

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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 Question

Is it permitted that the Bay'ah to the Khaleefah is for a Fixed (Ruling) Period?

To: Taqi Naser

(Translated)

Question:

As-Salaam Alaikum Wa Rahmatullah Wa Barakatuhu our honourable Sheikh, and warm greetings to you.

My question is regarding the Bay'ah, which is the contract of agreement between the Ummah and the Khaleefah, can the Bay'ah (to rule) be for a fixed period, for example can it be for four or five years, just like it is the case with the current systems? And do the proponents of this idea have evidence or near (Shubat) evidence for it?

Barak Allah Feek, and May Allah make you and us his workers for the victory of Islam and its domination.

Answer:

Wa Alaikum As-Salaam Wa Rahmatullah Wa Barakatuhu

1- The text dealing with Bay'ah to a Khaleefah (Caliph) contradict the time period restriction. This is because the Bay'ah to the Prophet (saw) and the Bay'ah to the righteous Khaleefs was to rule by the Book of Allah (saw) and the Sunnah of His Messenger (saw); this becomes the restriction, i.e. if the Khaleefah stops ruling by the Book of Allah and the Sunnah of His Messenger (saw), then the course of his ruling stops according to the Shariah rules related to this matter, which cite the details of how to remove the Khaleefah and the authority of the Mathalim (court). In addition to the fact that this contradicts the actual wording of the Bay'ah, which is to rule by the Book of Allah and the Sunnah of His Messenger (saw). This is proven in the Sunnah and Ijma' of the Sahabah:

As for the Sunnah:

Bukhari extracted upon the authority of Ubadah Ibn As-Samit,

He said the Messenger of Allah (saw) called upon us and we gave him the Bay'ah, and he said, of that which he had taken from us: «أَنْ بَايَعْنَا عَلَى السَّمْعِ وَالطَّاعَةِ فِي مَنْشَطِنَا وَمَكْرَهِنَا، وَعُسْرِنَا وَأَنْ لَا نُنَازِعَ الْأَمْرَ أَهْلَهُ» **...that we should give him the pledge to listen and obey, in what we like and dislike, in our hardship and ease, and that we should not dispute the authority of its people**” and he said, «إِلَّا أَنْ تَرَوْا كُفْرًا بَوَاحًا عِنْدَكُمْ مِنَ اللَّهِ فِيهِ بُرْهَانٌ» **“...unless you see open kufr upon which you have proof from Allah”**. Muslim also narrates this.

Muslim also narrated from Yahya Bin Husain, from his grandmother Umm Al-Husain, he said, I heard her say: the Messenger of Allah (saw) said: «إِنْ أَمَرَ عَلَيْكُمْ عَبْدٌ مُجَدَّعٌ - حَسِبْتُهَا قَالَتْ - أَسْوَدٌ، “If a slave with amputated limbs- I thought she said black (slave) - is appointed to rule over you, and he leads you with the Book of Allah Ta’ala, then you must listen to him and obey.”

It is clear from all of this the continuation of the Bay'ah and obedience as long the rule is according to the Book of Allah (swt) and the Sunnah of His Messenger (saw), unless in open Kufr, i.e. definite violation of the Shari'.

As for Ijma' As-Sahaba

The Bay'ah given to the righteous Khaleefs was to rule by the Book of Allah (swt) and the Sunnah of His Messenger (saw) and not to rule for a fixed period, and their Bay'ah took place in the presence of many Sahabah (ra) so it was an Ijma', that it is not restricted to a specific period, rather the continuation of the rule of the Khaleefah is conditional to his obedience to Allah (swt) and His Messenger (saw). I.e. the ruling by what Allah has revealed.

Mu'ammarr Bin Rashid narrated in his Jami' and said: "Abu Bakr gave us a speech and said: "O people, I was appointed over you, but I am not the best among you...Obey me as long as I obey Allah and His Messenger. If I disobey Allah and His Messenger then you must not obey me, rise and perform your prayer. May Allah have mercy on you"."

It is clear from these evidences that the ruling period is not fixed, but what is mentioned in the text is the obedience of the Khaleefah to the Allah (swt) and His Messenger (saw). As long as the Khaleefa rules by what Allah has revealed, then his ruling time continues, if he violates a definite text, his ruling time will end even if it was for a month or two...This is according to the Shariah rules related to the removal of the Khaleefah and the authority of the judge of the Mathalim.

2- As for the question: If the proponents of this idea of a fixed period have evidence or near evidence, we do not see any evidence or near evidence from them. We have elaborated fully this issue in a question we released on 16 Jumada Al-Akhar 1434 AH, corresponding to 6/4/2013, so you can refer to it.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

26 Muharram 1438 AH

27/10/2016 CE

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

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/540502229480186/?type=3&permPage=1>

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

<https://plus.google.com/u/0/100431756357007517653/posts/4Q9Z8fDFvFj>

The link to the answer from the Ameer's page on Twitter:

<https://twitter.com/ataabualrashtah/status/792698035411251200>