



Al-Khilafah

Hizb ut-Tahrir

*This book has been translated from
the original Arabic version*

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Contents

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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**.

سُبْحَانَكَ - subhanahu wa ta'ala
سَلَامٌ عَلَيْكَ - sallallahu 'alaihi wa sallam
رَضِيَ اللَّهُ عَنْكَ - radhi allaho anha/anho
AH - After Hijrah
CE - Christian Era

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THE KHILAFAH

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 *Abkam shar'iyyah* (divine laws) determine as the Islamic state. Many *Sahih Abadith* 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 ﷻ has decreed on Muslims is compulsory, in which no choice or complacency is allowed. Failure in performing this duty is one of the gravest sins, which is deserving of Allah's severe punishment. The evidence concerning the obligation of appointing a *Khaleefah* over all the Muslims is understood from the *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:

((من خلع يداً من طاعة لقي الله يوم القيامة لا حجة له، ومن

مات وليس في عنقه بيعة مات ميتة جاهلية))

“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'ah* on his neck. He described the one who dies without having a *Bai'ah* on his neck as if he died the death of *Jahiliyyah*. The *Bai'ah* would not be valid except for the *Khaleefah*. The Messenger of Allah ﷺ made it an obligation that every Muslim should have a *Bai'ah* on his neck for a *Khaleefah*, but he did not oblige every Muslim to give a *Bai'ah* to the *Khaleefah*. The obligation therefore, is the existence of a *Bai'ah* on the

neck of every Muslim. This necessitates the existence of a *Khaleefah*, who, through his existence, is entitled to a *Bai'ah* (on the neck of every Muslim.) Thus, the existence of the *Khaleefah* is the issue that necessitates a *Bai'ah* on the neck of every Muslim, whether he actually gave the *Bai'ah* or not. Therefore, the *Hadith* is evidence that the appointment of a *Khaleefah* is obligation and that every Muslim is obliged to have *Bai'ah* on his neck; it is not an evidence suggesting that giving the *Bai'ah* is an obligation. This is because the Messenger of Allah ﷺ rebuked the absence of the *Bai'ah* of allegiance on the neck of the Muslim till he dies, and not the abstention from giving the *Bai'ah* itself.

Hisham ibn 'Urwa reported on the authority of Abu Saleh on the authority of Abu Hurairah that the Prophet said:

((سليكم بعدي ولاة ، فيليكم البر بيره ، والفاجر بفجوره ،
فاسمعوا لهم وأطيعوا فيما وافق الحق ، وصلوا وراءهم ، فإن
أحسنوا فلکم ولهم ، وإن أساءوا فلکم وعليهم))

“Leaders will take charge of you after me, where the pious (one) will lead you with his piety and the impious (one) with his impiety, so listen to them and obey them in everything which conforms with the truth. If they act rightly it is to your credit, and if they acted wrongly it is counted for you and against them.” Narrated from Al-A'raj from Abu Hurairah from the Prophet, he said:

((إنما الإمام جنة يُقاتل من ورائه ويتقى به))

“Indeed the *Imam* is a shield, from whose behind (one) would fight, and by whom one would protect oneself.”

Muslim also reported on the authority of Abu Hazim that he said:

((كانت بنو إسرائيل تسوسهم الأنبياء، كلما هلك نبي خلفه
نبي، وأنه لا نبي بعدي، وستكون خلفاء فتكثر، قالوا: فما تأمرنا

؟ قال: فوا بيعة الأول فالأول، وأعطوهم حقهم فإن الله سائلهم

((عما استرعاهم))

“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 *Khulafaa*’ 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:

((من كره من أميره شيئاً فليصبر عليه، فإنه ليس أحد من الناس
خرج من السلطان شيراً فمات عليه إلا مات ميتة جاهلية))

“If anybody sees in his *Ameer* 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 *Khulafaa*, 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 *Khulafaa* and to fight those who dispute with them regarding

their authority, which means that it is an obligation to appoint a *Khaleefah* and protect his *Khilafah* by fighting those who dispute his authority. Muslim reported that the Messenger of Allah ﷺ said:

((ومن بايع إماماً فأعطاه صفقة يده وثمرة قلبه فليطعه إن

استطاع، فإن جاء آخر ينازعه فاضربوا عنق الآخر))

“Whosoever gave a *Bai’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, and if another comes to dispute with him, you must strike the neck of that man.” Therefore the command to obey the *Imam* is an order to appoint him. And the command to fight those who dispute with him is collaborating evidence that the command of maintaining the presence of one *Khaleefah*, is decisive.

As for the *Ijmaa’* of the *Sababah*, they (may Allah be pleased with them) agreed upon the necessity of establishing a successor (ie. *Khaleefah*), to the Messenger of Allah ﷺ after his death. They all agreed to appoint a successor to Abu Bakr, and upon his death, appointing ‘Umar as successor and upon ‘Uthman’s death to appoint ‘Ali as a successor to him. The general consensus of the *Sababah* 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 *Sababah* engaged themselves in appointing a *Khaleefah*, even though they were obliged to engage themselves in preparing the burial of the Messenger of Allah ﷺ. Other *Sababah* 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 *Sababah* is therefore an evidence of *Ijmaa’* 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 *Sababah* 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 ﷺ nor after the death of each of the *Khulafaa’ ir-Rashideen*. Accordingly, the general consensus (*Ijmaa’*) of the *Sababah* 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 ﷻ commanded His Messenger to rule the Muslims by that which He . revealed to him; the command of Allah ﷻ was conveyed in the most decisive manner. Allah ﷻ addressed His Messenger ﷺ:

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

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

And He ﷻ said:

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

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

mean other than the establishment of the rule of Allah and the authority of Islam. Furthermore, Allah ﷻ obliges the Muslims to obey those in authority, i.e. the rulers, which is an indication that the existence of a man in authority upon Muslims is obligatory. Allah ﷻ says:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ﴾

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

Allah ﷻ does not command obedience to those who do not exist, therefore the existence of a man in authority is *Fard*, because ruling with what Allah ﷻ has revealed is an obligation. The order of Allah ﷻ to obey those in authority is also an order to establish them. The implementation of the divine law depends on the presence of the ruler i.e. the man in authority, while neglecting his appointment results in the non-application of the *Shar'* rules. Therefore his presence is compulsory, because that which results due to his absence is the negligence of the *Shar'* rules. These evidences are explicit in that the establishment of the ruling and the authority amongst Muslims is obligatory, and that the appointment of a *Khaleefah* who takes charge of the ruling and authority in order to implement the divine laws, not merely for the sake of the ruling and authority alone, is also compulsory. Let us contemplate the following *Hadith* of the Messenger of Allah:

((خيار أئمتكم الذين تحبونهم ويحبونكم ويصلون عليكم
وتصلون عليهم، وشرار أئمتكم الذين تبغضونهم ويبغضونكم
وتلعنونهم ويلعنونكم))

“The best of your *Imams* are those whom you love and they love you, and you pray for them and they pray for you, and the worst of your *Imams* are those whom you hate and they hate you, and you curse them and they curse you.” We asked: ‘O Messenger of Allah! Shall we not then declare war on them?’ He said: “No, as long as they establish *Salah* amongst you.” [Narrated by Muslim from Auf bin Malik]

The Messenger of Allah ﷺ was asked: “Would we not declare war on them (face them with the swords)?” He said:

((لا، ما أقاموا فيكم الصلاة))

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

This *Hadith* explicitly informs about the good and bad leaders, and the prohibition of revolting against them as long as they established the *Salah*. For establishing *Salah* 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 *Khaleefah* until the day the next *Khaleefah* is appointed.

This is because Allah ﷻ has entrusted them with a duty they neither carried out nor participated in. Thus, they 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 *Abadith concerning* isolation from the people, and of confining oneself to adhere to the matters of personal worship alone, these *Abadith do* not serve as evidence that permits abstaining from establishing a *Khaleefah* nor removes the sin due to this abstaining. When somebody studies these *Abadith thoroughly* he finds them related to the adherence to the *deen* rather than permitting the abandonment of establishing a *Khaleefah* for the Muslims. For example, al-Bukhari narrated about Bisir ibn Obaydallah 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))

‘Yes.’ I said: ‘Will there be any good after that mischief?’ He said: ‘Yes, and it has smoke.’ I said: ‘What is its smoke?’ He said:

((قوم يهدون بغير هديي تعرف منهم وتنكر))

‘(Some) people guide without any guidance, you recognise some (from them) and deny some.’ I said: ‘Will there be a mischief after

that good?’ He said:

((نعم، دعاة على أبواب جهنم من أجاهم 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، ويتكلمون 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:

((تلتزم جماعة المسلمين وإمامهم))

‘Adhere to the *jama’ab* of Muslims and their *Imam*.’ I said: ‘What if the Muslims have no *jama’ab* nor an *Imam*?’ He said:

((فاعتزل تلك الفرق كلها، ولو أن تعض بأصل شجرة حتى

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’ab* 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’ab* 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 *Khaleefah*, 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 *Khaleefah*. So he is ordered to

abandon the misleading groups in order to save his *deen* from the callers of the misguidance, even if he had to clench to the trunk of a tree, but not to distance himself from the Muslim community and abandon the work for establishing the laws of the *deen* and establishing an *Imam* for Muslims.

Another example is what al-Bukhari narrated about Abu Said al-Khudri, who said: **“The Messenger of Allah ﷺ said:**

((يوشك أن يكون خير مال المسلم غنم يتبع بها شعف الجبال
ومواقع القطر يفر بدينه من الفتن))

“The best wealth of the Muslim is imminent to be sheep with which he follows the summits of mountains and the rain falls to save his *deen* from the affliction.” This does not mean that one should isolate oneself from the Muslim community and abandon practising the divine laws and establishing a *Khaleefah* for Muslims when there is no *Khilafah* on earth. This *hadith* rather explains what is the best wealth of the Muslim at the times of temptation, it does not encourage anyone to distance himself from the Muslims and isolate the people.

Therefore, there is no excuse for any Muslim anywhere in the world from abstaining from performing that which Allah ﷻ obliged on him so as to establish the *Deen*. It is obliged to work to appoint a *Khaleefah* for the Muslims when there is no *Khilafah* in the world, when there is no *Khaleefah* who implements the rules of Allah ﷻ to protect the sanctities of Allah, and establishes the rules of the *Deen*, and unifies the Muslims under the banner of *“La Ilaha Illa Allah Mohammed ur-Rasoolu Allah”* (there is no God but Allah and Muhammad is His Messenger). There is no excuse in Islam that exempts anyone from working to perform this duty until it is accomplished.

THE TIME LIMIT GIVEN FOR MUSLIMS TO ESTABLISH A *KHALEEFAH*

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 endeavouring in their task to perform this duty and were compelled against their will to delay the execution of that duty. Ibn Habban and Ibn Majah narrated from Ibn 'Abbas, he said: The Messenger of Allah ﷺ said,

((رفع عن أمتي الخطأ والنسيان وما استكروها عليه))

“Allah had forgiven my *Ummah* 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'ah* of the *Khaleefah* once the post of *Khilafah* becomes vacant is that the *Sahabah* undertook this in the *Saqeefah* of Bani Saa'idah after the death of the Messenger, the same day and before his burial. The *Bai'ah* 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'ah* 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'ah* from the people by force and coercion he would not become *Khaleefah* even if the *Bai'ah* were given to him. This is because a *Bai'ah* 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'ah* 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'ah* and that the implementation of the *Shar'* rules obliges them to give the *Bai'ah*, and they were convinced of that and accepted it and then gave him the *Bai'ah* by consent and free choice, he would become *Khaleefah* from the moment that the *Bai'ah* 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'ah* and that it must be by mutual consent and free choice, regardless of whether the one who was given the *Bai'ah* was the ruler or not.

From reviewing what took place in the *Bai'ah* of the '*Khulafaa' Al-Rashideen*' and the consensus of the *Sahabah (Ijmaa')*, one can conclude that the *Khilafah* is contracted by the *Bai'ah*. In the *Bai'ah* to Abu Bakr, the *Bai'ah* from the influential figures amongst the Muslims, (*Ahlul Hall Wal 'Aqd*) 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'ah* to 'Umar. With regards the *Bai'ah* 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'ah*, and he was singled out in the *Bai'ah*. His *Bai'ah* was valid even for those who opposed him and fought against him because they never actually gave their *Bai'ah* to another man nor did they object to his *Bai'ah*. 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'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*. 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'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 it was the case at the time of the *Khulafaa' Rashideen*. Their *Bai'ah* would constitute a *Bai'ah* of contract, while for the others, once the *Khilafah* has been contracted; their *Bai'ah* would be classed as a *Bai'ah* of obedience, i.e. a *Bai'ah* of allegiance to the *Khaleefah* and not a *Bai'ah* 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'ah* to a *Khaleefah* and thus the *Khilafah* would be contracted to him. If any country throughout the Islamic world gave *Bai'ah* 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'ah* of obedience, i.e. the *Bai'ah* of allegiance after the *Khilafah* was contracted to him by the *Bai'ah* 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

that the protection of the country against domestic or foreign threat should be a protection of Islam solely by a Muslim force, in its capacity as a purely Islamic force.

Thirdly. The implementation of Islam should take place with immediate effect in a comprehensive and radical manner, and that country must be involved in conveying the Islamic Call. Fourthly. The *Khaleefah* must fulfil all the contractual conditions; although he needs not fulfil the conditions of preference, since what really matters are the conditions of the contract.

Should that country satisfy these four conditions then the *Bai'ah* of that country alone would have established the *Khilafah*, even if it did not represent the majority of the influential people within the Islamic *Ummah*. This is because establishing the *Khilafah* is an obligation of sufficiency *'Fard Kifayah'*, and whoever performs that duty legitimately would then have accomplished the obligation. However, stipulating that the *Bai'ah* should be by most of the influential people would only apply if the *Khilafah* existed and a *Khaleefah* was sought to succeed the deceased *Khaleefah* or one who had been removed. But if there was no *Khilafah* at all and we sought to establish one, then the fact that it was established legitimately, the *Khilafah* would be contracted to any *Khaleefah* who fulfilled the contractual conditions, regardless of the number of Muslims who had given him the *Bai'ah*. What matters at that point in time is the establishment of a duty that Muslims have neglected for a period that has exceeded three days. Their neglect of that duty would strip them of their right to choose whom they want. Therefore, under these circumstances, whoever performs the duty would be enough for the *Khilafah* to be contracted by them. Once the *Khilafah* was established in that country, and the *Khilafah* was effectively contracted to a *Khaleefah*, all the Muslims would be obliged to come under the banner of the *Khilafah* and give their *Bai'ah* to the *Khaleefah*, otherwise they would be sinful before Allah. The *Khaleefah* should invite them to give the *Bai'ah* to him. If they were to refuse then the verdict regarding the rebels (*Bughat*) would apply on them, and the *Khaleefah* should fight against them until they entered under his loyalty. If the *Bai'ah* were to be given to another *Khaleefah* in that country, or in any other country for that matter, once the *Bai'ah* had been given to the first *Khaleefah*, and the *Khilafah* had been legitimately contracted to him with the four conditions being fulfilled. The Muslims would then be obliged to fight against the second *Khaleefah* until he had given his *Bai'ah* to the first *Khaleefah*. It has been narrated on the authority of 'Abdullah

Ibn 'Amru Ibnul 'A'as that he heard the Messenger of Allah ﷺ say:

((ومن بايع إماماً فأعطاه صفقة يده وثمرة قلبه فليطعه إن

استطاع، فإن جاء آخر ينازعه فاضربوا عنق الآخر))

“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 *Khaleefah* 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:

((من رأى من أميره شيئاً فليصبر عليه، فإنه من فارق الجماعة

شبراً فمات إلا مات ميتة جاهلية))

“If anyone sees in his *Ameer* something that displeases him, let him remain patient, for behold! He who separates himself from the *Jama'ah* (community) 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:

((من كره من أميره شيئاً فليصبر عليه، فإنه ليس أحد من الناس

خرج من السلطان شبراً فمات عليه إلا مات ميتة جاهلية))

“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 *Abadiith* 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

Sunnah. The non-Muslims can't be in the 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 *Bai'ah*.

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:

((... ومن مات وليس في عنقه بيعة مات ميتة جاهلية))

“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 Atyya said: **“we gave our *Bai'ah* to the Messenger of Allah ﷺ, so he ﷺ 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:

((ثلاثة لا يكلمهم الله يوم القيامة ولا يزكيهم ولهم عذاب أليم:
رجل على فضل ماء بالطريق يمنع منه ابن السبيل، ورجل بايع
إماماً لا يبايعه إلاّ لدنياه إن أعطاه ما يريد وفي له وإلا لم يف
له، ورجل يبايع رجلاً بسلعة بعد العصر فحلف بالله لقد أعطي
بها كذا وكذا فصدقه فأخذها ولم يُعط بها))

“There are three types of people whom Allah would not talk to nor would He praise or purify them on the Day of Judgement, and they will be subjected to severe punishment: A man who has water to spare and would not give it to the wayfarer, and a man who gives his *Bai’ah* to an *Imam* for his own good, if he gave him what he wanted he would be loyal to him, otherwise he would not, and a man who offers another man goods for sale after *Asr* prayer, swearing by Allah that he was given so much price for it, and so he believed him and took the goods, while he was not given that price for it.” [Narrated by Bukhari and Muslim] Al-Bukhari and Muslim narrated from Abdullah Ibnu Umar, he said: “when we gave our *Bai’ah* to the Messenger of Allah ﷺ, to hear and to obey, he used to say to us: ‘As much as you can.’” Al-Bukhari narrated from Jarir Ibnu Abdullah, he said: “I gave my *Bai’ah* to the Messenger of Allah to hear and to obey, so he dictated to me: ‘As much as you can, and to give advice to every Muslim.’” Junada Ibnu Aby Umayya said: “We entered Ubadah Ibnus Samit’s home while he was ill and said to him: ‘May Allah cure you, won’t you tell us a *Hadith* that Allah my reward you for, which you heard from the Messenger of Allah?’ He said: ‘The Messenger of Allah called us and we gave him our *Bai’ah*, and said: of what he took from us that we pledged to hear and obey, in weal and woe, in ease and hardship and in preference to ourselves and that we would not dispute the matter (authority) with its people’, he said: ‘unless we witness a flagrant act of disbelief which we have proof about from Allah.’” [Narrated by Bukhari and Muslim]

Thus the *Bai’ah* for a *Khaleefah* is in the hands of the Muslims, it is their right and they are the ones who give the *Bai’ah* and their *Bai’ah* is the one that makes the *Khilafah* convened to the *Khaleefah*. The *Bai’ah* is given by a handshake, but it could also be given in writing. Abdullah Ibnu Dinar said: “I witnessed Ibnu 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 *Kitab of Allah* and the *Sunnah* of His Messenger, and to the best of my ability.’ The *Bai’ah* can also be given by any other means. However, the *Bai’ah* should only be taken from the adult, as the *Bai’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, that his mother Zainab Ibnatu Hamid took him to the Messenger of Allah and said: “O Messenger of Allah,

take a *Bai’ah* 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’ah*, 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’ah* should pledge to obey in weal and woe and in ease and hardship. Once the *Bai’ah* is given to the *Khaleefah* or the *Bai’ah* of the *Muslims* to him contracted the *Khilafah* to the *Khaleefah*, then the *Bai’ah* becomes a trust on the neck of the one who gives the *Bai’ah*. 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’ah* to the Messenger of Allah on Islam, but he became ill, so he said: ‘Relieve me of my *Bai’ah*’, the Messenger of Allah said:

((المدينة كالكبير تنفي خبثها وينصع طيبها))

‘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 يداً من طاعة لقي الله يوم القيامة لا حجة له))

“Whoever withdraws a hand from obedience, he would meet Allah on the day of judgement without having proof for himself.” So breaking the *Bai’ah* to the *Khaleefah* is a withdrawal of the hand from the obedience to Allah. However, this is the case if his *Bai’ah* to the *Khaleefah* was a *Bai’ah* of contract, or a *Bai’ah* of obedience to a *Khaleefah* who had been contracted by the Muslims. But if he pledged himself to a *Khaleefah* initially, and the *Bai’ah* was not completed to him (the *Khaleefah*), then he has the right to relieve himself from that *Bai’ah*, 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’ah* 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 يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلًا﴾

“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:

((لَنْ يَفْلَحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ))

“People who appoint (*Wallaon*) 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 المبتلى 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.” Therefore, the person for whom the pen is raised is not able to be responsible for himself, and he is not under any liability by *Shar'*, so it is unlawful for him to become *Khaleefah* or to hold any post of authority for he is not responsible for his own actions. Evidence is also derived from the fact that the Messenger of Allah rejected the *Bai'ah* of the child. Al-Bukhari narrated from 'Abi Aqeel, Zahra ibn Ma'abed from his grandfather Abdullah Ibnu Hisham who reached the time of the Prophet and his mother Zainab bint Humair took him to the Messenger of Allah and said: 'O Messenger of Allah! Take his *Bai'ah*'. The Prophet:

((هو صغير))

“He is still a little boy”, so he stroked his head and prayed for him. Therefore, if the *Bai'ah* of the little boy is not valid, and he cannot give a *Bai'ah* to a *Khaleefah*, he evidently cannot be *Khaleefah* himself.

Fourthly. The *Khaleefah* must be sane; it is unlawful for a *Khaleefah* to be insane because the Messenger of Allah said:

((رفع القلم عن ثلاث))

“The pen has been raised off three persons:

((... وعن المبتلى حتى يعقل))

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

﴿وَأَشْهِدُوا ذَوَيْ عَدْلٍ مِّنكُمْ﴾

“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

order for the condition to be a contractual one it should have evidence that includes a decisive command (*Talab Jazim*) to indicate that it is obligatory. If the evidence does not include a decisive command then the condition becomes only one of preference. No evidence containing a decisive command has been found except for those seven conditions; therefore they alone constitute the contractual conditions. As for the other conditions, whereby a rule has been confirmed as sound, these would constitute conditions of preference only. Therefore, the stipulation that the *Khaleefah* must be a *Mujtabid* is not a contractual condition because this has not been confirmed by a text indicating a decisive command. Moreover, the duty of the *Khaleefah* is to rule, so he is not in need of his own *Ijtihad*, as he could ask about a verdict or follow the opinions of a *Mujtabid* and adopt opinions on the basis of his imitation (*Taqlid*), thus it is not necessary for him to be a *Mujtabid*. It is, however, preferable for him to be so, but if he is not his *Khilafah* would still be contracted. The *Khaleefah* does not have to be brave, nor a shrewd politician or an expert in managing the affairs of the people because there are no evidences to back these conditions, nor do they come under a divine rule that makes them contractual conditions. It is, however, preferable for the *Khaleefah* to be brave with vision and opinion.

The *Khaleefah* does not also necessarily have to be from Quraysh. As for what has been reported by Al-Bukhari from Mu'awiya that he said: I heard the Messenger of Allah say:

((إن هذا الأمر في قريش لا يعاديهم أحد إلا كبه الله على وجهه ما أقاموا الدين))

“Verily this matter is within Quraysh. As long as they implemented the *Deen*, if anyone were hostile to them, Allah would throw him on his face.” And what Al-Bukhari narrated on the authority of Ibnu ‘Umar that he said: The Messenger of Allah said: “**This matter would still be within Quraysh even if only two of them remained.**” These and other *Abadith*, proved sound and related to the Messenger of Allah that the authority is amongst the people of Quraysh, they have actually come in an informative form and not an imperative one. Not one *Hadith* actually carries a command even though they carry a request. Such a request, however, is not a conclusive command because there is no evidence to qualify them for this. No *Hadith* has been linked to any connotation (*Qareena*) that makes it a conclusive command, which

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:

((لا يعاديهم أحد إلا كبه الله على وجهه))

“**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:

((أن هذا الأمر في قريش))

“**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 (*Ma’foom*) 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:

((أن هذا الأمر في قريش))

“**Verily this matter is within Quraysh...**” and his saying:

((لا يزال هذا الأمر في قريش))

“**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 Ibnu Harith and Usama Ibnu 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

“this matter” (*Amr*), means the authority, i.e. the authority to rule, and this does not only apply to the post of *Khilafah*. The fact that the Messenger of Allah did appoint people from outside Quraysh in posts of authority indicates that authority is not exclusively confined to the people of Quraysh, and prevented from others. Therefore, the *Ahadith* have mentioned some of the people who are worthy of the *Khilafah* post, to indicate their preference and do not indicate that it is exclusively confined to them or prohibited for other than them.

The *Khaleefah* does not also have to be Hashemi or ‘Alawi because the Messenger of Allah ﷺ appointed people who were not from Banu Hashim nor from Banu ‘Ali to positions of authority. When he went out to Tabuk, he appointed Muhammad Ibnu Maslama as *Wali* over Madina and he was neither a Hashemi nor ‘Alawi. He also appointed Mu‘az Ibnu Jabal and Amru Ibnul A‘as over Yemen, neither were of the Hashemi or ‘Alawi. In any case, it has been definitely proven that the Muslims gave the *Bai‘ah* to Abu Bakr, ‘Umar and Uthman, and that ‘Ali gave the *Bai‘ah* to the three of them despite the fact that they were not from Banu Hashim. The *Sahabah* did not object to giving the *Bai‘ah* to them, and it was not reported that anyone had actually objected giving *Bai‘ah* to them, because they were not Hashemites or ‘Alawis. This is considered a consensus of the *Sahabah*, (*Ijmaa‘*) including ‘Ali and Ibnu Abbas and Banu Hashim’s entire household, that the *Khaleefah* could be from other than a Hashemi or an ‘Alawi. As for the *Ahadith* expressing a preference of ‘Ali and the Messenger of Allah’s household, these do not indicate that the *Khilafah* can’t be contracted except to them, they rather indicate that they are more favourable to it.

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.

SEEKING THE *KHILAFAH*

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, the, 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 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:

((ومن بايع إماماً فأعطاه صفقة يده وثمرة قلبه فليطعه إن

استطاع، فإن جاء آخر ينازعه فاضربوا عنق الآخر))

“Whoever pledged allegiance to an *Imam* giving him the clasp of his hand and the fruit of his heart, he should obey him as long as he can, and if another comes to dispute with him, you must strike the neck of the latter.” It has also been narrated by Muslim that Arfajah said: “I heard the Messenger of Allah ﷺ say:

((من أتاكم وأمركم جميع على رجل واحد يريد أن يشق

عصاكم أو يفرق جماعتكم فاقتلوه))

“Whoever comes to you while your affair has been united over one man, intending to divide your power or dissolve your unity, kill him.” Muslim has also reported it from Abu S’aid Al Khudri that the Messenger of Allah said:

((إذا بويع لخليفتين فاقتلوا الآخر منهما))

“If the Oath of Allegiance (*Bai’ah*) has been taken for two *Khulafaa’*, kill the latter of them.” Muslim reported that Abu Hazim said: “I accompanied Abu Hurayra for five years and heard him talking about the Messenger of Allah, he said:

((كانت بنو إسرائيل تسوسهم الأنبياء كلما هلك نبي خلفه نبي

وإنه لا نبي بعدي وستكون خلفاء فتكثر))

‘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 *Khulafaa’* and they will number many’, they asked: ‘What then do you order us?’ He said: ‘Fulfil allegiance to them one after the other, and give them their dues; for verily Allah will ask them about what he entrusted them with.’”

If *Khilafah* were contracted to two *Khulafaa’* in two countries at the same time, it would not be valid for either of them, because Muslims are not allowed to have two *Khulafaa’*. It is not correct to say that the *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 *Khulafaa’*. 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

((فوا، ببيعة الأول فالأول وأعطوهم حقهم فإن الله سائلهم عما

استرعاهم))

“Fulfil allegiance to them one after the other”, because this is the case if a pledge is given to two *Khulafaa’* 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 *Khulafaa’* when the majority of the influential people elected two *Khulafaa’* 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; if they established the pledge for one of them then it is contracted anew, not as a confirmation to his previous case, and if they established it to other than them, then 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 *Khulafaa’* 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 fulfil 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*.

Therefore, the *Khilafah* was contracted to Uthman by the people's *Bai'ah* and not by Umar's nomination, nor by the people's choice. For if people had not given him their *Bai'ah* and if he had not accepted the *Khilafah* post. This would not have been contracted. Therefore, the *Bai'ah* of the Muslims to the *Khaleefah* is fundamental, and it is forbidden to contract *Khilafah* by appointing a crown prince or by designation, for it is a contract of authority (*Wilayah*) that should fulfil the rules of contracts.

THE WAY TO APPOINT A *KHALEEFAH*

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 *Ijmaa'* 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. This is because it was regarding action not belief. 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:

﴿ يَا أَيُّهَا النَّبِيُّ إِذَا جَاءَكَ الْمُؤْمِنَاتُ يُبَايِعْنَكَ عَلَىٰ أَنْ لَا يُشْرِكْنَ بِاللَّهِ شَيْئًا وَلَا يَسْرِقْنَ وَلَا يَزْنِينَ وَلَا يَقْتُلْنَ أَوْلَادَهُنَّ وَلَا يَأْتِينَ بِبُهْتَانٍ يَفْتَرِينَهُ بَيْنَ أَيْدِيهِنَّ وَأَرْجُلِهِنَّ وَلَا يَعْصِيَنَّكَ فِي مَعْرُوفٍ ﴾

“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:

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

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

Al-Bukhari narrated: “Ismail told us, Malek told on the authority of Yahya bin Sa’eed who said: Ubadah bin Alwaleed told me, that my father told me on the authority of Ubadah bin-us-Samit who said: ‘We have pledged allegiance to the Messenger of Allah to listen and obey in ease and in hardship and that we do not dispute the matter (authority) with its people and that we stand for or speak the truth wherever we were and that in the service of Allah we would fear the blame of no one’” Al-Bukhari also narrated: “‘Ali bin Abdullah told us, Abdullah bin Yazid, Saeed bin Abi Ayyoub said: ‘Abu Aqeel Zahrah bin Ma’bad on the authority of his grandfather

Abdullah bin Hisham who has seen the Prophet, his mother Zainab daughter of Humaid took him to Rasul Allah and said: ‘O Messenger of Allah take his *Bai’ab*’, the Prophet said:

((هو صغير))

‘He is young’, and he stroked over his head and prayed for him.”

Al-Bukhari also narrated: “Abdan told us on the authority of Abi Hamza, from Ala’mash, from Abi Saleh, that Abu Hurayra said: The Prophet said:

((ثلاثة لا يكلمهم الله يوم القيامة ولا يزيكهم ولهم عذاب أليم:
رجل على فضل ماء بالطريق يمنع منه ابن السبيل، ورجل بايع
إماماً لا يبايعه إلا لدنياه إن أعطاه ما يريد وفي له وإلا لم يف
له، ورجل يبايع رجلاً بسلعة بعد العصر فحلف بالله لقد أعطي
بها كذا وكذا فصدقه فأخذها ولم يُعط بها))

‘There are three types of people whom Allah would not talk to nor would He praise or purify them on the Day of Judgement, and they will be subjected to severe punishment: A man who has water to spare and would not give it to the wayfarer, and a man who gives his *Bai’ab* to an *Imam* for his own good, if he gave him what he wanted he would be loyal to him, otherwise he would not, and a man who offers another man goods for sale after *Asr* prayer,

swearing by Allah that he was given so much price for it, and so he believed him and took the goods, while he was not given that price for it.” [Narrated by Bukhari and Muslim] These three *Abadiith* 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 *Abadiith* that refer to the *Bai’ab* of an *Imam*. In Muslim, the Messenger of Allah said:

((من بايع إماماً فأعطاه 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 بويع لخليفتين فاقتلوا الآخر منهما))

“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 الأنبياء كلما هلك نبي خلفه نبي
وإنه لا نبي بعدي وستكون خلفاء فتكثر))

‘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 *Khulafaa*’ and they will number many’. They said: ‘What would you order us to do?’ He said:

((فوا ببيعة 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 *Khulafaa'*, 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'ah*. 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 *Khulafaa'*, we find that some Muslims had discussions in the hall (*Saqeefah*) of Banu Sa'idah, 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* to succeed 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 Madinah 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'ida 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 *Muezzin* called for *Fajr* prayer. After he led the people in the *Fajr* prayer, and the group of six persons met near the *Minbar* (pulpit), he sent for all the Muhajiroon and Ansar who were present (in Medina) and sent for the leaders of the army who delivered the pilgrimage that year with ‘Umar. When they met, ‘Abdul Rahman recited the *shabadat* 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’a who came after him’. So ‘Abdul Rahman, the Muhajiroon, the Ansar, the leaders of the army and rest of the Muslims gave him the *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’ah* was given to him and he became *Khaleefah* by this *Bai’ah*. 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’ah* from all Muslims is taken for him, whether each person had specifically chosen him or not. This is the method because of the *Ijma’a* of the *Sahabah* about ‘Umar limiting the nominees for the *Khilafah* to six specific persons, and the consensus of the *Sahabah* that ‘Abdul Rahman measured the opinion of all the Muslims about who they thought the *Khaleefah* should be. After a consensus concerning the *Bai’ah* 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’ah* is a duty upon all the Muslims. The Prophet ﷺ said:

((من مات وليس في عنقه بيعة فقد مات ميتة جاهلية))

“Whoever dies without having a pledge upon his neck would die the death of *jahilliyah*”, 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 *Shari’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’ah* 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 ﷻ prescribed, 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 *Khilafah*. 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 (*Bughah*). 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 Hukm*) 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 (*Hukm*). 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 '*Hukm*' (verdict) had come to deal with. The conformity of the *Shari'ah* verdict with the subject makes the verdict achievable and accomplished. So the subject that the *Shari'ah* 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 *Hukm* (*'illatul Hukm*) therefore requiring evidence. This is incorrect because the subject (*Manat*) of the verdict is different from the reason (*'illah*) 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 *Shari'ah* 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 it, 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 *Shari'ah* 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 to actually understand the text (*Naqliyyat*). This is not the *Manat* either, because the *Manat* is completely different from the *Naqliyyat*, as it (i.e. the *Manat*) is the reality to which the *Shari'ah* 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 *hadath*

(discharged something from back or front) has to make *wudu* for the prayer, then the verification that the person is *mohdath* or not *mohdath* is a verification of the *Manat*, and so on. Shatebi said in the book *Al-Muwafaqaat*: **“These subjects and the like which we necessitated to define the *Manat* must take the evidence about it according to the reality of every incident.”** And he further states: **“*Ijtihad* could be connected with the verification of the *Manat*, and thus it does not require the knowledge of the aims of the law giver (Allah), nor does it require the knowledge of the Arabic language, because the aim of this *ijtihad* is knowing the subject as it is. So it requires the knowledge of what this subject can't be recognised without. Therefore the *mujtabid* has to be knowledgeable and *mujtabid* from this aspect in order to apply the divine law according to the specific requirement.”**

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 *haram*, 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 *mujtabid* 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

divine rule; therefore it must be adhered to, observed, and closely followed. Muslims have no choice concerning it unless its rule is *ibaha* (permissible). This is different from the style, which does not depend on divine evidence, rather it is included in the rule of its origin. Therefore, it is not obligatory to follow a particular style even if the Prophet ﷺ did so. Rather, a Muslim is allowed to use any style as long as it leads to the performance of the action, and thus it becomes a branch to the action. Therefore, it is said that the style is determined by the type action.

THE REMOVAL OF THE *KHALEEFAH*

The *Khaleefah* is removed (immediately) if his status changed in a way that takes him out from the post of the *Khilafah*. The *Khaleefah* must be removed if his status changes in a way that does not take him out from the post of the *Khilafah*, but he is not allowed by *Shar'* to continue in his post. The difference between the case that takes the *Khaleefah* out from the post of the *Khilafah*, and the case in which he must be removed is that in the first case, obedience is not compulsory as soon as his status changes. While in the second case, where he must be removed, his obedience remains compulsory until he is effectively removed.

There are three cases that take the *Khaleefah* out from the post of the *Khilafah*:

Firstly: If he becomes a “*Murtad*” (apostate).

Secondly: If the *Khaleefah* becomes irreversibly insane.

Thirdly: If the *Khaleefah* is imprisoned by a formidable enemy, and can't free himself from them, and there is no hope of doing so.

In these three cases the *Khaleefah* is taken out of his post of the *Khilafah* and he should immediately be removed, even if there was no verdict of his removal issued. He is not to be obeyed, and his orders should not be executed by whoever has a proof that the *Khaleefah* is under any of these three conditions. However, it is necessary to prove if any of these cases happened to him. The proof should be established by the “complaints tribunal” (*Mazalim*), which would issue its verdict stating that the *Khaleefah* had been taken out of the post of the *Khilafah* and that he should be removed, thus allowing the Muslims to contract the post of *Khilafah* to someone else.

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

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

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

coercion.

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 *Shari'* 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.

THE KHILAFAH SYSTEM IS A UNIQUE SYSTEM

This subject of *Khilafah* is a political study. It is a discussion about the highest post of ruling, and of course, a study of its thoughts. It would be a great error for the non-Muslim reader to assess the truthfulness of the thoughts presented in this book against anything other than the reality. Similarly, Muslims should only judge in accordance with the *Kitab of Allah* ﷻ and the *Sunnah* of the Prophet ﷺ. This is the case because the correctness of the thought is not judged by another thought unless it is a branch of that thought. Rather, it is judged according to its agreement with reality, or its agreement with its origin, which is proven to agree with the reality. Therefore, we warn the reader of the necessity to read these thoughts with accuracy and awareness of the reality, which they express. So while the ruling crisis in the Islamic world is apparent, and the crisis in ruling in many other parts of the world is noticeable, it is worth understanding the ruling thoughts so as to realise through contemplation that he arrived at the solution of the ruling crises in the world and the best solution for the ruling of human beings and caring for their affairs. To find the sound solution for ruling the people, thought must be directed in a way to limit the criterion for assessment to the agreement with reality or the agreement of the divine rules to them.

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 ﷻ. 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.