ السُّلْطَانِ شِبْرًا إِلَّا مَاتَ عَلَيْهِ إِلَّا مَاتَ مِيتَةً جَاهِلِيَّةً» **“If anyone dislikes something from his Ameer, let him remain**

patient, for if anyone of the people removed himself from the Sultan, by even so much as a hand span and died thereupon, he has died the death of Jahilyah.” We gather from these two Ahadith that adherence to the Jama’ah (the community) and to the Sultan (authority) are obligatory.

The non-Muslims have no right in the Bayah and it is not obligatory upon them. This is because it is a Bayah upon Islam, which is a Bayah on the Kitab of Allah ﷻ and on the Sunnah of His Messenger ﷺ. It necessitates Iman (belief) in Islam, in the Kitab and the Sunnah. The non-Muslims are not permitted in the ruling positions, nor can they elect the ruler. This is because there is no authority (sabeel) for them over the Muslims thus they have no say in the Bayah.

THE BAYAH

The Bayah is an obligation upon all Muslims. It is also the right of every Muslim, male and female. The evidences concerning the Bayah being an obligation are numerous; amongst these is the speech of the Messenger of Allah ﷺ, «...وَمَنْ مَاتَ وَلَيْسَ فِي عُنُقِهِ بَيْعَةٌ مَاتَ مِيتَةً جَاهِلِيَّةً» **“Whoever dies while there was no allegiance on his neck dies a death of the days of ignorance (Jahiliyyah).”** [Narrated by Ibn Umar in Muslim] The fact that the Bayah itself indicates that it is the right of the Muslims, is understood from the Bayah itself. The Bayah is from the Muslims to the Khaleefah; it is not from the Khaleefah to the Muslims. The Bayah of the Muslims to the Messenger of Allah ﷺ has been confirmed in many Sahih (sound) Ahadith. In Al-Bukhari, it has been reported that Ubadah Ibn as-Samit said, «بَايَعْنَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى السَّمْعِ وَالطَّاعَةِ فِي الْمُنْشَطِ وَالْمَكْرَهِ وَأَنْ لَا نُنَازِعَ الْأَمْرَ أَهْلَهُ وَأَنْ نَقُومَ» **“We pledged ourselves in complete obedience to the Messenger of Allah, in weal and woe, and that we would not dispute the matter of**

authority with its people, that we would speak or stand the truth at all times wherever we were, and that in Allah's service we would fear the censure of any blamer." In Bukhari, it has been narrated on the authority of Ayyub from Hafsa that Umm Atiyyah said, «بَايَعْنَا النَّبِيَّ ﷺ فَقَرَأَ عَلَيْنَا أَنْ لَا يُشْرَكَنَّ بِاللَّهِ، شَيْئًا} وَنَهَانَا عَنِ النَّيَاحَةِ، فَقَبَضَتْ امْرَأَةٌ مَنَا يَدَهَا، فَقَالَتْ: فَلَانَهُ أَسْعَدْتَنِي، وَأَنَا أُرِيدُ أَنْ أَجْزِيَهَا، فَلَمْ يَقُلْ شَيْئًا فَذَهَبَتْ ثُمَّ رَجَعَتْ»
“We gave our Bayah to the Messenger of Allah ﷺ, so he ﷺ recited to us ‘they should associate none with Allah’ (Al-Mumtahanah:12) and he forbade us from wailing. A woman from amongst us withdrew her hand saying, ‘so and so woman has made me happy and I want to reward her.’ He said nothing. The woman went then came back.” In Bukhari on the authority of Abu Hurayra reported that the Messenger of Allah ﷺ said, «ثَلَاثَةٌ لَا يُكَلِّمُهُمُ اللَّهُ يَوْمَ الْقِيَامَةِ، وَلَا يُزَكِّيهِمْ، وَلَهُمْ عَذَابٌ أَلِيمٌ: رَجُلٌ عَلِيَ فَضُلَ مَاءٍ بِالطَّرِيقِ يَمْنَعُ مِنْهُ ابْنُ السَّبِيلِ، وَرَجُلٌ بَايَعَ إِمَامًا لَا يُبَايِعُهُ إِلَّا لِدُنْيَاهُ إِنْ أُعْطِيَ مَا يُرِيدُ وَفِي لَهْ، وَإِلَّا لَمْ يَفِ لَهْ، وَرَجُلٌ يُبَايِعُ رَجُلًا بِسِلْعَةٍ بَعْدَ الْعَصْرِ فَحَلَفَ بِاللَّهِ لَقَدْ أُعْطِيَ بِهَا كَذَا وَكَذَا»
“There are three types of people whom Allah would neither talk to,

nor would He praise or purify them on the Day of Judgement. They will be subjected to severe punishment. A man who has water to spare and would not give it to the wayfarer. A man who gives his Baya'h to an Imam for his own benefit. If he gave him what he wanted he would be loyal to him, otherwise he would not. And a man who offers another man goods for sale after Asr Salah, swearing by Allah that he was given so much price for it. So he believed him and took the goods, while he was not given that price for it.” [Narrated by Bukhari and Muslim] Al-Bukhari narrated from Abdullah Ibnu Umar, he said, «كُنَّا نُبَايِعُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى السَّمْعِ وَالطَّاعَةِ يَقُولُ لَنَا فِيمَا اسْتَطَعْتَ» “When we gave our Bayah to the Messenger of Allah ﷺ, to hear and to obey, he used to say to us: ‘As much as you can.’” Al-Bukhari also narrated from Jarir Ibnu Abdullah who said, «بَايَعْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى السَّمْعِ وَالطَّاعَةِ، فَلَقَّنَنِي فِيمَا اسْتَطَعْتُ وَالنَّصِيحَ لِكُلِّ مُسْلِمٍ» “I gave my Bayah to the Messenger of Allah to hear and to obey, so he dictated to me as much as I can, with goodwill advice towards every Muslim.” Al-Bukhari narrated from

«دَخَلْنَا عَلَى عُبَادَةَ ، فَقُلْنَا حَدِّثْنَا أَصْلَحَكَ اللَّهُ بِحَدِيثٍ يَنْفَعُ اللَّهَ بِهِ سَمِعْتَهُ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ دَعَانَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَبَايَعَنَا فَمَا أَخَذَ عَلَيْنَا أَنْ بَايَعَنَا عَلَى السَّمْعِ وَالطَّاعَةِ فِي مَنْشَطِنَا وَمَكْرَهِنَا وَعُسْرِنَا وَيُسْرِنَا وَأَثَرَةٍ عَلَيْنَا وَأَنْ لَا نُنَازِعَ الْأَمْرَ أَهْلَهُ قَالَ إِلَّا أَنْ تَرَوْا كُفْرًا بَوَاحًا عِنْدَكُمْ «We entered Ubadah ibn al-Samit's home while he was ill and said to him: 'May Allah cure you, won't you tell us a Hadith that Allah my reward you for, which you heard from the Messenger of Allah?' He said, 'The Messenger of Allah called us and we gave him our Baya'h, and said: of what he took from us that we pledged to hear and obey, in weal and woe, in ease and hardship and in preference to ourselves and that we would not dispute the matter (authority) with its people.' He said, 'unless we witness a flagrant act of disbelief which we have proof about from Allah.'» [Narrated by Bukhari]

Thus, the Bayah for a Khaleefah is in the hands of the Muslims. It is their right, and they are the ones who give the Bayah. Their Bayah is that which makes the Khilafah contracted upon the Khaleefah. The Bayah is given by a

handshake or in writing. Abdullah Ibnu Dinar said, "شهدت ابن عمر حيث اجتمع الناس على عبد الملك قال، كتب إني أقر بالسمع والطاعة لعبد الله عبد الملك أمير المؤمنين I witnessed Ibnu Umar (ra) when people agreed on (the Ijarah of) Abdul Malik ibn Marwan, he (ra) said: 'I write herewith that I agree to hear and obey the servant of Allah, Abdul Malik, the Ameer of Believers, according to the Kitab of Allah and the Sunnah of His Messenger, and to the best of my ability.' It is also correct for the Bayah to be given by any other means.

However, the Bayah should only be taken from the mature adult, as the Bayah of the child is not valid. Abu Aqeel Zahrah Ibnu Ma'abad reported on the authority of his grandfather Abdullah Ibnu Hisham who lived during the time of the Messenger of Allah ﷺ, that, **وَدَهَبَتْ بِهِ أُمُّ زَيْنَبُ ابْنَةَ حَمِيدٍ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ يَا رَسُولَ اللَّهِ بَايِعْهُ فَقَالَ النَّبِيُّ ﷺ «هُوَ صَغِيرٌ»** "his mother Zainab Ibnatu Hamid took him to the Messenger of Allah and said, "O Messenger of Allah, take a Bay'ah from him. Upon this the Messenger of Allah ﷺ said, 'He is a little boy', he wiped

over his head and prayed for him.”
[Narrated by Bukhari]

As for the wording of the Bayah, it is not restricted to any specific wording. It must, however include the commitment that the Khaleefah acts according to the Kitab of Allah ﷻ and the Sunnah of His Messenger ﷺ, and that the person who gives the Bayah must pledge to obey in weal and woe, and in ease and hardship. Once the Bayah is given to the Khaleefah, or the Khilafah was contracted for the Khaleefah by the Bayah of the Muslims, then the Bayah becomes a trust on the neck of the one who gives the Bayah. Thereafter one is not allowed to withdraw it. It is a right in consideration of the establishment of the Khilafah until one gives it. If one gives the Bayah, one is bound by it. It is not allowed for him even if he wanted to do so. Al Bukhari narrated from Jabir ibn Abdullah (ra), that a Bedouin came and gave Bay'ah to the Messenger of Allah on Islam, but he became ill. So he said, 'Relieve me of my Bayah" three times. The Messenger of Allah said, «الْمَدِينَةُ كَالْكَبِيرِ تَنْفِي خَبْنُهَا وَيَنْصَعُ طَبَبُهَا» **'The town (Madinah) is like the mason's furnace bellow. It gets**

rid of its impurity, and its goodness manifests.’” Muslim also narrated from Nafi’, he said: Abdullah ibn ‘Omar said to me: I heard the Messenger of Allah ﷺ say, «مَنْ خَلَعَ يَدًا مِنْ طَاعَةِ لِقَىٰ لَلَّهِ يَوْمَ الْقِيَامَةِ لَا حُجَّةَ لَهُ» “Whoever withdraws a hand from obedience, he would meet Allah on the day of judgement without having proof for himself.” So breaking the Bayah to the Khaleefah is a withdrawal of the hand from the obedience to Allah ﷻ. However, this is the case if his Bayah to the Khaleefah was a Bayah of Contracting (in’iqaad), or a Bayah of Obedience (Taa’ah) to a Khaleefah, whom the Muslims were satisfied with and gave Bayah to. However, if he pledged himself to a Khaleefah initially, but the Bayah was not contracted to him as the Khaleefah, then he has the right to relieve himself from that Bayah. This is in view of the fact that the Muslims, as a whole, did not accept him. So the prohibition expressed in the Hadith is focused on withdrawing a Bayah to a Khaleefah, not regarding a man upon whom the Khilafah contract was not completed.

CONDITIONS OF THE KHALEEFAH

The Khaleefah must satisfy seven conditions of contracting (in'iqaad) in order to qualify for the Khilafah post, and for the Bayah of Khilafah to him to take place legitimately. These seven conditions are conditions of contracting (in'iqaad) and if one of them is missing, the Khilafah will not be established. The contracting conditions are,

Firstly: The Khaleefah must be Muslim. The post of Khilafah is never allowed for the kafir (unbeliever), nor is it allowed to obey him. Allah ﷻ says,

﴿وَلَنْ يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلًا﴾

“Allah never allows the kuffar any way of authority over the believers.” [TMQ An-Nisa: 141].

Ruling is the greatest way of authority for the ruler, over the ruled. The term ‘lan’ (never) means the categorical prohibition of the kafir from taking a post of authority over the Muslims, be it the Khilafah, or any other post of authority.

Secondly: The Khaleefah must be male. It is forbidden for a female to be Khaleefah. The Khaleefah must be a man, it is not valid for a woman. Al-Bukhari reported on the authority of Abi Bakra who said, Allah ﷻ has given me the privilege of a word which I heard from the Messenger of Allah ﷺ during the days of Al-Jamal (the camel). I was about to join the people of Al-Jamal and fight with them. When the Messenger of Allah ﷺ heard that the people of Persia had appointed the daughter of Chosroes (Kisra), he ﷺ said, «لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ» **“People who appoint (Waalaw) a women as their ruler, will never succeed.”** If the Messenger of Allah ﷺ informed of the negation of success for those who assign the running of their affairs to a woman, this came in the form of a Talab (Demand). This is because it came in the form of dispraise to those who give authority over themselves to a woman by negating their success. It indicates decisiveness in forbidding. So the prohibition of appointing a woman to a position of authority came linked with a connotation (Qareenah) that indicates that the prohibition is decisive (jaazim). So this forbidding (nahi) of appointing a woman, comes

contextualized with the Qareenah that evidences the Demand (Talab) of Abstention (Tark), as a Decisive Demand (Talab Jaazim). Therefore, appointing a woman as a ruler is forbidden (Haram). What is meant is that she is given the ruling: the Khilafah and the positions below it that are considered part of ruling. This is because this Hadith is related to the issue of ruling, not specific to the appointment of Chosroes's daughter as queen. The Hadith is also not general, covering everything. It is related only to matters regarding ruling and authority as it does not apply to posts other than ruling posts.

Thirdly. The Khaleefah must be mature. It is forbidden to appoint a pre-pubescent child. 'Ali Ibn Abi Talib narrated that the Messenger of Allah ﷺ said, «رَفَعَ الْقَلَمَ عَنْ ثَلَاثَةٍ؛ عَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ، وَعَنِ الصَّبِيِّ حَتَّى يَكْبُرَ، وَعَنِ الْمُبْتَلَى حَتَّى يَعْقِلَ»
“Accountability is lifted off three persons: The sleeping until he awakes. The boy until he reaches maturity. The insane until he regains his mind.” [Abu Dawood]. Therefore, the person for whom the pen is raised is not capable to be responsible for himself. He is not under any liability by Shariah. So it is not allowed for him to become Khaleefah, or to hold

any post of authority, for he is not responsible for his own actions. Evidence is also derived from the fact that the Messenger of Allah ﷺ rejected the Bayah of the child. He refused the Bayah of Abdullah Ibn Hisham and gave it the juristic reasoning (illah) that he is a child. The Messenger of Allah ﷺ said, «هُوَ صَغِيرٌ» **“He is still a little boy.”** Therefore, if the Bayah of the little boy is not valid, and he cannot give a Bayah to a Khaleefah, it is not allowed for the little boy to be a Khaleefah himself, from the principle of greater reason (من باب أولى min baabin oola).

Fourthly: The Khaleefah must be sane. It is unlawful for a Khaleefah to be insane because the Messenger of Allah ﷺ said, «رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ» **“The pen has been raised off three persons.”** He then said, «... وَعَنْ الْمُبْتَلَى حَتَّى يَعْزَلَ» **“The insane until he regains reason.”** The person for whom the pen is raised is not under obligation. Also the mind is the condition for responsibility (takleef) and for the validity of actions (tasarufaat). The Khaleefah alone carries out the actions of the government and implements the Shariah legal responsibilities, so he cannot be insane.

Fifthly: The Khaleefah must be just ('adl). It is not allowed for him to be a faasiq (openly disobedient). Justice is an obligatory foundation for contracting the Khilafah, as well as for its continuity. This is because Allah ﷻ has stipulated that the witness must be just. He ﷻ says,

﴿وَأَشْهِدُوا ذَوَىٰ عَدْلٍ مِّنكُمْ﴾

“And seek the witness of two just men from amongst you” [TMQ Surah At-Talaq 65:2].

So, if the witness must be just, then the Khaleefah who holds a higher post and rules over the witness himself should, by greater reason (من باب أولى min baabin oola), be just. For if justice was stipulated in the witness, its presence in the Khaleefah must exist by greater reason.

Sixthly: The Khaleefah must be free, since the slave is under his master's sovereignty. So he does not discharge transactions by himself. Therefore, by greater reason, he cannot discharge transactions for other than himself and discharge guardianship (wilayah) over others.

Seventhly: The Khaleefah must be capable (qaadir) to undertake the burdens of the Khilafah. This is because it is the need of the

Bayah. It is not right for an incapable ('aajiz) person to take the burdens of Khilafah.

The aforementioned are the conditions of contracting (in'iqaad) that are mandatory for the Khaleefah to be appointed. Any other condition, apart from the seven mentioned above, does not constitute a mandatory prerequisite for contracting the Khilafah. Such conditions however, constitute conditions of preference (afDaleeyah), if the texts relating to them are confirmed, or if they are listed under a ruling that has been confirmed by a sound (sahih) text. In order for the condition to be a contractual one, it must have evidence that includes a decisive demand (Talab jaazim) to indicate that it is obligatory. If the evidence does not include a decisive demand, then the condition becomes only one of preference. No evidence containing a decisive command has been found except for those seven conditions. Therefore, they alone constitute the conditions of contracting (in'iqaad). As for the other conditions, whereby the evidence has been confirmed as sound, these would constitute conditions of preference only. Therefore, it is not a condition for the establishment of the Khilafah that the Khaleefah

be a mujtahid. This has not been confirmed by a text indicating a decisive demand. Moreover, the duty of the Khaleefah is to rule. So he is not in need of his own Ijtihad. He could ask about a ruling, or follow the opinions of a mujtahid and adopt opinions on the basis of his imitation (taqlid). Thus, it is not necessary for him to be a mujtahid. It is, however, preferable for him to be so. However, if he is not a mujtahid, his Khilafah would still be contracted. Moreover it is not a condition for the Khilafah to be established that the Khaleefah be brave, nor a shrewd politician nor an expert in managing the affairs of the people and interests because there is no authentic hadeeth to back these conditions. They come do not fall under a divine ruling that makes them contractual conditions, although it is preferable for the Khaleefah to be brave, with vision and opinion. Likewise, it is not a condition for the establishment of the Khilafah that the Khaleefah be from Quraysh. As for what has been reported by Al-Bukhari from Mu'awiya that he said, I heard the Messenger of Allah ﷺ say, «إِنَّ هَذَا الْأَمْرَ فِي فُرَيْشٍ لَا يُعَادِيهِمْ أَحَدٌ إِلَّا كَتَبَهُ اللَّهُ عَلَىٰ وَجْهِهِ مَا أَقَامُوا الدِّينَ» **“Verily this matter is within Quraysh. If anyone were hostile to them,**

Allah would throw him on his face, as long as they implemented the Deen.” And what Al-Bukhari also narrated on the authority of Ibnu Umar that he said: The Messenger of Allah ﷺ said, « لَا يَزَالُ هَذَا الْأَمْرُ فِي قُرَيْشٍ مَا بَقِيَ مِنْهُمْ اثْنَانِ » **“This matter would still be within Quraysh even if only two of them remained.”** [Bukhari and Muslim]. These and other Ahadith, evidenced sound and related to the Messenger of Allah ﷺ that the authority is amongst the people of Quraysh, have actually come in an informative form (seeghatul ikhbaar). Not one Hadith actually carries an imperative form (seeghatul amr). As for the informative form (seeghatul ikhbaar) although it carries a Demand (Talab) such a demand is not a Decisive Demand (Talab Jaazim) unless it is contextualized with a Qareenah for decisive confirmation (ta’keed). These Ahadeeth not been contextualized to any connotation (Qareena) that makes it a Decisive Demand, nor is that the case in any other Sahih narration. This indicates that it is mandub (recommended), and not fard (obligatory). It is, therefore a condition of preference. It is not a contractual condition. As for the Messenger of Allah ﷺ saying, « لَا يُعَادِيهِمْ أَحَدٌ إِلَّا كَبَّهُ اللَّهُ » **“If anyone**

were hostile to them, Allah ﷻ would throw him on his face.” Thus it is another indication in the prohibition of hostility towards the Quraysh. It is not confirmation to his saying, «إِنَّ هَذَا الْأَمْرَ فِي قُرَيْشٍ» **“Verily this matter is within Quraysh...”** The Hadith says that the matter of ruling is within them. It then proceeds to forbid hostility to them. Also, the word Quraysh is a name (ism). It is not a description (sifah). In the terminology of the Usool of Fiqh (Principles of Jurisprudence), it is known as a title (laqab). The understanding (mafهوم) of the name, which is the understanding of the title, is not considered. This is because the name and the title have no Shariah mafهوم (understanding) at all. Therefore, the mention of Quraysh does not mean that the position of ruling cannot belong to other than Quraysh. So when the Messenger of Allah ﷺ said, «إِنَّ هَذَا الْأَمْرَ فِي قُرَيْشٍ» **“Verily this matter is within Quraysh...”** and when he ﷺ said, «لَا يَزَالُ هَذَا الْأَمْرُ فِي قُرَيْشٍ» **“This matter would still be within Quraysh even if two of them remained...”**, it does not mean that this matter cannot be in anyone other than Quraysh. It means that it is within Quraysh and, as well, it is valid to be in the hands of others who are not

from Quraysh. Thus, specifying the people of Quraysh as rulers does not necessarily mean that others are not valid to rule. Therefore, it is a condition of preference (afdaleeyah) and not a condition (sharT) for contracting (in'iqaad).

Indeed, the Messenger of Allah ﷺ appointed 'Abdullah Ibn Ruwahah (ra), Zayd Ibnu Harith (ra) and Usama Ibnu Zayd (ra) to positions of ruling. All three were not from Quraysh. Thus, the Messenger of Allah ﷺ did appoint people from other than Quraysh to positions of ruling. The phrase **“this matter”** (Amr) means the authority, i.e. the rule. This does not only apply to the post of Khilafah. Thereby, the Messenger of Allah ﷺ did appoint people from outside Quraysh. This indicates that authority for ruling is not exclusively confined to the people of Quraysh. It is not prevented from others. Therefore, the ahadith have mentioned some of the people who are worthy of the Khilafah post, to indicate their preference. They do not indicate that it is exclusively confined to them. They do not indicate that it is prohibited for other than them. It is narrated in Bukhari that Messenger of Allah ﷺ said, «اسْمَعُوا وَأَطِيعُوا وَإِنِ اسْتُعِيزَ عَلَيْكُمْ عَبْدٌ حَبَشِيٌّ كَانَ»

«رَأْسُهُ زَبِيبَةٌ» **“Listen and obey, even if an Abyssinian, whose head is like a raisin, was appointed a ruler over you.”** Muslim narrated on the authority of Abu Dharr, he said, «أَوْصَانِي» **“My beloved Muhammad ﷺ advised me to listen and obey, even if he was black, with frail limbs.”** In another narration, «إِنْ أَمَرَ عَلَيْكُمْ عَبْدٌ مُجَدَّعٌ» **“If a slave who has been mutilated is made your commander and leads you in accordance with Allah’s Book, listen to him and obey.”** These ahadith clarify that the appointing of the black person as the ruler of Muslims is allowed. So the ahadith indicate that the Khilafah and ruling can be given not only to non-Quraysh, but also to non-Arabs. The above mentioned Ahadith that some people are eligible for the Khilafah constitute the preference for some people. It does not restrict it for others.

Likewise, the Khaleefah is not required to be a Hashemite or an Alawi. The Messenger of Allah ﷺ appointed people who were neither from Banu Hashim nor from Banu ‘Ali to positions of ruling. When he went out to Tabuk, he appointed Muhammad Ibnu Maslama as

Wali over Madinah, who was neither Hashemi nor 'Alawi. He also appointed Mu'az Ibn Jabal (ra) and Amru Ibn ul-A'as (ra) over Yemen. Neither were from the Hashemi nor 'Alawi. In any case, it has been definitely proven that the Muslims gave the Bayah to Abu Bakr (ra), Umar (ra) and Uthman (ra). 'Ali gave the Bayah to the three of them, despite the fact that they were not from Banu Hashim. All the Sahabah (ra) remained silent about their Bayah, and it was not narrated that anyone objected giving their Bayah because they were neither Hashemis nor 'Alawis. This is considered a Unanimous Consensus (Ijmaa') of the Sahabah, including 'Ali (ra), Ibnu Abbas (ra) and Banu Hashim's entire household, that the Khaleefah could be from other than a Hashemi or an 'Alawi. As for the Ahadith expressing a preference of 'Ali (ra) and the People of the Household (Ahl ul-Bayt) of the Messenger of Allah ﷺ, these do not indicate that the Khilafah can't be contracted to other than to them. Instead, they indicate that they are preferred and it is not as a condition for the contracting (in'iqaad) of the Khilafah to a Khaleefah being from the Ahl ul-Bayt.

The above clearly indicates that there is no evidence whatsoever stating that there are other conditions for contracting (in'iqaad) the Khilafah apart from the seven previously outlined. Any other condition constitutes a condition of preference. It is not a contractual one, if the text expressing such a condition has been confirmed as sound, or such a condition falls under a ruling (Hukm) derived from a sound text. Under Shariah law, what is mandatory is the contractual condition for the Khilafah to be contracted to the Khaleefah to become the Khaleefah. Apart from this, the Muslims will be told about this when the candidates for the Khilafah are presented to them, so that they can choose the best one. Any man whom the Muslims choose, his Khilafah is established if he fulfils the contractual conditions alone, even if he does not meet the others.

SEEKING THE KHILAFAH

To seek the Khilafah post and compete over it is lawful for all the Muslims. It is not Makruh. No divine text has ever been cited indicating its prohibition. It has been confirmed that the Muslims competed for it in the courtyard (Saqifah) of Banu Sa'idah, whilst the Messenger of Allah ﷺ was lying on his bed after his passing, unburied. It has also been confirmed that the six members of the Shura who were all senior Sahabah (ra) competed over the post, in the presence of the Sahabah (ra). No one reproached them. Instead, they consented to this competition. So, a Unanimous Consensus (Ijmaa'a) of the Sahabah (ra) has been established about the permissibility of competing for the Khilafah post. The permissibility of applying for the post is also established, as is the campaigning for it by, putting forward the arguments and opinions, proposals and similar, with the aim of achieving that goal. As for the prohibition of seeking the Imarah (authority) that came in the Ahadith, it is forbidding the weak persons, like Abu Dharr (ra), who are not deemed suitable

for it. However, those who are suitable for the Imarah are permitted to seek it by the evidence of the Saqifah of Bani Saa'idah and the incident of the six people of the Shura. Therefore, the Ahadith are specific to those who are not qualified for the post, whether it was Imarah or Khilafah. As for those who are qualified for it, they are allowed to seek the Imarah. Since the Prophet ﷺ had forbidden seeking Imarah, but it was later established by Unanimous Consensus (Ijmaa') that seeking it and disputing over it is permissible. So the forbidding (nahi) is understood to mean that it applies to those who are not qualified for it. It is not an absolute forbidding.

THE UNITY OF THE KHILAFAH

It is not allowed for there to be more than one Khaleefah in the world. It was narrated on the authority of Abdullah bin Amr bin Al-Aas that he heard the Messenger of Allah ﷺ say, «وَمَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَتَمْرَةَ قَلْبِهِ فَلْيُطِعْهُ إِنْ اسْتَطَاعَ، فَإِنْ جَاءَ آخَرُ يُنَارِعُهُ فَاصْرِبُوا عَنْقَ الْآخَرِ» **“Whosoever gave a Bayah to an Imam, giving him the clasp of his hand, and the fruit of his heart shall obey him as long as he can, and if another comes to dispute with him, you must strike the neck of that man.”** [Muslim] Muslim has also reported it from Abu S’aid Al Khudri that the Messenger of Allah ﷺ said, «إِذَا بُوِيعَ لِخَلِيفَتَيْنِ فَأَقْتُلُوا الْآخَرَ مِنْهُمَا» **“If the Oath of Allegiance (Bay’ah) has been taken for two Khulafaa”, kill the latter of them.”** It has also been narrated by Muslim that Arfajah said: “I heard the Messenger of Allah ﷺ say, «مَنْ أَتَاكُمْ وَأَمْرُكُمْ جَمِيعٌ عَلَيَّ، مَنْ رَجُلٍ وَاحِدٍ يُرِيدُ أَنْ يَشُقَّ عَصَاكُمْ، أَوْ يَفْرِقَ جَمَاعَتَكُمْ فَأَقْتُلُوهُ» **“Whoever comes to you while your affair has been united over one man, intending to divide your power or dissolve your unity, kill him.”** Muslim reported that Abu Hazim said: I accompanied Abu Hurayra for five years and heard him talking about the Messenger of

«كَانَتْ بَنُو إِسْرَائِيلَ تَسُوسُهُمُ الْأَنْبِيَاءُ، كُلَّمَا هَلَكَ نَبِيٌّ خَلَفَهُ نَبِيٌّ، وَإِنَّهُ لَا نَبِيَّ بَعْدِي، وَسَتَكُونُ خُلَفَاءُ فَتَكْثُرُ، قَالُوا: فَمَا تَأْمُرُنَا؟ قَالَ: فُوا بِبَيْعَةِ الْأَوَّلِ فَأَلَّوْا، وَأَعْطَوْهُمْ حَقَّهُمْ فَإِنَّ اللَّهَ سَائِلُهُمْ عَمَّا اسْتَرْعَاهُمْ»

Allah ﷻ, he said, “The children of Israeel have been governed by Prophets (as). Whenever a Prophet (as) died another Prophet (as) succeeded him. However, there will be no Prophet after me. There will soon be Khulafaa’ and they will number many.’ They asked: ‘What then do you order us?’ He said: ‘Fulfil allegiance to them one after the other, and give them their dues; for verily Allah will ask them about what he entrusted them with.’” If the Khilafah were contracted to two Khulafaa’ in two lands at the same time, it would not be valid for either of them, because Muslims are not allowed to have two Khulafaa’. It is not correct to say that the Bayah is valid to the one that had it first because the matter is to establish a Khaleefah. It is not a competitive race for the Khilafah. It is the right for all the Muslims, not the right of the Khaleefah alone. So the matter must be referred back again to the Muslims, to contract one Khaleefah, in the case of contracting two Khulafaa’. It is incorrect to suggest a ballot

between them because Khilafah is a contract, and the ballot is not included in the contract. It is incorrect to refer to the saying of the Prophet ﷺ «فُوا بِبَيْعَةِ الْأَوَّلِ فَالْأَوَّلِ» **“Fulfil Bayah allegiance to them one after the other,”** because in this case, a Bayah pledge is given to Khulafaa’ when there already exists a Khaleefah. So the Bayah pledge is not valid to anyone but the first person, upon whom the Bayah pledge was contracted. Whoever comes afterwards does not have the Bayah pledge contracted upon him lawfully. The case under discussion is when the Khilafah is contracted upon two Khulafaa,’ at the same time, by the majority of the People of Dissolution and Contracting (Ahl ul Hali wal Aqd أهل الحل والعقد). In this case, the Bayah pledge of each of them was contracted legally, in origin. However, the two contracts are then invalidated. The matter must then be referred to the Muslims again. If they then established the Bayah pledge for one of them, then it is considered contracted anew. It is not considered a confirmation to his previous state. If they established it to other than both of them, then that also becomes a contract. Thus, the matter is a right for all Muslims. It is not a right

for the persons who enter in a competition for the post. Then there is the case of when two Khulafaa' were established, whilst the majority of the People of Dissolution and Contracting in the affairs of ruling and Khilafah sided with only one of them, and it was they who elected him, whilst the minority were with the other. In this case, the Bayah pledge would be for the one who the majority of the People of Dissolution and Contracting (Ahl ul Hali wal Aqd أهل الحل والعقد) in the matters of ruling elected, whether he was elected first, second or third. This is because he is considered the legal Khaleefah by virtue of the majority of the People of Dissolution and Contracting electing him. The others must then make a pledge to him for the sake of unity of the Khilafah. Otherwise, Muslims will fight him because the Khilafah is contracted by the Bayah pledge of the majority of the Muslims. He thus becomes a Khaleefah who must be obeyed by all Muslims. It becomes haram (forbidden) to contract another person, and the obedience of the Khaleefah is obligatory on everyone.

Furthermore, the reality of the ruling is that the majority of the People of Dissolution and

Contracting (Ahl ul Hali wal Aqd أهل الحل والعقد), in whose hands lay the affairs of ruling, are usually found in the capital. This is because that is where the highest affairs of ruling are conducted. So, if the residents of a province or provinces elected another Khaleefah, whilst the Bayah pledge to a Khaleefah in the capital came first, then the Khilafah is contracted upon the Khaleefah on the capital. This is because the Bayah pledge given by the people of the capital is an indication that the majority of the People of Dissolution and Contracting are on his side. The Bayah pledge in this case is for the first Khaleefah. However, in the case that the Khaleefah in the provinces was elected first, the preference is then given to the one who has the majority of People of Dissolution and Contracting on his side. This is because the precedence of the people of the provinces in giving the Bayah pledge weakens the indication that the majority of the People of Dissolution and Contracting are present in the capital. In any case, it is not allowed to retain more than one Khaleefah, even if this leads to fighting the one who did not have the Khilafah contracted upon him.

THE SUCCESSION OR DESIGNATION

The Khilafah post is not contracted to a person by appointment of a successor (istikhlaaf), or by designation (ahd). It is a contract between the Muslims and the Khaleefah. In order to be contracted, it requires a Bayah from the Muslims and acceptance from the person to whom they gave their Bayah. Appointment of a successor or designation does not fulfil that. So that cannot contract the Khilafah. Accordingly, the contract of Khilafah is not contracted, if a Khaleefah nominated another Khaleefah to succeed him since he does not have the right to contract the Khilafah. Khilafah is the right of the Muslims and not of the Khaleefah. Thus the Muslims contract it to whomsoever they wish. The Khaleefah's designation of someone else as successor, i.e. his entrustment of the Khilafah to someone else, is not valid, because it is giving what he does not possess, and giving what he does not possess is not permissible according to the Shariah law. So, if the Khaleefah designated another Khaleefah, whether he was his son, or his relative, or any other person, this would be

forbidden. The Khilafah would not be contracted to him by this. This is because those who have right in the contract, did not convene it. Therefore, it would be an un-commissioned contract and thus invalid.

Then there are the claims that Abu Bakr (ra) had designated Umar (ra) and that Umar had designated the "six," and that the Sahabah did not object and kept silent, indicating Unanimous Consensus. These claims do not in fact indicate the permissibility of designating or appointing of a successor. This is because Abu Bakr (ra) had not designated a Khaleefah. He (ra) merely gave consultation to the People of Dissolution and Contracting (Ahl ul Hali wal Aqd) from the Muslims regarding whom they wanted to be their Khaleefah so he nominated 'Ali and Umar. The People of Dissolution and Contracting from the Muslims then chose Umar (ra) by a majority, during the last three months of Abu Bakr's Khilafah. After his death, the Muslims came and gave their Bayah to Umar. Only then was the Khilafah post contracted upon Umar (ra). Up to that moment, before the Bayah, he was not a Khaleefah. The Khilafah had not yet been contracted to him, neither by

Abu Bakr's nomination, nor by the choice of Muslims. It was contracted only when they gave him their Bayah and when he accepted the Khilafah contract. As for Umar's designation of the "six", this was merely a nomination for them in response to the Muslims' request. Then Abdul-Rahman b. Awf (ra) consulted the Muslims as to which of them they wanted to become their Khaleefah. Most of them chose 'Ali (ra) if he adhered to the rulings of Abu Bakr (ra) and Umar (ra), otherwise Uthman (ra). When 'Ali (ra) declined to follow the actions of Abu Bakr (ra) and Umar (ra), Abdul Rahman (ra) gave his Bayah to Uthman (ra). Then the Muslims gave him their Bayah. Therefore, the Khilafah was contracted to Uthman (ra) by the people's Bayah. It was contracted neither by Umar's nomination, nor by the people's choice. If people had not given Uthman (ra) their Bayah, and if he had not accepted the Khilafah post. This would not have been contracted. Therefore, the Bayah of the Muslims to the Khaleefah is fundamental. It is forbidden to contract Khilafah by appointing a successor, or by designation, for it is a contract of authority (Wilayah) that must fulfil the rules of contracts.

THE METHOD TO APPOINT A KHALEEFAH

When the Shariah made it incumbent upon the Ummah to appoint a Khaleefah for it, it also determined the method by which the Khaleefah is appointed for Ummah. This method is evidenced by the Noble Quran, the Sunnah and the Ijmaa' (Unanimous Consensus) of the Sahabah (ra). This method is the Bayah pledge of allegiance. So, the Bayah of the Muslims confers the appointing of the Khaleefah to him, upon the Noble Quran of Allah ﷻ and the Sunnah of the Messenger of Allah ﷺ. The fact that this method is the Bayah is evidenced by the Bayah of the Muslims to the Prophet ﷺ, and from the order of the Messenger ﷺ to us to pledge Bayah to the Imam. The Bayah of Muslims to the Messenger ﷺ was not a Bayah on Prophethood, rather it was a Bayah over ruling. This is because it was regarding action, and not belief (tasdeeq). Therefore, the Messenger of Allah ﷺ was pledged an allegiance as a ruler. It was not as a Prophet or a Messenger. This is due to the fact that acknowledgement of the Prophethood and Messengership is linked intrinsically to belief

(Iman), and not the action of Bayah. The Bayah to him was only in his capacity as the head of the state. The Bayah was mentioned in the Qur'an and Hadith. Allah ﷻ says,

﴿يَأْتِيَا النَّبِيَّ إِذَا جَاءَكَ الْمُؤْمِنَاتُ يُبَايِعُنَكَ عَلَىٰ أَنْ لَا يُشْرِكْنَ بِاللَّهِ شَيْئًا وَلَا يَسْرِقْنَ وَلَا يَزْنِينَ وَلَا يَقْتُلْنَ أَوْلَادَهُنَّ وَلَا يَأْتِينَ بِبُهْتَانٍ يَفْتَرِينَهُ بَيْنَ أَيْدِيهِمْ وَأَرْجُلِهِمْ وَلَا يَعْصِيَنَّكَ فِي مَعْرُوفٍ فَبَايِعَهُنَّ﴾

“O Prophet! If the (female) believers come to you to take the oath (Bayah) that they will not associate (in worship) anything whatever with Allah, that they will not steal, that they will not commit adultery, that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and they will not disobey you in any just matter (Ma'roof), then receive their oath (Bayah)” [TMQ: Al-Mumtahana 60:12].

In another verse, Allah ﷻ says,

﴿إِنَّ الَّذِينَ يُبَايِعُونَكَ إِنَّمَا يُبَايِعُونَ اللَّهَ يَدُ اللَّهِ فَوْقَ أَيْدِيهِمْ﴾

“Verily those who pledge their allegiance to you do no less than pledge their allegiance to Allah: The Hand of Allah is over their hands” [TMQ Al-Fath 48:10].

Al-Bukhari narrated: "Ismail told us, Malek told on the authority of Yahya bin Sa'eed who said: Ubadah bin Alwaleed told me, that my father told me on the authority of Ubadah ibn al-Samit who said, «بَايَعْنَا رَسُولَ اللَّهِ ﷺ عَلَى السَّمْعِ وَالطَّاعَةِ، فِي الْعُسْرِ وَالْيُسْرِ، وَالْمُنْشَطِ وَالْمَكْرَهِ، وَعَلَى أَثَرَةِ عَلَيْنَا، وَعَلَى أَنْ لَا نُنَازِعَ الْأَمْرَ أَهْلَهُ، وَعَلَى أَنْ نَقُولَ بِالْحَقِّ أَيُّمًا كُنَّا، لَا نَخَافُ فِي» **«We have pledged allegiance to the Messenger of Allah to listen and obey in ease and in hardship and that we do not dispute the matter (authority) with its people and that we stand for or speak the truth wherever we were and that in the service of Allah we would fear the blame of no one.»** Al-Bukhari also narrated: "Ali bin Abdullah told us, Abdullah bin Yazid, Saeed bin Abi Ayyoub said: 'Abu Aqeel Zahrah bin Ma'bad on the authority of his grandfather Abdullah bin Hisham who has seen the Prophet, his mother Zainab daughter of Humaid took him to Rasul Allah and said: 'O Messenger of Allah take his Bayah, the Prophet said, «هُوَ صَغِيرٌ. فَمَسَحَ رَأْسَهُ وَدَعَا لَهُ» **«He is young', and he stroked over his head and prayed for him.»** Al-Bukhari also narrated: "Abdan told us on the authority of Abi Hamza, from Ala'mash, from Abi Saleh, that

Abu Hurayra said: The Prophet ﷺ said, «ثَلَاثَةٌ لَا يُكَلِّمُهُمُ اللَّهُ يَوْمَ الْقِيَامَةِ، وَلَا يُزَكِّيهِمْ، وَلَهُمْ عَذَابٌ أَلِيمٌ: رَجُلٌ عَلَى فَضْلٍ مَاءٍ بِالطَّرِيقِ يَمْنَعُ مِنْهُ ابْنَ السَّبِيلِ، وَرَجُلٌ بَايَعَ إِمَامًا لَا يُبَايِعُهُ إِلَّا لِدُنْيَاهُ إِنْ أُعْطَاهُ مَا يُرِيدُ وَفِي لَهُ، وَإِلَّا لَمْ يَفِ لَهُ، وَرَجُلٌ يَبِيعُ رَجُلًا بِسِلْعَةٍ بَعْدَ الْعَصْرِ فَحَلَفَ بِاللَّهِ لَقَدْ أُعْطِيَ بِهَا كَذَا وَكَذَا فَصَدَّقَهُ» «There are three types of people whom Allah would not talk to nor would He praise or purify them on the Day of Judgement. They will be subjected to severe punishment. A man who has water to spare and would not give it to the wayfarer. A man who gives his Bayah to an Imam for his own benefit, if he gave him what he wanted he would be loyal to him, otherwise he would not. A man who offers another man goods for sale after Asr prayer, swearing by Allah that he was given so much price for it, and so he believed him and took the goods, while he was not given that price for it.” [Narrated by Bukhari and Muslim] These three Ahadith are explicit in that the Bayah is the method of appointing the Khaleefah. In the Hadith of Ubadah, the Messenger ﷺ took the Bayah to listen and obey. This is with respect to the ruler. In the Hadith of Abdullah b. Hisham he refused his Bayah because he was still a

child, which confirms that it is a Bayah over ruling. The Hadith of Abu Hurayra (ra) is explicit that it was a pledge of allegiance to the Imam. The word was mentioned without “the.” So it is in the indefinite case, to indicate any Imam. There are other Ahadith that refer to the Bayah of an Imam. In Muslim, it is narrated from Abdullah bin Amr that the Messenger of Allah ﷺ said, «مَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَتَمْرَةَ قَلْبِهِ فَلْيُطِعهُ إِنَّ اسْتِطَاعَ، فَإِنْ جَاءَ آخَرَ يُنَازِعُهُ فَاضْرِبُوا عُنُقَ الْآخَرِ» **“Whosoever pledges allegiance to an Imam by giving him the clasp of his hand and the fruit of his heart, let him obey him if he is able to do so, but if another comes along to dispute with him, then kill the other.”** Also in Muslim, Abu Saeed Al-Khudri said: The Messenger of Allah ﷺ said, «إِذَا بُويِعَ لِخَلِيفَتَيْنِ فَأَقْتُلُوا الْآخَرَ مِنْهُمَا» **“If two Khulafa’a’ were pledged allegiance, then kill the latter of them.”** Muslim narrated on the authority of Abi Hazim who said, «كَانَتْ بَنُو إِسْرَائِيلَ تَسُوسُهُمُ الْأَنْبِيَاءُ، كُلَّمَا هَلَكَ نَبِيٌّ، خَلَفَهُ نَبِيٌّ، وَإِنَّهُ لَا نَبِيَّ بَعْدِي، وَسَتَكُونُ خُلَفَاءُ فَتَكْتُمُونَ، قَالُوا: فَمَا أَصْبَحْتَ بِبَيْعَةِ الْأَوَّلِ وَالْآخِرِ؟ قَالَ: فَمَا بِيَعْتُمُ الْوَالِدَ وَالْأَوْلَادَ؟ قَالُوا: بَلَى، إِنْ بَايَعْتُمُوهُمَا فَتُكْرِمُوا وَالَّذِينَ لَا يَبَايَعُونَهُمَا فَسَبُّوا وَسَأَافُوا بِالْحَرْبِ، قَالُوا: فَكَيْفَ نَفْعُ الْبَيْعَةِ؟ قَالَ: الْبَيْعَةُ بَيْنِي وَبَيْنَكُمْ، وَإِنْ بَايَعْتُمُوهُمَا فَتُكْرِمُوا وَالَّذِينَ لَا يَبَايَعُونَهُمَا فَسَبُّوا وَسَأَافُوا بِالْحَرْبِ، قَالُوا: فَكَيْفَ نَفْعُ الْبَيْعَةِ؟ قَالَ: الْبَيْعَةُ بَيْنِي وَبَيْنَكُمْ» **I accompanied Abu Hurayra five years and I heard him talk about the Prophet saying, ‘Banu Israeel used to be governed by Prophets, every**

time a Prophet died, another came after him, and there is no Prophet after me. There will be Khulafa'a' and they will number many.' They said, 'What would you order us to do?' He said, 'Fulfill the Bayah to them one after the other, and give them their due right, surely Allah will account them for that which He entrusted them with.'" The texts are explicit in the Book and Sunnah that the method of appointing a Khaleefah is by the Bayah. This was understood and practiced by all of the Sahabah (ra). Abu Bakr was pledged a private Bayah in the Saqifah of Bani Sa'idah, and a public Bayah in the Masjid. Then others who were absent from the Masjid like 'Ali bin Abi Taleb (ra) gave him the Bayah later on. Umar (ra) was also pledged a Bayah from the Muslims, as were Uthman (ra) and 'Ali (ra). So, the Bayah is the only legitimate Shariah method of appointing a Khaleefah for the Muslims.

The practical details of the procedure of this Bayah are clear from the appointment of the four Khulafaa', who directly succeeded the Prophet ﷺ after his death. They were, Abu Bakr, Umar, Uthman, and 'Ali, may Allah be pleased with them all. All of the Sahabah (ra) remained silent

to this and accepted it. It is inconceivable that they could have accepted it if it was against the Shariah. This is because it is related to a vital matter, upon which rely the entity of the Muslims and the preservation of the ruling by Islam. If we follow the development of the appointment of those Khulafaa', we find that some Muslims had discussions in the courtyard (saqeebah) of Banu Saaidah. The candidates were Sa'd, Abu Ubaydah, Umar, Abu Bakr and none other, may Allah be pleased with them. As a result of the debate, the Bayah of Contracting was given to Abu Bakr (ra) by which he became the Khaleefah of the Muslims. The next day the Muslims were called to the Masjid and in turn pledged their Bayah of Obedience. When Abu Bakr (ra) felt that his illness carried with it death, he invited the People of Dissolution and Contracting (Ahl ul Hali wal Aqd) from the Muslims and consulted them with regards to who could be a Khaleefah for the Muslims after him. The opinion during these consultations was focused on 'Ali (ra) and Umar (ra) and no one else. He (ra) continued in making these consultations for three months. When they were complete and he (ra) knew the opinion of the Ahl

ul Hali wal Aqd of the Muslims, he (ra) announced to them that Umar (ra) would be the Khaleefah to succeed him. Upon his death directly, the Muslims came to the Masjid and pledged their allegiance to Umar (ra) for Khilafah. So, with this Bayah Umar (ra) became the Khaleefah for the Muslims. It was neither with the consultations, nor with the announcement of Abu Bakr (ra). When Umar (ra) was stabbed, the Muslims urged him to nominate a Khaleefah. However, he (ra) refused. They were insistent. So Umar (ra) relented and nominated six. After his death the nominees delegated one of them, namely Abdul Rahman b. 'Awf (ra), for consultation and he in turn consulted the Muslims. They chose Uthman (ra) and he became the new Khaleefah. This was neither by the choice of Umar (ra) nor by the announcement of Abdul Rahman (ra). When Uthman (ra) was martyred, the Muslims as a whole pledged allegiance to 'Ali in Madinah and Kufa. So 'Ali bin Abi Talib (ra) became Khaleefah with the Bayah of the Muslims.

From this it appears that the practical details to conduct the pledge of Khilafah is the debate among Muslims about who is suitable

for the Khilafah. Once the opinion settles upon a list of people, their names will be publicized to the Muslims. After which the popular choice from amongst them is given the pledge, from the people, as well as the rest of the nominees. So in the courtyard of Bani Sa'ida the debate was about Sa'd (ra), Abu 'Ubayda (ra), Umar (ra) and Abu Bakr (ra). Then Abu Bakr (ra) was given the Bayah of Contracting. The Muslim populace then gave him their Bayah of obedience. Abu Bakr (ra) discussed with the Muslims about 'Ali (ra) and Umar (ra). Then he (ra) declared the name of Umar, who was then given the Bayah. Umar (ra) suggested that the Khaleefah to be from among the six people. After referring to the Muslims, 'Abdul Rahman ibn 'Auf (ra) declared the name of Uthman (ra) who was then given the Bayah. Whereas 'Ali (ra) was given the Bayah immediately, as the situation was one of Fitna crisis. It was known that no nominee was equivalent to him in the opinion of Muslims when Uthman was killed. Thus, the matter of Bayah proceeds after debate to establish suitable candidates. Then one of them is elected as a Khaleefah. Then the Bayah is taken for him from the people.

Although this matter was evident in the consultations made by Abu Bakr (ra), it also is very clear in the case of the Bayah given to Uthman. Al-Bukhari narrated on the authority of al-Zuhari that Hameed ibn 'Abdul Rahman had informed him that al-Meswar ibn Mahrama told him that the group appointed by Umar had met and consulted. "Abdul Rahman ibn 'Auf had said to them: I am not the one who competes with you for this matter but if you wish I could choose for you one from among you. So, they assigned this to 'Abdul Rahman. When they charged 'Abdul Rahman with this matter, people turned to him to the extent that I did not see anyone who followed this group or stepped behind them. The people turned to 'Abdul Rahman consulting him in those nights until the night of which we woke up in the morning and gave our pledge to Uthman. Al-Meswar said: Abdul Rahman knocked at my door, after part of the night had passed, until I woke up. He said, **أراك نائماً، فوالله ما اكتحللت هذه الثلاث بكثير نوم، انطلق،** **'I see you sleeping, by Allah; my eyes did not find much sleep the last three nights. Set forth and call al-Zubair and Sa'd.'** I invited them to him. He consulted with

them. Then he called me and said, Call 'Ali for me, so I called him. He carried on a conversation with him until the night faded away. Then 'Ali left him with some expectations. 'Abdul Rahman was afraid about something from 'Ali. Then he said call Uthman for me, so I called him. He carried on his conversation with him until they departed as the Muezin called for Fajr prayer. After he lead the people in the Fajr prayer, and the group of six persons met near the Minbar (pulpit), he sent for all the Muhajiroon and Ansar who were present (in Madinah) and sent for the leaders of the army who performed the Hajj pilgrimage that year with Umar. When they gathered, 'Abdul al-Rahman bore witness and presented the matter to Ali. When Ali refused to abide by what Abu Bakr and Umar had adhered to, he took Uthman by the hand. And he said (to Uthman), **أبايعك على سنة الله ورسوله والخليفين من بعده** **'I give you the Bayah upon the way of Allah, His Messenger and the two Khulafa'a who came after him.'** So 'Abdul Rahman, the Muhajiroon, the Ansar, the leaders of the army and rest of the Muslims gave him the Bayah."

So the nominees for the Khilafah were limited to the group named by Umar (ra), after the Muslims had asked him to do so. After he withdrew himself from the nomination to the Khilafah, 'Abdul Rahman ibn 'Auf (ra) took the opinion of the Muslims about who would be the Khaleefah. He then announced the name of the person who the Muslims wanted after consulting with them. After he announced the name of the person who the people wanted, the Bayah was given to him. He became Khaleefah by this Bayah. Therefore, the Hukm Shari'i concerning the appointment of the Khaleefah is to limit the nominees for the Khilafah, within those who represent the opinion of the majority of the Muslims. Then their names are presented to the Muslims. They are asked to select one of the nominees to be Khaleefah for all. When it is determined whom the majority of the Muslims have chosen, then the Bayah from all Muslims is taken for him, whether each and every person had specifically chosen him, or not. This is the method because of the Ijma'a (Unanimous Consensus) of the Sahabah (ra) about Umar limiting the nominees for the Khilafah to six

specific persons. It is also because of the Ijma'a of the Sahabah that 'Abdul Rahman determined the opinion of all the Muslims, about who they thought the Khaleefah should be. After a Unanimous Consensus concerning the Bayah had been reached 'Abdul Rahman announced the person elected by the Muslims as a Khaleefah. This is clear when he said, *إني نظرت في أمر الناس فلم أرهم يعدلون بعثمان* “**I viewed the matter of the people and did not see them compare anyone with Uthman.**” All of this makes explicit the Hukm Shari' concerning the appointment of the Khaleefah.

Two issues remain to be examined; **a. The first issue** is who are the Muslims who appoint the Khaleefah? Are they the People of Dissolution and Contracting (Ahl ul Hali wal Aqd), or a certain specific number of Muslims? Or do all of the Muslims appoint the Khaleefah? **b. The second issue** concerns the actions occurring today in elections, such as secret ballots, polling boxes and counting votes. Are these matters consistent with Islam? Does Islam allow them or not?

As for the first issue, Allah ﷻ has given the authority to the Ummah. He ﷻ made the

appointment of the Khaleefah a right and a duty for all Muslims. Allah ﷻ did not make it a right of one particular group to the exclusion of another, nor for one jama'ah, whilst leaving another jama'ah aside. The Bayah is a duty upon all the Muslims. The Prophet ﷺ said, «مَنْ مَاتَ وَلَيْسَ فِي عُنُقِهِ بَيْعَةٌ مَاتَ مِيتَةَ جَاهِلِيَّةٍ» **“Whoever dies without having a pledge upon his neck would die the death of jahilliyah.”** And this is a general command for every Muslim. Therefore, the People of Dissolution and Contracting (Ahl ul Hal wal Aqd أهل الحل والعقد) do not possess the exclusive right to appoint the Khaleefah. They cannot ignore the rest of the Muslims. Nor do specific persons have the exclusive right. Instead, this right is for all the Muslims with no exception. It even includes the Fujjar (wicked people) and the Munafiqeen (hypocrites), providing they are mature, adult Muslims because the Shariah text came in a general form in this instance. Nothing came to specify the generality, except the refusal of the pledge from the young who have not yet reached the age of puberty. So the text has to be taken generally.

However, it is not a condition that all Muslims exercise this right. Whilst it is a duty,

because the Bayah is Fard, it is Fard Kifayah (Collective Duty of Sufficiency). It is not Fard Ain (Individualized Duty). Thus, if some of the Muslims fulfil it, the duty falls from the rest of the Muslims. All Muslims must be enabled to exercise their right in electing the Khaleefah, regardless of whether they exercise their right or not. In other words, every Muslim must be able to participate in selecting the Khaleefah. So, the issue is to enable the Muslims to carry out the duty of establishing the Khaleefah, which Allah ﷻ prescribed upon them. They must be enabled in such a way that the sin of not fulfilling this duty is removed from their necks. The issue is not the actual participation of all the Muslims in conducting this duty. This is because the duty, which Allah ﷻ prescribed, is to establish the Khaleefah for Muslims by their consent and choice. It is not a requirement for all Muslims to perform it. Two cases can result from this issue. Firstly, the consent of all Muslims in the establishment of the Khaleefah is achieved. Secondly, the consent of all the Muslims about the appointment is not achieved. However, in both cases, the Muslims are able to participate in the appointment.

With regard to the first case no condition is set concerning a specific number required to appoint the Khaleefah. Instead, any number of Muslims can give their Bayah to the Khaleefah. In this Bayah, the consent of the rest of the Muslims is attained by their silence, or by proceeding to obey him based on their bayah to him, or by anything which implies their consent. It is then that the appointed Khaleefah becomes a Khaleefah for all the Muslims. He will be legally (Shari'-wise) the Khaleefah even if only five people appointed him. This is because collectivity is achieved by carrying out the appointment of the Khaleefah. The consent is achieved by their silence and through obedience or anything similar, on condition that this is accomplished by absolute choice, whilst enabling the expression of opinions fully. However, if the consent of all the Muslims was not achieved, then the appointment of the Khaleefah would not be accomplished. This is unless it was performed by a group that represents the consent of the majority of the Muslims, regardless of the number in this group. From here, some Fiqh jurists concluded that the appointment of the Khaleefah is

established by the Bayah pledge given to him by the people of People of Dissolution and Contracting. They consider the People of Dissolution and Contracting as the group which achieves the consent of the Muslims through the Bayah pledge. They give pledge to any man who fulfils the contractual conditions of the Khilafah. Therefore, it is not the pledge of the People of Dissolution and Contracting, in themselves, which establishes the Khaleefah. Their pledge is not a condition for the legal appointment of the Khaleefah. Instead the pledge of the People of Dissolution and Contracting is an evidence indicating that the consent of the Muslims to the pledge has been achieved. This is because the People of Dissolution and Contracting are considered as representative of the Muslims. And every evidence, which indicates that the consent of the Muslims with the pledge to a Khaleefah is fulfilled, completes the appointment of the Khaleefah, and the appointment of the Khaleefah by this pledge would be legal in Shariah.

Accordingly, the divine Shariah ruling is to establish the Khaleefah by any gathering whose appointment of the Khaleefah achieves the

consent of the Muslims. This is by any indication that established this consent whether this indication is the pledge of the majority of the People of Dissolution and Contracting, the majority of the representative Muslims, or the silent acceptance of the Muslims regarding the group that gave the Bayah pledge, or their hurry to display obedience as a result of the Bayah pledge or by any similar means. This is as long as they were provided with the full facility to freely express their opinions. It is not a divine Shariah ruling that this gathering must be of only the People of Dissolution and Contracting, nor that they are four or four hundred or more, nor that they must be the residents of the capital or the regions. Indeed, the divine Shariah ruling is that their pledge fulfils the consent of the majority of Muslims, by any indication of the indications, together with enabling them to freely express their opinion fully.

In this context, “all of the Muslims” means those Muslims living in that country, under the rule of the Islamic State. It is those who were the subjects of the previous Khaleefah, if the Khilafah was previously established. It is also those through whom the Islamic State would

be re-established, and by whose Bayah the Khilafah would be contracted, if the Islamic State was not established and they had worked towards establishing it so as to resume the Islamic way of life. The Bayah of the other Muslims would not be considered as a condition, nor would their consent be considered as such. This is because they would either be outside the authority of Islam, or living in Dar-ul-Kufr and unable to join Dar-ul-Islam. In either case, they would not have the right to give the Bayah of contract. However, they must give the Bayah of obedience. Those who do not submit to the authority of Islam would be considered rebels (Bughat). Those living in Dar-ul-Kufr were thus evidently unable to achieve the establishment of the Islamic authority. Therefore, they cannot now establish it practically, or join it immediately. Thus, the Muslims who possess the right to exercise the Bayah of contracting, and whose consent is conditional for the Khaleefah to be lawfully appointed, are the ones through whom the authority of Islam effectively gains its establishment. It would be wrong to say that this is an intellectual matter

that has no Shariah evidence to back it up. One cannot say this because this is related to the subject of the ruling (مناط الحكم manaT-ul Hukm) and not the ruling itself. Therefore, it is necessary to explain its reality, instead of bringing a Shariah evidence for it. For instance, the eating of carrion meat is forbidden. Now that is the ruling (Hukm Shari'). To investigate and determine what constitutes carrion meat would be the subject of the ruling, which is the Manat, or the subject that the ruling is related to. Thus, the Muslims have to establish a Khaleefah. That constitutes the Shariah ruling. This appointment has to be carried out by consent and choice. That is a Shari' ruling too. These are what require evidence. Whereas, if we were to ask who constitutes the Muslims by whom the appointment would be carried out, and what constitutes the matter which makes consent and choice achievable, these would constitute the subject of the ruling (مناط الحكم Manat-ul Hukm). It is the subject for which the 'Hukm' (ruling) had come to deal with. The conformity of the Shariah ruling with the subject makes the ruling achievable and accomplished. So

the Manat that the Shariah ruling came for should be investigated by explaining its reality.

It would be incorrect to say that the Manat-ul Hukm is the 'illah (legal reasoning) behind the Hukm (علة الحكم 'illatul Hukm), therefore requiring Shari' evidence (daleel). This is incorrect because the subject (Manat) of the ruling is different from the 'illah (legal reasoning) behind the ruling. In fact, there is a great difference between the subject and the legal reasoning. The 'illah is what initiates the ruling to be initiated and this must have Shari' evidence for it. As for the Manat of the ruling, this is the subject upon which the ruling applies, or to which the ruling is related. In other words, it is the issue that the ruling applies upon. It is neither its evidence nor its 'illah (legal reasoning). It therefore follows that the Manat is the matter that the ruling is attached to. It is the matter for which the ruling is brought to deal with or treat. It is not true to say that the ruling is brought because of it, so as to say that it is the 'illah behind the ruling. Thus, the Manat of the ruling is the non-textual aspect of the Shariah ruling. To realize it would be other than to realize the 'illah. Realizing the 'illah would be to

understand the Shariah text that had come to substantiate the 'illah. This is to actually understand the text (naqliyyat). This is not the Manat either. This is because the Manat is completely different from the Naqliyyat. The Manat is the reality upon which the Shariah ruling applies. If you say that alcohol is haram, then the Shariah ruling is that alcohol is haram (prohibited). However, to investigate that a certain drink is alcohol or not, so as to judge it as haram or not, is an investigation of the Manat. It is necessary to study whether the drink is alcohol, or not, in order to state that it is haram. The investigation of the reality of the alcohol is a verification of the Manat. If one says that the water allowed to use for wudu is the mutlaq (flowing) water, then the Shariah ruling is that the mutlaq flowing water is that water which is allowed for wudu. So, the investigation is as to whether the water is flowing or not. This is in order to judge upon it regarding it being allowed for wudu is a verification of the Manat. Therefore, it is necessary to study the water, so as to determine whether it is flowing, or stagnant in order to say that it is permissible to perform wudu from it. This study of the reality of

the water is the verification of the Manat (taHqeeq ul-Manaat). Consider the person who had a hadath (discharge) so s/he must make wudu again for the prayer. The verification of whether the person is mohdath (having discharged), or not, is a verification of the Manat (taHqeeq ul-Manat), and so on. Ash-Shatebi said in the book Al-Muwafaqaat, فهذه المواضع وأشباهها مما يقتضي تعيين المناط لا بد فيها من أخذ الدليل "These subjects, and their like, from that which mandates determination (ta'yeen) of the Manat must take the evidence from the reality (al-waaqi'ah) of every incident." Ash-Shatebi further states, قد يتعلق الاجتهاد بتحقيق المناط فلا يفتقر في ذلك إلى العلم بمقاصد الشارع كما أنه لا يفتقر إلى معرفة علم العربية لأن المقصود من هذا الاجتهاد إنما هو العلم بالموضوع على ما هو عليه وإنما يفتقر فيه إلى العلم بما لا يعرف ذلك الموضوع إلا به من حيث قصدت المعرفة به فلا بد أن يكون المجتهد عارفاً ومجتهداً من تلك الجهة التي ينظر فيها ليتنزل الحكم الشرعي على وفق ذلك المقتضى "Ijtihad could be connected with the verification of the Manat (تحقيق المناط taHqeeq ul-Manat). Thus, it does not require the knowledge of the aims of the Legislator, Allah ﷻ. It also does not require the knowledge of the Arabic language. This is because the aim of this ijtihaad is knowing

the subject (mawdoo') as it is. So it requires the knowledge of what this subject can't be recognized without. Therefore, the mujtahid has to be knowledgeable and have exerted from this aspect, in order to apply the Shariah ruling (Hukm Shar'i) according to the specific requirement."

The verification of the illah (legal reasoning) is dependent on the understanding of the divine Shariah text which it came with justification provided with legal reasoning. This is an understanding of the transmitted evidences (نقلیات naqaliyaat). It is not the Manat. Instead, the Manat is other than the transmitted evidence. The Manat is meant to be the reality (الواقع) upon which the divine law applies. As an example, we observe that alcohol is haram. However, the verification of whether a particular liquid is alcohol or not is the verification of the Manat. Consider the mutlaq (flowing) water is that with which wudu can be performed. The verification of whether the water is flowing, or not, is the verification of the Manat. When it is said that the moh'dath (the one who discharged) has to make wudu, the verification that the person is moh'dath, or not, is the

verification of the Manat. Thus, the verification of the Manat is the investigation of the matter that is the subject of the ruling (mawdoo' ul-Hukm). Accordingly, it is not a condition that the one who verifies the Manat be a mujtahid or a Muslim. It is enough that he or she is knowledgeable of the matter. So, the study of who are the Muslims, and whose pledge is evidence of the acceptance or consent for the Khaleefah, is a study about the verification of the Manat.

This is all in regard to the first issue. As for **the second issue**, regarding what occurs nowadays in conducting elections by secret ballot, using polling boxes, the counting of votes and the like, all these are styles to perform the selection by consent and choice. Therefore, they neither enter under the Shariah ruling, nor in the question of the Manat of the Hukm Shari', which is the subject (mawdoo') that the divine ruling came to treat. This matter is not concerned with ruling upon the actions of the servant (أفعال العباد af'aal al-ibaad). It is also not the subject (mawdoo) upon which the divine Shariah ruling applies. Instead, they are the styles (أساليب asaleeb) by which the action of the

servant are performed i.e. for which the Address of the Legislator is related to. In this instance, it is the establishment of the Khaleefah by consent where the means must provide a complete facilitation to enable the expression of opinion for this question. Muslims have the right to select these or other styles. Any style which leads to enabling the Muslims to carry out the Fard of appointing the Khaleefah by consent and selection, Muslims are allowed to use. This is unless there is divine Shariah evidence which specifically prohibits the means. It is wrong to say that this style is an action of the servant, which must therefore be conducted according to the divine Shariah rulings. This is because the evidence for these actions has come with regards to their origin in generality. Thus, it includes all actions that branch out from that origin. This is unless there is divine Shariah evidence that relates to a subsidiary action. In such a case the action must follow that evidence. An example of this is the Salah prayer. Its evidence is only related to establishing it. It does not include every action included in the Salah. As for the action that is a branch of an action and there is general

evidence for carrying out its origin (أصل) and no specific evidence is provided for its branches (فرع far'a), then this general evidence makes all the subsidiary actions that lead to carrying out the origin of the action permissible (mubah). The prohibition of an action which is a branch requires an evidence to for its prohibition (tahreem) in order for it to depart from the rule of permissibility (hukm al-mubah), and in this manner follow the styles and means. In the subject of elections, the action in origin is the appointment of the Khaleefah by consent and choice. The actions which branch out from them such as polling, using the polling boxes and counting of the votes and the like, all enter under the rule of the origin. They do not require another evidence. To exclude any of them from the rule of the origin, which is to prohibit them, requires evidence. This is the case for all the styles which are human actions. Concerning the means which are tools like the ballot boxes, these take the ruling of things (objects) and not the ruling for actions. The ruling for objects is governed by the Qa'idah principle, الأصل في الأشياء الإباحة ما لم يرد دليل التحريم **The origin in things (objects) is permissibility unless there exists**

an evidence of prohibition.” The difference between method (Tareeqah) and style is that method is an action (fa’l) that is considered by itself as an origin (asl), or a branch (far’a), for an action that does not have a general evidence (daleel aam) for its origin. Instead, it has a specifying evidence (daleel khass). The style on the other hand is an action which is a branch of an action, upon which there is a general evidence. The method must therefore depend upon Shariah evidence (daleel) because it is a Shariah ruling. Therefore, it must be adhered to, observed, and closely followed. Muslims have no choice concerning it, unless its ruling is ibaha (permissible). This is different from the style which does not depend on Shariah evidence. Instead, it is included in the ruling of its origin. Therefore, it is not obligatory to follow a particular style even if the Messenger of Allah ﷺ did so. Instead, a Muslim is allowed to use any style as long as it leads to the performance of the action. Thus it becomes a branch to the action. Therefore, it is said that the style is determined by the type of action.

THE REMOVAL OF THE KHALEEFAH

The Khaleefah is removed if his status changed in a way that takes him out from the post of the Khilafah with immediate effect. Removal is an obligation (واجب العزل) regarding the Khaleefah, if his status changes in a way that does not take him out from the post of the Khilafah immediately. There is a difference between the case that takes the Khaleefah out from the post of the Khilafah, and the case in which the removal is an obligation (واجب العزل). In the first case, which removes him from the Khilafah post, obedience is not compulsory as soon as his status changes. In the second case, where removal is an obligation, his obedience remains compulsory, until he is effectively removed. There are three cases that take the Khaleefah out from the post of the Khilafah with immediate effect:

Firstly: If he apostatizes (irtad) from Islam.

Secondly: If the Khaleefah becomes irreversibly insane.

Thirdly: If the Khaleefah is imprisoned by a formidable enemy, and cannot free

himself from them, whilst there is no hope of freeing him from captivity.

In these three cases, the Khaleefah is taken out of his post of the Khilafah with immediate effect. He must immediately be removed, even if there was no verdict issued for his removal. He is not to be obeyed. His orders must not be executed, by whoever has evidence that the Khaleefah is under any of these three conditions. However, it is necessary to establish if any of these cases happened to him, and the evidence for that must be established by the Court of Unjust Acts (Madhalim). It would issue its ruling stating that the Khaleefah had been taken out of the post of the Khilafah, and that he must be removed. It thus allows the Muslims to contract the post of Khilafah upon someone else.

As for the matters where the Khaleefah is no longer permitted to continue in office, but do not take him out of his post of the Khilafah, with immediate effect, these are five:

Firstly: If his justness ('adl) is invalidated by showing manifest signs of Fisq (wrongdoing).

Secondly: If the Khaleefah becomes a female (أنثى) or effeminate (خنثى مشكل).

Thirdly: If the Khaleefah suffers from an unstable mental condition, whereby he loses his sanity at times, but regains sanity at other times. In this case it is forbidden to appoint a caretaker (trustee) or a deputy for him because the contract of Khilafah has been concluded upon his person. Therefore, no one else can act on his behalf.

Fourthly: If the Khaleefah has incapability (ijz) in carrying out his duties of Khilafah for any reason, whether because of a disability, or because of a chronic, incurable disease which prevents him from performing his functions. The point at issue in this case is his inability to carry out his duties. If the Khaleefah was unable to fulfil the contract, his removal becomes compulsory. Also, if he could not perform the duties for which he had been appointed as Khaleefah, the affairs of the Deen and the Muslims' interests would become suspended, resulting in an evil (Munkar) that has to be removed. This cannot be achieved except by dismissing the Khaleefah. Then the Muslims can contract another Khaleefah in his place. The removal in this case becomes compulsory.

Fifthly: If the Khaleefah becomes coercively subjugated, in a manner that leaves him unable to conduct the affairs of the Muslims, with his own opinion according to the Shariah. If he is subjugated by a subjugator to the point where he becomes unable to oversee the interests of the Muslims with his opinion alone according to the provisions of the Shariah, then he is considered effectively incapable of carrying out the duties of the Khilafah and thereby must be removed. The foregoing scenario has been considered to apply in two cases:

The first case is when a member, or members, of his entourage or family gain power over him. They execute the matters arbitrarily. They become high-handed, so that they overpower him, such that he cannot disagree with them. He is forced to follow their opinion. In this case the matter should be examined. If their coercion could be eliminated within a short period of time, he would be allowed to remain in office. This is so as to remove them, and free himself of their influence. If he did this and his ability was restored, he would be allowed to remain in office. Otherwise, he must be removed. He would be subject to immediate

removal, if there were no hope of freeing himself from such coercion.

The second case is that the Khaleefah falls into a situation similar to that of a captive, by being under the control of an enemy, and under his influence, who directs him as he wishes, and makes him lose his will to manage the interests of the Muslims. In this case the matter must be examined. If there is any hope of freeing himself from the control of the enemy within a short time frame, he is to be given this short period. If he is able to be freed and is able to escape from the dominance of the enemy, the obstacle is removed and the inability is removed. Otherwise, the Khaleefah must be removed.

The Khaleefah must be removed whenever any of the five cases listed above occurs. However, he cannot be removed, except after a verdict has been issued by the Court of Unjust Acts (Madhalim), once the evidence is established in which it ruled to annul the Khilafah contract and dismiss the Khaleefah. The Khaleefah is removed and then the Muslims contract the Khilafah on another individual, within three days.

THE KHILAFAH SYSTEM IS A UNIQUE SYSTEM

This subject of Khilafah is a political study. It is a discussion about the highest post of ruling. It is, of course, a study of the thoughts related to ruling. The non-Muslim reader assesses the truthfulness of the thoughts presented in this book, against nothing other than the reality. However, Muslims must only judge in accordance with the Kitab of Allah ﷻ and the Sunnah of the Prophet ﷺ. It is a manifest error for them to do otherwise. This is the case because the correctness of the thought is not judged by any other thought, unless it is a branch of that thought. Instead, it is either judged according to its concordance with reality, or its concordances with its origin, which is itself confirmed to concord with the reality. Therefore, we warn the reader of the necessity to read these ideas with accuracy and awareness of the reality, which they express. So while the ruling crisis in the Islamic World [Near and Middle East and some parts of the Far East] is apparent, and the crisis in ruling in many other parts of the world is noticeable, it is worth

understanding the thoughts related to ruling. This is so as to realize through contemplation that he arrived at the solution of the ruling crises in the world. There is no doubt that if he - the reader - contemplates these ideas, to limit the criterion for assessment to the concordance with reality, or concordance with the Shariah evidence related to them, he will be certain that he arrives upon the honest solution to govern the people.

What is feared is that democracy will be made a measure of the validity of these ideas, or that one will be influenced by their concepts while reading. Democracy has spread in the world to the extent that its name prevailed over all countries, peoples, and nations as an ideal. The Eastern countries began adopting it after the Western countries adopted it, despite their differences over its meaning. Muslims as a whole have been affected by it, with no difference between those who believe that Muslims contract the Khilafah, or those who believe that Allah ﷻ and His Prophet ﷺ alone determined whom the Khaleefah will be. Both parties reconcile their opinions to the people in the name of Democracy, or in the name of some of its thoughts. Therefore, we repeat the

warning to the reader not to take, whilst studying these thoughts, any of these thoughts as a criterion, particularly the name of democracy or its thoughts. For example, some of those who study ruling, have noticed some forms of the governments in the countries familiar to them. They read about other forms of government historically. By logical assumptions, they write about the forms of governments. They claim that if the government was entrusted by all the people, or the majority of them, then this form of government is called 'Democracy.' They claim that if the government was restricted to the hands of a few people, then this form of ruling is called 'aristocracy'. However, if the ruling was delegated to one ruler from whom all others derive their authority, then this form of ruling is called a 'monarchy.' They defined ruling as being both authority and legislation together. Upon these bases, all the various ruling forms were built. From this, the types of states, and unions among states, arise. It also gave rise to types of government, elections, the right of voting, and the like.

These thoughts differ from the Islamic thoughts of ruling, both generally and in details.

The difference between them is great. This is because the ruling system in Islam is the Khilafah system. It is a model completely distinguished from any other ruling system. The Shariah, that is applied in establishing the ruling, in caring for the citizens' affairs, and in the external affairs, is from Allah ﷻ. It is neither from the people, nor from a few people, nor from any individual. Every person who embraces Islam has the right to understand this Shariah the way that his knowledge of the Arabic language and the Shariah texts allows. He has the absolute right, within the limits of the Arabic language, and the Shariah texts, to understand what his mind brings him to. His opinion becomes a Shariah ruling binding upon him, and upon anyone who accepts his understanding of the Shariah ruling, and adopts it. He has the right to govern the people according to it, if he was a ruler or a judge. If the Khaleefah, who is the head of the Islamic state, adopted any opinion, then the opinion that the Khaleefah adopts alone becomes the law. It becomes a duty upon all the citizens to live according to the adopted opinion by the Khaleefah, although this does not mean they

have to leave their opinions. Instead, they must legally work within the Shariah law, according to the opinion which the Khaleefah has adopted. They submit to that opinion alone. However, they are not prevented from educating the people, with their opinions, and inviting to Islam, according to them. People are left free to think in Islam according to the basis upon which Islam is established, that is the Islamic 'aqeedah (creed). So they have the right to think regarding Shariah legislation and other matters, provided that everything emanates from the 'aqeedah.

This is in regard to the legislative and intellectual aspect. However, with regard to ruling, it differs from legislation. It means the Sultan (authority), and not the ruling system. This is because the ruling system falls within legislation. It is the Shariah rulings. The authority has been assigned by the Shariah to the all of the Muslims, that is to the Ummah, and to every member of the Ummah, male or female. So, every Muslim has right in the authority. Every Muslim has the right to practice this right, whenever it is required. By this right, which the Ummah possesses, it establishes one

man over it to implement the Shariah of Allah ﷻ. The Ummah gives him the Bayah pledge upon the Kitab and the Sunnah, by a pledge of choice and consent, between him and the Ummah. The resulting contract for the Khilafah, between the Khaleefah and the Ummah, is not a hiring contract. This is because it is a contract to implement the Shariah. It is not a contract to serve and benefit the Ummah. This is even though the implementation of the Shariah is for the Ummah's service and interest, since Islam is a mercy for the Ummah and all of humanity. It must be noticed that in the action, upon which the Khilafah contract is concluded, what matters is the implementation of the Shariah. It is not the material benefit of the Ummah. If the Ummah's immediate benefit disagreed with the Shariah, then the Shariah alone has to be implemented. Therefore, if the Ummah demanded that a Shariah ruling is abandoned, the Khaleefah must enforce the ruling upon the Ummah. If the Ummah left the Shariah, the Khaleefah is obliged to fight the Ummah, until the Ummah returns to the Shariah. This is because he was contracted only to implement the Shariah. The Ummah has no right to depose the Khaleefah as

it desires. Instead the Ummah has the right to depose him in certain cases alone. He is removed from the Khilafah in particular cases. He can be fought against in one case only; that is if he were to apply anything other than Islam. So his affair of authority is not within the hands of the Ummah after his contracting. This is despite the fact that the Ummah contracted him to ruling originally. Instead, this affair of authority is then in the hands of the Shariah.

The authority, which is a right for the Ummah, does not end by appointing the Khaleefah. Rather the authority always remains with the Ummah. In the case of the existence of the Khaleefah, its manifestation is by taking him to task over his actions, with respect to applying the Shariah and in caring for its affairs, by the styles the Ummah decides upon, within the limits of the Shariah law. He must accept the accounting of the Ummah. He must clarify a situation that the Ummah might complain of and question him about. Even if the Ummah raised arms against him because of that, he is not allowed to fight the Ummah, until he clarifies any suspicion the Ummah holds, over what he considers to be the truth.

This is ruling in Islam. Upon this basis the ruling system is built. It does not lead to many types of states. Instead, it is of itself one form of state. It is a system of unity, not a system of union. It makes it a duty to struggle to preserve the unity system, and to demolish the confederate union system. Islam does not have types of governments. In fact, it has no governments. The state and the government are in one body, which are the Khaleefah, and his Mu'awinoon (assistants). As for what branches out from this system regarding the method of appointing the Khaleefah, the necessity to guarantee the consent and choice for every Muslim, in electing the Khaleefah, and giving a Bayah pledge to him, and facilitating for the Ummah on an individual basis, this consent and choice, all of these matters came through either Shariah rulings specific to the subject of Khilafah, or Shariah rulings general for every contract, including the contract of Khilafah. Even though the Khilafah system may appear similar to the democratic system, with regard to the freedom in elections, voting and to voice some opinions, it is incorrect to consider the two systems as the same. This is because in the democratic system, these matters result from

the liberties. However, in Islam they result from the conditions of the Khilafah contract, and every contract, with consent and choice. If this is not fulfilled in the Khilafah contract, the contract would be invalid. The Khaleefah would not then be legally competent as a Khaleefah.

The difference between guaranteeing freedom in elections, and guaranteeing consent and choice in a contract is that freedom is a ruling regarding the people. So if it is not achieved, it does not affect the validity of the contract. However, guaranteeing consent and choice is a ruling regarding the contract, not a ruling regarding the people. If it is not achieved, then the contract is void and not concluded. Similarly, all the thoughts of Islam differ from the thoughts of Democracy. They simultaneously differ from aristocracy, monarchy, and, of course, from the concept of empire. So if the thoughts of Islam are studied, they have to be studied in their capacity as a ruling system, distinguished from any other system, and with regard to their concordance with the reality of the ruling. This concordance is not with any other form of ruling. Instead, it is a concordance with the reality of a particular form of ruling. It is that ruling by which man governs humanity

practically, and according to the highest level of exalted values, with regard to the Shariah evidences, from which these ruling thoughts have been derived.

Upon this basis we ask the reader to study this political subject as a study of a ruling system that is completely distinguished from other systems. This study must without adopting any criterion for the correctness of these thoughts, other than their concordance with the reality of the system that was the most accomplished, compared to any other ruling system mankind has ever been ruled by, or their concordance with the basis from which they emanated, which is the Kitab of Allah ﷻ and the Sunnah of the Messenger of Allah ﷺ.