

The Answer to the Question

1. Is the Term Khilafah a Jurisprudential (*Fiqh*) or a Political Term?

2. Does the Punishment in this World Expiate Sin on the Day of Resurrection?

To: Sameh Raihan Abu Maisara

(Translated)

Question:

Assalamu alaikum, I have two questions:

First: Is the term Khilafah for the Islamic state is a jurisprudential (*Fiqh*) term that Allah made it obligatory to be used for this state or is it a political term?

Second: It is known that in Islam if a person disobeys Allah and the Khaleefah applies upon him a legal punishment (Hadd, Qisas or Ta'azir), the sin will be lifted from him on the Day of Resurrection. The question here is:

Today, as we succumb to the secular oppressive rule and living in Dar al-Kufr (the land of disbelief), if a person sins and is punished by a punishment issued by the man-made law. Such as if he kills he is killed or if he steals he is imprisoned, knowing that the punishment of theft, is the cutting of the hand. If this is the case would this punishment expiate the burden of this sin on the Day of Resurrection?? May Allah reward you and us and all Muslims with goodness) ended.

Answer:

Wa Alaikum Assalam wa Rahmatullahi wa Barakatuh,

For the first question, the ruling system that is made obligatory by Allah (saw) on the Ummah is the Khilafah system; and therefore the term is a jurisprudential term, that is it is a "**Legal (Shari') fact**". In addition Khilafah is a ruling system, meaning that it includes **political acts** that are carried out by the Khaleefah. The explanation of that is as following:

1. The term Khilafah is a jurisprudential term "**Legal (Shari') fact**", because the legal texts have shown that, and of these texts:

- Allah the Almighty says:

﴿وَعَدَ اللَّهُ الَّذِينَ آمَنُوا مِنكُمْ وَعَمِلُوا الصَّالِحَاتِ لَيَسْتَخْلِفَنَّهُمْ فِي الْأَرْضِ كَمَا اسْتَخْلَفَ الَّذِينَ مِنْ قَبْلِهِمْ وَلَيُمَكِّنَنَّ لَهُمْ دِينَهُمُ الَّذِي ارْتَضَى لَهُمْ وَلَيُبَدِّلَنَّهُمْ مِنْ بَعْدِ خَوْفِهِمْ أَمْنًا يَعْبُدُونَنِي لَا يُشْرِكُونَ بِي شَيْئًا وَمَنْ كَفَرَ بَعْدَ ذَلِكَ فَأُولَئِكَ هُمُ الْفَاسِقُونَ﴾.

"Allah has promised those who have believed among you and done righteous deeds that He will surely grant them succession [to authority] upon the earth just as He granted it to those before them and that He will surely establish for them [therein] their religion which He has preferred for them and that He will surely substitute for them, after their fear, security, [for] they worship Me, not associating anything with Me. But whoever disbelieves after that - then those are the defiantly disobedient." [An-Nur: 55]

- And it was directed by Ahmad and Abu Dawood Al-Tayaalisi from Huthaifa ibn al-Yaman that Rasulullah (saw) said:

﴿إِنَّكُمْ فِي النَّبِيِّ مَا شَاءَ اللَّهُ أَنْ تَكُونُوا، ثُمَّ يَرْفَعُهَا إِذَا شَاءَ أَنْ يَرْفَعَهَا، ثُمَّ تَكُونُ خِلَافَةً عَلَى مَنَاجِ النَّبِيِّ، فَتَكُونُ مَا شَاءَ اللَّهُ أَنْ تَكُونُوا، ثُمَّ يَرْفَعُهَا إِذَا شَاءَ أَنْ يَرْفَعَهَا، ثُمَّ تَكُونُ جَبْرِيَّةً، فَتَكُونُ مَا شَاءَ اللَّهُ أَنْ تَكُونُوا، ثُمَّ يَرْفَعُهَا إِذَا شَاءَ أَنْ يَرْفَعَهَا، ثُمَّ تَكُونُ خِلَافَةً عَلَى مَنَاجِ النَّبِيِّ﴾، ثُمَّ سَكَتَ

“Prophethood will last with you as long as Allah wants it to last. Then there will be Khilafah according to the method of Prophethood, and it will last for as long as Allah wishes, then He will lift it if He wishes. Then there will be hereditary rule, and it will last for as long as Allah wishes, then He will lift it if He wishes. Then there will be an oppressive rule, and it will last for as long as Allah wishes, then He will lift it if He wishes. Then there will be Khilafah according to the method of Prophethood.” Then he (saw) fell silent.

- Muslim narrated from Hazim saying that: “I lived with Abu Hurairah for five years, and heard him speaking of the Prophet (saw), who said:

«كَانَتْ بَنُو إِسْرَائِيلَ تَسُوسُهُمُ الْأَنْبِيَاءُ، كُلَّمَا هَلَكَ نَبِيٌّ خَلَفَهُ نَبِيٌّ، وَإِنَّهُ لَا نَبِيَّ بَعْدِي، وَسَيَكُونُ خُلَفَاءُ فَيَكْتُرُونَ» قَالُوا: فَمَا تَأْمُرُنَا؟ قَالَ: «فُوا بِيَعَةَ الْأَوَّلِ فَأَلَّوْا، أَعْطَوْهُمْ حَقَّهُمْ، فَإِنَّ اللَّهَ سَائِلُهُمْ عَمَّا اسْتَرْعَاهُمْ».

“The children of Israel used to be ruled by the Prophets, whenever a prophet perished, another Prophet followed him, and there is no Prophet after me, but there will be Khulafa’a and they will number many”. They said: “what do you order us to do?” He (saw) said: “Fulfill the Bayah (pledge of allegiance) to them one after the other, and give them their due right, surely Allah will account them for that which he entrusted them with”.

- Also Muslim extracted on the authority of Abu Sa'eed said: The Messenger of Allah (saw) said: «إِذَا بُوِيعَ لِخَلِيفَتَيْنِ، فَاقْتُلُوا الْآخَرَ مِنْهُمَا» “If two Khulafaa’ were pledged allegiance (Bayah), then kill the latter of them”

Thus the Shariah texts showed that the system is the “Khilafah” and the rulers in this system are the “Khulafaa”. That is what the Prophet (saw) called them, and that is what the rightly guided Khulafaa were called ... The Khaleefah is the Ameer Al-Mu’amineen and the Imam of Muslims, who rules them by the Laws of Allah. Thus “Khilafah” and “Khaleefah” are jurisprudential terms, “Legal (Shari’) fact”, stated in Shari’ texts, including the above-mentioned texts.

2. As for the fact that the system of Khilafah is Fardh (obligatory), it is because of the evidences that are contained in the Book (Quran) and the Sunnah and the Consensus of the Sahabah, including the following evidences:

As for the Book: Allah the Almighty says, addressing the Prophet (saw):

فَاَحْكُمْ بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنَ الْحَقِّ

“So judge between them by what Allah has revealed and do not follow their inclinations away from what has come to you of the truth.” [Al-Ma’ida: 49]

And His saying:

وَأَنْ أَحْكُمَ بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَاحْذَرْهُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ

“And judge, [O Muhammad], between them by what Allah has revealed and do not follow their inclinations and beware of them, lest they tempt you away from some of what Allah has revealed to you.” [Al-Ma’ida: 49]

The address to the Prophet (saw) to rule by what Allah has revealed is an address to his Ummah. The implication of this is to find a ruler after the Messenger of Allah (saw) to rule between them by what Allah has revealed. The command in the Ayah is an obligation; because the content of the command is obligatory. This is an evidence of assertiveness as defined in the Islamic legal methodology (Usul). **The ruler who rules between Muslims with what Allah has revealed after the Messenger of Allah (saw) is the Khaleefah, and the ruling system in this manner is the Khilafah system.** In addition, the establishment of the proscribed punishments (Hudud) and other obligatory laws cannot take place unless through a ruler. Whatever is necessary to accomplish a Wajib (obligation) is itself a Wajib, so the establishment of a Khaleefah who implements the Shari’ is an obligation. The ruler in this way is the Khaleefah, and the ruling system is the system of Khilafah.

As for the Sunnah: It was narrated from Nafi' who said: Abdullah ibn Umar told me: I heard the Messenger of Allah (saw) say:

«من خلع يداً من طاعة لقي الله يوم القيامة لا حجة له، ومن مات وليس في عنقه بيعة مات ميتة جاهلية»

“Whosoever takes off his hand from allegiance to Allah (swt) will meet Him (swt) on the Day of Resurrection without having any proof for him, and whoever dies without the Bayah (allegiance) on his neck dies the death of Jahiliyyah.” [Reported by Muslim]

Thu the Prophet (saw) made it compulsory upon every Muslim to have a Bayah on his neck, and described the one who dies without having a Bayah on his neck that he dies a death of Jahiliyyah (ignorance). After the Messenger of Allah (saw), Bayah cannot be to anyone except the Khaleefah. The Hadeeth obliges the existence of a Bayah on the neck of every Muslim; that is the existence of a Khaleefah who is accordingly deserves a Bayah upon the neck of every Muslim, otherwise the defaulting dies the death of Jahiliyyah; thus, indicating the graveness of the sin resulting from abandoning the work to find a Khaleefah who governs by Islam.

As for the consensus of the Sahabah: They (ra) unanimously agreed on the necessary to establish a Khaleefah to the Messenger of Allah (saw) after his death. The consensus of the Sahabah to establish a Khaleefah was confirmed by them delaying the burial of the Messenger of Allah (saw) after his death, and engaging themselves in appointing a successor (Khaleefah) to him, although the burial of the dead after his death is an obligation. The Sahabah, who were obliged to engage themselves in preparing the burial of the Prophet (saw), some of them worked to appoint the Khaleefah rather than engaging themselves in the burial. The other Sahabah kept silent over this action, and participated in delaying the burial of the prophet (saw) for two nights, despite their ability to condemn the delay, and their ability to bury the Prophet (saw). The Prophet (saw) died Monday morning, and remained without burial throughout Tuesday night and Tuesday, when Abu Bakr (ra), was given the Bayah. Then the Messenger of Allah (saw) was buried in the middle of the night; in the night to Wednesday. Thus the burial was delayed for two nights, and Abu Bakr was given the Bayah before the burial of the Prophet (saw). Therefore, there was a consensus of the Sahabah to engage in appointing a Khaleefah rather than to bury the dead, and this could not be legitimate unless the appointment of a Khaleefah is more obligatory than the burial of the dead.

• Based on this, the establishment of the Khilafah is an obligation (fardh), and therefore appointing a Khaleefah is fardh, and what a fardh!

3. As for the Khilafah, the ruling system in Islam, which contain **political acts** that are carried out by the Khaleefah, this is because politics means taking care of the affairs of the people and the basic work of the Khilafah and the Khaleefah is to take care of the affairs of the Ummah, **and taking care of the affairs by the ruler is politics.**

The word “*sisaysah*” (politics) in the [Arabic] language comes from the root words “*sasa*” – “*yasusu*”, which carry the meaning of taking care by the ruler. According to Almuheet dictionary: “*sistu ar ra’yyata siyasatan* means *amartuha wa nahaituha*”, that is “I ordered and forbade the people”.

The word was mentioned in Mukhtar As-Suhah dictionary in the article “s u s”: (*sasa ar ra’yyata yasusuha siyasatan*).

There are a number of Ahadeeth linking Khaleefah with taking care of the affairs of the Ummah, including the following Ahadeeth:

Al-Bukhaari reported from Ibn Shihab ... that Salim told him that Abdullah ibn Umar, says: I heard the Messenger of Allah (saw) said:

«كُلُّكُمْ رَاعٍ، وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ، الْإِمَامُ رَاعٍ وَمَسْئُولٌ عَنْ رَعِيَّتِهِ...»

“Every one of you is a shepherd and is responsible for his flock. The leader of the people is a guardian and is responsible for his subjects...”

Thus the task of the Khaleefah is to take care of the affairs, **and taking care of the affairs by the ruler is politics in accordance to the linguistic meaning.**

4. With regards to the second question: Does the punishment expiate the sin on the Day of Resurrection? **This is true if it is a legitimate punishment from an Islamic state, i.e a state that rules by the Allah's laws, and not by man-made laws. The explanation of that is as follow:**

- Muslim reported that Ubada bin As-Samit said: the Messenger of Allah (saw) said to us while we were in a gathering:

«تُبَايَعُونِي عَلَى أَنْ لَا تُشْرِكُوا بِاللَّهِ شَيْئًا، وَلَا تَزْنُوا، وَلَا تَسْرِقُوا، وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ، فَمَنْ وَفَى مِنْكُمْ فَأَجْرُهُ عَلَى اللَّهِ، وَمَنْ أَصَابَ شَيْئًا مِنْ ذَلِكَ فَعُوقِبَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ، وَمَنْ أَصَابَ شَيْئًا مِنْ ذَلِكَ فَسَتَرَهُ اللَّهُ عَلَيْهِ، فَأَمْرُهُ إِلَى اللَّهِ، إِنْ شَاءَ عَفَا عَنْهُ، وَإِنْ شَاءَ عَذَّبَهُ»

“Give me the oath (Bayah) for: Not to join anything in worship along with Allah, not to commit illegal sexual intercourse (zina), not to steal, and not to kill life that Allah has forbidden except for a just cause. Whoever amongst you fulfils his pledge, his reward will be with Allah, and whoever commits any of those sins and receives the legal punishment in this world for that sin then that punishment will be expiation for that sin. And whoever commits any of those sins and Allah does not expose him, then it is up to Allah if He wishes He will punish him or if He wishes, He will forgive him.”

So the Hadeeth shows that whoever is punished in this world, his punishment expiates him on the Day of Resurrection, and he will not be punished for that sin in the Hereafter. It is clear from Hadeeth as well that the punishment that constitutes a Kaffara (expiation) is a punishment from an Islamic state, in which a Bayah is pledged to a Khaleefah to rule by Islam. Thus the Prophet (saw) began the Hadeeth by saying:

«تُبَايَعُونِي... فَمَنْ وَفَى مِنْكُمْ فَأَجْرُهُ عَلَى اللَّهِ، وَمَنْ أَصَابَ شَيْئًا مِنْ ذَلِكَ فَعُوقِبَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ»

“Give me the oath (Bayah) Whoever amongst you fulfils his pledge, his reward will be with Allah, and whoever commits any of those sins and receives the legal punishment in this world for that sin then that punishment will be expiation for that sin.”

Therefore, the punishment that constitutes expiation depends on the existence of Bayah, and the Bayah is given only to the ruler who rules by Islam. **Hence the punishment that constitutes a Kaffara (expiation) of sin in the Hereafter is the punishment from the state that rules by Islam,** and Allah knows best and He is the wisest.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

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The link to the answer from the Ameer's Facebook page:

<https://www.facebook.com/photo.php?fbid=255009601333791>