

The Method to Appoint a Khaleefah



Front cover photograph shows the inside of *Masjid an-Nabawi* in Medina where the Muslims gathered for every one of the *Khulufaa' Rashida* to give them *Bay'ah* (pledge of allegiance). Every Khaleefah from the first - Abu Bakr Siddiq (ra) to the last – Abdul-Mejid II was appointed to office through the *Bay'ah*, although in latter times the process was misapplied.

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

INTRODUCTION

In 1925, one year after the Khilafah was formally abolished, an Egyptian scholar named Ali Abd al-Raziq waged a campaign to separate the concept of Khilafah from Islam. Although opposition to the Khilafah by some influentials in the Muslim world was nothing new, Ali Abd al-Raziq was unique in that he attempted to justify his position by recourse to the Islamic texts.¹

His book 'Islam and the Foundations of Governance,' caused huge controversy at the time since it opposed 1300 years of scholarly consensus on the Khilafah being an integral and inseparable part of Islam.

Ali Abd al-Raziq states:

God has left the field of civil government and worldly interests for the exercise of human reason. It is not even necessary that the Ummah be politically united, this is virtually impossible and even if possible would it be good? God has willed that there be a natural differentiation between tribes and peoples – there should be competition in order that civilisation should be perfected. Islam recognises no superiority inside the Ummah of one nation, language, country or age over another except for the superiority conferred by virtue. The primitive community of Islam was only Arab by accident... **The proof that it was no part of his mission to establish an Islamic State is that he made no provision for the permanent government of the community after his death...** The first Caliph, Abu Bakr, was invested with what was essentially a political and royal power based on force.²

His 'proof' as stated above claims that the Messenger of Allah (saw) provided no guidance (*hiddiyah*) to the Muslims on what form of ruling system they should establish upon his death.

Some Western orientalist also made this claim that the Messenger of Allah (saw) provided no detailed process for choosing a new political leader.

Thomas Arnold states:

The Prophet Muhammed nominated no successor. It would be idle to speculate why with his genius for organization he neglected to make such provision for the future of the new religious community he had founded. His health had been failing for some time before his final illness, and perhaps, like Oliver Cromwell, he was 'so discomposed in body and mind, that he could not attend to that matter.'³

Due to the controversy surrounding his book, Ali Abd al-Raziq passed the remainder of his life in obscurity having no major influence on Muslim opinion.

However, the legacy of Ali Abd al-Raziq lives on where a minority of Muslim 'modernists' who with the support of the West have begun to revive this argument that Islam and the State are separate, i.e. advocating 'Islamic' secularism.

The influential American Think Tank RAND explicitly endorses this view. As part of their policy towards the Muslim world they state that Western states should:

Support the idea that religion and the state can be separate in Islam too and that this does not endanger the faith but, in fact, may strengthen it.⁴

This article will refute the claim that Islam provides no detailed guidance on a governing system by illustrating the process for appointing the head of an Islamic State – Khaleefah. It will show that the Messenger of Allah (saw) far from neglecting this important aspect of the governing system, in fact detailed a precise methodology for appointing a successor (Khaleefah) for the Muslim Ummah.

1 AUTHORITY OF THE KHALEEFAH

One of the principles of the Islamic ruling system is that ‘authority belongs to the Ummah’.¹ It is the Muslim Ummah that Allah (swt) has made responsible for implementing the Islamic *Shari’ah* and spreading it to the entire world. The Muslim Ummah discharges this responsibility by appointing a representative who will implement, protect and propagate Islam. This representative is the Khaleefah.

This responsibility does not end with the appointment of the Khaleefah rather the Ummah must continue to account the Khaleefah and his government continuously to ensure there is no deviation from Islam.

Since the authority lies with the Muslims they have the choice to appoint whoever they deem best fit to undertake the responsibility of Khilafah.

Islam detailed a very specific method for transferring this authority from the Ummah to the Khaleefah. This method is known as the contract of *Bay’ah* (Pledge of allegiance).

2 EVIDENCE FOR THE *BAY'AH*

The companions (*sahaba*) of the Messenger of Allah (saw) were fully aware of the method to appoint a ruler as head of the Islamic State. The Messenger of Allah (saw) in many *Abadith* mentioned the *Bay'ah* and he also explicitly stated what should happen once he dies with regards to ruling.

The Messenger of Allah (saw) said: "The prophets ruled over the children of Israel. Whenever a prophet died, another prophet succeeded him, but 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 (saw) said: Fulfil Bay'ah to them one after the other, and give them their dues, for verily Allah will ask them about what He entrusted them with."¹

Clearly, this hadith disproves Ali Abd al-Raziq's claim that the Messenger of Allah (saw) 'made no provision for the permanent government of the community after his death.' The *sahaba* were fully aware that *Khulufaa'* (lit. successors) would run the affairs of the Muslims after the death of the Messenger of Allah (saw). The *Khulufaa'* are successors to the Messenger of Allah (saw) in ruling but not prophethood since the Messenger of Allah (saw) is the last prophet.

In addition, the Messenger of Allah (saw) practically demonstrated the *Bay'ah* when he took *Bay'ah* from the Muslims in the second *Bay'ah* of Al-Aqaba. This was a *Bay'ah* of ruling not prophethood as those pledging allegiance were already Muslim. This *Bay'ah* established the Messenger of Allah (saw) as head of State in Medina.

The evidence that the appointment of the Khaleefah is the right of the Ummah and that the Khaleefah can only take up his post and exercise his authority by taking a *Bay'ah* is taken from the sunnah of the Messenger of Allah (saw). Many *Abadith* came mentioning the *Bay'ah*, and in each one the wording shows that the *Bay'ah* was given by the Muslims to the head of state and not the other way round. The head of state in Medina was the Messenger of Allah (saw) and the Muslims gave *Bay'ah* to him (saw) not in his capacity as a prophet and messenger but as a ruler.

'Ubadah Ibn us-Samit said: 'We gave Bay'ah to the Messenger of Allah (saw) to hear and to obey in ease and hardship.'²

Jarir Ibn ‘Abdullah, said: ‘I gave Bay’ah to the Messenger of Allah (saw) to listen and obey and give advice to every Muslim.’³

The Messenger of Allah (saw) said: ‘Three types of people which Allah will not speak to (on the Day of Judgement), nor will He praise them and they have severe punishment are: A man with surplus water on the road but he bans the traveller from it; a man who gives a Bay’ah to an Imam only for his own dunya, if he gave what he wanted him, he fulfilled to him otherwise he would not; and a man offered a commodity for sale after asr, (i.e. from at the end of the day) so he swore that he was given so and so price for it, so he (the buyer) trusted him and took it, but he was not given (that price) for it.’⁴

Without *Bay’ah* the Khaleefah has no authority to rule. He cannot assume his authority through coercion and force as a dictator does. If he did this and the Ummah refused to give him *Bay’ah* then he would not be the Khaleefah and the Ummah would be obliged to remove him.

As for the evidence that the Khaleefah only takes his authority by this *Bay’ah*, this is clear in the *Abadith* concerning obedience and the *Abadith* regarding the unity of the Khilafah.

The Messenger of Allah (saw) said: ‘Whoever gave *Bay’ah* to an Imam giving him the clasp of his hand and the fruit of his heart shall obey him as long as he can. If another comes to dispute with him, you must strike the neck of that man.’⁵

Nafi said ‘Abdullah Ibn ‘Umar told me: I heard the Messenger of Allah (saw) say: ‘Whoever takes off his hand from an obedience, he will meet Allah on the Resurrection Day without having any proof to show for himself; and whoever dies while having no Bay’ah on his neck he dies the death of the days of ignorance (Jahiliyyah).’⁶

The Messenger of Allah (saw) said: ‘If anyone sees in his Ameer something that displeases him let him remain patient, for behold! He who separates himself from the Sultan (authority of Islam) by even so much as a hand span and dies thereupon, he has died the death of Jahiliyyah.’⁷

3 OBLIGATION OF THE *BAY'AH*

The *Bay'ah* is an obligation upon all Muslims and it's also the right of every mature Muslim, male and female. The evidences concerning the *Bay'ah* being an obligation are numerous.

The Messenger of Allah (saw) said: Whoever dies while having no *Bay'ah* on his neck he dies the death of the days of ignorance (*Jahiliyyah*).¹

This hadith came with a decisive connotation (*Qareenah*) i.e. linking to dying a death of *jahiliyyah*. This makes it *Fard Al-'Ain* (individual duty) for all Muslims to have a *Bay'ah* on their neck whether they are in *Dar ul-Islam* or outside.

The *Bay'ah* can be split into two types.

1. *Bay'ah* of Contract (*Bay'ah In'iqaad*)
2. *Bay'ah* of Obedience (*Bay'ah Taa'ah*)

The *Bay'ah* of Contract (*Bay'ah In'iqaad*) is *Fard Al-Kif'iyya* (collective obligation). It is the right of all Muslims to participate in contracting the Khaleefah. However, it is not obligatory for them to practice this right as long as some from among the Ummah are engaged in contracting the Khaleefah and hence the *kif'iyya* is met. Usually those involved in contracting of the *Bay'ah* are a representative group known as the *Ahlul Hall Wal Aqd* (influential Muslims) who represents the opinion of the Muslims at large.

After the Messenger of Allah's (saw) death, only some of the senior *sahaba* met to contract the *Bay'ah* to a new Khaleefah. These included Abu Bakr (ra), Umar bin al-Khattab (ra) and Abu Ubaydah bin al-Jarrah (ra) from the *muhajiroon*. Abu Bakr (ra) and Umar (ra) were the *wazirs* (ruling assistants) to the Messenger of Allah (saw) whilst he was alive. The leaders of the tribes of *Ansar - Al-Khazraj* and *Al-Aws* were also present. These included Sa'd bin Ubadah (ra), and Bashir ibn Sa'd (ra), leaders of *Al-Khazraj* and Usaid ibn Hudhayr (ra), leader of *Al-Aws*.²

Once the *Bay'ah* is contracted to the Khaleefah then the Muslims must fulfil their side of the contract which is obedience to the Khaleefah. The *Bay'ah* then becomes a *Bay'ah* of obedience for the rest of the Muslims. This is *Fard Al-'Ayn* (individual obligation). After the contracting of the *Bay'ah* to Abu Bakr (ra) the Muslims of Medina were gathered in the *Masjid* the next day to give him the *Bay'ah* of obedience.

The evidence that this obedience is *fard* is taken from the hadith.

Messenger of Allah (saw) said: 'If anyone sees in his *Ameer* (*Ameeribi*) something that displeases him let him remain patient: For behold! He who separates himself from the Sultan (authority) by even so much as a hand span and dies thereupon, he has died the death of Jahiliyyah.'³

The phrase *Ameeribi* is general in this Hadith, so it includes the Khaleefah because he is the *Ameer* of the believers.⁴

It is not allowed to withdraw the *Bay'ah* of obedience to the Khaleefah, and the Khaleefah has the right to force the Muslims to give him *Bay'ah* of obedience.

A Bedouin gave his *Bay'ah* of Islam to the Messenger of Allah (saw). Soon after he felt a malaise, so he said to the Messenger of Allah (saw) 'Would you relieve me of my *Bay'ah*!' The Messenger of Allah (saw) refused; he then came back and said, 'Relieve me of my *Bay'ah*!' He (saw) refused, so the man left. Upon this the Messenger of Allah (saw) said: 'Al-Madina is like the bellows, she banishes her bad odours and manifests her sweet scent.'⁵

This proves that once the *Bay'ah* of obedience is given it cannot be withdrawn. It would be wrong to claim that the Bedouin wanted to leave Islam by seeking relief from his *Bay'ah* rather than the obedience to the Head of State. This is because if this had been the case, his act would have been considered as apostasy, and the Messenger of Allah (saw) would most certainly have killed him, since the punishment for the apostate is killing. The *Bay'ah* itself is not a *Bay'ah* for embracing Islam but for obedience. Therefore, the Bedouin wanted to rid himself from his *Bay'ah* of obedience, not to apostasise.⁶

4 TIME LIMIT FOR CONTRACTING THE *BAY'AH*

The time limit allowed for Muslims to appoint a Khaleefah is three days including their nights. It is forbidden for a Muslim to spend more than three nights without having a *Bay'ah* on his neck, i.e. without a *Bay'ah* of contract being concluded.

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, including their nights.¹

If the limit exceeds three nights and a Khaleefah is not appointed due to compelling reasons beyond the Muslims control then they are not sinful as long as they were attempting to contract the *Bay'ah*.

The Messenger of Allah (saw) said: 'Allah had forgiven my Ummah for the mistake and forgetfulness and that which they were compelled to do.'²

The *Bay'ah* was concluded for all the *Khulafaa' Ar-Rashidoon* (Rightly Guided Khaleefah's) within three nights except for Imam Ali (ra). However, due to the previous Khaleefah Uthman (ra) being assassinated and rebels in control of Medina, there were compelling reasons why Imam Ali's (ra) appointment was delayed.

Today, Muslims have been without a *Bay'ah* on their neck for over 83 years without a *shari'ah* excuse allowing this. Although the obligation of contracting a *Bay'ah* to a Khaleefah is *Fard Al-Kif'iyya* (collective duty) as with any *Fard Al-Kif'iyya* if the *kif'iyya* (sufficiency) is not met then the sin falls on the entire Muslims. Therefore, all Muslims must work today according to the sunnah of the Messenger of Allah (saw) and re-establish the Khilafah and contract a *Bay'ah* to a Khaleefah.

The evidence that the upper limit on contracting the *Bay'ah* is three days including their nights is from the consensus of the companions (*ijma as-sahaba*) over the second Khaleefah - Umar bin al-Khattab's (ra) actions when he developed a detailed process for appointing a Khaleefah after his death.

When Umar (ra) felt that his death was imminent he delegated the people of the *Shura* (consultation) 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 this instruction, i.e. killing the one who might disagree to fifty people from the Muslims despite the fact that the group was formed of the *Shura* people and the senior *sahabah*. This took place in the presence of the *sahabah* and no one objected or condemned his 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 consensus of the *sahabah* is a *Shari'ah* evidence just like the Qur'an and Sunnah.³

5 WHO CONTRACTS THE BAY'AH?

From reviewing what took place in the *Bay'ah* of the *Khulafaa' Ar-Rashidoon* and the consensus of the *sahabah (Ijmaa')*, one can conclude that the Khilafah is contracted by the *Bay'ah*. However, if we look to the contracting of the *Bay'ah* for each of the *Khulafaa' Ar-Rashidoon* we find different groups of people contracted the *Bay'ah*.

In the *Bay'ah* to Abu Bakr, the *Bay'ah* from the influential figures amongst the Muslims, (*Ahlul Hall Wal 'Aqd*) in Madina alone was enough to contract the Khilafah as discussed previously. 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 *Bay'ah* to 'Umar.

With regards the *Bay'ah* to 'Uthman (ra), 'Abdul Rahman Ibn 'Awf (ra) asked the Muslims of Madina regarding their opinion and he did not merely content himself by asking the influential people. When the Oath was taken for 'Ali (ra), most of the people of Madina and Kufa gave him their *Bay'ah*, and he was singled out in the *Bay'ah*.

Imam Ali's (ra) *Bay'ah* was valid even for those who opposed him and fought against him because they never actually gave their *Bay'ah* to another man nor did they object to his *Bay'ah*. They rather demanded revenge for the blood of 'Uthman (for his killing). So the verdict regarding them was that they were rebels who withdrew from the Khaleefah over one particular issue. In this instance the Khaleefah had to explain the situation to them and fight against them. These rebels did not establish another Khilafah.

All of this occurred in the past - the *Bay'ah* for the Khaleefah by the people of the capital to the exclusion of the other regions - in the presence of the *sahabah*. Nobody objected to or condemned that such an action be confined to the people of Madina. This is considered to be a general consensus of the *sahabah (Ijmaa')* that states that 'those who represent the Muslims' opinion in matters relating to ruling can contract the Khilafah.'¹

This is simply because the influential people and the majority of the people of Madina, were the majority of those who represented the opinion of the Ummah regarding the ruling matters at the time.

Therefore, the Khilafah is contracted if the *Bay'ah* was taken from those who represent the majority of the Islamic Ummah that lives under the authority of the last Khaleefah, in whose place another Khaleefah is sought to be appointed, as was the case at the time of the *Khulafaa' Ar-Rashidoon*. Their *Bay'ah* would constitute a *Bay'ah* of contract, while for the others, once the Khilafah has been contracted, their *Bay'ah* would be classed as a *Bay'ah* of obedience, i.e. a *Bay'ah* of allegiance to the Khaleefah and not a *Bay'ah* of contract.

The contractual condition of the *Bay'ah* is that as long as the consent of the Muslim citizens of the Khilafah is achieved in contracting the *Bay'ah* then the *Bay'ah* is contracted.

Therefore, the *Bay'ah* is contracted if a group of people appointed a Khaleefah and in so doing the consent of the Muslims was achieved by any indication. It could also be by the *Bay'ah* of the majority of the *Ahlul Hall Wal 'Aqd* or by themselves being the representatives of the Muslims, or by the silence of the Muslims about the *Bay'ah* of the Khaleefah whom they had given the *Bay'ah* to. It could also be by the Muslims rushing to pledge allegiance and obedience on the strength of such a *Bay'ah*, or by any other means or indications so long as they had been fully enabled to voice their opinion. The *Shari'ah* verdict does not contain any provisions maintaining that such an indication must be arrived at through the *Ahlul Hall Wal 'Aqd* or that they should constitute five or 500 people or more or less, nor that they need be the inhabitants of the capital or the provinces. The *Shari'ah* rule merely states that with their *Bay'ah* the consent of the majority of the Muslims is achieved according to any indication that reflects such consent. This means that the right to vote has been guaranteed, and their ability to voice an opinion has not been curtailed.²

6 THE BAY'AH CONTRACT

Allah (swt) revealed a detailed system for governing relationships between people. These relationships are known as the *mu'amilaat* (transactions) and account for the largest section of Islamic *Fiqh*. The contract (*'abd*) is a fundamental concept in *mu'amilaat* for defining these relationships.

The relationship of marriage between men and women is governed by the contract of *Nikah*. The relationship of trade is governed by the contracts of *Al-Bay'*, and the relationship of establishing companies is governed by the contracts of partnerships (*sharika*) and so on.

The relationships of ruling are no different. They are governed by three specific contracts of ruling which are:

1. *Bay'ah* – contract between the Muslims and the Khaleefah
2. *Dhimmah* – contract between the non-Muslim citizens and the Khaleefah
3. *Mu'aahadaat* (treaties) – contract between other states and the Khaleefah

The *Bay'ah* contract is between two parties - the Muslims and the Khaleefah. Details of the *Bay'ah* contract are as follows.

A. CONTRACTUAL CONDITIONS FOR THE MUSLIMS

1. Mature

The *Bay'ah* should only be taken from the adult, as the *Bay'ah* of the child is not valid.

Abu Aqeel Zahrah Ibnu Ma'abad reported on the authority of his grand-father 'Abdullah Ibnu Hisham who lived during the time of the Messenger of Allah (saw) that his mother Zainab Ibnatu Hamid took him to the Messenger of Allah (saw) and said: 'O Messenger of Allah, take a Bay'ah from him'; upon this the Messenger of Allah (saw) said: 'He is young', he (saw) wiped over his head and prayed for him.¹

2. Muslim

Non-Muslims have no right in the *Bay'ah*. This is because it is a *Bay'ah* on Islam, i.e. on the Book of Allah and on the Sunnah of His Messenger (saw). It necessitates *Iman* (belief) in Islam, in the Book and the Sunnah. The non-Muslims cannot be in ruling positions nor can they elect the ruler, because there is no way (power) for them over the Muslims, and they have no say in the *Bay'ah*. Allah (swt) says:

﴿وَلَنْ يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلًا﴾

“And Allah will never (lan) give the unbelievers any way (of authority) against the believers.”²

The relationship between non-Muslims and the Khaleefah is governed by a separate ruling contract called *Dhimmah* that is discussed elsewhere.

Islam has not confined the *Bay'ah* to a particular group of Muslims to the exclusion of another group, nor to a particular section to the exclusion of another section. Therefore the *Bay'ah* is an obligation on all Muslims:

The Messenger of Allah (saw) said: ‘Whoever dies while there was no allegiance (Bay’ah) on his neck he dies a death of the days of ignorance (Jahiliyyah).’³

This applies to every Muslim. It therefore, follows that the prominent figures are not the only people eligible to appoint the Khaleefah to the exclusion of other Muslims. Those eligible to appoint the Khaleefah are not a specific group of people; rather this right belongs to all Muslims without exception, even to the hypocrites (*Munafiqeen*) and the wrongdoers (*Fujjar*), so long as they are mature Muslims. This is because the relevant texts came in a general form, nothing else has been reported to specify them except the rejection of the *Bay'ah* of the child who is under the age of maturity, and therefore they remain general in their scope.⁴

B. CONTRACTUAL CONDITIONS FOR THE KHALEEFAH

1. Muslim

The Khaleefah must be Muslim. Allah (swt) says:

﴿وَلَنْ يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلًا﴾

“And Allah will never (lan) give the unbelievers any way (of authority) against the believers.”⁵

Ruling is the strongest way for the ruler over the ruled, hence the term *lan* (never) means the categorical prohibition of the non-Muslim (*Kafir*) from taking a post of authority over the Muslims, be it the Khilafah or any other post of authority.

2. Male

The Khaleefah must be male.

Abi Bakra said: Allah has given me the privilege of a word which I heard from the Messenger of Allah during the days of Al-Jamal (the camel), when I was about to join the people of Al-Jamal and fight with them: When the Messenger of Allah heard that the people of Persia had appointed the daughter of Chosroes (Kisra), he said: ‘People who appoint (Wallaow) a women as their leader will never succeed.’⁶

If the Messenger of Allah (saw) foretold failure to those who assign the running of their affairs to a woman this indicates a prohibition. This is because it came in the form of reproach to those who give authority over themselves to a woman by negating their success thus indicative of definite prohibition. 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. Therefore, appointing a woman as a ruler is forbidden (Haram). Appointing a woman to a position of authority in this case means appointing her as Khaleefah or any other post connected directly with ruling. This is because this Hadith is related to the issue of ruling not specific to the appointment of Chosroes’s daughter as queen.

However, the Hadith is not general to cover everything but related only to matters regarding ruling and authority, so it does not apply to non- ruling positions such as judges or heads of administrative government departments.⁷

3. Mature

The Khaleefah must be mature i.e. above the age of puberty.

The Messenger of Allah (saw) said: ‘Accountability is lifted off three persons:
The dormant until he awakes, the boy (adolescent) until he reaches maturity and
the deranged until he regains his mind.’⁸

The person who is not accountable under *Shar’a* is not able to be responsible for himself, so it is unlawful for him to become Khaleefah or to hold any post of authority, since he is not responsible for his own actions let alone anyone else’s.⁹

4. Sane

The Khaleefah must be sane and the evidence for this is the same as for being mature.

The mind is a condition for responsibility and for the validity of actions. The Khaleefah enacts the rules and executes all the legal duties, it is therefore unlawful to have an insane Khaleefah because the insane cannot look after himself, nor is he responsible for his own actions, thus he cannot look after the affairs of the people by greater reason (*Bab Awla*).¹⁰

5. Just

The Khaleefah must be just (*Adl*); it is not allowed for him to be a *Fasiq* (rebel). Justice is an obligatory foundation for contracting the Khilafah and for its continuity. This is because Allah (swt) has stipulated that the witness must be just. He (swt) says:

﴿وَأَشْهِدُوا ذَوَىٰ عَدْلٍ مِّنكُمْ﴾

“And seek the witness of two just men from amongst you.”¹¹

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, be just. For if justice was stipulated in the witness, its presence in the Khaleefah must exist by greater reason (*Bab Awla*).¹²

6. Free

The Khaleefah must be free and not a slave, since the slave is under his master's sovereignty, so he cannot run his own affairs, therefore he has no power to run other people's affairs and be a ruler over them.¹³

7. Competent

The Khaleefah must be able and skilled in carrying out the task of the Khilafah. This is an integral part of the *Bay'ah* contract. One who is unable to do so cannot perform the duty of running the people's affairs by the Book and the Sunnah upon which he took the *Bay'ah*. The Court of unjust acts (*Mahkamat ul-Mazalim*) has the mandatory powers to determine the types of inability which the Khaleefah must not suffer of so as to be considered of those capable to carry out the tasks of the Khilafah.¹⁴

C. SUBJECT MATTER OF THE CONTRACT

1. Ruling by Islam

The Khaleefah must agree to rule by Islam. Agreement on ruling by other than Islam would make the *Bay'ah* contract invalid. The obligation of ruling (*Al-Hukm*) by Islam is established by many evidences from Qur'an. These include:

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

“So rule between them by that which Allah has revealed and follow not their desires away from the truth that has come to you.”¹⁵

﴿وَأَنْ أَحْكُم بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَاحْذَرْهُمْ أَنْ يَفْتُنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ﴾

“Rule between them by that which Allah has revealed and follow not their desires and beware of them lest they seduce you from some part of that which Allah has revealed to you.”¹⁶

﴿وَمَنْ لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَٰئِكَ هُمُ الْكَافِرُونَ﴾

“Whosoever does not rule by that which Allah has revealed, such are disbelievers.”¹⁷

2. Obedience

The Muslims must agree to obey the Khaleefah in ease and hardship as long as he implements Islam and doesn't order a sin.

From Junadah bin Abu Umayyah who said: ‘We entered upon Ubadah bin As-Samit when he was ill and said: May Allah improve you. Relate to us a hadith for which Allah will benefit you from what you heard from the Prophet (SAW). He said: The Prophet (SAW) invited us and we gave him a pledge (bay'ah). He said: Among what he took as conditions upon us is that we pledged to hear and obey in what we find pleasing and what we dislike, in our ease and hardship, even if others are preferred over us and that we do not dispute the authority of those who possess it—he said—except if you see open disbelief upon which you have clear proof from Allah.’¹⁸

The Messenger of Allah (saw) said: ‘[There is] no obedience to the created in disobedience to the Creator.’¹⁹

D. CONSENT OF THE MUSLIM CITIZENS MUST BE ACHIEVED

A condition of the *Bay'ah* is that as long as the consent of the Muslim citizens of the Khilafah is achieved in contracting the *Bay'ah* then the *Bay'ah* is valid as discussed previously. Achieving the consent of the Muslim citizens of the Khilafah could be through the *Ahlul Hall Wal 'Aqd*, Council of the Ummah (*Majlis ul-Ummah*) or directly through a general election.²⁰

E. BAY'AH MUST BE GIVEN WITHOUT COMPULSION OR DURESS

Since the *Bay'ah* is a contract of ruling the *Shari'ah* law of contract applies to it. This means the *Bay'ah* must be given freely without any duress or force involved. If a man usurped power and attempted to force the Muslims to give him *Bay'ah*, the contract would be invalid. However, if the Muslims decided to accept the man as Khaleefah and later give him *Bay'ah*

even though he initially usurped power this *Bay'ah* would be valid. There are many examples of this in the Islamic history. The most famous example is during the reign of Yazid ibn Mu'awiyah where he took the *Bay'ah* by force. The Muslims did not accept him as Khaleefah and Imam Hussein (ra) led a revolt against Yazid which eventually led to his martyrdom at Karbala on 10th Muharram.²¹

The issue of duress also applies to the Khaleefah. The Khaleefah cannot be forced into becoming Khaleefah if he did not want the post.

F. *BAY'AH* CAN ONLY BE GIVEN TO ONE KHALEEFAH AT A TIME

If a Khaleefah is already appointed then he is the Khaleefah for the entire Muslim Ummah as the definition of Khilafah is a general leadership over all the Muslims. If another man came and attempted to take *Bay'ah* this contract of *Bay'ah* would be invalid. Islam defined the crime of making a second *Bay'ah* contract as an act of treason which carries a capital punishment.

The Messenger of Allah (saw) said: 'Whoever gave Bay'ah to an Imam giving him the clasp of his hand and the fruit of his heart shall obey him as long as he can. If another comes to dispute with him, you must strike the neck of that man.'²²

G. WORDING OF THE CONTRACT

As for the wording of the *Bay'ah*, this may vary and is not restricted to any specific wording. It should, however include the commitment that the Khaleefah acts according to the Book of Allah and the Sunnah of His Messenger (saw), and that the person who gives the *Bay'ah* should pledge to obey in ease and hardship.²³

H. TERM OF OFFICE

In contrast to a democratic system, the term of office of the Khaleefah cannot be limited to a specific time period. As long as the Khaleefah is abiding by the *Shari'ah*, executing its laws and able to perform the duties of state, he remains in office. This is because the textual evidences concerning the *Bay'ah* came as indefinite (*Mutlaq*) and not restricted to any specific period of time.²⁴

Anas b. Malik reported that the Messenger of Allah (saw) said: ‘Do hear and Obey, even if you were ruled by an Abyssinian slave, whose hair is like the raisin.’²⁵

In another narration He (saw) said: ‘As long as he leads you by the Book of Allah.’²⁶

In addition, all the *Khulafa’a Ar-Rashidoon* were given an indefinite (*Mutlaq*) *Bay’ah* which is the one mentioned in the *Abadith*. They were not in office for a limited period. Each one of them assumed the post of Khilafah until he died, and this represents a general consensus (*ijma*) of the *sahabah*, confirming that the Khilafah does not have a limited term of office but is unrestricted. Thus if a Khaleefah is given a *Bay’ah*, he remains in office until he dies, resigns or is removed due to violating the *Bay’ah* conditions by the *Mahkamat Mazalim* (Court of Unjust Acts).²⁷

Limiting the term of office for the leader is an essential element of accountability in democracy but not for the Khilafah. The Khaleefah can be investigated at anytime by the institutions of state and can be removed from office at anytime if he violates the *Bay’ah* contract.

I. METHOD OF GIVING *BAY’AH*

The *Bay’ah* can be given by a handshake or it can be given in writing.

‘Abdullah Ibnu Dinar said: I witnessed Ibn ‘Umar when people agreed on (the imarah of) ‘Abdul Malik ibn Marwan, he said: ‘I write herewith that I agree to hear and obey the servant of Allah, ‘Abdul Malik, the Ameer of Believers, according to the Book of Allah and the Sunnah of His Messenger, and to the best of my ability.’²⁸

The *Bay’ah* can also be given by any other means such as formal *Bay’ah* ceremonies for ordinary Muslims to pledge their allegiance to the new Khaleefah.

J. BINDING THE KHALEEFAH TO EXTRA CONTRACTUAL CONDITIONS

The *Bay’ah* is a contract and as such it’s allowed to add extra conditions to this contract that the Khaleefah must abide by, as long as these extra conditions do not violate the

fundamentals of the contract. So it would be haram to impose a four year term of office on the *Bay'ah* contract due to the discussion above. But it would be allowed to restrict the Khaleefah to certain constitutional processes such as the empowerment of the *Majlis ul-Ummah* and the judiciary as counterbalances to the executive power of the Khaleefah.²⁹

The evidence for this is derived from 'Uthman bin Affan's (ra) *Bay'ah* where he accepted to proceed according to the way of Abu Bakr and 'Umar in ruling. This is *ijma as-sahaba* as it happened in the presence of the *sahabah* without any objection from them. A detailed account of Uthman's (ra) *Bay'ah* follows to illustrate this point.

Then Abdul-Rahman sought the opinion of the prominent figures in Madina, and asked all the Muslims in Madina one by one, men and women. He left no one without asking him about whom, he or she, would like to be the Khaleefah from amongst that group. A group of them chose Uthman and another group chose Ali. Abdul-Rahman found that opinion was split between Uthman and Ali, and that the Qurayshis sided with Uthman.

Once Abdul-Rahman completed his fact finding mission and consulted all the people, men and women, he summoned the Muslims to the mosque and went up the Minbar (podium) with his sword on and his "Amama" (head-dress) which the Messenger of Allah (saw) gave him: He stood for a long while then spoke:

“O people! I have asked you openly and secretly about your Imam, and I found that you cannot place anyone on the same level as these two men: Ali and Uthman”. Then he turned to Ali and said to him. “Come to me O Ali!” Ali stood and walked to the Minbar until he came underneath it. Abdul-Rahman took his hand and said: “Would you give me your Bay’ah according to the Book of Allah and the Sunnah of His Messenger and the (actions) of Abu Bakr and Umar?”

Ali replied: “By Allah no, but on my own exertion of that and my knowledge” – (i.e. I would give you my Bay’ah according to the Book of Allah and the Sunnah of His Messenger according to my own exertion of that and my knowledge of them.) “As for the actions of Abu Bakr and Umar, I do not adhere myself to them but exert my own opinion.”

Abdul-Rahman then released his hand and called: “Come to me O Uthman!” He took his hand as he stood on the spot where Ali stood earlier and said to him: “Would you give me your Bay’ah according to the Book of Allah and the Sunnah of His Messenger as well as the actions of Abu Bakr and Umar?” Uthman replied, “By Allah yes.” Upon this Abdul-Rahman looked up to the roof of the mosque with his hand clutching that of Uthman and said: “O Allah! Hear and witness; O Allah, I have put what was in my neck of that (matter) in the neck of Uthman.”

Then people rushed to give their Bay’ah to Uthman until they overwhelmed him. Then Ali came pushing his way through to reach Uthman and gave him his Bay’ah. Thus Bay’ah was concluded to Uthman.³⁰

7 METHOD OF APPOINTING A KHALEEFAH TODAY

When applying the methodology of appointing a Khaleefah i.e. contracting the *Bay'ah* in the 21st century, there are two realities we need to look at. Firstly, the reality when there is no Khilafah in existence and secondly when the Khilafah is established what the constitutional process for appointing successive *Khulafaa'* will be. These two scenarios will be discussed in turn.

A. NO KHILAFAH IN EXISTENCE AND APPOINTING THE FIRST KHALEEFAH.

If there is no Khaleefah then it becomes obligatory upon Muslims to appoint for themselves a Khaleefah to implement the *Shari'ah* laws and convey the Islamic call to the world. This is the case nowadays. The Muslims have been without a Khaleefah, at the time of writing, for over 83 years even though the time limit for this *Fard* is three days including their nights. Therefore, if any country in the Islamic world today appoints one Khaleefah and thereby establishes the Khilafah, then this Khaleefah would be a legitimate Khaleefah for all the Muslims even though not all the Muslims contracted him. This is because the obligation of contracting the *Bay'ah* is *Fard Al-Kifayya* and when the *Kifayya* (sufficiency) is not met the entire Ummah is sinful until some from among them fulfil the obligation.

In addition to the contractual conditions of the *Bay'ah* discussed earlier there are four extra conditions that are necessary in today's reality for a country to contract the *Bay'ah* to a Khaleefah. These are:

1. The authority of the country must be in the hands of the Muslims and not in the hands of a non-Islamic country or under a non-Islamic influence.
2. The security of the Muslims in that country must be guaranteed by Islam, i.e. its protection at home and abroad should be in the name of Islam and by Islamic forces to the exclusion of all others.
3. The implementation of Islam should take place with immediate effect in a comprehensive and radical manner; the Khaleefah must be involved in the conveying of the Islamic Message.

4. The Khaleefah must fulfil all the contractual conditions of his post, although he might not fulfil the conditions of preference, since what really matters are the conditions of the contract.

If the country fulfils these four conditions then the Khilafah has been contracted by the *Bay'ah* of that country alone, even if this country does not represent the majority of the influential people who represent the Islamic Ummah.

This is because establishing the Khilafah is a collective duty (*Fard Al-Kifayya*), and whoever performs this duty (*fard*) in the correct manner would accomplish the duty. The condition concerning the majority of the influential people need to contract the *Bay'ah* only applies if there was a Khilafah and there was a need to appoint another Khaleefah in place of the dead or deposed one. However if there is no Khilafah then the Khilafah will be legally convened by any Khaleefah who satisfies the conditions of the contract regardless of the number of people who elected him, since its a matter of fulfilling a duty neglected by the Muslims for more than three days.

So if there arise some people who perform this duty, it suffices for the Khilafah to be established by them. Once the Khilafah is established in that country and contracted to a Khaleefah it becomes a duty upon all Muslims to rally under its banner and to give *Bay'ah* of Obedience to the Khaleefah, otherwise they would be sinful before Allah (swt).¹

B. CONSTITUTIONAL PROCESS FOR APPOINTING A KHALEEFAH ONCE THE KHILAFAH EXISTS

Upon close examination regarding the method of contracting *Bay'ah* to the *Khulafaa' Rashidoon* and specifically the method laid down by Umar bin al-Khattab (ra) we can derive a general process for appointing a Khaleefah today. This process is as follows:

1. **A Provisional Leader (*Ameer*) is appointed to look after the affairs of the Khilafah during the period of appointing a new Khaleefah. His post expires once the new Khilafah is contracted into office.**²

If the Khaleefah felt death approaching him he can appoint a Provisional *Ameer* for looking after the affairs of the Muslims during the period of appointing a new Khaleefah. The Provisional *Ameer's* main task is carrying out the appointment of the new Khaleefah within three days.

The evidence for this is Umar bin al-Khattab's (ra) appointment of Suhaib (ra) as the Provisional *Ameer*.

Umar (ra) said to the six nominees to the post of Khilafah: 'Let Suhaib lead you in the prayer during these three days in which you consult.' Then he said to Suhaib: 'Lead the people in the prayer these three days, till he said: If five met together and agreed upon one man, and one (of the six) objected, then strike his head with the sword...'³

This indicates that Suhaib (ra) was appointed as an *Ameer* over them. He was appointed as an *Ameer* over prayer, which also indicates leadership over the people in this context. Moreover, he gave Suhaib (ra) the authority of executing a punishment (strike his head) which is a task reserved only for an *Ameer*.

This matter was conducted before a group of the *sahabah*, without any of them objecting to that. Thus, this constitutes *ijmaa'* that the Khaleefah is entitled to appoint a Provisional *Ameer*.

The constitutional process for appointing a Provisional *Ameer* if the Khaleefah dies or is removed from office is that the eldest Delegated Assistant would be the *Ameer*. If this Delegated Assistant was a nominee to the post of Khilafah then the next youngest Delegated Assistant would be the *Ameer* and so on. If necessary it will then proceed through the Executive Assistants in order of maturity.

The Provisional *Ameer* has no mandatory powers of the Khaleefah so he is not entitled to adopt new legislation. He is also not allowed to be a nominee for the Khilafah post or support any other nominee. This is because Umar (ra) appointed Suhaib (ra) as a Provisional *Ameer* and Suhaib (ra) was not one of the nominees.

The authority of the Provisional *Ameer* would expire once the new Khaleefah is appointed, because his task is temporary.⁴

2. Work has to commence day and night throughout the three day limit on contracting the *Bay'ah*.

Abdul-Rahman ibn Awf (ra) was originally one of the six nominees appointed by Umar (ra). However, he withdrew his nomination and instead undertook the task of consultation with

the remaining nominees on who should be Khaleefah. Once the nominees were shortlisted to two people he consulted the wider Muslims of the capital Al-Madina. This work continued day and night in these three days.

Abdul Rahman ibn Awf (ra) said: ‘Who would take himself out of it (the Khilafah) and give it to the best among you?’ But no one answered him, so he went on saying: ‘I myself renounce my right to the Khilafah.’ Then he started to consult them one by one. He would ask them: ‘Apart from yourself, who do you think is worthy of this authority from among this group?’ Their answer was confined to two: Ali and Uthman. Then Abdul-Rahman sought the opinion of the Muslims regarding these two people. He would ask the men and women, and enquire about the opinion of the people. He did not work at day only, but at night as well.⁵

Al-Bukhari reported from Al-Miswar ibn Makhramah, he said: Abdul Rahman knocked at my door after a part of the night passed till I woke up. He said, ‘I see you have been sleeping. By Allah, I did not enjoy much sleep in these three’, meaning the three nights.⁶

- 3. Nominees to the post of Khaleefah are short listed in terms of fulfilling the contracting conditions. This, matter is performed by the Court of Unjust Acts (*mahkamat al-mazalim*).⁷**

The Court of Unjust Acts (*mahkamat al-mazalim*) is an independent judicial court that’s sole task is to investigate the government of the Khilafah and all those issues related to it such as the appointment and removal of officials including the Khaleefah.

- 4. Nominees are short listed twice. Firstly, limiting the list of nominees to six candidates and secondly short-listing to two. The Council of the Ummah (*Majlis ul-Ummah*) performs this task as representatives of the Ummah.⁸**

From examining the way of appointing the *Khulafaa’ Rashidoon*, it is clear that there was a list of nominees. The evidence of shortlisting firstly from six and then to two is taken from the process laid down by Umar (ra), where he shortlisted the nominees to six and then Abdul-Rahman ibn Awf (ra) to two.

Shortlisting the nominees to two ensures that the winner of the election would get a clear majority (i.e. over 50%) which may not happen if there were more than two nominees. A Khaleefah elected by a decisive majority over 50% solidifies the *Bay'ah* in the minds of the Muslim electorate.

Abu Bakr's (ra) *Bay'ah*.

In the hall of *Bani Saa'idah* (Family of Sa'd ibn Ubadah (ra)) immediately after the death of the Messenger of Allah (saw), the nominees were initially Abu Bakr (ra), Umar (ra), Abu Ubaidah (ra) and Sa'd ibn Ubadah (ra). However, Umar (ra) and Abu Ubaidah (ra) did not consider anybody equal to Abu Bakr (ra), so they did not challenge him. Thus competition was practically limited to Abu Bakr (ra) and Sa'd ibn Ubadah (ra). Then the influential people present in the hall elected Abu Bakr (ra) and gave him the *Bay'ah* of contract. The next day, Muslims gave Abu Bakr (ra) the *Bay'ah* of obedience.

Umar's (ra) *Bay'ah*.

Abu Bakr (ra) consulted the Muslims before his death and found their opinion in favour of Umar (ra). Abu Bakr (ra) then nominated Umar (ra) to the Muslims for Khilafah, without having any other nominee. The Muslims saw no disagreement with this nomination. On Abu Bakr's (ra) death the Muslims gave Umar (ra) the *Bay'ah* of contract and then the *Bay'ah* of obedience.

Uthman's (ra) *Bay'ah*.

Umar (ra) nominated six people to the Muslims and limited the Khilafah to them. Then Abdul-Rahman ibn Awf (ra) discussed with the remaining five, thus shortlisting the nominees to two: Ali (ra) and Uthman (ra), after they delegated the matter to him. After investigating the opinions of the people, the opinion settled on Uthman (ra) as Khaleefah.

Ali's (ra) *Bay'ah*.

For Imam Ali (ra), there was no other nominee for Khilafah beside him, so the majority of Muslims of al-Madinah and al-Kufah gave him the *Bay'ah*, and then he became the fourth Khaleefah.

5. The Muslims elect one of the remaining two nominees as their new Khaleefah.⁹

The Khaleefah is then elected through a general election by all the Muslim citizens.

6. **The results of the ballot are then announced and the Muslims will know who gained the largest number of votes. The Muslims will then give *Bay'ah* of Obedience to the new Khaleefah.**¹⁰

The evidence for this is in the *Bay'ah* to Uthman (ra).

Abdul-Rahman (ra) said: “Come to me O Uthman!” He took his hand as he stood on the spot where Ali stood earlier and said to him: “Would you give me your Bay’ah according to the Book of Allah and the Sunnah of His Messenger as well as the actions of Abu Bakr and Umar?” Uthman replied, “By Allah yes.” Upon this Abdul-Rahman looked up to the roof of the mosque with his hand clutching that of Uthman and said: “O Allah! Hear and witness; O Allah, I have put what was in my neck of that (matter) in the neck of Uthman.”

Then people rushed to give their Bay’ah to Uthman until they overwhelmed him. Then Ali came pushing his way through to reach Uthman and gave him his Bay’ah. Thus Bay’ah was concluded to Uthman.¹¹

8 MISAPPLICATION OF THE *BAY'AH*

Every Khaleefah assumed office through the *Bay'ah* from the first - Abu Bakr Siddiq (ra) to the last – Abdul-Mejid II. However, the *Bay'ah* process was misapplied throughout much of the Khilafah's history which was a contributing factor in the decline and eventual destruction of the Islamic State.

Since nominations for the post of Khilafah were restricted to the existing Khaleefah's close family, this prevented other political parties from participating and competing for the Khilafah post. The Khilafah then became dynastical and closely resembled the monarchical form of government which is why many scholars referred to the Khilafah as *mulk* (Kingship). Despite this the *shari'ah* was always applied throughout the Khilafah's history and the Khaleefah had no legislative power to rule from his mind as a King does.

It was the Ummayyads who first introduced this method of handing over the Khilafah to an heir apparent, who was then given *Ba'yah* by the people. This transformed the *Ba'yah* into a mere ceremonial procedure and prevented other political parties from competing and participating in the ruling.

Mu'awiyah (ra) started this trend when he made his son Yazid the heir apparent and forced the Muslims to give Yazid *Bay'ah*. Subsequently, every Khaleefah followed the same trend, taking an oath for their heirs and then asking the people to give them *Ba'yah*. The people were restricted to giving *Ba'yah* to whomever the Khaleefah had nominated.

The *Khulafaa'* used Abu Bakr's (ra) nomination of Umar (ra) as evidence for their actions. However, as explained previously Abu Bakr (ra) consulted the Muslims before his death and found them in favour of Umar (ra) so he nominated him. The *Khulafaa'* of Banu Umayyah misapplied this rule and nominated their sons, brothers or relatives without consulting the general population or their representatives. This resulted in political parties using military force to seize power and impose their authority.

This happened when the Abbasids fought and defeated the Ummayyads at the Battle of Zab in Iraq in 750CE. The Abbasids then seized control of the Khilafah and restricted the ruling to the family of Banu Hashim. Later the Fatimids seized control of Egypt and attempted to transfer the Khilafah to them and the sons of Fatima (ra), daughter of the Messenger of Allah (saw). They

attempted to establish a rival Khilafah to the Abbasids even though the Messenger of Allah (saw) said:

‘Whoever gave Bay’ah to an Imam giving him the clasp of his hand and the fruit of his heart shall obey him as long as he can. If another comes to dispute with him, you must strike the neck of that man.’¹

The Fatimid’s were a rebellious *wiliyah* and not a Khilafah. The disunity caused by the Fatimid rebellion allowed the Christian Crusaders to occupy the Muslim lands for 200 years. Later the Fatimids were defeated by the Khaleefah Nur ad-Din and once the Muslims were united again, Nur ad-Din’s sent his famous general Salahudeen Ayyubi (ra) to fight and expel the Crusaders.

This political disunity contributed greatly to the weakening of the State, as well as leading to suspension of the Islamic conquests and neglect in conveying the Message of Islam.²

CONCLUSION

Allah (swt) revealed a comprehensive system (*shari'ah*) that governs every aspect of life. He (swt) did not leave us without guidance (*hidayah*) on any action let alone such an important action as government and ruling. As discussed the Holy Qur'an, Sunnah and *Ijma as-Sababa* have detailed every aspect of the ruling system including the methodology to appoint a Khaleefah. This method is the Bay'ah and every Khaleefah from the time of Abu Bakr Siddiq to the last Khaleefah Abdul-Mejid II was appointed through the *Bay'ah*.

Therefore the modernist arguments that '*God has left the field of civil government and worldly interests for the exercise of human reason,*' and that the Messenger of Allah (saw) '*made no provision for the permanent government of the community after his death,*' are completely false.

The West claims that elections and accountable government are unique to democracy and that the Muslim world must adopt democracy to progress. Yet it was in the Islamic Khilafah where the head of State - Khaleefah was elected at a time when the world lived under the darkness of dictatorship and the tyranny of the kings.

Even with the *Bay'ah* being misapplied in latter times the Khaleefah was not above the law as a King or dictator is. His powers were limited to executive power only. Legislative power was restricted to *shar'ah* alone and for the most part legislative responsibility was undertaken by the *Ulema* (scholars) of the state. Throughout the rule of the Umayyads and the Abbasids there were accountability processes in place. The Khaleefah would usually set aside a special day to listen to grievances from the general population. During the rule of the Abbasids they institutionalised this accountability process by establishing the *Dar al-Adl* (House of Justice) which was the Court of Unjust Acts (*Mahkamat al-mazalim*) with responsibility for investigating acts of oppression (*mazluma*) committed by the rulers.

The future Khilafah will not be an Umayyad, Abbasid or Uthmani Khilafah repeating their mistakes and misapplication of Islam, rather it will be a Khilafah based on Prophethood.

The Messenger of Allah (saw) said: 'The Prophethood will be among you as long as Allah wills, then he will eliminate it if he so wills. Then a Khilafah on the model of Prophethood will prevail so long as Allah wills, then he will eliminate it if he so wills. Then there will be a biting monarchy as long as Allah wills, then he will eliminate it if he so wills. Then there will be an oppressive monarchy as

long as Allah wills, then he will eliminate it if he so wills. Then a Khilafah on the way of Prophethood will prevail and he kept silent.²¹

NOTES

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Chapter 2: Evidence for the Bay'ah

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- ¹ Ibid, p. 100
- ² Ibn Habban and Ibn Majah narrated from Ibn 'Abbas
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*Chapter 5:
Who contracts the Bay'ah ?*

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² Ibid, p. 70

*Chapter 6:
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¹ Sahih Al-Bukhari

² Holy Qur'an, Chapter An-Nisa, verse 141

³ Sahih Muslim, Narrated from Abdullah ibn Umar

⁴ Taqiuddin an-Nabhani, 'The Ruling System in Islam,' Op.cit., p. 57

⁵ Holy Qur'an, Chapter An-Nisa, verse 141

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⁸ Sunan Abu Dawoud narrated from 'Ali Ibnu Abi Talib

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¹⁰ Ibid, p. 58

¹¹ Holy Qur'an, Chapter At-Talaq, verse 2

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¹³ Ibid

¹⁴ Ibid

¹⁵ Holy Qur'an, Chapter Al-Ma'idah, verse 48

¹⁶ Holy Qur'an, Chapter Al-Ma'idah, verse 49

¹⁷ Holy Qur'an, Chapter Al-Ma'idah, verse 44

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¹⁹ Musnad Ahmad

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²¹ Ibid, p. 63

²² Sahih Muslim, narrated from 'Abdullah Ibn 'Amr Ibn al-'A'as

²³ Taqiuddin an-Nabhani, 'The Ruling System in Islam,' Op.cit., p. 75

²⁴ Ibid, p. 99

²⁵ Sahih Muslim

²⁶ Ibid

²⁷ Taqiuddin an-Nabhani, 'The Ruling System in Islam,' Op.cit., p. 122

²⁸ Ibid, p. 74

²⁹ Taqiuddin an-Nabhani, 'The Ruling System in Islam,' Op.cit., p.243

³⁰ Taqiuddin an-Nabhani, 'The Ruling System in Islam,' Op.cit., p. 90

*Chapter 7:
Method of appointing a Khaleefah today*

¹ Ibid, p. 65

² Hizb ut-Tahrir, 'Khilafah State Organisations,' translation of *Ajizat dawlah ul-Khilafah*, Dar ul-Ummah, Beirut, 2005, First Edition, Chapter - The Khaleefah

³ Ibn Katheer, *Al-Bidayah Wan-Nihayah*

⁴ Hizb ut-Tahrir, 'Khilafah State Organisations, Op.cit., Chapter – The Khaleefah

⁵ Taqiuddin an-Nabhani, 'The Ruling System in Islam,' Op.cit., p. 90

⁶ Sahih Al-Bukhari

⁷ Hizb ut-Tahrir, 'Khilafah State Organisations, Op.cit., Chapter – The Khaleefah

⁸ Ibid

⁹ Ibid

¹⁰ Taqiuddin an-Nabhani, 'The draft constitution of the Khilafah State. The Introduction and the incumbent reasons,' translation of *Muqadimatud-Dustur Aw al-Asbabul Mujibatulab*, Article 33

¹¹ Taqiuddin an-Nabhani, 'The Ruling System in Islam,' Op.cit., p. 90

*Chapter 8:
Misapplication of the Bay'ah*

¹ Sahih Muslim, narrated from 'Abdullah Ibn 'Amr Ibn al-'A'as

² Taqiuddin an-Nabhani, 'The Islamic State,' translation of *Ad-Dowlatul-Islamiyyah*, Chapter: The Causes of the Islamic State's weakness

Conclusion

¹ Musnad Ahmed