Al-Khilafah

Hizb ut-Tahrir

This book has been translated from the original Arabic version

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Translation of the Qur'an

It should be perfectly clear that the Qur'an is only authentic in its original language, Arabic. Since perfect translation of the Qur'an is impossible, we have used the translation of the meaning of the Qur'an throughout the book, as the result is only a crude meaning of the Arabic text.

Qur'anic Ayat and transliterated words have been italicised.

Ahadith appear in bold.

- subhanahu wa ta'ala
- sallallahu 'alaihi wa sallam
- radhi allaho anha/anho
  AH - After Hijrah
  CE - Christian Era
THE KHALIFAH

The Khilafah is the general leadership over all the Muslims, in the whole world, whose responsibility is to implement the laws of Islam, and to convey the Islamic Message to the whole world. It is also known as the Imamah, so Imamah and Khilafah are synonymous. It is the shape that the Ahkam shar’iyyah (divine laws) determine as the Islamic state. Many Sahih Ahadith have been narrated using these two words, with the same meaning. None of these two words differed in their meaning from the other in any Shari’ah text i.e. the Qur’an and Sunnah, for they are the only Divine texts. However, it is not binding to adhere to either of them, rather it is the meaning that has to be adhered to.

Appointing a Khaleefah is obligatory upon all Muslims throughout the world. Executing such a duty, just like executing any other duty which Allah 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 Sunnah and the Ijmaa’ of the Sahabah.

As for the Sunnah, it has been narrated that Nafi’ said: Umar told me: I heard the Messenger of Allah ﷺ say:

> “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 were no Bai’ah on his neck, his death would be that of the days of Jahiliyyah (ignorance).”

[Narrated by Muslim]

So the Messenger made it obligatory upon every Muslim to have a Bai’ab on his neck. He described the one who dies without having a Bai’ab on his neck as if he died the death of Jahiliyyah. The Bai’ab would not be valid except for the Khaleefah. The Messenger of Allah ﷺ made it an obligation that every Muslim should have a Bai’ab on his neck for a Khaleefah, but he did not oblige every Muslim to give a Bai’ab to the Khaleefah. The obligation therefore, is the existence of a Bai’ab on the
I accompanied Abu Hurayra for five years, and heard him informing about the Prophet, he 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 Khulafa’ and they will number many.’ They asked: ‘what then do you order us?’ He said: ‘Fulfil the Bai’ah 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:

“If anybody sees in his Ammar 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]

In these Abadith, there is a description of the Khaleefah as being a shield, i.e. a protection. The description of the Imam as a shield is an indication of the benefits of the existence of the Imam; therefore it is a command. This is because when Allah or His Messenger informs us about something that includes a rebuke this is taken as a command of prohibition i.e. to abstain from it. When the text contains praise it is taken as a command to perform an action; and if the commanded action is necessary to implement the divine rule, or if its neglect would cause the divine law to be abandoned, then this is decisive. These Abadith also inform us that those who run the affairs of the Muslims are the Khulafa’, which means a command of appointing them. They also include the prohibition of Muslims separating themselves from authority. This means the obligation that the Muslim establishes power, i.e. authority to the Khaleefah. However, the Messenger of Allah ﷺ ordered the Muslims to obey the Khulafa’ and to fight those who dispute with them regarding


As for the Ijma’ of the Sahabah, they (may Allah be pleased with them) agreed upon the necessity of establishing a successor (ie. Khaleefah), to the Messenger of Allah ☪ after his death. They all agreed to appoint a successor to Abu Bakr, and upon his death, appointing ‘Umar as successor and upon ‘Uthman’s death to appoint ‘Ali as a successor to him. The general consensus of the Sahabah on the appointment of a Khaleefah manifested itself emphatically upon the death of the Messenger of Allah where they busied 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 also prohibited upon those in charge of preparing the burial to engage themselves in anything else until they completed the burial. Despite this, some of the Sahabah engaged themselves in appointing a Khaleefah, even though they were obliged to engage themselves in preparing the burial of the Messenger of Allah ☪. Other Sahabah kept silent about this and participated in the delaying of the burial for two nights, despite having the ability to deny the delay and to bury the Messenger of Allah. This action of the Sahabah is therefore an evidence of Ijma’ of busying themselves in the appointment of the Khaleefah instead of the burial of the dead person. This could not have been legitimate unless the appointment of a Khaleefah was more obligatory than the burial of the dead person. Furthermore, all of the Sahabah consented throughout their lives, upon the obligation of appointing the Khaleefah. Although at some times 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 ☪ nor after the death of each of the Khulafa’ ir-Rashideen. Accordingly, the general consensus (Ijma’) of the Sahabah is both strong and clear evidence that the appointment of a Khaleefah is obligatory.

Furthermore, establishing the Deen and implementing the Shar’ in every single aspect of life is an obligation upon Muslims proven through evidences definite in report and in meaning, and this cannot be achieved unless there is a ruler who possesses the authority to do so. Therefore, in this context, the Shari’ah principle states: ‘Whatever is necessary to accomplish a duty, becomes itself a duty.’ Thus appointing the Khaleefah is obligatory based on this principle.

Furthermore, Allah ☪ commanded His Messenger to rule the Muslims by that which He ☪ revealed to him; the command of Allah ☪ was conveyed in the most decisive manner. Allah ☪ addressed His Messenger ☪:

"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 5:48]

And He ☪ said:

"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 5:49]

The speech of Allah to His Messenger is also a speech to the Messenger’s followers, unless there exists evidence that indicates that the speech is limited to him. In this case there is no evidence limiting this speech to the Messenger of Allah. Thus the verses call upon Muslims to establish the rule of Allah. The appointment of a Khaleefah does not
The Messenger of Allah ﷺ was asked: “Would we not declare war on them (face them with the swords)?” He said:

((لا، ما أقاموا فحكم الصلاة))

“No, as long as they establish salah (meaning Islam) amongst you.”

This Hadith explicitly informs about the good and bad leaders, and the prohibition of revolting against them as long as they established the Salab. For establishing Salab indicates upholding the Deen and implementing its rules. Therefore the obligation upon Muslims to appoint a Khaleefah to implement the rules of Islam and to convey its message is beyond any doubt, with regards to its proof in the sound Shari’ah 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 of the Muslims. However, this duty is a collective one; if some of the people accomplished it, the duty would be fulfilled and the responsibility would be discharged from the rest of the Ummah. If a section of the Ummah failed to accomplish this duty, despite their undertaking all the steps required to fulfil it, then it would remain as an obligation upon all the Muslims, and 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, for it is an abstention from fulfilling one of the most important duties of Islam. For upon this duty, rests the implementation of the rules of the Deen and the very existence of Islam in life’s affairs. The Muslims would be committing a grave sin if they refrained from establishing a Khaleefah for themselves. If they all agreed to abandon the duty, the sin would fall upon every single Muslim in the entire world. If however some of the Muslims embarked upon the work to establish a Khaleefah whilst others did not, the sin would fall from the shoulders of those who work to establish the Khaleefah and the duty would remain upon them until the Khaleefah is appointed.

The involvement in the work to accomplish the duty would remove the sin of delaying the accomplishment of the duty in its due time and the failure to fulfil it. This is because of the involvement in performing it and the dislike of being prevented from its accomplishment. Those who do
not participate in the work to accomplish the duty will be sinful after three days from the departure of the Khilafah until the day the next Khilafah is appointed.

This is because Allah ﷻ has entrusted them with a duty they neither carried out nor participated in. Thus, they committed a sin and deserve the punishment and disgrace from Allah. The sin would duly fall upon them for abstaining from working to establish the Khilafah, 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, particularly the duty by which other duties are implemented, the rules of the Deen are established 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 Khilafah nor removes the sin due to this abstaining. When somebody studies these Ahadith thoroughly he finds them related to the adherence to the Deen rather than permitting the abandonment of establishing a Khilafah for the Muslims. For example, al-Bukhari narrated about Bisr ibn Obaydellah al-Hadhrami that he heard Abu Idrees al-Khoolani say that he heard Huthaifah ibn al-Yaman saying:

“The people used to ask the Prophet 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 Prophet 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:

(نعم) ((نعم دعاء على أبوب جهنم من أحمام إليها قذفوه فيها))

‘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:

(هم من جلدتنا، وتكلمون بإسنتنا) ((هم من جلدتنا، وتكلمون بألسنتنا))

‘They are of our own skin (colour) and talk our language.’ I said: What do you order me to do if that (matter) caught me?’ He said:

(تلزم جماعة المسلمين وإمامهم) ((تلزم جماعة المسلمين وإمامهم))

‘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:

(فاترزل تلك الفرق كلها، ولو أن تعض بأصل شجرة حين يدركك الموت وأنت على ذلك) ((فاعتزل تلك الفرق كلها، ولو أن تعض بأصل شجرة حين يدركك الموت وأنت على ذلك))

‘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 Prophet 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 clear, disassociate yourself from all those groups, and he emphasised 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. 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 (for anybody) to abandon the work for establishing a Khilafah, it is, rather, confined to the command of adhering to the Deen and abandoning the callers at the doors of hell, and the sin will remain on him if he does not work to establish a Khilafah. So he is ordered to
The time limit allowed for the Muslims to appoint a Khaleefah is three nights. It is forbidden for a Muslim to spend more than three nights without having a Bai’ah 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, including their nights. If the limit exceeds three nights and a Khaleefah is not appointed by that time the matter should be examined: If the Muslims were involved in the appointment of a Khaleefah and failed to do so within three nights for compelling reasons beyond their control and ability, then the sin would fall from their necks. This is because they were ... to delay the execution of that duty. Ibn Habban and Ibn Majah narrated from Ibn’Abbas, he said: The Messenger of Allah ﷺ said, “Allah had forgiven my Ummmmaahh for the mistake and forgetfulness and that which they were compelled to do.” But if they were not involved in the task, they would all be sinful until such time that a Khaleefah was appointed. Only then would the sin fall from their necks. As for the sin they had committed by neglecting the duty of appointing a Khaleefah this would not fall from them. It rather remains, and Allah ﷻ would punish them as he would punish any sin committed by a Muslim for not performing a duty.

As for the evidence of the obligation of the immediate involvement in the Bai’ab of the Khaleefah once the post of Khilafah becomes vacant is that the Sahabah undertook this in the Saqefah of Bani Saa’idah after the death of the Messenger, the same day and before his burial. The Bai’ab of contract to Abu Bakr took place the same day, and then the next day, they gathered the people in the Masjid to give Abu Bakr the Bai’ab of obedience. With regards to the time limit of three days and two nights, which Muslims are given to appoint the Khaleefah, this is because 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 of the Shura people and the senior Sahabah. This took place in the presence of the Sahabah and no one objected or condemned such instruction. This became a general consensus of the Sahabah stating that it is forbidden for the Muslims to remain without a Khaleefah for more than three days including their nights. The consensus of the Sahabah is Shar'i evidence just like the Kitab and the Sunnah.

### The Khilafah Contract

The Khilafah is a contract based on mutual consent and choice; it is a Bai’ah of obedience to whoever is entitled to obedience from the people in authority. It is therefore imperative to have the consent of the one who is given the Bai’ah to take the post, and of those who give him the Bai’ah. Thus, it is forbidden to force anyone to become Khaleefah if he rejected the post of Khilafah. He should not be forced to accept it. Under such circumstances another person would then have to be considered to fill the post. It is also forbidden to take the Bai’ah from the people by force or by using coercion because in this case the contract would be invalid. Mutual consent and choice have to be observed without any compulsion as in any other contract. However, if the Bai’ah has been contracted by those whose Bai’ah is reliable then the Bai’ah would be considered valid and concluded, and the person for whom the Bai’ah was given would become the person in authority, his obedience would subsequently become compulsory. If afterwards the rest of the people were to give him their Bai’ah, it would be a pledge (Bai’ah) of obedience and not of contracting the Khilafah. Then he could legitimately force the people to give him the Bai’ah because, at this stage, it would be imposing on them obedience to him, and this is compulsory under Shari’ah law.

In this case it would not be a Bai’ah of contracting the Khilafah. Some people may claim that it is forbidden to coerce people to give their Bai’ah. Firstly, the Bai’ah is a contract that would only be valid if mutual consent and choice (within the Islamic Shari’ah) was observed. Once the Bai’ah has been concluded it would become a Bai’ah of obedience, i.e. submission to the order of the Khaleefah, where compulsion would then become lawful as an execution to the command of Allah. Since the Khilafah is a contract, it cannot take place without a contractor. It is like the judiciary, where a man cannot become a judge unless somebody had appointed him as such. The same applies to the Imara; a man cannot become Ameer unless somebody appointed him as an Ameer. So a man cannot become a Khaleefah unless somebody appointed him into the Khilafah post. This indicates that no man assumes the post of Khilafah unless the Muslims appointed him to the post, and he would not possess the mandatory powers of the Khilafah unless it was first contracted to him. This contract would not be concluded unless two parties existed, one party would be the one seeking the post of Khilafah (the potential Khaleefah) and the other party would be the Muslims who accepted him to be their Khaleefah. Therefore, for the Khilafah to be contracted the Bai’ah of the Muslims is necessary.
If a usurper were to seize power by force he would not become Khaleefah, even if he declared himself to be the Khaleefah of the Muslims. This is because the Muslims in this case would not have contracted the Khilafah to him. If he were to take the Bai'ab from the people by force and coercion he would not become Khaleefah even if the Bai'ab were given to him. This is because a Bai'ab that is taken by force and coercion is not considered valid and the Khilafah cannot be concluded by it. For it is a contract based on mutual consent and choice and cannot be concluded forcefully or by coercion. The Khilafah cannot therefore be concluded except by a Bai'ab of consent and choice. However, if the usurper managed to convince the people that it would be in the interest of the Muslims to give him their Bai'ab and that the implementation of the Shar’ rules obliges them to give the Bai'ab, and they were convinced of that and accepted it and then gave him the Bai'ab by consent and free choice, he would become Khaleefah from the moment that the Bai'ab was given to him by consent and choice. This is the case, even though in the first place he seized the authority by coercion and force. The condition is giving the Bai'ab and that it must be by mutual consent and free choice, regardless of whether the one who was given the Bai'ab was the ruler or not.

From reviewing what took place in the Bai’ab of the ‘Khilafah Al-Rashideen’ and the consensus of the Sahabah (Ijmaa’), one can conclude that the Khilafah is contracted by the Bai’ab. In the Bai’ab to Abu Bakr, the Bai’ab from the influential figures amongst the Muslims, (Abdul Halil Wal ‘Aqiq) in Madina 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 Bai’ab to Umar. With regards the Bai’ab to Uthman, Abdul Rahman Ibnu ‘Awf 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, most of the people of Madina and Kufa gave him their Bai’ab, and he was singled out in the Bai’ab. His Bai’ab was valid even for those who opposed him and fought against him because they never actually gave their Bai’ab to another man nor did they object to his Bai’ab. They rather demanded revenge for the blood of Uthman (for his murder). 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 Bai’ab 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. 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, throughout the territories of the Islamic State at the time.

Therefore, the Khilafah is contracted if the Bai’ab 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 it was the case at the time of the Khilafah Al-Rashideen. Their Bai’ab would constitute a Bai’ab of contract, while for the others, once the Khilafah has been contracted; their Bai’ab would be classed as a Bai’ab of obedience, i.e. a Bai’ab of allegiance to the Khaleefah and not a Bai’ab of contract. 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 rules of the Shar’ and to convey the Islamic call to the world. This has been the case since the destruction of the Islamic Khilafah in Istanbul in the year 1343 Hijri (1924). Every country in the Islamic world would be eligible to give Bai’ab to a Khaleefah and thus the Khilafah would be contracted to him. If any country throughout the Islamic world gave Bai’ab 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 to give him the Bai’ab of obedience, i.e. the Bai’ab of allegiance after the Khilafah was contracted to him by the Bai’ab of the Muslims in his country. This is regardless of the size of that country, big like Egypt, Turkey and Indonesia or small like Jordan, Tunisia and Lebanon. However, this country must fulfil four conditions:

Firstly. The authority in that country must depend on the Muslims only and should not depend on a non-Islamic country or a non-Islamic influence.

Secondly. The security of the Muslims in that country must be guaranteed in the name of Islam, not in the name of Kufr. This means
Ibn 'Amru Ibnul 'A'sh that he heard the Messenger of Allah ﷺ say:

(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). The Khilafah is also the one who unites the Muslims under the banner of Islam. So once the Khilafah was established, the Jama'ah (community) of the Muslims would have existed, and it becomes an obligation upon the Muslims to join it, and it is a sin to alienate oneself from it. Al-Bukhari and Muslim narrated from Ibnu'Abbas that the Messenger of Allah ﷺ said:

(If anyone sees in his Ameer something that displeases him, let him remain patient, for behold! He who separates himself from the Jama'ah by even so much as a hand span and dies thereupon he has died the death of Jahiliyyah).

Muslim also reported on the authority of Ibnu 'Abbas that the Messenger of Allah ﷺ said:

(If anyone sees in his Ameer something that displeases him let him remain patient, for if anyone separates himself from the Sultan (authority) by even so much as a hand span and dies thereupon, he has died the death of Jahiliyyah.)

We gather from these two Hadiths that adherence to the Jama'ah (the community) and to the Sultan (authority) are obligatory.

The non-Muslims have no right in the Bai'ah. This is because it is a Bai'ah on Islam, i.e. on the Kitab of Allah and on the Sunnah of His Messenger. It necessitates Iman (belief) in Islam, in the Kitab and the
The Bai'ah

The Bai'ah is an obligation upon all Muslims and it is also the right of every Muslim, male and female. The evidences concerning the Bai'ah being an obligation are numerous; of these is the speech of the Messenger of Allah:

“Whoever dies while there was no allegiance on his neck dies a death of the days of ignorance (Jahiliyyah).” [Narrated by Muslim]

The fact that the Bai'ah itself indicates that it is the right of the Muslims, is understood from the Bai'ah itself, for it is from the Muslims to the Khaleefah, and not from the Khaleefah to the Muslims. The Bai'ah 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 Ibnus Samit said: “We pledged ourselves in complete obedience to the Messenger of Allah, in weal and woe, and that we would not dispute the matter (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 no one.” In Bukhari, it has been narrated on the authority of Ayyub from Hafsa that Umm Atyaa said: “we gave our Bai'ah to the Messenger of Allah ﷺ, so he recited to us ‘they should associate none with Allah’ 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.” 'Abu Hurayra reported that the Messenger of Allah ﷺ said:

ثلثة لا يكلِّمهم الله يوم القيامة ولا يزكيهم وهم عذاب أليم:
رجل على فضل ماء بالطريق يمنع منه ابن السبيل، ورجل بابع
إماماً لا يبابع إلا لدنياه إن أعطاه ما يريد وفوق له ولا يف
له، ورجل بابع رجلاً بسلعة بعد العصر فجعل به فحالف بِنَا لِدَ أَعْطِي
بما كذا وكذا فصدقه فأخذها ولم يعطف بها)
take a Bai'ab from him; upon this the Messenger of Allah said:

("هو صغير فمسح رأسه ودعا له")

‘He is young’, he wiped over his head and prayed for him.”
[Narrated by Bukhari]

As for the wording of the Bai’ab, this may vary; it is not restricted to any specific wording. It should, however, include the commitment that the Khaleefah acts according to the Kitab of Allah and the Sunnah of His Messenger; and that the person who gives the Bai’ab should pledge to obey in weal and woe and in ease and hardship. Once the Bai’ab is given to the Khaleefah or the Bai’ab of the Muslims to him contracted the Khilafah to the Khaleefah, then the Bai’ab becomes a trust on the neck of the one who gives the Bai’ab. Thereafter he is not allowed to withdraw it. It is the right of every Muslim to partake in contracting the Khaleefah. Once the Khaleefah has been contracted, it is not allowed for anyone to withdraw it. It is not allowed for him even if he wanted to do so. Al Bukhari narrated from Jabir ibn Abdullah, “that a bedouin gave Bai’ab to the Messenger of Allah on Islam, but he became ill, so he said: ‘Relieve me of my Bai’ab’, the Messenger of Allah said:

("المدينة كالمكان البسيط إن حَثتٌ وَبَصَعَتِ إِبًّا")

‘The town (Madinah) is like the mason’s bellow (or furnace), it gets rid of (cleanses) its impurity, and its goodness (scent) manifests (shines).’” Muslim also narrated from Nafi’, he said: Abdullah ibn ‘Omar said to me: I heard the Messenger of Allah say:

("من خلع بائدة من طاعة لقَبِلَ اللَّهُ يَوم القيامة لا حجة لِهِ")

‘Whoever withdraws a hand from obedience, he would meet Allah on the day of judgement without having proof for himself.’ So breaking the Bai’ab to the Khaleefah is a withdrawal of the hand from the obedience to Allah. However, this is the case if his Bai’ab to the Khaleefah was a Bai’ab of contract, or a Bai’ab of obedience to a Khaleefah who had been contracted by the Muslims. But if he pledged himself to a Khaleefah initially, and the Bai’ab was not completed to him (the Khaleefah), then he has the right to relieve himself from that Bai’ab, 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 Bai’ab to
a Khaleefah, not to a man for whom the Khilafah contract was not completed.

**CONDITIONS OF THE KHALEEFAH**

The Khaleefah must satisfy six contractual conditions in order to qualify for the Khilafah post and for the Bai‘ah of Khilafah to him to take place legitimately. These conditions are necessary. If just one condition is not observed the Khilafah contract would not have taken place and it would be considered null and void. The contracting conditions are: Firstly. The Khaleefah must be Muslim; the post of Khilafah is never allowed for the unbeliever, nor is it allowed to obey him. Because Allah ﷻ says:

وَلَنْ يَحْكُمَ اللَّهُ لِلنَّكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَيِّئًا

“And Allah will never (lan) give the unbelievers any way (of authority) against the believers” [TMQ An-Nisa: 141].

Ruling is the strongest way for the ruler over the ruled, hence the term ‘lan’ (never) means the categorical prohibition of the unbeliever (Kafir) from taking a post of authority over the Muslims, be it the Khilafah or any other post of authority. This in turn forbids the Muslims from accepting the Kafir to rule over them.

Secondly. The Khaleefah must be male. It is forbidden for a female to be Khaleefah, i.e. the Khaleefah must be a man, not a woman. Al-Bukhari reported on the authority of Abi Bakra that he 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:

(لن يفلح قوم ولو أمرهم امرأة)

“People who appoint (Wallaaw) a women as their leader will never succeed.” If the Messenger of Allah foretold the 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 and any other post connected 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. The Hadith is not also general to cover everything but related only to matters regarding ruling and authority, so it does not apply to other than ruling positions.

Thirdly. The Khaleefah must be mature; it is forbidden to appoint a youth (pre-pubescent). Abu Dawoud narrated from ‘Ali Ibnu Abi Talib that the Messenger of Allah 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.”

In another narration from ‘Ali:

("رفع القلم عن ثلاثة عن النائم حتى يستيقظ وعن الصبي حتى يكبر وعن المبتل حتى يعقل")

“The pen has been raised off three persons: The deranged in his mind till he restores his mind, the dormant till he wakes up and the adolescent till he reaches maturity." The person off whom the pen is raised is not under obligation. Also the mind is the 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).

Fifthly. 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 ﷺ has stipulated that the witness must be just. He says:

("وأنشددوا دوًي عدل منكم")

“And seek the witness of two just men from amongst you” [TMQ; 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, be just. For if justice was stipulated in the witness, its presence in the Khaleefah must exist by greater reason (Bab Awla).

Sixthly. The Khaleefah must be a freeman; 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.

The aforementioned are the contractual conditions necessary for the Khaleefah to be appointed. Any other condition, apart from the seven mentioned above, does not constitute a necessary prerequisite for contracting the Khilafah. Such conditions however, constitute conditions of preference if the texts relating to them are confirmed, or if they are listed under a rule that has been confirmed by a sound (Sahih) text. In
indicates that it is *Mandub* (desirable) and not obligatory. It is, therefore a condition of preference and not a contractual condition.

As for Allah’s Messenger saying:

"If anyone were hostile to them, Allah would throw him on his face." This indicates prohibition of being hostile to them and not confirmation to his saying:

"this matter is within Quraysh." The Hadith says that the matter (ruling) is within them, and it then proceeds to forbid hostility to them. Besides, the word Quraysh is a name and not a description. In Shari’ah terminology it is known as a title. And the meaning derived from the title is never considered, because the title has no meaning (*Mafhoom*) at all. Therefore, the mention of Quraysh does not mean that the position of ruling cannot belong to other than Quraysh. So when Allah’s Messenger said:

"Verily this matter is within Quraysh..." and his saying:

"This matter would still be within Quraysh..." He did not mean that it is wrong for it (the ruling) to be in other than Quraysh. He meant 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 and not a contractual condition.

Indeed the Messenger of Allah appointed ‘Abdullah Ibn Ruwahah, Zayd Ibn Harith and Usama Ibn Zayd to positions of authority and all three were not from Quraysh. Thus the Messenger of Allah did appoint people from other than Quraysh to positions of ruling. In this phrase...
To seek the Khilafah post and compete over it is lawful to all the Muslims and it is not Makruh; no text has ever been listed indicating its prohibition. It has been confirmed that the Muslims competed for it in the hall of Banu Sa’ida while the Messenger of Allah was lying on his bed still unburied. It has also been confirmed that the six members of the Shura council who were all senior Sahabah competed over the post, in the presence of the Sahabah and no one reproached them but rather consented to this competition. This demonstrates that a consensus (‘Ijmaa’) of the Sahabah has been established about the permissibility of competing for the Khilafah post and the permissibility of applying for the post and campaigning for it by putting forward the arguments and opinions, proposals etc for 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, who are not deemed suitable for it. But those who are suitable for the Imarah are permitted to seek it by the evidence of the courtyard 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, the Messenger of Allah did not reproach the one who was qualified for it, and he appointed the one who asked for it. Since the Messenger appointed the Imarah to the one who asked for it, he forbade the seeking of Imarah regarding the one who seeks it from those who are not suitable. Thus it was not an absolute prohibition.

The above clearly indicates that there is no evidence whatsoever stating that there are other contractual conditions apart from the seven previously outlined. Any other condition constitutes a condition of preference and not a contractual one if the text expressing such a condition has been proven genuine or such a condition has come under a rule (Hukm) derived from a sound text. Under Shari’ah law, what is required is the contractual condition for the Khilafah to be contracted to the Khaleefah. Apart from this, the Muslims will be told about it when the candidates are presented to them, so that they can elect the one whom they prefer. Any man whom the Muslims choose would be appointed Khaleefah if the contractual conditions were fulfilled regardless of the other conditions.
The Unity of the Khilafah

The Muslims are obliged to live in one state, and be ruled by one Khaleefah. It is forbidden for the Muslims in the world to have more than one state and more than one Khaleefah. It is also necessary that the ruling system in the Khilafah State be a system of unity, and forbidden to be a system of union (federation of states). This is due to what Muslim narrated that ‘Abdullah b. ‘Amru b. al-‘Aas said that he heard the Messenger of Allah say:

‘The children of Israel have been governed by Prophets; whenever a Prophet died another Prophet succeeded him; but there will be no prophet after me. There will soon be Khullaafaa’ 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 Khilafah were contracted to two Khullaafaa’ in two countries at the same time, it would not be valid for either of them, because Muslims are not allowed to have two Khullaafaa’. It is not correct to say that the Bai’ah is valid to the one that had it first because the matter is to establish a Khaleefah, not to turn it into a race, and also because it is the right of all Muslims, not the right of the Khaleefah, so the matter must go back again to the Muslims to establish one Khaleefah in case of establishing two Khullaafaa’. It is incorrect to suggest a ballot between them because Khilafah is a contract, and the ballot is not included in the contract. And it is incorrect to refer to the saying of the Prophet ﷺ “Fulfil allegiance to them one after the other” because this is the case if a pledge is given to two Khullaafaa’ when there exists a Khaleefah, so the pledge is not valid except for the first one whose pledge was contracted, and whoever comes afterwards could not have the pledge contracted to him lawfully. The case under discussion is that if the Khilafah is established for two Khullaafaa’ when the majority of the influential people elected two Khullaafaa’ at the same time, and the pledge of each of them was contracted legally. So the two contracts are cancelled and the matter must be returned to the Muslims; ... it becomes a contract. Thus the matter is a right to all Muslims and not to persons who enter in a race for it. And if two Khullaafaa’ were established, and the majority of the influential people in the affairs of ruling and Khilafah sided with one of them and it was they who elected him, while the minority were with the other, then the pledge would be for the one who the majority of the influential people in the matters of ruling elected, whether he was elected first, second or third,
because he is considered the legal Khaleefah when the majority of the influential people elected him. The others must 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 pledge of the majority of the Muslims. He thus becomes a Khaleefah who must be obeyed by all Muslims and it becomes haram (forbidden) to elect another person.

However, the reality of the ruling is that the majority of the influential people, in whose hands lay the affairs of ruling, are usually found in the capital, because that is where the highest affairs of ruling are conducted. So if the residents of a province or provinces elected another Khaleefah and the pledge of the one that is in the capital came first, then the Khilafah is for him because the pledge given by the people of the capital is an indication that the majority of the influential people are on his side, and the pledge in this case is for the first. But in the case that the Khaleefah in the provinces was elected first, the preference is given to the one who has the majority of influential people on his side, because the precedence of the people of the provinces in giving the pledge weakens the indication that the majority of the influential people are present in the capital. In any case, it is not allowed to retain more than one Khaleefah, even if this leads to fighting against the one who did not have the Khilafah contracted to him.

**The Appointment of a Successor**

The Khilafah post is not contracted to a person by designation or by being named as a crown prince, for it is a contract between the Muslims and the Khaleefah. In order to be contracted it is stipulated that the Muslims should give the Bai’ah, and the person they gave their Bai’ah should accept it. Designation or appointing of a crown prince does not fulfill that so that cannot contract Khilafah. Accordingly, the contract of Khilafah is not contracted if a Khaleefah nominated another Khaleefah to succeed him, for he does not have the right to contract it. Khilafah is also the right of the Muslims and not of the Khaleefah, thus the Muslims contract it to whomsoever they wish. Therefore it is wrong as well for the Khaleefah to designate someone else, i.e. to promise him the post. For it would be giving him something he does not own; which legally forbidden. So if the Khaleefah designated another Khaleefah, whether he was his son or his relative or any other, this would be forbidden and the Khilafah would never be contracted to him. This is because those who own the contract did not convene it; therefore it would be an uncommissioned contract and thus invalid.

As for the claims that Abu Bakr had designated Umar and that Umar had designated the “Six” and that the Sahabah did not object and kept silent, indicating general consensus. These claims do not in fact indicate the permissibility of designating or appointing of a crown prince. This is because Abu Bakr had not designated a Khaleefah but merely consulted the Muslims regarding whom they wanted to be their Khaleefah, and ‘Ali and Umar were nominated as candidates. The Muslims then chose Umar by a majority during the last three months of Abu Bakr’s Khilafah. After his death, the Muslims came and gave their Bai’ah to Umar; only then was the Khilafah post contracted to him. For up to that moment, i.e. before the Bai’ah, he was not a Khaleefah and the Khilafah had not yet been contracted to him, neither by Abu Bakr’s nomination, nor by the Muslims choice. It was contracted only when they gave him their Bai’ah and when he accepted it. 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 consulted the Muslims as to which of the six they wanted to become their Khaleefah. So most of them chose ‘Ali if he adhered to Abu Bakr and Umar’s actions, otherwise Uthman. When ‘Ali declined to follow the actions of Abu Bakr and Umar’, Abdul Rahman gave his Bai’ah to Uthman, and then the Muslims gave him their Bai’ah.
When Shar’ made it incumbent upon the Ummah to appoint a Khaleefah upon her, it determined for her the method by which the Khaleefah is appointed. This method is proved in the Kitab, the Sunnah and the Ijma’ of the Sahabah. This method is the pledge of allegiance (Bai’ah). So the Bai’ah of the Muslims draws the appointing of the Khaleefah to him in accordance with the Kitab of Allah and the Sunnah of Rasul Allah. The fact that this method is the Bai’ah is proved by the Bai’ah of the Muslims to the Prophet, and from the order of the Messenger to us to pledge Bai’ah to the Imam. It is important to stress that the Bai’ah of Muslims to the Messenger was not a Bai’ah on Prophethood, but a Bai’ah over ruling. Therefore, Rasul Allah ﷺ was pledged an allegiance as a ruler, and 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 Bai’ah. The Bai’ah to him was only in his capacity as the head of the state. The Bai’ah was mentioned in the Qur’an and Hadith. Allah ﷻ says:

"O Prophet! If the (female) believers come to you to take the oath (Bai’ah) 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 (Bai’ah)” [TMQ: 60:12].

In another verse, Allah ﷻ says:

"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: 48:10].
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 that the Bai’ab is the method of appointing the Khaleefah. In the Hadith of Ubadah, the Messenger took the Bai’ab to listen and obey; this is with respect to the ruler. In the Hadith of Abdullah b. Hisham he refused his Bai’ab because he was still a child, which confirms that it is a Bai’ab over ruling. The Hadith of Abu Hurayra is explicit that it was a pledge of allegiance to an Imam, and the word was mentioned without “The” to indicate any Imam. There are other Ahadith that refer to the Bai’ab of an Imam. In Muslim, the Messenger of Allah said:

(من بابع إمامة فأعطوه صفقة يده).

“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 said:

(إذا بوعي خليفتين فاقتلاو الآخر منهم).

“If two Khulafaa’ were pledged allegiance, then kill the latter of them.” Muslim narrated on the authority of Abi Hazim who said: “I accompanied Abu Hurayra five years and I heard him talk about the Prophet saying:

(كانت بنو إسرائيل تسوسهم الأنباء كلما هلك نبي خلفه نبي) 

(وإنه لا نبي بعد وستكون خلفاء فتكر).

‘Banu Israel used to be governed by Prophets, every time a Prophet died, another came after him, and there is not Prophet after me. There will be ce Khulafaa’ and they will number many’. They said: ‘What would you order us to do?’ He said:

(فوا بيعة الأول فالأول)

‘Fulfill the Bai’ab 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 Bai’ah. This was understood and practiced by all of the Sahabah. Abu Bakr was pledged a special Bai’ah in the hall of Bani Sa’idah, and a public Bai’ah in the Masjid. Then others who were absent from the Masjid like ‘Ali b. Abi Talib gave him the Bai’ah later on. Umar was also pledged a Bai’ah from the Muslims, as were Uthman and ‘Ali. So the Bai’ah is the only legitimate method of appointing a Khaleefah for the Muslims.

The practical forms of the procedure of this Bai’ah are clear from the appointment of the four Khaleefa’i, who directly succeeded the Prophet after his death. They were, Abu Bakr, Umar, Uthman, and ‘Ali, may Allah be pleased with them. All of the Sahabah remained silent to this and accepted it, it is inconceivable that they could have accepted it if it was against the Shari’a. This is because it is related to a vital matter, upon which rely the stature of the Muslims and the preservation of the rule by Islam. If we follow the development of the appointment of those Khaleefa’i, we find that some Muslims had discussions in the hall (Saqeefah) of Banu Saidah, and those who were proposed to rule were Sa’d, Abu Ubaydah, Umar, Abu Bakr and none other. As a result of the debate, the Bai’ah was given to Abu Bakr. The next day the Muslims were called to the Masjid, and in turn pledged their Bai’ah. So the Bai’ah of the Saqeefah was a Bai’ah of appointment (contract), by which he became Khaleefah for the Muslims. However, the second Bai’ah in the Masjid the following day was a Bai’ah of obedience. When Abu Bakr felt that his illness carried with it death, he invited 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 and Umar and no one else. He continued in making these consultations for three months. When they were complete and he knew the opinion of the majority of the Muslims, he announced to them that Umar would be the Khaleefah after him. Upon his death directly, the Muslims came to the Masjid and pledged their allegiance to Umar for Khilafah. So with this Bai’ah Umar became the Khaleefah for the Muslims, and not with the consultations, nor with the announcement of Abu Bakr. When Umar was stabbed, the Muslims urged him to nominate a Khaleefah, but he refused. They were forceful in their insistence, so he relented and nominated six. After his death the nominees delegated one of them, namely Abdul Rahman b. ‘Awf and he in turn consulted the Muslims. They chose Uthman and he became the new Khaleefah, not by the choice of Umar or by the announcement of Abdul Rahman. When Uthman was murdered, the whole of the Muslims pledged allegiance to ‘Ali in Madin and Kufa, so he became Khaleefah with the Bai’ah of the Muslims.

So from this, it is clear that the only method, which Islam determined for the appointment of the Khaleefah, is the Bai’ah with the consent and selection 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 publicised 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’idah the debate was about Sa’d, Abu ‘Ubayda, ‘Umar and Abu Bakr, then Abu Bakr was given the Bai’ah, which was equivalent to their selection. But this selection was not binding for Muslims until the Muslim populace gave him their Bai’ah. Abu Bakr discussed with the Muslims about ‘Ali and ‘Umar then he declared the name of ‘Umar, who was then given the Bai’ah. ‘Umar suggested the Khaleefah to be from among the six people. After referring to the Muslims ‘Abdul Rahman ibn ‘Auf declared the name of ‘Uthman who was then given the Bai’ah. Whereas, ‘Ali was given the Bai’ah immediately, as the situation was one of riot, and it was known that no nominee was equivalent to him in the opinion of Muslims when ‘Uthman was killed. Thus the matter of Bai’ah proceeds after debate to establish suitable candidates, then one of them is elected as a Khaleefah, then the Bai’ah is taken for him from the people. Although this matter was evident in the consultations made by Abu Bakr, it also is very clear in the case of the Bai’ah 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 any one 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: ‘I see you sleeping, by Allah; my eyes did not find much sleep last night. 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, and ‘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 Musazzin 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 Muhajirun and Ansar who were present (in Medina) and sent for the leaders of the army who delivered the pilgrimage that year with ‘Umar. When they met, ‘Abdul Rahman recited the sabahadat and said: 'O ‘Ali! I viewed the matter of the people and did not see them equalling anyone to ‘Uthman, so do not let anything disturb yourself'. And he said (to ‘Uthman): 'I give you the Bai‘ah upon the way of Allah, His Messenger and the two Khulafa’aa who came after him'. So ‘Abdul Rahman, the Muhajirun, the Ansar, the leaders of the army and rest of the Muslims gave him the Bai‘ah.”

So the nominees for the Khilafah were limited to the group named by ‘Umar after the Muslims had asked him to do so. ‘Abdul Rahman ibn ‘Auf, after he withdrew himself from the nomination to the Khilafah, 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 Bai‘ab was given to him and he became Khaleefah by this Bai‘ab. Therefore the hukm shari‘i concerning the appointment of the Khaleefah is to limit the nominees for the Khilafah by those who represent the opinion of the majority of the Muslims. Then their names are displayed to the Muslims and 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 Bai‘ab from all Muslims is taken for him, whether each person had specifically chosen him or not. This is the method because of the lijma‘ of the Sababah about ‘Umar limiting the nominees for the Khilafah to six specific persons, and the consensus of the Sababah that ‘Abdul Rahman measured the opinion of all the Muslims about who they thought the Khaleefah should be. After a consensus concerning the Bai‘ab had been reached ‘Abdul Rahman announced the person elected by the Muslims as a Khaleefah; this is clear when he said: “I viewed the matter of the people and did not see them compare anyone with ‘Uthman.” All of these points clarify the hukm shari‘i concerning the appointment of the Khaleefah.

Two issues remain to be examined; one of them is who are the Muslims who appoint the Khaleefah? Are they the influential people or a certain specific number of Muslims? Or do all of the Muslims appoint the Khaleefah? 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, and does Islam allow them or not?

As for the first issue, Allah ﷻ, has given the authority to the Ummah and made the appointment of the Khaleefah a right and a duty for all Muslims; and He 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, since the Bai‘ab is a duty upon all the Muslims. The Prophet ﷺ said:

(من مات وليس في عونه بيعة فقد مات مبيتا جاهلية)

“Whoever dies without having a pledge upon his neck would die the death of jahiliyyah”, and this is general command for every Muslim. Therefore, the influential people do not possess the exclusive right to appoint the Khaleefah and cannot ignore the rest of the Muslims. Nor do specific persons have the exclusive right. Rather, 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 Muslims because the Bai‘ah text came in a general form in this instance and nothing came to limit it (make it specific to a certain people) 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 practice this right. Whilst it is a duty, because the Bai‘ab is Fard, it is Fard kifayah (collective duty) and not Fard ‘ain (individual duty). Thus, if some of the Muslims fulfil it, the duty drops from the rest of the Muslims. All Muslims must be enabled to practice their right in electing the Khaleefah, regardless of whether they use 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, in such a way that the sin of not fulfilling this duty is removed from their shoulders. The issue is not the actual participation of all the Muslims in conducting this duty. This is because
the duty, which Allah prescribe, is to establish the Khaleefah for Muslims by their consent, and it is not a requirement for all Muslims to perform it. Two matters result from this issue. One of them is that the consent of all Muslims in establishment of the Khaleefah is achieved, or 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 matter no condition is set concerning a specific number required to appoint the Khaleefah, rather any number of Muslims can give their Bai’ah to the Khaleefah and in this Bai’ah the consent of the rest of the Muslims is attained by their silence, or by proceeding to obey him, or by anything which implies their consent, then the appointed Khaleefah becomes a Khaleefah for all the Muslims, and he will be legally the Khaleefah even if only three people appointed him, 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 and enabling the expression of opinions fully. However, if the consent of all the Muslims were not achieved, then the appointment of the Khaleefah would not be accomplished 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 jurists concluded that the appointment of the Khaleefah is established by the pledge given to him by the people of influence, because they consider the influential people as the group which achieves the consent of the Muslims through the pledge they give to any man who fulfils the contractual conditions of the Khaleefah. Therefore, it is not the pledge of the influential people which establishes the Khaleefah, nor is their pledge a condition for the legality of the appointment of the Khaleefah, rather the pledge of the influential people is an evidence indicating that the consent of the Muslims to the pledge has been achieved, because the influential people 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.

Accordingly the divine rule is to establish the Khaleefah by any gathering whose appointment of the Khaleefah achieves the consent of the Muslims by any indication that proves this consent, whether this indication is the pledge of the majority of the influential people, the majority of the representative Muslims, the silent acceptance of the Muslims regarding the group that gave the pledge, their hurry to show obedience as a result of the pledge or by any similar means, as long as they were provided with the full facility to freely express their opinions. It is not a divine rule that this gathering must be of only the influential people nor that they are four or four hundred or more, or that they must be the residents of the capital or the regions. Rather the divine law is that their pledge fulfils the consent of the majority of Muslims by any indication 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, i.e. those who were the subjects of the previous Khaleefah, if the Khilafah was (already) established, or those through whom the Islamic State would be re-established, and by whose Bai’ah 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 Bai’ah 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 Bai’ah of contract but they should give the Bai’ah of obedience. Those who do not submit to the authority of Islam would be considered rebels (Baghat). Those living in Dar-ul Kufr were thus evidently unable to achieve the establishment of the Islamic authority and therefore they cannot now establish it practically or join it immediately. Thus, the Muslims who possess the right to exercise the Bai’ah of contract and those 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 Shari’ah evidence to back it up with. One cannot say this because this is related to the subject of the verdict (Manat-ul Hukum) and not the verdict itself. Therefore, it is necessary to explain its reality, rather than bring a Shari’ah evidence for it.

For instance, the eating of carrion meat is forbidden, now that is the verdict (Hukum). To investigate and determine what constitutes carrion meat would be the subject of the verdict, i.e. the Manat or the subject that the verdict is related to. Thus the Muslims have to establish a Khaleefah constitutes the Shari’ah verdict, and this appointment has to be carried out by consent and choice would be the verdict 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 verdict (Manat-ul Hukm), i.e. the subject
for which the ‘Hukum’ (verdict) had come to deal with. The conformity of the
Shar’i’ab verdict with the subject makes the verdict achievable and
accomplished. So the subject that the Shar’i’ab verdict came for should be
investigated by explaining its reality.

It would be incorrect to say that the Manat-ul Hukm is the reason
behind the Hukum (‘illatul Hukum) therefore requiring evidence. This is
incorrect because the subject (Manat) of the verdict is different from the
reason (‘illa) behind the verdict; in fact there is a big difference between
the subject and the reason. The reason is what initiates the verdict to be
initiated, i.e. it is the thing that indicates the intention of the Legislator
behind the verdict. Without any doubt, this requires a Shar’i’ab evidence
to indicate and understand the intention of the Legislator for initiating
the verdict. As for the subject of the verdict, this is the subject upon
which the verdict applies or to which the verdict is related. In other
words, it is the issue that the verdict conforms and not its evidence nor
its reason (‘illa). It therefore, follows that the Manat is the thing that the
verdict is attached to, i.e. the verdict is brought to deal with, or solve it.
It is not true to say that the verdict is brought because of it, so as to say
that it is the reason behind the verdict. Thus, the Manat of the verdict is the
non-textual aspect of the Shar’i’ab verdict. To realise it would be other
than to realise the reason, for realising the reason would be to understand
the text that had come to justify the reason, and this is actually
understand the text (Naqliyat). This is not the Manat either, because the
Manat is completely different from the Naqliyat, as it (i.e. the Manat) is the
reality to which the Shar’i’ab verdict conforms. For example, alcohol is
haram. The divine law 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. So 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.
And if one says that the water allowed to use for wudu is the mutlaq
(flowing) water, then the divine law is that the mutlaq water is the one that
is allowed for wudu. So the investigation that the water is flowing or not
in order to judge upon it as allowed for wudu, is a verification of the
Manat. Therefore, it is necessary to study the water to determine if it is
flowing or enclosed. This study of the reality of the water is the
verification of the Manat. And if you said the person who made badath

The investigation of the illah is referred to the understanding of the
text, which came with justification (provided with reasoning). And this is
an understanding of the traditions, and it is not the Manat, rather the
Manat is other than the tradition. And it is meant to be the reality upon
which the divine law applies. As an example we observe that alcohol is
baram, however, the verification of whether a liquid is alcohol or not is
the verification of the Manat. And if you said the mutlaq water is that
with which wudu can be performed, then the verification that the water is
free or not free is the verification of the Manat. And if you said that
the mohdath has to make wudu, then the verification that the person is mohdath
or not is the verification of the Manat. Thus the verification of the Manat
is the investigation of the thing that is the subject of the law. Accordingly,
it is not a condition that the one who verifies the Manat be a mujabid or
a Muslim, but it is enough that he/she be 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 in regard to the first question. As for the second issue, regarding
what occurs nowadays in conducting elections by secret ballot, using
polling boxes, the count of votes and the like, all these are styles to
perform the selection by consent. Therefore, they do not enter under the
divine law, nor in the question of Manat of the divine law which is the
subject that the divine law came to treat, because this matter is not
concerned with direct Muslim deeds or the subject upon which the divine
law applies; rather they are the means of the human action to which the
divine law came, i.e. the action which the speech of the law-giver (Allah) is related to, which in this instance, is the establishment of the Khaleefah by consent, provided that there is a complete facilitation to enable the expression of opinion for this question. Therefore, these styles and means are not part of what the divine laws are sought for. And they are treated as matters, which the general text has permitted, and there is no special evidence to forbid them, so they are mubah. So 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, unless there is divine evidence, which prohibits it.

It is wrong to say that this style is a human action, which should therefore be conducted according to the divine rules. This is because the evidence for these actions has come with regards to their origin in a general form. Thus it includes all actions that branch out from that origin, unless there is divine evidence that relates to a subsidiary action, in which case the action must follow that evidence. An example of this is the prayer, whose evidence is only related to establishing it, and it does not include every action included in the prayer. Therefore there must be an evidence for every action in it. But the action, which is a branch for an action that a general evidence applies to its origin, then the general evidence applies to all its branches. The prohibition of an action (which is a branch) requires an evidence to prohibit it. In the question of elections, the original action is the appointment of the Khaleefah by consent and selection. But 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, and do not require another evidence. To exclude any of them from the rule of the origin, i.e. to prohibit it, is a matter, which requires evidence. This is the case for all the styles, which are human actions. Concerning the means which are tools like the box in which the voting papers are put, these take the rule of things and not the rule for actions, upon which applies the principle ‘Originally things are permitted unless there exists an evidence of prohibition’.

The difference between method and style is that method is an action, which is considered by itself as an origin, or a branch to an action that does not have a general evidence for its origin; instead of that, its evidence is special. The style, on the other hand, is an action, which is a branch to an action upon which there is no general evidence. The method must therefore depend upon divine evidence because it is a
Secondly: If the Khaleefah becomes a female or effeminate.

Thirdly. If the Khaleefah suffers from a disorderly mental condition, whereby he loses his mind at times and regains it at others. In this case it is forbidden to appoint a caretaker (trustee) or a deputy for him, since the contract of Khilafah has been concluded upon his person, therefore no one else can act on his behalf.

Fourthly: If the Khaleefah is unable to carry 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, as he would be as if he didn't exist. If he also could not perform the duties for which he had been appointed as Khaleefah, the affairs of the Deen and the Muslims' interests would become stalled resulting in an evil (Munkar) that has to be removed. This cannot be achieved except by dismissing the Khaleefah and then the Muslims can appoint another Khaleefah in his place. His removal in this case becomes compulsory.

Fifthly: If the Khaleefah becomes subjugated or coerced in a manner that leaves him unable to conduct the affairs of the Muslims with his own opinion according to the Shar'. If this had happened to him he would then be considered virtually unable to fulfil the duties of Khilafah. This situation would necessitate his removal. 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 so that they execute the matters arbitrarily and they become high-handed so that they overpower him such that he cannot disagree with them and 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, 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 should be removed. He would be subject to immediate removal if there were no hope of freeing himself from such
The second case is when the Khaleefah falls prisoner to a formidable enemy, either physically or by being under his enemy’s dominance. In this case the matter should be examined. If there is any hope of freeing himself of the enemy he would be given time to do so and restore his authority, otherwise he would be removed. If no hope was in sight, he should be removed immediately. In both cases he would be virtually unable to fulfil the tasks of the Khilafah by himself according to the Shar’i rules. He would be as if he didn’t exist and unable to carry out the functions over which the Khilafah contract was convened.

In both cases, however, if there was hope of freeing himself he should be given time until freeing himself becomes hopeless, after which he should be removed. If, however, there was no hope at all in the first instance, he should be removed at once.

The Khaleefah should thus be removed whenever any of the five cases listed above occurs. However, he cannot be removed except when a verdict (concerning the situation at hand) has been issued. In all five cases the Khaleefah should always be obeyed and his orders executed until a verdict of his removal has been issued. In each one of these cases the Khilafah contract is not automatically nullified. It rather needs a verdict.

It is wrong to make democracy a standard for the correctness of the thoughts, or to be influenced by its concepts. Since democracy has spread in the world to the extent that its name prevailed over all popularised nations as an ideal; the oriental countries began adopting it after the Western countries adopted it, despite the difference in its meaning. Muslims as a whole have been affected by it with no difference between those who believe that Muslims establish the Khilafah, or those who believe that Allah ﷻ and His Prophet ﷺ have pre-ordained whom the Khaleefah should 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 not to take, while studying these thoughts, any other thoughts as a criterion, particularly the thoughts of democracy. For example, some of those who study ruling, have noticed some forms of the governments in the countries familiar to them, and read about other forms of government historically. By logical assumptions they write about the forms of governments and say: ‘If the government was entrusted by all the people or the majority of them’, then this form of government is called ‘democracy’. And if the government was
restricted to the hands of a few people, then this form of ruling is called 'dictatorship'. But if the ruling was delegated to one ruler from whom all others take their authority, then this form of ruling is called a 'monarchy'. They defined ruling as being both authority and legislation. Upon these bases all the various ruling forms were rebuilt. From this, the types of states and unions among states stemmed. It also derived from this the types of government, elections, the right of voting, and the like.

These thoughts are different from the Islamic thoughts of ruling both wholly and in detail. The difference between them is great, because the ruling system in Islam is the Khilafah system. It is a model completely distinguished from any other ruling style. The Shari'ah that is applied in founding the ruling, in caring for the citizens' affairs, and in the external affairs is from Allah ﷺ. It is not from the people, nor from a few people or from any individual. Every person who embraces Islam has the right to understand this Shari'ah the way that his knowledge of the Arabic language and the Shari'ah texts allows. He has the absolute right, within the limits of the Arabic language and the Shari'ah texts, to understand what his mind brings him to and his opinion becomes a Shari'ah verdict on him and upon anyone who accepts his understanding of the Shari'ah verdict 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 Islamic opinion, then the opinion that the Khaleefah adopts alone becomes the law, and it becomes a duty upon all the citizens to live according to the adopted opinion, although this does not mean they have to leave their opinions. Rather, they must legally work within the law, i.e. the opinion, which the Khaleefah has adopted, and to submit to it alone. But 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 'aqeeda (creed). So they have the right to think regarding legislation and other matters, provided that everything emanates from the 'aqeeda.

This is in regard to the legislative and intellectual aspect. But with regard to ruling, it differs from legislation. It means the sultan (authority) and not the ruling system, because the ruling system is of the legislation, it is from the divine rules. The authority has been assigned by the Shari'ah to the all of the Muslims, i.e. the Ummah, to every member of the Ummah, male or female. So every Muslim has the right in the authority, and has the right to practice this right whenever it is required. By this right, which the Ummah possesses, she establishes upon her one man to implement the Shari'ah of Allah, and gives him the pledge upon the Kitab and the Sunnah by a pledge of consent and selection from him and from her. The resulting contract of Khilafah between him and her is not a hiring contract. This is because it is a contract to implement the Shari'ah, not a contract to serve and benefit her, although the implementation of the Shari'ah is for her service and interest since it is a mercy for her and for mankind. It should be noticed that in the action, upon which the Khilafah contract is concluded, what matters is the implementation of the Shari'ah and not the benefit of the Ummah. If her immediate benefit disagreed with the Shari'ah then the Shari'ah alone has to be implemented. Therefore, if she demanded that a divine rule be abandoned, the Khaleefah has to enforce it upon her. If she left the Shari'ah, he is obliged to fight her till she returns to it, as he was established only to implement the Shari'ah. The Ummah has no right to depose the Khaleefah as she desires, rather she has the right to depose him in certain cases, and 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 is not within the hands of the Ummah despite the fact that she herself has contracted him, rather this affair is in the hands of the Shari'ah.

The authority, which is a right to the Ummah, does not end by appointing the Khaleefah but the authority remains with her, and its aspect in the case of the existence of the Khaleefah is by taking him to task on his actions in applying the Shari'ah and in caring for her affairs, by the styles she decides within the limits of the Shari'ah law. He must submit to her accounting, and to clarify for her the situation, which she might complain of and question him about. Even if she raised arms against him because of that, he is not allowed to fight her until he clarifies any suspicion she holds and what he considers to be the truth.

This is the ruling in Islam, and upon this basis the ruling system is built. It does not lead to many types of states; rather it is of itself one form. 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 union system. It does not have types of governments; in fact it has no governments. The state and the government are one body, which are the Khaleefah and his Mu‘awinoon (assistants). As to what branches out from this system regarding the method of appointing the Khaleefah, the necessity to guarantee the consent and selection for every Muslim in electing the
Khaleefah and giving a pledge to him, and facilitating for the Ummah on an individual basis, this consent and selection, all of these matters came through divine rules specific to the subject of Khilafah and general in every contract, including the contract of Khilafah. Even though the Khilafah system may appear similar to the democratic system with regard to the freedom of elections, voting, and to voice some opinions, it is incorrect to consider the two systems as similar because in the democratic system, these matters result from the liberties, whilst in Islam they result from the conditions of the Khilafah contract and every contract, i.e. the consent and selection, which if not fulfilled in the Khilafah contract, the contract would be illegal, and the Khaleefah would not then be legal.

The difference between guaranteeing the freedom in elections and securing the consent and selection in the contract is that the freedom is the decision of the people. So if it was not achieved it would not affect the legality of the contract. Securing the consent and the selection is the rule of the contract not the law of the people. So if it was not achieved the contract would be illegal and not concluded. Similarly, all the thoughts of Islam differ from the thoughts of democracy. They are at the same time different 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 agreement with the reality of the ruling, but not any ruling, rather the reality of a particular ruling, that is the ruling with which man governs mankind practically, and according to the highest level of exalted values, or with regard to the divine evidences from which these ruling thoughts have been deduced.

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; without adopting any criterion for the correctness of these thoughts except their agreement with the reality of the system that was the most exalted compared to any other ruling system mankind has been ruled with, or their agreement with the basis from which they emanated, which is the Kitab of Allah ﷻ and the Sunnah of the Messenger of Allah ﷺ.