



Lessons from the Weaknesses in Ruling during the Previous Era of the Khilafah

It is undoubted that the Islamic Khilafah State was a magnificent, stable and effective system of ruling. Although the initial Muslims had emerged victorious over the two major powers, Rome and Persia, they never turned to these great empires for guidance regarding their own civilization, method of ruling and state institutions. Nor did they need to do so because the ruling system they implemented and the state organizations had all been derived from the Qur'an and Sunnah, which was the basis for the Khilafah state's strength.

However, history is witness to the fact that as time passed, problems and crises afflicted the ruling in the Khilafah. Ruling gradually became weaker, with the Khilafah State afflicted by defeat until it was ultimately destroyed on 3 March 1924, corresponding to 28 Rajab 1342 AH.

It is imperative to understand the factors that led to the weakness of the Khilafah state previously, so as to prevent such weaknesses after the re-establishment of the Khilafah. This article provides lessons from the history of the previous Khilafah. The scope of this article does not cover all the causes of weakness in the Khilafah and its eventual destruction, but is limited to the ruling system. The article also establishes that despite these crises in the Khilafah, it cannot be said that the laws governing the Khilafah and its state organizations must be reformed according to human wisdom and experience. For example, some say that after the period of the Khilafah Rashidah, the ruling became hereditary in character exposing the reins of power to the less qualified and so there should be a limited term for the Khaleefah to rule, as occurs in Democracy, and that this reformation is "Ijtihad." So, what does Islam say of such "Ijtihad"? Does Islam permit the adoption of current ruling systems to replace the state structures of the Khilafah? If Islam does not permit such adoption from foreign cultures and demands the complete and comprehensive implementation according to Islam alone, then will not the problems and crises that were observed in the previous era of the Khilafah, reoccur?

So, in order to arrive at the correct conclusions, it is necessary to learn lessons from the factors that led to the weaknesses in ruling.

1) Independence of Walis and Wilayahs

In Islam there are two types of Walis (governors) of the provinces, those with a General Wilayah and those with a Specific Wilayah. The General Wilayah is one in which there is responsibility for all government matters, including the army, the judiciary and the Kharaj (funds), which are all under the control of the Wali. Alternatively the Khaleefah can appoint more than one Wali in a province, each with his own Specific Wilayah. For example, one Wali could be appointed only for the Kharaj, whilst the other is the Wali of Salah, which is all the matters of ruling excluding Kharaj, as is mentioned in the history books. This would be left to the Khaleefah's own judgment, as he reserves the right to restrict the Wilayah to the Kharaj, or to the judiciary, or he could confine the Wilayah to other than the Kharaj, the judiciary and the army.

However, history has established that appointing a single Wali over a General Wilayah contributes to the weakness of the state, as happened in the case of Amir Mu'awiyah. After the martyrdom of Uthman (ra), a severe crisis of ruling occurred during the Khilafah of Ali (ra) when Amir Mu'awiyah refused to accept the authority of Ali (ra) and rebelled, which set in

motion the events leading to the Battle of Siffin. Due to this crisis in ruling, the Islamic Khilafah State became embroiled in internal issues, such that the focus of the state shifted from foreign policy and expanding the frontiers of the Khilafah through Jihad.

Amir Mu'awiyah was able to mount a challenge to Ali's authority as he had previously been appointed over the General Wilayah for ash-Sham, during the Khilafah of Umar (ra). Ash-Sham was a major province of the Islamic State which bordered the Roman Empire. There was a need for a capable and strong person to have a wide range of ruling powers so as to quickly and effectively check any advance by the Romans and Umar (ra) appointed Amir Mu'awiyah whilst supervising him closely and accounting him harshly, as he (ra) used to do with Walis. After the martyrdom of Othman (ra), Ali (ra) began to significantly change the appointments of Walis, at a time that his authority had not become established due to rebellion. Amir Mu'awiyah was one of those who was to be changed, however Amir Mu'awiyah not only refused to accept his dismissal, he used his hold over Ash-Sham to challenge the Khilafah of Ali (ra).

The Abbasid period of the Khilafah was also similarly weakened, where Walis who had a General Wilayah became independent to the extent that the Khaleefah had almost only nominal authority, with his name being mentioned in Jummah and Eid and issued on coinage.

So, appointing over General Wilayah can clearly cause weakness in ruling and the integrity of the Khilafah. So, the Khaleefah should mitigate against such weaknesses by ensuring that the Wali is appointed over a Specific Wilayah such that the likelihood of disruption in integrity is lessened by excluding the sources that enable strong independence, which are the judiciary, armed forces and funds. Indeed the armed forces are the source of material strength, funds are like the blood that flows in the body and the judiciary implements the Hudood, secures the rights and settles the disputes. Accordingly, Hizb ut Tahrir has adopted in Article 54 of its *Introduction to the Constitution* that the governor "has leadership over the people of his province and control over everything that is connected with it apart from the finances, judiciary and Army."

2) The Prolonged Appointment of a Wali over a Wilayah

Thus, the crisis of governance which shook the Khilafah was a major province's autonomy through the leadership of Amir Mu'awiyah from the Khilafah. Amir Mu'awiyah appointment over a General Wilayah contributed to this. Additionally, what further contributed to the problem was that Mu'awiyah held the appointment for a long time, from his appointment in the time of Umar (ra) and through the entire Khilafah of Othman (ra). Thus, for over a decade he had control over all the institutions in the Wilayah granting him the opportunity to firmly establish his roots in the province. Another consequence of this prolonged General Wilayah, was that the people became attached to the personality of Mu'awiyah rather than the state. So when he decided to establish a movement against Ali (ra) the people of the province stood endorsed and supported his movement.

Thus, it is better that after a few years, the Wali of the province should be dismissed and another appointed in his place. In a similar vein, if the majority of the representatives of the people in the province express displeasure with the Wali, then the Khalifah should remove him. RasulAllah (saaw) removed Al-Alaa ibn Al-Hadrami in Bahrain, because Abdu Qais's delegation had complained about him. Moreover, the Imam can remove the Wali without any reason because RasulAllah (saaw) did so in the dismissal of Mu'adh b. Jabal (ra) from Yemen. Thus, Hizb ut Tahrir adopted in its *Introduction to the Constitution*:

"Article 57: The governor's term of office in a particular province is not to be long. He must be discharged whenever he becomes firmly established in his province or the people become enchanted with him."

And

“Article 59: The governor can be discharged if the Khalifah decides so or if the Shura council expresses dissatisfaction with him - whether justified or not - or if the provincial council expressed discontent with him. However, the governor can only be dismissed by the Khalifah.”

3) The Khilafah Remaining within a Single Dynasty through Appointing Dynastic Successors

There is no concept of an appointed successor in Islam, so certainly none assumes the post of Khaleefah by virtue of being appointed as a successor by the previous Khaleefah. However, some are confused over the issue of appointing a successor and others cite evidence in favor of it upon a cursory study of the Khilafah Rashidah. They cite that Abu Bakr (ra) nominated Omar (ra) as his preferred successor and Omar (ra) nominated six from the Sahaba (ra) as candidates for the Khilafah, with the Companions (ra) remaining silent and thus conferring Consensus (Ijma'a) over the matter. However, the real picture becomes clear only after closer scrutiny.

Abu Bakr (ra) himself did not appoint Omar (ra) as a Khaleefah, but the Muslims desired that he nominate a person for them. Thus, Abu Bakr (ra) acted as a representative of the Ummah in the matter of nomination of the next Khaleefah and not as a Khaleefah appointing a successor. Abu Bakr (ra) continued in making consultations for three months and when they were complete and he knew the opinion of the majority of the Muslims, he (ra) nominated, according to the language of this century, Umar (ra) as the Khaleefah to succeed him. This delegation or nomination was not considered the appointment of Khilafah to Umar (ra) after him. This is because after the death of Abu Bakr Muslims came to the Masjid and pledged their allegiance to Umar (ra) for Khilafah. So it is with this Bai'ah that Umar (ra) became the Khaleefah for the Muslims, and not with the consultations, nor with the nomination of Abu Bakr (ra). Had the nomination of Umar (ra) by Abu Bakr (ra) been the contracting of Khilafah upon him, then he would not have needed the Bai'ah of Muslims.

Similarly in the case of Umar (ra) after he (ra) was stabbed, the Muslims asked him to nominate a Khaleefah. He refused initially but upon their persistence, he put forward his nomination of six candidates.

Then Ali (ra) was given the condition of adopting the decisions of Abu Bakr and Umar (ra) but upon his refusal to do so, Othman was made the Khaleefah upon the same condition with Abdurrahman bin Awf giving the Bayah to him. So, the Khilafah of Uthman was established by the Bayah of the people, not by Umar's nomination, nor by the choice of the people alone. And if the people did not give Bayah to Usman (ra) or Uthman refused to accept the Bayah, then his Khilafah would not have been established. Therefore, the Bayah of the Muslims for the Khaleefah is mandatory and it is not established upon the nomination of a successor because Bayah is one of the Contractual Laws and like other Contractual Law it is confined the Shari Legal Provisions, such as offer and acceptance.

In the Islamic history, the first attempt at establishing an appointed successor was by Amir Mu'awiyah when he appointed his son Yazeed as his appointed successor and tried to extract a Bayah for him from the people in his lifetime. However, the Ummah strongly resisted the appointment through succession as detailed in history books. The incident of Hirah is a clear example.

After the attempt at appointed succession of Yazeed and then the martyrdom of Imam Hussein (ra) was severe blow to the Islamic State. After this, during all the periods of the Khilafah, no-one was able became a Khaleefah without a Bayah, on mere nomination of succession alone, however influential dynasties tried to restrict Khilafah within one dynasty. So the Khilafah was first Umayyad then Abbasi and then Uthmani. The Khulafaah used to

within their life time try to keep the Khilafah in their dynasty by nominating successors from sons, brothers, or other family members though the people would give Bayah for the appointment as Khaleefah.

However, the people would only give Bayah to the person whom the Khaleefah had nominated as a successor and it would be rare to give Bayah to any other. So, there was no political way to reach the post of Khilafah for ordinary people or any political faction. As a consequence, various factions resorted to militancy to reach the post of the Khilafah. The Abbasid arose to dominate Persia as a starting point to gain dominance over other regions so as to bring governance under the Banu Hashim. After that, the Fatimids arose and seized the Wilayah of Egypt to establish ruling based on the Ismaili doctrine, which contradicted Shariah. Due to such political conflicts, the Islamic State was struck and the opening of lands became somewhat suspended as the state become embroiled in internal affairs. Moreover, the secondary centers of power came into existence and the state of the Muslims became divided, whilst it is not permissible to have more than one Khaleefah.

Thus, through the misimplementation of the Legal Ruling of Bayah, not only were the Muslims deprived of their right to give Bayah through merit, the state's integrity was weakened, even though due to its initial strength mitigated the weakness such that it was not overwhelming until the later era, when the effects were devastating. Hizb ut Tahrir has adopted in its *Introduction to the Constitution*:

“Article 25: The Khilafah is a contract of choice and consent, so no one is compelled to accept it, and no one is compelled to choose the one who would undertake it.”

And

“Article 26: Every sane, adult Muslim, a male or a female, has the right to elect the leader of the State and to give him the pledge of allegiance; while the non-Muslims do not have such right.”

4) The Absence of a Clear Style for Selecting a Khaleefah

Another factor that contributed to the Khilafah being restricted to one dynasty was that a clear and specific style for choosing the Khaleefah, which would clearly show that the majority opinion has been reached over a person to be appointed to the post of Khaleefah.

Although the Sharia has given a specific method for the appointment of the Khaleefah, which is the Bayah, there is a need to employ a style to determine as to whom the majority of people wish to pay allegiance to and so as to exclude political manipulation. In the era of the Khilafah Rashidah, the Muslims did not feel necessary to specify a style because it was the group of the Sohaba (ra) that were known as the Ahlul Hal Wal Aqd (أهل الحل والعقد People of Tying and Untying the Rule) and were fully representative of the opinion of the Ummah. And at that time, the Muslims were at a high level of Taqwa and selection was amongst the most just and pious, the Sahaba (ra). Consequently different styles were adopted to select the four Khulafah Rashideen, although the method of for the appointment was one, which is the Bayah. Was the way of allegiance. So, in choosing Abu Bakr (ra), the Ansar and the Muhajir gathered in Saqeefah Bane Saaidah to find out whom most of them wished to make a Khaleefah. In choosing Umar (ra), the Ummah conferred the choice upon Abu Bakr (ra) and he represented the Ummah in establishing as to whom most of the people favored most for the post of Khaleefah. In choosing Othman (ra), Umar (ra) represented the Ummah restricted the matter to six Sahaba of the Ten Blessed Companions (ra), who would choose from amongst them two Companions, and then one of the two companions, namely Usman (ra), was appointed Khaleefah through the Bayah of the people of Madinah. In contrast, after choosing Ali (ra) with no other nominee, both the people of Madina and Kufa gave Bayah. So they were different styles to determine who the majority of people choose as a Khaleefah.

Thus, the political situation later changed. The political center became more than one. During the time of choosing Ali (ra), Kufa was also a political center in addition to Madinah. And then during the period of Amir Mu'awiah, ash-Sham also became a political center. In addition the high quality of the people's Taqwah that was seen in the time of the Khilafah Rashida no longer persisted. So in the later period, it happened that attempts were made to restrict the Khilafah in one family, as mentioned above, and the opinion of people was not determined in a clear manner as is its right and the main reason for that is the absence of a comprehensive style to establish that. So, learning from the lessons of the past, today it is mandatory during the appointment of the Khaleefah, a particular procedure should be specified to determine the opinion of Muslim citizens of Khilafah so that there is no ambiguity or manipulation.

Hizb ut Tahir studied this issue deeply, examining the different styles employed by the Khulafaa Rashideen, whilst adhering to the relevant Shari Legal Rulings to determine a procedure involving various Khilafah state organizations. So in its *Introduction to the Constitution*, Hizb ut Tahrir adopted:

“Article 33: A temporary leader is appointed to take charge of the affairs of the Muslims, and to prepare for the election of the new *Khalifah* after the vacation of the position of the *Khilafah* according to the following process:

a. When the previous *Khalifah* feels that his life is coming to an end, or is committed to resigning, he has the right to appoint the temporary leader.

b. If the *Khalifah* dies or resigns before appointing the temporary leader, or the position of the *Khilafah* becomes vacant due to another reason, then the eldest of the assistants becomes the temporary leader unless he intended to be a candidate for the *Khilafah* in which case the next senior assistant is to be given the position and so on.

c. If all of the assistants intend to be candidates, then the eldest of the executive ministers will become the temporary leader or the one after him in seniority if he intends to be a candidate, and so on.

d. If all of the executive ministers intend to be candidates for the *Khilafah*, then the position of the temporary leader is given to the youngest executive minister.

e. The temporary leader does not have the right to adopt rules.

f. The temporary leader makes all effort to complete the appointment of a new *Khalifah* within three days, and it is not permitted for this to be extended except due to overwhelming circumstances approved by the *Madhalim* court.”

And

“Article 34: The method of appointing the *Khalifah* is the pledge of allegiance (Bay'a). The practical steps to appoint the *Khalifah* and his Bay'a are:

a. The *Madhalim* court announces the vacancy of the position of the *Khilafah*

b. The temporary leader takes control of his responsibility and announces the opening of the nomination procedure immediately

c. Applications of the candidates fulfilling the contracting conditions would be accepted, excluding the other applications, by the decision from the *Madhalim* court.

d. The candidates who have been accepted by the *Madhalim* court, are then short listed twice by the Muslim members of the Shura council: first; they select the six candidates who got the highest votes from them, and the second stage is to select the two candidates who got the highest votes

e. The names of the two are announced and the Muslims are requested to vote for one of them

f. The result of the elections is announced and the Muslims are informed of the one that got most of the votes.

g. The Muslims promptly set out to give the pledge to whoever got most of the votes, as the Khalifah of the Muslims upon the Book of Allah (swt) and the Sunnah of His Messenger .

h. Once the pledge has been completed, the Khalifah is announced to the public, until the news of his appointment has reached the whole Ummah, with mentioning of his name and that he fulfilled the characteristics that make him valid for contracting the Khilafah to him.

i. After completing the steps to appoint the new Khalifah the responsibility of the temporary leader ends.”

5) The Absence of Political Parties

The natural guarantor of ruling by Islam and spreading its Dawah continuously is the Taqwa of the ruler for the fear of Allah (swt) is what compels caring for Islam above any personal interests. However, it is possible that the ruler may experience lapses in Taqwa or he may make mistakes and so it is essential that there is practical means to conform the ruler to Islam such that the implementation of Islam and its spread is ensured. That practical means is the Ummah itself. It is obligatory on the Muslim Ummah that accounts the ruler if he is neglecting the implementation of Islam and its systems, disregarding some commands or indulging in prohibitions in any shape or form.

However, for this work, political parties must be established within the Ummah. Without the presence of political parties, engaging with the state and accounting is not feasible. An individual or some unorganized people cannot perform these tasks effectively, nor can they conduct political reformation of the Ummah and maintain its intellectual elevation. If there is not one or more intellectually elevated political parties present in the Islamic State, there will be a weakness in the ruling over time, even if the ruler is just. Moreover, if the ruler is not just and is neglectful in implementing the rules of Islam or negligent in his responsibilities, then the presence of political parties in the Ummah will bring the rule back to the correct state.

The history of Islamic State is a clear evidence for the need of political parties. After the initiation of his Dawah to Islam in Makkah, RasulAllah (saaw) reformed personalities who accepted Islam according to the Islamic thoughts in the house of Arqam ibn Arqam (ra) and from them formed an organized group. This group practically carried the responsibility of conveying Islam and even after the Hiraah to Madinah the reforming of personalities and society continued. After RasulAllah (saaw) passed on to the Mercy of his Lord (swt), he left behind him a band of sixty thousand Sohaba (ra). These Sohaba (ra) were an Islamic group or party, distinct from the rest of the Muslims, that practically took the responsibility of Islam on their shoulders. The Sahabah reformed people beyond them allowing the formation of the Tabaeen and the Taba Taaba'een generations of Muslims.

However, when the era of Sahaba, the Tabaeen and the Taba' Taaba'een came to an end, the Ummah was bereft of a group that was pure in its thoughts and actions, assumed leadership of the Ummah and kept close scrutiny upon the actions of the ruler. Thus, in the later eras of the Khilafah there was not an organized group that promptly and effectively accounted any negligence or deviation in the implementation of Islam. Thus, the ruling of Bayah was incorrectly implemented and the Khilafah was limited to a few dynasties, such as the Ummayyads. Also there was neglect in delivering the Call to Islam through Jihad, restricting to only to formality in winter and summer campaign, as the Abbasis did. The Christians occupied Spain yet the Abbasi Khilafah was slow to move against the Christians' move. During the era of Abbasi, the central authority became very weak and the provinces became independent, whilst the Uthmani repeat were vigorous regarding the unity of the

Khilafah and Jihad but did not pay attention to removing the weakness of the Ummah's understanding of the Deen, nor did they pay attention to the Arabic language, nor adopt it as the state's language, to overcome the weakness in the grasp of the Islamic thoughts in the Ummah. Yes, all this happened in the Islamic state, due to the absence of the political leaders of the Ummah to lead the Ummah to advise and account the rulers, deepen the understanding of Islam in the Ummah and to bear the burdens of implementing Islam and carrying it to humankind and so the decline of the state was bound to occur as there was nothing to stop. Therefore, it is extremely important that in our day, after the re-establishment of the Khilafah on the Method of the Prophethood there is one or more political parties to ensure the continuous strengthening, progress and development of the Khilafah state. Therefore, Hizb ut Tahrir adopted in its *Introduction to the Constitution* that: "Article 21: The Muslims have the right to establish political parties in order to account the rulers or to reach the rule through the Ummah on the condition that their basis is the Islamic 'Aqeedah and that the rules they adopt are Shari'ah rules. The formation of a party does not require any permission. Any group formed on an un-Islamic basis is prohibited."

6) The Absence of the Consultative Assembly (Majlis ush-Shura)

RasulAllah (saaw) frequently consulted with the Sahaba (ra) in matters and he (saaw) emphasized the importance of consultation and paying attention to it. Tirmidhi narrated from Abu Hurayrah (ra) that he said: مَا رَأَيْتُ أَحَدًا أَكْثَرَ مَشُورَةً لِأَصْحَابِهِ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ **"I have not seen anyone who consult more than RasulAllah (saaw) consults with his Companions (ra)"** After RasulAllah (saaw), the Khulafah Rashidoon also took great care of consultation, following the example of RasulAllah (saaw). Abu Bakr (ra) had specially designated some of the Muhajor and Ansar in his Khilafah and whenever an incident occurred, he (ra) would approach them for the advice. Thus, it was an assembly that used to confer consultation to Abu Bakr (ra), comprised of the Sahaba that were Ulema and people of Fatwa, forming his (ra) entourage.

However, after the Khulafa'a Rashideen, consultation was often neglected particularly when the ruling became confined to a dynasty, with rulers distanced from the Ummah and the Ummah's consultation in ruling affairs became limited. Distance between the ruling and the ruled surely leads to weakness in ruling for a ruler can only take care of the affairs of a few people when he is fully aware of the public's circumstances, so it is necessary that there is no distance between the people and the ruler. The ruler can be saved from weak decisions by his intimate consultation with the politically aware people to advise him on various matters of governance, who will account him over any incorrect steps or decisions and will give him continuous feedback of opinion. Accordingly, securing the Khilafah State and the Dawah to Islam requires that the Ummah becomes actively involved in the practice of politics based on Islam and do not disregard the affairs of state. The Ummah can discharge its duty effectively through representatives who are in the entourage of the Khaleefah in the form of a permanent assembly. In order to support the Walis at the Wilayah level, a Wilayah Council should be formed. Accordingly, Hizb ut Tahrir has adopted in its *Introduction to the Constitution*:

"Article 105: The individuals who represent the Muslims' views to the Khalifah are the Ummah Council, and the individuals who represent the people in the provinces are the Provincial Councils. It is permitted for non-Muslims to be members in the Shura Council for the sake of raising any complaints against any oppression by the rulers or misapplication of the laws of Islam."

And

"Article 106: The members of the Provincial Councils are directly elected by the people in their provinces, and the number of members of any Provincial Councils is decided according to the ratio of the inhabitants in such province to the whole population of the State. The

members of the Ummah Council are elected directly by the Provincial Councils. The start and end of the terms of the Ummah Council are the same as those of the Provincial Councils.”

7) Court of Injustices (Madhalim) in the Hand of the Ruler

It is mainly the responsibility of the ruler to decide and take care of people's affairs and resolve their disputes. In Madinah, RasulAllah (saaw) made rulings himself for the people and additionally he appointed judges to make rulings for the people, such as when he (saaw) sent Ali (ra) as a judge in Yemen. The judiciary also includes the Court of Injustices (Madhalim) which convenes over complaints against the rulers. Possessing judicial powers themselves, the rulers in the Khilafah themselves used to hear cases of Injustices and this not contradict Islam because RasulAllah (saaw) and the Khulafa'a Rashideen themselves exercised these powers.

There is no doubt that the Muslims era under the Khilafah was unmatched in terms of justice and equity. Judges were independent from all pressures and the rulers were also just in decisions, even if they went against their close relatives, extended family, friends, acquaintances or even themselves, although occasionally it happened that when some rulers oppressed, they were not punished. However, if a separate, independent department was formed to redress the rulers' oppression, such that it had the authority to remove the Khaleefah himself upon Shari' grounds, it makes it more probable that the rulers will be checked from oppression and usurping the rights of the citizenry that the ruler would be opposed to oppression and anger of the ruler.

Moreover, it is not impossible that the Khaleefah or the Wali may lapse in Taqwa and become negligent in the implementation of Islam, or try to use power to fulfill his personal interests or those of another, or spend of the public property unjustly or usurp the individual property or apply punitive measures inappropriately. Consequently, to effectively mitigate against any such adverse occurrence today, it is better to grant the function of examining Injustices to a permanent independent institution so that so that cases of Injustice are not in the hands of the ruler but in the hands of a judge. As well as being it provides reassurance to the Ummah that such an arrangement will mitigate against biased decisions. Hizb ut Tahrir has adopted in its *Introduction to the Constitution*:

“Article 87: 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.”

8) The Excessive Adoption of Laws by the Uthmani

The key to the strength of the Islamic State is the implementation of the ideology of Islam. It is Islam that provides solutions to all the problems of life and organizes human affairs correctly. It is necessary to derive laws from Islam regarding the people's affairs which is a process called Ijtihad (اجتهاد Exerted Derivation). In the Islamic State, the Khaleefah in order to ensure that the laws of the state are according to Islam, the Khaleefah either personally undertakes Ijtihad if he is qualified, or ensures that it is undertaken by qualified Mujtahideen. The optimal implementation of Islam mandates the promotion of Ijtihad and the existence of substantial numbers of Mujtahideen so that the state is continuously able to address any issue that arises according to Islam. And it is evident that any matter that retards Ijtihad will cause intellectual stagnation in the Muslims as well as weakness in ruling.

It is better for the promotion of Ijtihad that there is no preparation of a very comprehensive constitution that specifies all possible Legal Rulings in detail. Instead, the constitution of the state should be upon general rulings that establishes the form and

structure of the state and ensure its integrity, so that Ijtihad on details is left to the Walis and judges. It was so during the Khilafah Rashidah as well as the Umayyid and Abbasi eras of the Khilafah. The Khulafa'a used to be Mujtahid, with deep appreciation of the Arabic language and Islamic sciences, as was the case with Walis and judges. So it was sufficient for the Khulafa'a to specify only those laws that were essential to maintain the integrity of the state and give institutional structure to the state, without specifying laws beyond that scope.

Although the Uthmani Khilafah was great in warfare, they were deficient in the required knowledge of the Arabic language and Islamic sciences, unlike the Khilafah before them. Consequently, the atmosphere of Ijtihad (اجتهاد Exerted Derivation) had become weak and the tendency for Taqleed (تقليد Imitation) was dominant. Moreover, the Uthmani resorted to the detailed specification through adoption of detailed laws, without linking to the divine evidences in imitation of the Western legal tradition. These laws were compiled as the Majalah Uthmania. However, in such a situation it was necessary for the state that the state should have addressed the serious weakness that had spread in the state, promoting the Arabic language, knowledge of the Islamic sciences and Ijtihad, but instead the state was negligent. Thus, the understanding of the Walis and Aamils was further weakened and the judge remained ignorant about the principles and process of jurisprudence because the understanding of the collections of law was considered sufficient. This accelerated the decline of the Khilafah state and its effects appeared soon.

While addressing this matter, Hizb ut Tahrir has prepared a two volume Introduction to the Constitution for the Khilafah state so that it is made clear to the Ummah in general and the Islamic intellectuals in particular, can make it clear that what matters in the Islamic law must be specified for adoption and the manner of its presentation with the detailed divine evidences, so that the extraction can be evident. It is a unique treasure for today for the loyal and serious people who strive for the re-establishment of the Khilafah on the Method of the Prophethood, free from the flaws of that came to afflict the Khilafah previously. Hizb ut Tahrir adopted in its *Introduction to the Constitution*:

“Article 8: The Arabic language is exclusively the language of Islam and it is the only language used by the State.”

And

“Article 9: Ijtihad is a duty of sufficiency and every Muslim reserves the right to perform Ijtihad provided he meets all its prerequisites.”

9) Incorporation of Western laws in the Uthmani Khilafah

In the nineteenth century, the intellectual decline of Muslims reached an abyss wherein even the Ulema were not excluded. Thus, after centuries of efforts, when the West succeeded in producing agents in the Khilafah and they launched a campaign to enforce Western laws in the state, the Ulema did not sense the contradiction between the Western laws and Islam and the Ulema, with the Shaikhul Islam amongst them, issued Fatawa declaring that they are not contradictory to Islam. There was even Fatwa that Democracy is not contradictory to Islam and that Islam is democratic. Due to these Fatawa, Hudood punishments were suspended in the courts of Khilafah and the Western Penal Code was adopted.

In the last days of the Uthmani Khilafah, the adoption of Western laws were a severe blow to Islamic ruling. It shook the Islamic belief and thoughts within the hearts of Muslims and established doubt about the correctness of practicing Islam and implementing the Islamic system, such that the destruction of the Khilafah state became almost inevitable. When the Kaffir countries divided Muslims into nationalities, particularly as Turkish and Arab nations, these also shook the Muslims' thoughts and criterion. They further replaced the Islamic Legal Rulings with Democracy and western laws. After this the Western colonialist

was convinced that now there is nothing left except the Khilafah in nominal terms and so they planned to complete the destruction of the Khilafah.

It is essential for the soon to be established Khilafah that it adopts Islam's ideology as the basis for its concepts, structures, systems of life and laws, exclusively such that no non-Islamic matters enter them. Today, in order to prevent any kufr concept or law from entering the Islamic state, it is necessary to make clear that the Islamic belief alone will be the basis of all aspects of the state, such that the constitution and laws are derived from Shariah and no other source. It is so important that the very first article of the *Introduction to the Constitution* states that Hizb ut Tahrir adopted states that:

“Article 1: The Islamic belief ('Aqeedah) constitutes the foundation of the state. Hence, nothing is permitted to exist within its entity, its structure or its accountability or any other aspect connected to it, unless the Islamic 'Aqeedah is its basis. At the same time, the Islamic 'Aqeedah acts as the basis of the constitution and Shari'ah laws; thus, nothing related to the constitution or to the laws is permitted to exist unless it emanates from the Islamic 'Aqeedah.”

Moreover, Hizb ut Tahrir adopted,

“Article 12: The Book, the Sunnah, the Ijmaa' of the Sahabah and the Qiyas (analogy) are the only evidences considered in Shari'ah laws, and it is not permitted to adopt any legislation from other than these evidences.”

These are the reasons and factors that led to the weakness of the rule in the Khilafah and which led to its destruction. Here a question emerges that if the ruling in the Khilafah State was weak due to our own mistakes and shortcomings, then why is the West held responsible for the destruction of the Khilafah? The answer to this question is that the reason for complacency within the Ummah in removing the weaknesses which had crept in to the Khilafah State is that since the conquest of Rome and Persia, the Khilafah State was a superpower which dominated the world until the eighth century CE. Even after the period of the Khilafah Rashidah Muslims were advancing towards the heart of Europe, and the Ottoman Khilafah had put Europe in fear. This position of strength on the international stage kept the Muslims away from the need of removing these internal weaknesses that were slowly weakening the State from within. It is true that Muslims were late to recognize the weaknesses in the Khilafah state and were slow and lazy in their response and attempt to remove these weaknesses, but as far as the biggest factor in the destruction of the Khilafah is concerned it is definitely the West. Because although the state of Muslims was weakened and fell into decline, it is possible for nations and states to be weakened with time and in this regard the Khilafah was no exception.

However, the solution to this problem of decline was within the reach of Muslims and it was possible for them to come out of this decline by returning to Islam's Aqeedah, cleansing the Islamic culture from foreign ideas which had entered it, crystallizing the Islamic ideology in the minds of Muslims and accordingly correcting the problems and issues which had crept in to the ruling structures. Already the process of Islamic revival had started due to multiple shocks and attacks faced by Muslims however the West intervened in Muslim lands and launched a full scale cultural, intellectual and political attack against the Khilafah State. The West corrupted the Muslim mind with its own culture, which crippled the ability of Muslims to seek guidance from the pure and clear thoughts and solutions of Islam. On the other hand, the intellectual revolution that took place in Europe and which gave way to West's industrial and scientific development, changed the balance of power in West's favor which allowed it to attack the Ottoman Khilafah (Uthmani). Thus, after the defeat of Khilafah in the First World War, the West, through her agents changed the foundations of the rule in Muslim lands and Turkey adopted the republican model of governance after abolishing the institution of the Khilafah and consequently it also abandoned its claim on all other Muslim lands which the West had conquered. From that point onwards the West is continuously trying to mislead or

crush every Islamic revivalist movement which has arisen in Muslim lands. So it is not wrong to state that the West is responsible for the destruction of the Khilafah State and preventing its reestablishment.

The Khilafah State gradually weakened and its destruction was indeed a very sad and painful event, but the history of Khilafah contains lessons for us. This history is part of the Islamic culture just like the numerous Islamic sciences and Arabic language. This history informs us about how Islam was implemented as a system of governance. However this study of history can only benefit the person who examines these historical events as an Islamic politician. A person who wants to resume the Islamic way of life and does not look at the weak and strong eras of the Khilafah as mere interesting information or fascinating stories rather he looks at these historical events from a practical point of view with the objective that lessons learned from this history help establish the coming Khilafah State on a strong footing where ruling is stable and where the ruling structures are free from the weaknesses which had crept in the Khilafah State in the past. An Islamic politician who when assumes authority, does not want to repeat the political mistakes of the past which cost the Muslims dearly. And if this politician is part of the Majlis ul-Ummah then he advises and accounts the rulers in a manner which ensures that the ruler implements the most sound and correct understanding of Islam.

It cannot be said that the decline of the Khilafah and its and ultimate destruction means that the laws of the Khilafah state and its structures need to be reformed and we should benefit from West's experience of evolution of human thought and experience which resulted in the West getting rid of monarchies and replacing them by states built on democratic ideals. It cannot be said because the crisis of ruling in the Khilafah State was due to the wrong implementation of Islam and corruption of Islamic ideology through entry of foreign ideas in it and not the result of implementing Islam. The evidences for this are explained in detail above.

If there is a similarity between the Western conception of State and Islam's conception of state then this does not mean that one concludes that democracy is closer to Islam than monarchy, because democracy, monarchy and dictatorship are all non-Islamic systems because they are not derived from Islam and hence have no relation to it and it is not permissible to adopt any one of them. Neither is there any truth in the argument that Islam has not prescribed a fixed ruling system or structures of the state so we can adopt any governance structure whether democracy, kingship or dictatorship provided such a system is fulfilling the needs of the people and providing them justice as this is real purpose of Islam. This argument is flawed because Islam has not only provided detailed rulings about matters related to worship, food, clothing, trade, marriage and divorce which are part of the Islamic law or Shariah, Islam has also provided details rulings about the ruling system and the structure of the state and these rulings are also part of the Islamic Shariah. Shariah is not silent about any human problem. This is what is meant by Islam being a complete way of life and code of conduct.

Today there is no need for any change in the structure of the state and ruling system given to us by Islam nor Islam allows us to make any such change. We cannot borrow the concept of provincial autonomy from the federal state structure, nor can we transfer the power of appointing provincial governors from the Khaleefah to the masses within the province. If the army, judiciary and finance are under center's control in today's federal state structure and provincial governors do not have a say in these matters, and Islam has a similar viewpoint about such distribution of power then we cannot argue based on this similarity that the federal state structure is from Islam and hence we are adopting such power distribution within the state. We only adopt such a distribution of power because Islam mandated it and for no other reason. Similarly, it is not permissible that because in some instances in the history of the Khilafah the post of Khaleefah was occupied by incompetent

individuals hence we should restrict the tenure of the Khaleefah's rule to a few years just as is the case in democratic setups. It is not permissible because we do not find any evidence of such restrictions on tenure of the Khaleefah in Qur'an, Sunnah, Ijma e Sahabah or Qiyas. We have to solve the problems of governance by taking Islam as the only source from which solutions would be adopted. For example, in today's era, there are many incidents of overthrowing of the government through a military coup. Infact through such military rebellions, the United States imposed her agents in numerous third world countries overthrowing the agents of United Kingdom.

The solution to this problem in Islam is that the Khaleefah is the operational head of the Armed Forces and being its operational head it is he who should appoint the Chief of Staff and the commander of every brigade and division. He should directly supervise the conduct of jihad and the Head of the department of Jihad (head of the Armed Forces) should report directly to him and operate under his supervision as was the case in the era of Prophet Muhammad (saw) and the rightly guided caliphs. Moreover the Head of department of Industries, the Head of department of Internal Security and the Head of department of Foreign Affairs should operate under the direct supervision of the Khaleefah and not under the supervision of the Head of department of Jihad. This will ensure that the Head of department of Jihad does not accumulate excessive powers and develop a power center of his own. The answer to the problem of military coups is not that the Khilafah state copies the world by giving the head of Armed Forces wide ranging autonomy and then military coups are avoided through surveillance of army officers and their families which is prohibited in Islam.

So today we need to follow the footsteps of early Muslims and promote the same thinking which they carried. Then when Muslims conquered new territories and faced new issues in matters of governance, they did not consult the civilizations, state philosophies, constitutions or systems of life of Romans or Persians for guidance. Rather they turned towards the Qur'an and Sunnah and derived rulings for these new problems from them.

Today, when some people view Islam as impractical or sense a distance between Islam and reality, it is not because of any issues with Islam, rather people today are accustomed to viewing problems from the Western ideological lens. Our scholars today have lost the correct and deep understanding of international situation as well as the deep political insight consequently they cannot fathom how to implement Islam in the present century or how to change the reality according to Islam and what steps can be taken in this regard. Consequently, our efforts today are focused on how to conform Islam to the corrupt situation we face and how to fit Islam in the current democratic dispensation by abandoning some of its rulings. If we want the revival of Khilafah on the method of Prophethood then we would have to completely turn away from the Western ruling structures and get rid of the ruling framework which the West has promoted across the globe. We would have to revive the power of derivation of legal rulings and revive the capability of Ijtihad so that we are able to extract correct rulings from Shariah sources for any new governance problems which may arise today. Only then would the future Khilafah State be protected from the weaknesses of the past.

**Written for the Central Media Office of Hizb ut Tahrir by
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