

Series of Questions Addressed to Scholar Sheikh Ata Bin Khalil Abu Al-Rashtah,  
Ameer of Hizb ut Tahrir through his "Fiqhi" Facebook Page

**Answer to the Question:**

**The Ruling on Electing a Ruler who Rules with Kufr**

To: Mouadh Seif Elmi

(Translated)

**Question:**

As-Salaam Alaikum Sheikh, I have a question: Is it true that the companions who migrated to Abyssinia fought with Negus against his enemy, and wished for the victory of the Negus, and rejoiced for his victory? This is because this incident is used as evidence by some of the scholars in Tunisia for the permissibility of the parliamentary and presidential elections, and they call for the election of the lesser of evil parties. Thank you.

**Answer:**

Wa Alaikum As-Salaam Wa Rahmat Allah Wa Barakatuhu

Before embarking on the answer, it is important to note that in his quest for the Shariah ruling on any matter, the Mujtahid after understanding the reality of the matter, must look for the evidences in the Shariah texts, and then deduce the Shariah ruling on the matter, after considering the relevant evidences... It is incorrect that he issues an opinion on the matter and then looks for the evidences that the ruling is deduced from; because the Shariah requires that Islam is made the reference, i.e. the ruling is taken from the evidences, and not from the opinion of the Mujtahid first, followed by his search for supporting evidences for his opinion, this action is not according to Islam, and it is not searching for the Shariah ruling, hence following the whims ...

And the one who observes the arguments of those who permit the participation in systems that govern with Kufr and those who permit the election of rulers and deputies of parliament, who rule by other than the Law of Allah, and who legislate for the people man-made systems without guidance from Allah, will see that they search the Shariah texts back and forth until they stop at a non-credible evidence not even "*Shubhat Ad-Daleel*" (semblance of evidence) to support their arguments. And amazingly they leave the definite *mutawatir* and extensive evidences in the Quran and Sunnah and seek non-similar matters in order to issue their opinion.

**Now I will answer what is mentioned in the question:**

Reviewing the Seerah books, it shows that there is no evidence that proves that the companions fought with Negus against his enemy. Whereas there are many narrations in the Seerah books on the position of the companions towards the issue between Negus with his enemies, and these narrations are very similar if not identical. Here I will mention that of Imam Ahmad ibn Hanbal in his Musnad having mentioned the story of the Muslims with the Negus, and how he was just towards them, in the following:

*"... And we stayed with him in the finest house, and he was the best neighbour. She said: By Allah we remained so until he was fought for his throne, by Allah the grief that befell us was more severe than any grief we knew, we feared the defeat of Negus, and his replacement by a man who does not know our rights like Negus. She said Negus marched to the battle and the Nile separated between us, she said the companions of the Messenger of Allah (saw) said: Who will go and witness the Battle of the people and then bring the news? She said, Az- Zubair bin Awam said: I will, she said: he was from the youngest in the group,*

she said: they inflated a sack which he attached to his chest and then swam, till he came out from the other side of the Nile, where the meeting place of the opponents, he walked until he found them. She said: We prayed to Allah to give victory to Negus, and his empowerment in his own country, and he was victorious, he elevated us in the best rank, until we returned to the Messenger of Allah (saw), where he was in Mecca.” **End Quote.**

The narration in “Al-Bidayah and Al-Nihayah” by Ibn Kathir is as follows:

“... She said: we stayed with the best neighbour in the best house, when a king from Abyssinia wanted to fight him (Negus) for his kingdom, we never experienced sadness more than that ever, in worry that another king will replace him who does not observe our rights like Negus, so we prayed to Allah to give him victory, when Negus went out to meet his enemy, the companions of the Messenger of Allah (saw) said to each other, who will go and witness the battle and find out the outcome? Az-Zubair said – who was one of the youngest – I will, they inflated a sack for him, he placed it on his chest, and started to swim in the Nile until he came out from the other side, where the opponents met, he witnessed the battle, Allah defeated that king and he was killed, and Negus was victorious. Az-Zubair returned waving his clothes and was saying: Glad-tidings to you, Allah gave victory to Negus, I said: By Allah we did not witness more joy than the time of the victory of Negus, then we stayed with him until some of us left to Mecca, and some stayed behind.” **End quote.**

So how did these people conclude that it is permitted to participate in the election of the ruler who governs with Kufr and the election of parties to enter parliament and legislate instead of Allah? Where did they get the permissibility of ruling from, even though there is no mention in the narrations that the companions participated in the fighting, or that they were decision makers, rather they were vulnerable, all they did was send the youngest man amongst them to track the news and to find out who will win:

“The companions of the Messenger of Allah (saw) said: Who will go and witness the Battle of the people and then bring the news?”

“The companions of the Messenger of Allah (saw) said to each other: who will go and witness the battle and find out the outcome?”

All that is concerned is the issue of the companions (may Allah be pleased with them) wished the victory for the Negus over his enemy because he was a just king who does not oppress people as they were told by the Prophet (saw) and as they witnessed themselves ... and in fear that the enemy will be victorious and will not be as just towards them as Negus:

“By Allah the grief that befell over us was more severe than any grief we knew, we feared the defeat of Negus, and his replacement by a man does not know our rights unlike Negus.”

“We never experienced sadness more than that ever, in worry that another king will replace him, who does not observe our rights like Negus.”

How is that relevant to the election of the ruler who governs by Kufr or to the election of parties in the parliament who legislate for the people instead of Allah? The companions wished, loved, and prayed to Allah to grant victory to the king, over the enemy, who may not be just to them, and they did not participate in anything that suggests electing someone to govern with Kufr or to legislate by Kufr laws.

Therefore it is clear that using this incident as an evidence that permits the participation in the election of the ruler who governs with Kufr, and the election of the parties that legislate to the people instead of Allah, is invalid and its falsehood does not require much knowledge and ponder... especially since the evidence of the rule by what Allah has revealed are definite texts and definite meaning, which include the evidences:

﴿وَأَنِ احْكُم بَيْنَهُم 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]

﴿إِنَّ الْحُكْمَ إِلَّا لِلَّهِ﴾

“The rule is for none but Allah” [Yusuf: 40]

﴿فَلَا وَرَبِّكَ لَا يُؤْمِنُونَ حَتَّىٰ يُحَكِّمُوكَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لَا يَجِدُوا فِي أَنفُسِهِمْ حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا﴾

“But no, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission.” [An-Nisa’: 65]

﴿أَفَحُكْمَ الْجَاهِلِيَّةِ يَبْغُونَ وَمَنْ أَحْسَنُ مِنَ اللَّهِ حُكْمًا لِّقَوْمٍ يُوفُونَ﴾

“Then is it the judgement of [the time of] ignorance they desire? But who is better than Allah in judgement for a people who are certain [in faith]” [Al-Ma’ida: 50]

Along with other verses.

Also the Kuffar of Quraysh had offered the Prophet (saw) that he rules over them with their laws not Islam, however he (saw) refused:

According to the Seerah of Ibn Ishaq, "As-Siyar Wal Maghazi": (from 'Ikrimah from Ibn Abbas that 'Utbah and Shaybah son of Rabi'a and Abu Sufyan ibn Harb, and Nadr bin al-Harith brothers of Bani Abd Ad-Dar, and Aba Al-Bukhturi, brothers of Bani Asad, and others... They met, or those who met amongst them after sunset behind the Kaaba, some said to each other: Summon Muhammad and speak to him, and discuss with him and make up with him... They called him and said to him: O Muhammad, We have sent you to make up with you ... If you came with this talk to ask for money, then we will collect it for you from our money, so that you be the richest among us, but if you demand honor we will give you power over us, **if you want leadership we will make you our leader**... The Messenger (saw) said: «ما أدري ما تقولون، ما جنتكم بما جنتكم به لطلب أموالكم، ولا الشرف فيكم، ولا الملك عليكم، ولكن الله بعثني إليكم رسولا وأنزل الدنيا علي كتابا، وأمرني أن أكون لكم بشيراً ونذيراً فبلغتكم رسالة ربي، ونصحت لكم فإن تقبلوا مني ما جنتكم به فهو حظكم في الدنيا والآخرة، وإن تردوا علي أصبر لأمر الله حتى يحكم الله بيني وبينكم»، **What are you saying, what I brought to you is not for the sake of money, honor over you, or leadership over you, but Allah sent me as a messenger to you, and sent down to me the Book, and ordered me to be the bearer of glad tidings to you and be your guide, so I delivered to you the message of my Lord, and advise you, if you accept what I brought you, it will bring you the good in the world and the Hereafter, but if you refuse then I will wait for the order of Allah to judge between me and you,**” or as the Messenger of Allah (saw) said.” The same was mentioned in “Dala’il An-Nubuwa” of Abu Na’im Al-Asbahani (1 / 233) and in “As-Seerah An-Nabawiya” by Ibn Kathir (1/479) and in other Seerah books.

They also offered the Messenger of Allah (saw) to share the power, some of it from them and some from him (saw), i.e. they worship his Lord for a year and he worships their God for a year, but he (saw) refused and wanted Islam alone to rule:

In Tafseer of Al-Qurtubi of Surat Al-Kafiroon: ﴿قُلْ يَا أَيُّهَا الْكَافِرُونَ﴾ “Say: O disbelievers”:

“Ibn Ishaq and others from Ibn Abbas said: that the cause of descent (Asbab An-Nuzool) of the Surat, that Al-Waleed bin Al Mughira, and Al-Aas ibn Wa’il, and Al-Aswad bin Abdul Muttalib, and Umayyah bin Khalaf met the Messenger of Allah (saw) and said: **O Muhammad, let us worship what you worship, and you worship what we worship and we share with you the whole of our matters**, if what you brought was better than what we have currently, then we will share it with you, and we take our share from it. But if what is in our hands is better than what is in your hand, then you will share our matter and take your share from it. Allah Almighty sent down ﴿قُلْ يَا أَيُّهَا الْكَافِرُونَ﴾ “Say: O disbelievers.” [Al-Kafiroon: 1]” **End Quote.**

According to Tafseer At-Tabari, "Jami' Al-Bayan" of Surat: ﴿قُلْ يَا أَيُّهَا الْكَافِرُونَ﴾ “Say: O disbelievers.” [Al-Kafiroon: 1]

(Muhammad Ibn Musa al-Harashi mentioned, he said: Abu Khalaf said, Daoud said, from Ikrima, on the authority of Ibn Abbas: that Quraysh promised the Messenger of Allah (saw) ... we offer you one matter, it will be yours and it is good for us. He said: «ما هي؟» 'What is it?' They said: **Worship our gods for a year: Lat and 'Uzzi, and we worship your God for a year,** He (saw) said: «حَتَّى أَنْظَرَ مَا يَأْتِي مِنْ عِنْدِ رَبِّي» 'I will wait and see what my Lord decrees', the Revelation came from Al-Lawh Al-Mahfooth: ﴿قُلْ يَا أَيُّهَا الْكَافِرُونَ﴾ "Say: O disbelievers" [Al-Kafiroon: 1] End Quote.

In the tafseer of ﴿قُلْ يَا أَيُّهَا الْكَافِرُونَ﴾, "Say: O disbelievers" in "Fat'h Al-Qadeer" by Shawkani:

"On the authority of Ibn Jarir, Ibn Abi Hatim, and At-Tabarani from Ibn Abbas: "that Qureshi called the Messenger of Allah (saw)... if you do not, we offer you one good matter, He (saw) said: «ما هي؟» 'What is it?' They said: **worship our gods for a year and we worship your God for a year,** He (saw) said: «حَتَّى أَنْظَرَ مَا يَأْتِي مِنْ رَبِّي» 'Let me see what comes to me from my Lord', the Revelation came from Allah: ﴿قُلْ يَا أَيُّهَا الْكَافِرُونَ \* لَا أَعْبُدُ مَا تَعْبُدُونَ﴾ "Say: O disbelievers. I worship not what you worship" [Al-Kafiroon: 1-2] To the end of the Surat, and Allah revealed: ﴿قُلْ أَفَعَبَّرَ اللَّهُ تَأْمُرُونِي أَعْبُدُ أَيُّهَا الْجَاهِلُونَ﴾ "Say, [O Muhammad], "Is it other than Allah that you order me to worship, O ignorant ones?" [Az-Zumar: 64] Until the verse: ﴿بَلِ اللَّهُ فَاعْبُدْ وَكُنْ مِنَ الشَّاكِرِينَ﴾ "Rather, worship [only] Allah and be among the grateful." [Az-Zumar: 66]" End Quote.

All of these are explicit evidences that definitely and strictly forbids ruling by other than what Allah has revealed, and all participation in such ruling, no one stands against such clear evidence except those who disobeyed Allah and His Messenger (saw) openly, and any argument they bring is refutable and will engulf them with disgrace in this world, but the torment of Allah is the Greatest.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

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

<https://www.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/441977682665975/?type=3&theater>

The link to the answer on the Ameer's page on Google plus:

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