

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Series of Questions Addressed to the Eminent Scholar Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his Facebook Page (Fiqhi)

Answer to Question:

The Singular Leadership in Islam

To: Mohammad Hadoud

(Translated)

Question:

Assalamu Alaikum Wa Ramatullah Wa Barakaatuhu,

How are you our Sheikh?

I have a question regarding an adoption by the Hizb.

One of the Hizb's adoption is that the leadership in Islam is singular, that is, the Khaleefah (Caliph) has all the mandatory powers in the State, in other words, the Khaleefah is the State.

For more clarification, the Khaleefah in the state has the right to be a ruler, a judge and everything ...

This contradicts with what is mentioned in the book of the Islamic State, where it says in page 129 (page 121, English edition):

“He set up everything himself and completed it during his (saw) lifetime. He (saw) was the head of State, he (saw) had assistants, governors, judges, an army, secretaries and a council of Shura. This type of structure must be followed and adopted when implementing the Islamic State. Information concerning all these details of the structure of the Islamic State has been transmitted from generation to generation via Tawatur (collective and assured testimony).”

Please explain.

May Allah reward you with good and open at your hands.

Answer:

Wa Alaikum Assalam wa Rahmatullahi wa Barakatuh,

1- As if you refer at the beginning of your question to what was stated in the book of the Islamic Personality Vol. II under the subject the Leadership "Al-Imarah" which reads as follows:

“As for this Amir, the Shari'ah has obliged that he be one and it not permitted to be more than one. Islam does not have collective leadership (qiyadah) or collective presidency (riyasa). Leadership in Islam is strictly singular so it is obliged for the Rais [president] or Amir or Qaid [leader] to be one, and he is not allowed to be more than one. The evidence for this is clear from the text of the preceding Ahadith and the actions of the Messenger (saw). All the Ahadith state: “one of them”, “one of you” and the word (ahad) is the word one (wahid) which indicates the number i.e. one and not more. This is understood from the contrary understanding (mafhum mukhalafa)... Therefore, the Messenger (saw)'s statement: «فليؤمروا أحدهم» **“Let them appoint one of them”**, «إلا أمروا أحدهم» **“Except that they appoint one of them”**, «فأمروا أحدهم» **“Appoint one of you”** Indicate by contrary understanding (mafhum mukhalafa) that it is not allowed to appoint more than one. Thus, leadership is for one, and it is not permitted to be for more than one by the text of the Ahadith in their stated text (mantuq) and understanding (mafhum). This is strengthened by the Messenger (saw)'s action in that in all incidents wherein he appointed (a leader), he would appoint one and not any other (number). He never appointed more than one in one place... Therefore, it is not allowed for one matter (to have) two leaders (rais) nor for one place two leaders. Rather it is obligatory to have only one Amir and it is prohibited for there to be more (than one). **However, it must be understood that ri'asah and imarah and qiyadah in Islam is not honorary authority as the honorary authority requires following the chief**

(za'im). As for ri'asah in Islam, it grants the right to the leader to take care of the affairs and authority over the matter in which leadership is for him and the execution of all that falls **within the leadership according to the competence for which he was appointed Amir within the limit given by the Shar'a in the matter which the rais was appointed...**" [End quote, from the book of the Islamic Personality, Vol. II]

2- The saying that the leadership and the Imarah in Islam is singular does not contradict with what was stated in the book of the Islamic State which says:

"This is how the Messenger of Allah (saw) founded the system and structure of the Islamic State. He set up everything himself and completed it during his (saw) lifetime. He (saw) was the head of State, he (saw) had assistants, governors, judges, an army, secretaries and a council of Shura. This type of structure must be followed and adopted when implementing the Islamic State. Information concerning all these details of the structure of the Islamic State has been transmitted from generation to generation via Tawatur (collective and assured testimony). The Messenger of Allah (saw) held the post of head of State from the very first day he (saw) arrived in Madinah, until his (saw) death. Abu Bakr and 'Umar were his two assistants. The Sahabah agreed after his death on the obligation of appointing a Khaleefah to follow him as the head of State only, and not in the Message, nor as a Prophet, for he (saw) was verily the seal of Prophets. Therefore, he (saw) established a complete system of government during his lifetime. He (saw) left behind him the type of rule and the governmental structure known by and evident to everyone." [End Quote]

Therefore, the two texts are not contradictory, rather they are totally in harmony with each other. The first text in the book of the *Islamic Personality Vol. II* discusses the Imarah in Islam, whether it is the Imarah in a voyage or the Imarah of a group (jama'ah) or a general Imarah of Muslims, the Khilafah (Caliphate). Imarah in Islam is singular and it is not collective, that is, it is not permissible to have a group assuming the mandatory power of the Imarah, but the power of the Imarah is only for one person who has the final decision...

While this is a Hukm Shari (Islamic ruling), it is also true in reality. The reality of the matter is that the mandatory power of the Imarah and the rule cannot be collective, but it must be singular, that is the decisive decision has to be for one person ... Thus, the Khilafah, the general Imarah (general presidency of the Muslims), is singular in which the person who has the power is the one who is given the pledge of allegiance (Bay'a) for Khilafah, so that through Bay'a he possesses all the mandatory powers of governance, authority and adoption of the Ahkam (Islamic ruling), without exception ...

3- However, making the mandatory powers in the hands of the Khaleefah does not mean at all that the Khaleefah shall execute all the works pertaining to ruling and authority, but it means that the mandatory power is for him, and that anyone who is given the power in the rule and the authority he derives his power from the Khaleefah who appoints him as his deputy in that. Thus, all rulers in the Khilafah of assistants and governors... etc., and all those who take over the judiciary, the administrative institutions, the army, etc., who possess mandatory powers, the Khaleefah appoints them to be his deputy in those powers. No one has any of these powers except that he is a deputy of the Khaleefah in one of the aspects...

4- The mandatory powers are something, and executing them is something else, and the Prophet (saw) had the entire powers to the rule and the authority, but he (saw) did not execute all the acts of the governance and the power, but was assisted by others as shown in the book of *The Islamic State* and other Hizb books. Thus, the Prophet (saw) set up the complete structure of the state during his lifetime, and his action indicates that this structure in its form and powers that must be followed. That is, it is a divine ruling (Hukm Shari') and not a style that changes according to circumstances and conditions... The establishment of a structure of the state does not contradict with the mandatory powers of the Khaleefah, this is because the Prophet (saw), who had all the mandatory powers, established the structure of the state and delegated powers. Thus, the action of the Prophet (saw) is the best proof that there is no contradiction between the mandatory powers of the Khaleefah and setting up a structure of the state with powers derived from the mandatory powers of the Khaleefah, where these institutions

of the state help the Khaleefah in running of the affairs of the state based on the powers given to them by the Khaleefah. This was the case at the time of the Messenger of Allah (saw), where the state that he (saw) established despite being small in size, it needed in order to run it the setting up of a structure used by the Prophet (saw) to administer the rule and take care of people's affairs ... so, how then if the state is vast and wide...?!

5- Although the mandatory powers are for the Khaleefah, but he is restricted to the divine rule (Hukm Shari'); if he violates the Hukm Shari' and performs unjust acts against the subjects or he misapplies Allah's law, then the Court of Injustices (Madhalim) considers the matter, and has the power to remove him in accordance with the Shari'ah rulings ...

Article 87 of the Draft Constitution which is derived from the Shari'ah evidences as follows: "The judge of the Court of Injustices (Madhalim) is appointed to remove all injustices which have been inflicted upon any person who lives under the authority of the State, irrespective of whether the person is from the subjects of the State or not, and irrespective of whether the injustice was committed by the Khalifah or anyone below him from the rulers and civil servants."

To ensure fearing Allah alone, the Khaleefah cannot remove the Madhalim judge during his investigation of a Madhlamah involves the Khaleefah... it is stated in Article 88 "... he cannot be removed during his investigation of a Madhlamah against the Khalifah..." And the explanation of the article states: "This is because keeping the mandatory power of removing the Madhalim judge in the hands of the Khalifah in this case would influence the verdict by the judge and accordingly it would limit the capability of the judge to remove the Khalifah or his assistants if deemed necessary. This mandatory power of removing the judge in this case is a means for Haram, or in other words, leaving it in the hand of the Khalifah in this case is prohibited..."

Article 90 confirmed the mandatory power of the Court of Injustice Acts (Madhalim) to remove the Khaleefah if he deserves to be removed, so Article 90 states: "**The Court of Injustice Acts (Madhalim) has the right to remove any ruler or civil servant in the State, in the same way that it has the right to remove the Khalifah, if the elimination of the Madhlamah required this removal.**" Therefore, there is no immunity for the Khaleefah before the courts, he is accounted if he makes a mistake and is removed if he deserved to be removed.

Therefore, although the Khaleefah has mandatory powers in the State, he is bound by the Shari'ah rules before the Court of Madhalim ... As shown above, he sets up the institutions of the state to assist him to run the affairs of ruling and help him in taking care of the affairs of the people in accordance with the mandatory powers given to them by the Khaleefah pertaining the work he assigns to them.

I hope that the contradiction you saw has been resolved, and that you have found that the two texts mentioned above are consistent. The mandatory powers are a matter and the institutions that assist the Khaleefah in managing the affairs of the state and help him to take care of the affairs of the subjects is another matter.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

14th Jumada II 1440 AH

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

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192/1008383029358768/?type=3&theater>

The link to the answer from the Ameer's Google Plus page:

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/TGXvRfugZeg>