

**The Muslims**  
**One Nation , One Group**

by

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# Preface

In Shawwaal 1339, corresponding to 1921, the Muslims of Biharwarisah established their organized system under the movement led by Abul Mahaasin Hadhrat Maulana Muhammad Sajjaad ؒ. The name of this unified system was Amaarat e Shar'iyah. The unified system of Islaam gives the central status to the Ameer and it is obligatory upon the Muslims to choose their leader. Moreover, it is obligatory to carry out his order. Therefore, the scholars of Biharwarisah and the influential people chose Hadhrat Maulana Sayyed Shah Badr ud Deen Phalwarwi ؒ by consensus as their first leader. The demise of the first leader was on 16 Safar 1343. A meeting was held on 8/9 Rabi al Awwal 1343 to elect the second leader in Phulwari. In this special meeting, Hadhrat Maulana Sayyed Shah Muhiyy ud Deen Qaadiri ؒ was chosen as the second leader. According to consensus, Hadhrat Maulana Sayyed Shah Muhammad Ali Mongiri ؒ chaired the meeting. Hadhrat Mongiri ؒ could not attend the meeting due to ill health. His elder son, Hadhrat Maulana Sayyed Shah Lutfullaah Rahmani came in his place and read out the important and historic sermon of Hadhrat Mongiri ؒ.

In this sermon, he explained clearly in detail an important ruling of Islaam which is generally overlooked. What are the responsibilities of the scholars?

What harm is caused by the mutual differences among the Muslims? What importance is given to living a unified communal life? How can the Muslims become one group? What are the sources of the ruling of Amaarat? What is the responsibility of the Muslims after the leader is chosen? Does the leader need natural power in order to execute his commands or is he in need of listening and obedience of the Muslim ummah? These are the issues that the sermon threw light upon.

Looking at the benefit of this sermon, it was brought into book form and published a number of times. After one edition was finished, a new one was published. It is hoped that through it, the communal system of Islaam and the organization of the Ummah will gain light.

Nizaam ud Deen

Leader of Amaarat Shar'iyah

8 Safar 1431, 24 January 2010

## Introduction

الحمد لله الذي جعل العلماء ورثة الأنبياء فهم هداة الدين وحماة الاسلام  
والمسلمين والصلوة والسلام على سيد المرسلين خاتم النبيين وعلى آله  
النجماء وأصحابه الكملاء إلى يوم الدين . ربنا افتح بيننا وبين قومنا بالحق  
وأنت خير الفاتحين - وآخر دعوانا ان الحمد لله رب العالمين

Honourable scholars, noble ones and other Muslims,  
before I present my thoughts to you, give me permission  
to mention something about myself that you have given  
me such a burden at this time of weakness which I  
cannot bear in any way at this time. I cannot lead you  
according to its rights. However, on account of your  
faith and belief in me and the importance of the matter  
has forced me to fulfil your request as far as possible. I  
make du'aa' to Allaah I that in this delicate time, He  
grants me the divine ability to present goodness before  
you and before all the Muslims.

## Regret

However, before presenting the objective, this gathering and the importance of this matter has come about because of such a sudden, tragic incident that it will be difficult to fill the gap until the day of Qiyaamat, i.e. the demise of Hadhrat Maulana Sayyed Shah Muhammad Badr ud Deen is such an incident that has filled the hearts of every Muslim with grief. His being was a gathering of many good qualities and overriding this was this that he was the headquarters of the Muslims of the province of Bihaar. The dream that was shown in India for a long time, the interpretation of it was realized in his time.

The hope that was always in your hearts has finally come about. This system was linked to him but regrettably, this system was in its initial stages when Allaah I requested him to come into His mercy. May Allaah enlighten his resting place. Looking at all this work and the link and love in the heart that I had with him has caused me to have great sorrow. I can gauge how much sorrow they experience, especially the Muslims of Bihaar, and his relatives and associates, and how grieved they are.

However, what else is there but to be patient and to be pleased with the decision of Allaah I. As Muslims, we are bound to this. Looking at the incidents of the

Ambiyaa, the pious, and the scholars, our hearts are put at ease. May Allaah grant all the Muslims, especially those linked to him beautiful patience. May He grant the divine ability to do all that which is in accordance to His pleasure and may He grant the ability to serve this fortified Deen. Ameen

### **The position of the scholars and their responsibility**

Honourable scholars, although you have knowledge of your responsibilities, but for some time now, the condition of the scholars that I study, and the work that I see them doing, it gives me great difficulty and I always express regret to those whom I meet and today is the best opportunity in order for me to explain clearly and in detail, the condition of the scholars. Moreover, the negligence and laziness and the mutual differences of the scholars is causing harm to Islaam and there is fear of more harm being caused in the future. I shall mention them before you and I shall place the pieces of my heart and liver that have become such for these reasons before you. This is so that you can see the effect of the life of negligence and take lesson. However, regrettably, what could I say.

Now my condition has become such that I cannot do anything, I cannot write a lot, nor can I speak a lot. It is as though I am totally helpless. In such a state, there is no hope from me that I shall deliver a long lecture or I



shall do some great action. Therefore, with great brevity, I shall indicate towards each matter that will be sufficient for your knowledge.

Noble scholars, you are well aware of the Qur'aan, Ahadith and all the Sunan and Aathaar in which your virtues and praises are mentioned. Together with this, the responsibilities in terms of knowledge and practice are also mentioned. There is need for you to ponder and remove negligence. If you are the heirs of the Ambiyaa', then you are not worthy of only being called heirs in terms of knowledge and sciences. You are not heirs in Nubuwwat itself. It is your responsibility to make great effort in terms of the conditions of the Ambiyaa', i.e. announcing the truth, raising the word of Allaah etc. Also, together with general advice, you should give the creation salvation by serving them and by removing oppression. To keep your nation under a system, to remove the doubts of the Zindeeqs and the Mulhids. In summary, all these types of work that are mentioned in detail in the book of Allaah, and all of them are part of your responsibilities. Study deeply and you will understand your responsibilities.

At this juncture, I shall present a number of Ahadith and Aathaar before so that you can realize your responsibilities together with your status and rank.

العلماء مصابيح الأرض وخلفاء الأنبياء وورثتى وورثة الأنبياء . عن على  
رضي الله عنه

العالم أمين في الأرض . ابن عبد البر في العلم عن معاذ رضي الله عنه  
العلماء أمناء أمتي . عثمان رضي الله عنه

العلماء أمناء الله على خلقه . ابن عساكر عن انس رضي الله عنه  
إن دين الله تعالى لن ينصروه إلا من حاطه من جميع جوانبه . الديلمي عن  
ابن عباس رضي الله عنه

عن ابن عباس رضي الله عنه قال إن هذا العلم يزيد الشريف شرفا ويجلس  
المملوك على الأسرة . ابن عساكر

العلماء ثالثة : رجل عاش بعلمه وعاش الناس به ورجل عاش الناس به  
فاهلك نفسه ورجل عاش بعلمه ولم يعيش به غيره . أنس رضي الله عنه

1. The scholars are the lamps of the earth. They are the representatives of the Ambiyaa', they are out heirs and the heirs of the Ambiyaa'
2. The scholar is the trustworthy one of Allaah on earth.
3. The scholars are the trustworthy ones of our ummah
4. The scholars are the trustworthy ones on the creation of Allaah.

5. Only that person can help the Deen of Allaah who encapsulated it from all sides, i.e. a scholar who has complete knowledge of Deen.
6. Hadhrat Ibn Abbaas  $\tau$  narrates that the knowledge of Deen increases the honour of an honourable person and it places a slave on the throne of rule
7. There are three types of scholars; one is he with lives his life in the best way according to his knowledge and on account of him, the lives of others are bettered. The second are those, that on account of them, the lives of others are bettered but they are destroyed themselves. The third are those those people, who, on account of their knowledge, their lives are bettered but the lives of others are not bettered through them.

The summary is that there are many narrations but the narrations I have quoted, ponder over them that how wide and far reaching are your responsibilities. Your responsibility is not fulfilled just by lecturing here and there, or lecturing in the Masjid or general gatherings or by teaching a few students in the Madrasah or by explaining the laws of marriage and divorce. You are the trustworthy one of the ummah of Muhammad  $\rho$ , in fact, the entire creation. If this creation becomes irreligious or they are disgraced and remain the slaves of others and

are destroyed, then have conviction that your duties have not been fulfilled. Also, from this angel, you are the representatives of the Ambiyaa'. If the creation are destroyed in the darkness of ignorance, then have conviction that you will be answerable before Allaah. Helping the Deen to the perfect level has been classified as your responsibility. The responsibility of bettering the lives of the creation will return to you just as is mentioned in the Aathaar of Hadhrat Ibn Abbaas  $\tau$  and Hadhrat Anas  $\tau$ . Now you think that are the scholars in present times fulfilling this responsibility or are they making a complete effort for it?

I see that Islaam is being attacked from inside as well as outside, all the deviated sects are involved day and night in destroying Islaam and the Muslims. On the one side, the Christian missionaries are spending hundreds of thousands like water in order to spread Christianity and to destroy the Muslims. On the other hand, there are two organizations in India, Qaadiyaani and AaryaSamaj. They are trying through every possible means to slowly wipe away the true teachings of Islaam and day and night they are involved in spreading Qaadiyaanism and Aariyat.

They give every type of bodily and monetary sacrifice in order to destroy the truth and cause corruption in the earth. However, our Ahl us Sunnah wal Jama'ah are still engaged in debating and refuting on subsidiary issues

amongst themselves and they have made principles out of subsidiaries and are fighting amongst themselves. Instead of reform, more corruption is spreading and all the strength that lies in the protection of Islaam and the success of the nation is being wasted.

Scholars, it was your responsibility to ponder that in terms of the present condition of India, what are the necessities in order to protect Deen and the people – looking at the principles and laws of Islaam and what are the means that can be adopted by the Muslims for Deen to remain and in order to live an honourable life.

### **Look into your own house**

It should be remembered that for the perpetuity and protection of the Deen of the Muslims, a person should look at his own house, i.e. the book of Allaah, the Ahadith and Aathaar, the statements of the juro-consultants. In them a person should look for a plan of his reformation.

If the Muslims, especially the scholars, look towards others for their reformation and they knock at the doors of others, then it is indeed a great misfortune. It will also be oppression because their religion is comprises the world as well as Deen, worship and dealings, community and organisation, in summary, it encompasses everything. There is no branch that the Islaamic Shari'ah has not explained.

Then tell me, the principles that Allaah and His Rasul have shown, or the Sahabah and the juro-consultants have drawn from the Qur'aan and Hadith, what can be better than it? Or are the principles which the human minds have thought of without the guidance of the Qur'aan and Sunnah better? It can never be. No Muslim will be ready to say for a moment that the principles that are drawn from the Qur'aan and Hadith, the principles drawn up by man have some status.

### **The first duty of the Muslims**

So when this is accepted, then all the Muslims, especially the scholars, it will be their first duty to bring every branch of their lives in accordance to the laws of Islaam and not let any part of their lives go beyond the diameter of the laws of Islaam. There will definitely be difficulties that will come upon them initially but the end result will be for the good. The incidents of the first centuries that the examples of the Sahabah are before you. In these incidents lies every type of guidance and consolation.

### **Unity and Harmony**

#### **The cause of the destruction of the Muslims**

Scholars and noble ones, the thing that has played the biggest role in the destruction of the Muslims of India is their disunity and their infighting and they are not

gathered on one centre as a unified body in accordance to the Islaamic Shari'ah. If the thought of unity and harmony ever came about, then it was not in accordance to principles that the Shari'ah has shown, but whatever the human mind cooked up was followed. Committees and organizations were formed, groups were made but no group came into being, whereas we are bound to adhere to a group and we have been commanded to do so.

We are not in need of the unity and the harmony that is in committees and groups, but we are in need of that unity and harmony that is made by a group (Jama'ah). This is the reason that today, despite all types of sacrifice, no work comes out correct. We have to end up saying,

‘the sickness increased as the medication was given.’

However, gratitude is due to Allaah that a hope for a long time, through the divine guidance of Allaah, the scholars of Bihaar and the personalities of Bihaar helped and they took the courage and adopted the principles of establishing a group and system of the ummah, i.e. the province of Bihaar adopted an Ameerat e Shar'iyah and made it necessary that a leader of the Shari'ah be appointed for all the provinces. They called the entire nation to follow because according to the Shari'ah, this is the form of the Muslim group.

## **Islaam and its united system**

Scholars and noble ones of the nation, the ruling of the Aamarat e Shar'iyah is such a clear and enlightened ruling for Islaamic life that there is no need to throw further light on it. He who studied the system of Islaam, and read the history of Islaam in depth knows very well that Islaam does not like for a moment that the Muslim civilization lives on in a disorderly manner and without leadership like a flock of sheep. Emphasis upon unity and harmony and the dislike for disunity and splitting up is very famous in the Qur'aan and Hadith. Also, this unity which is explained in speech and practice in the Ahadith and Aathaar is also not hidden. Therefore there was no need to throw light on this matter according to the Shari'ah, especially since the scholars of Bihaar have begun to practice, looking at the truth and the importance of this matter. May Allaah appreciate their efforts.

However, it is possible that many people have not understood the truth of this matter well. Therefore, we will indicate towards it very briefly so that all will understand it easily and they will attach themselves to it with faith and they will make this Islaamic headquarters firm with enthusiasm from their hearts and with true enthusiasm.

Fellow Muslims and nobles of Islaam, you know that Islaam places a specific system and a specific mode of



life for its followers. It has specific commands for every branch of life and every law needs a specific gathering and a specific system.

These necessities are the basis of the khilaafat, the system of Islaam is the greatest system, it should be covering every corner of the Islaamic civilization in its original form. If the khilaafat was present today in its original form according to the way of nubuwat and India was also following it, then definitely this would also be under this system, i.e. in the entire India, there would be leaders and governors appointed but on account of the misfortune of the Muslims, the khilaafat is not in its original form, nor are the Muslims of India under its influence.

So, the matter to ponder over is that are the laws of gathering and uniting for such a huge Muslim civilization not applicable? Is this ruling of 'adhere to the group' an exception? Are all the rulings that apply to the civilisation that are demanded of by the specific Islaamic system not applicable to the Muslims of India, whereas there is a need for it in daily life and does Islaam permit that every Muslim remains worried like an army without a leader?

If the reply to all these questions is in the positive, then there can be no worse branding upon Islaam that in these

conditions of helplessness and slavery, it does not show a way out for the lives of its followers.

### **Government (Amaarat), the correct form of organising the nation**

There are many sources that prove Amaarat and there are many principles of the Islaamic Shari'ah from which this ruling can be proven. I present a number of Ahadith and Aathaar at this point. Then the Fataawa of the juro-consultants and the past scholars of India from which it is known that this is no new ruling.

من استطاع منكم أن لا ينام نوما ولا يصبح صباحا إلا وعليه إمام فليفعل .  
ابن عساكر عن أبي سعيد وابن عمر

Whoever of you has the ability to not sleep (at night), nor pass any morning, but in the condition that there is a leader of him, then he should do so.

عن علي قال لا يصلح الناس إلا أمير برا وفاجرا . كنز العمال

This narration is narrated by Hadhrat Abu Sa'eed τ and Hadhrat Abdullaah bin Umar τ. Hadhrat Ali □ says that the leader (Ameer) can reform the people, whether he is pious or a sinner.

عن ابن مسعود لا بد للناس من إمارة برة أو فاجرة . كنز العمال

It is necessary for people to have leadership, whether it be a just one or a sinful one.

والإمارة خير من الهرج قيل يا رسول الله وما الهرج قال القتل والكذب .  
كنز العمال

Amaarat is better than Harj. It was said, “O Rasul of Allaah, what is meant by Harj?” Rasulullaah ρ said, “Killing and lies.” [This means that when there is no leadership, then people will get involved in impermissible things and will be destroyed.]

الإسلام والسلطان أخوان توأمان لا يصلح واحد منهما إلا بصاحبه فالإسلام  
أس والسلطان حارث ومالا أس له يهدم وما لا حارث له ضائع . عن ابن  
عباس . كنز العمال

Islaam and leadership are like two brothers that were born together. Each one needs the other for reformation and to remain. Islaam is the foundation and the leader is the guard. That which does not have a foundation will fall and that which has no guard, it will be destroyed. [Narrated by Ibn Abbaas τ]

اتقوا الله وأصلحوا ذات بينكم اى الحالة التي يقع بها الإجتماع والائتلاف .  
سراج المنير عن أنس

Fear Allaah and reform your condition, i.e. create such a condition through which unity and harmony can be created. (Narrated by Hadhrat Anas τ)

Allamah Shaykh Muhammad the author who wrote footnotes to Jami us Sagheer writes in clarification of unity. He says,

قوله ذات بينكم اى الحالة التي يقع بها الاجتماع اى لا تسعوا فيما ينفركم  
ويقطع اجتماعكم بل اسعوا فيما يجمعكم

Create unity, i.e. create such a condition through which real unity can be founded, i.e. do not strive to create disunity and do not make effort to break your group, but make effort that will create unity amongst you.

إذا أراد الله بقوم خيرا ولى عليهم حلماءهم وقضى بينهم علماءهم وجعل  
المال في سمحاءهم . عن مهران سراج المنير قال المنادى اسناده جيد

When Allaah desires good for a nation, then He makes the leaders among them the tolerant ones and the ones who decide their affairs will be the scholars among them and Allaah grants wealth to the generous amongst them.

عن أبي سعيد أن رسول الله صلى الله عليه وسلم قال إذا خرج ثلاثة في  
سفر فليؤمروا عليهم أحدهم . رواه أبو داؤد وغيره

Hadhrat Abu Saeed Khudri τ narrates that Rasulullaah p said that when three people undertake a journey, then it is necessary that they make a leader from among them.

Scholars and noble ones, I have narrated a number of Ahadith and Aathaar. The ruling of establishing leadership can be well understood from them, especially the last Hadith. Is the command for making a leader during journey compulsory or preferable? Although there are differences amongst the scholars and they have went both ways, but there is no difference of opinion in

the compulsion of appointing a leader over the locality according to the Ahl us Sunnah wal Jama'ah. I wish to present to you what the scholars of before said about this last Hadith so that the common person can also understand.

Allamah Shaukani writes after quoting the Hadith of Hadhrat Abu Saeed Khudri τ,

وفيهما دليل على أنه يشرع لكل عدد بلغ ثلاثة فصاعدا أن يؤمروا عليهم أحدهم لأن في ذلك السلامة من الخلاف الذي يؤدي إلى التلاف فمع عدم التامير يستبد كل واحد برأيه ويفعل ما يطابق هواه فيهلكون ومع التامير يقل الإختلاف ويجتمع الكلمة وإذا شرع هذا الثلثة يكونون في فلاة من الأرض أو يسافرون فشرعيته لعدد أكثر يسكنون القرى والأمصار ويحتاجون لدفع التظام وفصل التخاصم أولى وأحرى . نيل الأوطار

٢٥٦/٨

‘There is proof in the Hadith of leadership in a journey that it is correct for three people or more for them to appoint one among them as the leader. This is because in this case there is safety from difference of opinion that destroys. In the case where no leader is appointed, every person will have his own view. He will do things according to his desire and whims. The result of this will be that all of them will be destroyed. In the case where a leader is appointed, there will be very little difference of opinion.

They will all be united on one statement (i.e. the command of the leader will be the decider). When appointing a leader is correct for three people, those who are in the fields or are on journey, then it is quite apparent that the people living in the cities and villages, they are in need of someone to push back oppression and decided in arguments. It will be all the more reason for the necessity of appointing a leader. There is proof in this narration for the person who says that it is compulsory upon the Muslims to appoint leaders for themselves.’

Imam Ghazali | writes in Ihya ul Ulum,

وقال أيضا إذا كنتم ثلاثة في السفر فامروا أحدكم وكانوا يفعلون ذلك ويقولون هذا أميرنا أمره رسول الله صلى الله عليه وسلم وليؤمروا أحسنهم أخلاقا وأرفعهم بالأصحاب وأسرعهم إلى الإيثار وطلب الموافقة. وإنما يحتاج إلى الأمير لأن الأراء تختلف في تعيين المنازل والطرق ومصالح السفر ولا نظام إلا في الوحدة ولا فساد إلا في الكثرة وإنما انتظم أمر العالم لأن مدبر الكل واحد لو كان فيهما آلهة إلا الله لفسدتا. ومهما كان المدبر واحدا انتظم امر التدبير وإذا كثر المدبرون فسدت الأمور في الحضر والسفر إلا أن مواطن الإقامة لا تخلو عن أمير عام كأمر البلد وأمير خاص كرب الدار وأما السفر فلا يتعين له أمير إلا بالتأشير فلهذا وجب التامير ليجتمع شتات الأراء ثم على الأمير أن لا ينظر إلا لمصلحة القوم وأن يجعل نفسه وقاية لهم .

Rasulullaah ρ also said that when three people are on a journey, then one person should be made the leader. The companions would practice on this. After practicing,

they would say that this person is our leader. Rasulullaah ﷺ made him the leader, i.e. he was made the leader according to his command. The people should make such a person the leader whose character is good and he is soft upon his companions and he gives preference among them and he has the best ability in requesting that which is for the sake of harmony.

The need for appointing a leader is that there are different views in stipulating the destination and in the expediencies of the travel path. There can be no system except in unity, i.e. there is a powerful authority. There is no corruption except when there are many, i.e. every person is an authority. The reason why the administration of the universe is organized and in order is that the organizer of the universe is One, i.e. Allaah I and if there was more than one deity, then there would have been chaos and corruption in the earth.

The law is that when the organizer and administrator is One, then the system and organization will be in order and when there are many administrators, then there will be corruption in everything, whether at home or on journey. However, places of residence, i.e. villages and cities are not free of leaders. Either there is a general leader like the leader of the city or a special leader like the owner of a house but on journey, no leader can be appointed except if the travel companions select a leader from amongst themselves. Therefore, it is compulsory

for them to select a leader so that instead of differences, there can be unity. Then, it is compulsory upon the leader to look at the expediency of the people and protect them.’

Ibn Taymiyyah writes,

قد أوجب النبي صلى الله عليه وسلم تأمير الواحد في الاجتماع القليل  
العارض في السفر فهو تنبيه على أنواع الاجتماع والوجب اتخاذ ولاية  
القضاء دينا وقربة فإنها من أفضل القربات وإنما فسد حال الأكثر لطلب  
الرياسة والمال بها ومن يفعل ما يمكنه لم يلزمه ما يعجز عنه ز كتاب  
الأخبارات

Rasulullaah ρ made it obligatory to appoint a leader in the temporary time of a journey. Therefore, there is admonition in this ruling for all types of gathering. (i.e. the localities of the Muslims should not be free of unity and appointing a leader). Looking at religion, it will be compulsory to appoint a judge in decision making and to gain proximity to Allaah. It is for this reason that judging is from amongst the forms of worship that take a person closest to Allaah. Only through seeking leadership and seeking wealth, the condition of many people was spoilt. And as much ability is held, after doing so much, it is not necessary upon them that they should do that which they are helpless of.



## Clarification of the scholars

Scholars, and nobles of Islaam, I have indicated to a number of sources for the Islaamic leadership ruling and there are a number of more important texts which will be explained in the ensuing discussion, Allaah willing.

Now, I also wish to mention the statements of a few jurists so that this ruling can be understood by the layman for this is no new ruling. However, the jurists have clearly mentioned it from before.

### First clarification

وفي معراج الدراية عن المبسوط البلاد التي في أيدي الكفار بلاد الأسلام لا بدار الحرب لأنهم لم يظهروا فيها حكم الكفر بل القضاة والولاة مسلمون يطيعونهم عن ضرورة أو بدونها . وكل مصر فيه وال من جهتهم يجوز له إقامة الجمع والأعياد والحد وتقليد القضاة لاستيلاء المسلم عليهم فلو الولاة كفار يجوز للمسلمين إقامة الجمعة ويصير القاضي قاضيا بتراضي المسلمين ويجب عليهم أن يلتمسوا واليا مسلما . رد المحتار ١/٥٩٤

‘In Mi’raaj ud Diraayah from Mabsoot it is recorded that all the cities that are in the control of the disbelievers (that were first in the control of the Muslims), they are all Muslim countries. They are not Dar ul Harb because the disbelievers did not make the ruling of disbelief apparent in these cities that they have taken control of. In fact, the judges and governors are all Muslim that obey the non Muslim (kings). Whether there is a need for it or not. And every such city where the Muslim governor is

appointed by the non Muslim, that Muslim governor can establish the Jumu'ah and Eidayn and also mete out Hadd. It is also correct to appoint a judge because (in reality) only Muslims can judge over Muslims. So if the governors of the city are disbelievers, then it will be permissible for the Muslims to perform Jumu'ah there.

And in this case, the judge of the Muslims will be upon their approval (i.e. the one made judge by the consultation of the Muslims will be the judge) and (in this case of being helpless) it will be compulsory upon the Muslims to search for a governor.”

There are forms of the Muslim lands which the disbelievers have taken control of, mentioned in the above text. The first is that the ownership and control of usage, in reality, is with the Muslims. However, the disbelieving ruler also has a link, just as is the case with the modern day Iraq (this is explaining the situation when the English had control. Now the situation is different). The second is that the internal administration is all in the control of the Muslims and the internal rule is governed by them, but they follow the disbelieving government a great deal.

To such an extent that the appointment of the Muslim ruler and governor is also done by the disbelieving king. He also has the power to appoint and dismiss. This is just like Hyderabad Deccan (after the downfall of the

administrative system, Hyderabad Deccan is also part of the third type, and in this, all the provinces of India are the same). The third is that the disbelievers have total control and Muslims have no choice in the affairs of the country, as Muslims, this is the case with most of the cities of India.

In the first two cases, the Muslim governor and ruler is present from one angle. Therefore, there is no need to appoint a governor or judge by the Muslims in such places. This is because there is no need for the happiness of a non Muslim governor in order to execute the laws upon Muslims, nor is there any interference of the laws of the disbelievers. However, in the third case, there is clarity that it is compulsory to seek a governor and whoever the Muslims appoint to judge in their affairs, he will become the judge. The Muslims should do this, otherwise their Shar'i system would not be protected.

## Second clarification

قال في مجمع الفتاوى غلب على المسلمين ولاية الكفار يجوز للمسلمين  
إقامة الجمعة والأعياد ويصير القاضي قاضيا بتراضي المسلمين ويجب  
عليهم أن يلتمسوا واليا مسلما . طحطاوي ٣٣٩/١

It is stated in Majma' ul Fataawa that in the case where the non Muslim governors have control over the Muslims (i.e. there is a non Muslim government established), then in such places it will be permissible for the Muslims to perform Eid and Jumu'ah and the judge

will be appointed by the pleasure of the Muslims and it will be compulsory upon the Muslims to seek a Muslim governor for themselves.

The purport of this text is the same as that which was stated at the end of the first text, i.e. it is also apparent from this text that wherever in India the non Muslim government is established, it will be compulsory on the Muslims there to seek a governor and they should agree favourably in appointing a judge if no Muslim governor is appointed.

### Third clarification

وأما في بلاد عليها ولاية كفار فيجوز للمسلمين إقامة الجمع والأعياد  
ويصير القاضي قاضيا بتراضي المسلمين ويجب عليهم طلب وال مسلم .  
البحر الرائق ٢٩٨/٦

All the cities where there are non Muslim governors, (i.e. it is a non Muslim government), it will be permissible to establish Jumu'ah and Eidayn and the judge will be by the pleasure of the Muslims. So, it is compulsory on the Muslims to strive to place a Muslim from among them as the governor.'

This text clearly states that when the government is non Muslim, then the Muslims should make a special system for themselves and they should seek a governor and appoint a judge.

#### Fourth clarification

وأما بلاد عليها ولاية كفار فيجوز للمسلمين إقامة الجمع والأعياد ويصير  
القاضي قاضيا بتراضي المسلمين فيجب عليهم أن يلتمسوا واليا مسلما  
منهم . رد المحتار ٣٣٩/٤

All those cities that are non Muslim, i.e. the government is non Muslim, it will be permissible to establish Jumu'ah and Eidayn there and the judge will become the judge upon the happiness of the Muslims. So it is compulsory upon the Muslims to seek a Muslim judge from amongst themselves.

This text also clearly states that if the non Muslim government is established, then in such a case, the judge will be appointed as judge by the happiness of the Muslims, i.e. the Muslims should appoint their own judge. It is also clearly stated that it is compulsory on the Muslims to seek a governor. However, this text has the extra wording, 'from among them' that is not mentioned in the texts of the other jurists.

There are two possibilities on account of this extra wording. One is that the word refers to the Muslims. Then the meaning will be that it is compulsory upon the Muslims to seek a governor from amongst themselves and appoint him as such. The second possibility is that the word refers to the non Muslim governors. In this case, the meaning will be that it will be compulsory upon the Muslims to seek a Muslim governor from the non

Muslims. Although we learn that some scholars have stated the second possibility to also be correct, but it nullifies the principles of Islaam and other juristic rulings. **This is because the governance of a non Muslim over a Muslim is never correct. It is for this reason that the testimony of a non Muslim over a Muslim is not correct.** So, if the governance of a non Muslim is not correct, then how can it be correct for them to appoint a governor? Even if they do appoint, then it will only be correct when the Muslims choose him themselves and they are happy with him as is clarified in other texts and I shall mention them in the forthcoming pages.

### **Fifth clarification**

وإذا لم يكن سلطان ولا من يجوز التقليد منه كما هو في بعض بلاد المسلمين غلب عليهم الكفار كقرطبة في بلاج المغرب الآن وبلنسية وبلاد الحبشة واقروا المسلمين عندهم على مال يؤخذ منهم يجب عليهم أن يتفقوا على واحد منهم يجعلونه واليا فيولى قاضيا او يقضي هو بينهم وكذا ينصتوا لهم إماما يصلى بهم الجمعة . فتح القدير ٣٦٥/٦

When there is no Muslim knig, nor is there any such person whom it is permissible to appoint as judge (e.g. a governor appointed by the ruler) as is the case with certain countries where the non Muslims are in power like in Maghrib, cities like Cordova, Balansia and Ethiopia and the non Muslims took some wealth from the Muslims and gave them permission to reside in their

country. Then in such a case, it will be compulsory upon the Muslims to agree upon a person and select him as the governor. This governor will appoint the judge. Similarly, they should appoint their Imam for Jumu'ah (if the governor did not or he is appointed but for some reason an Imam was not selected).

Therefore, this text of Fath ul Qadeer has properly clarified the ruling that after a non Muslim government is established, the Muslims should choose their own governor. He will have the choice of appointing the judge. This is also the demand of the Shar'i texts.

Allamah Ibn Humam <sup>ؒ</sup> has mentioned both rulings here. One is to appoint a governor and the other is the appointment of the judge under him.

The second ruling is the appointment of the Imaam. His appointment is linked to the Muslims. So it means this that as long as there is no governor, the people should appoint the Imaam for Jumu'ah. Alternatively, there is a governor but on account of some barrier, the Imaam could not be appointed. The example and scenario of this is that in Islaamic countries, those who are under the Khalifa of the Muslims, if for example the Imaam of the Jaami Masjid passed away, and the Khalifa has not yet appointed a governor or Imaam of the Jaami Masjid, the Muslims should appoint the Imaam of the Jaami Masjid themselves. It is stated in Mabsoot,

فقد ذكر ابن رستم عن محمد رحمهما الله تعالى أنه لو مات عامل أفريقيا  
فاجتمع الناس على رجل فصلى بهم الجمعة أجزأهم . مبسوط ٣٥/٢

Ibn Rustam narrates from Imam Muhammad ؑ that if the governor of Africa dies and the Muslims agree on one person and that person performs the Jumu'ah Salaah, then their Salaah will be correct.

**The summary is that we learn from the texts of the jurists that in the case where there is a non Muslim government, the Muslims should make a system for their affairs, i.e. they should have their own governor and their own judge.**

**Allamah Ibn Humam ؑ has also clarified that the non Muslims should not appoint the judge, nor is there a need to ask them. This is also correct in terms of principle because ‘there is no governance of a non Muslim over a Muslim’ is well known and famous. The one who has no right of governance over a Muslim, he also has no right to be followed in judgement.**

Although some jurists incline to the view of permissibility, it is not in reality and in accordance to principle but it is out of need or forced. This is the reason why the author of Nahr writes that the view of Ibn Humam ؑ is reliable and he says that from this, the self (nafs) gets contentment. This is because upon this



view, one does not sway from the principle, nor is there any need for it in reality.

Consequently, Allamah Shami رحمته says after mentioning the above text of Ibn Humam رحمته,

وهذا هو الذي يطمئن النفس إليه فليعتمد الخ نهر والإشارة بقوله وهذا أى ما افاده كلام الفتح من عدم صحة تقلد القضاء من كافر على خلاف ما مر عن التاتارخانية ولكن إذا ولى الكافر عليهم قاضيا رضيه المسلمون صحت توليه بلا شبهة تأمل . رد المحتار ٣٣٩/٤

This is what gives the self (nafs) contentment. So we should rely on it. The word ‘this’ in the text of Nahr points to the fact that it is not correct for Muslims to have a judge appointed by the non Muslims. This is the purport of the text of Fath ul Qadeer. However, this in conflict with Taataarkhaaniyyah, but when the non Muslims appoint a Muslim judge and the Muslims also like him, then undoubtedly, this appointment will be correct, but it has to be thought about.

This text clarifies that the author of Nahr has classified the view of the author of Nahr to be proper and reliable. And Allamah Shami رحمته says that from the view of Ibn Humam رحمته we understand that it is not correct for the judge to be appointed by the non Muslims. The author of Nahr has said this to be worthy of being content with. After accepting this statement of Allamah Shami رحمته, it also follows that the Muslims should choose their own

governor and judge because the result of both rulings is the same. **‘There is no governance of a non Muslim over a Muslim.’**

Based on this, Allamah Shami ؒ writes the ruling of Taataarkhaaniyyah and writes, ‘However, if a disbeliever appoints the judge and the Muslims are happy, then undoubtedly, this appointment will be correct.’ He then says, ‘think and ponder over it.’ This is because, in principle, the governance of a non Muslim over a Muslim is not correct. So, if he appointed and the Muslims are happy, then his saying that the appointment of a non Muslim is correct is in fact totally incorrect. In fact, if the Muslims are happy, then he can become the judge based on the happiness of the Muslims even though the non Muslims appointed him, but the appointment of a disbeliever has no place in the judgement being correct.

### **The fatawa of the scholars of India**

Scholars and nobles of the ummah, I have taken a lot of your time in discussing the compulsion of establishing the government/leadership, even though there was no need for it for you. However, there was a need for it for the masses because in all probability, they did not understand the need for it well and its compulsion before today. It is for the contentment of these masses that I wish to mention some of the Fataawa of the old scholars

of India so that it may be known that the scholars of India were not negligent of this. Although due to unfavourable conditions of the time, the pious predecessors did not have the opportunity to aid in the establishment of the Islaamic government, but they did not fall short in making the truth apparent.

### **Fatwa of Maulana Shah Abdul Aziz Dehlawi**

If a Muslim governor is appointed by non Muslims over an area of Dar ul harb, then with the permission of this Muslim governor, it will be correct to establish Jumu'ah, otherwise the Muslims should select a trustworthy and religious person themselves so that in his presence and with his permission, Jumu'ah and Eidayn can be established and he can marry off those immature children who do not have any guardian and the wealth of the absent and the orphans can be protected. He can also distribute the estate according to the shar'i law in the case of an argument. The only thing is that this governor should not interfere with the governmental affairs.

Look, with what clarity has Hadhrat Shah Saheb ﷺ given fatwa of appointing a governor and with what detail has he explained his duties.

### **Fatwa of Maulana Shaykh Yusuf bin Qadir Ahmad Marhum and the approval of Maulana Abdul Hayy ﷺ**

This fatwa is in Arabic and is very long. The part of this fatwa dealing with leadership is reproduced below,

فإذا علمت هذا فيجب أن يجتهد ويلتمس أهل كل بلدة واليا وأن يتفقوا عليه حتى يقيم به الجمع والأعياد ويزوج الأيتام وجاء في الحديث من مات ولم يول على نفسه إماما مات ميتة جاهلية ثم لا يخفى أن كل بلدة وقرية في بلادنا لم يخل من وال ورئيس في الزمان المتقدم لكن في هذا الزمان وقع بين أهله التخالف والافتراق ولم يوجد الضيقة الا نادارا فينبغي أن يجتمعوا ويتفقوا على وال واحد حتى يقيم به الجمع والأعياد ويزوج الأيتام لأن الوالى كالسلطان فلا يجوز السلطان إلا واحدا لأنه جاء في الحديث إذا بويع للخليفين فاقتلوا آخر منهما فكذا الوالى فليجتنب عن الوالى الآخر والله تعالى أعلم بالصواب : كتبه أحقر العباد شيخ يوسف بن قادر أحمد عفى عنهما صح الجواب الله أعلم حرره الراجي عفو ربه القوي : أبو الحسنات محمد عبد الحى تجاوز الله عن ذنبه الجلى والخفي . مجموعة فتاوى مولانا عبد الحى

‘So when you have come to know (whatever has been written, then know) that it is compulsory for the people of every city to strive and to search for a governor and the people of the city should agree so that on account of it, Jumu’ah and Eidayn could be established. This governor should get the orphans married (i.e. those who do not have guardians) and it is stated in a Hadith that the person who did not have a governor/guardian over himself and he died, then he died a death of ignorance.

It should not remain hidden that our city and town was not free of a Muslim governor in the past. However, in this time (the 14<sup>th</sup> century), there are differences among

the people that led to no judge coming about, except rarely. So it is appropriate that the Muslims agree and gather upon one governor so that Jumu'ah and Eidayn can be established. This governor should do the Nikaah of the orphans. The reason for this is that the governor is similar to the king. The king is one. It is stated in a Hadith that when allegiance is pledged to two khalifahs, then kill the second one (if he does not repent), so this ruling is also regarding the governor. Therefore, one should stay away from making a second governor in the presence of an existing one.

From this fatwa it is also learnt that it is compulsory to appoint a governor. We also learn that our pious predecessors had regret over the fact that there was no governor. They classified it a sin if a governor was not appointed.

So, blessed is that group of the Ummah that appoints a leader for themselves and they are worthy of being congratulated, those that establish an Islamic system for themselves and for their brothers.

### **The importance and necessity of establishing a government**

Scholars and nobles, whatever I have explained regarding the compulsion of establishing the leadership and government, it is sufficient for every understanding and just person. However, before completing this

discussion, I shall explain something so that the scholars and the layman can understand its importance properly.

For the establishment of the Muslims and their living a life as a Shar'i group and for them to have unified power – all these things are such that they cannot come into being without a leader. On account of not having unified power, the enemy of Islaam causes great harm to the Muslims on a daily basis. These are all the reasons that make the establishment of a leader necessary.

However, besides these reasons, I say that the laws of annulling a nikah, separation of spouses, khula' etc. – all of these are such that they require a judge. Without a judge, it is not possible to solve these cases. The previous scholars as well as the latter day scholars agree to this.

On account of not having a shar'i judge nowadays, how many problems have come about? Incidents and the lives of Muslims testify to this. To the extent that we have heard that some noble women, may Allaah protect us, have adopted the path of irtidaad in order to be saved from their oppressive husbands.

Similarly, it has also come to the fore that it is Haraam for Muslims to take their case for decision in front of a non Muslim, to the extent that it is not permissible to make a non Muslim an arbitrator. The jurists have clearly stated this and Allaah says, 'have you seen those

who claim to believe in that which was revealed to you and to those before you, yet they seek judgement from Shaytaan when they have been instructed to reject him? Shaytaan desires only to lead them far astray.’ [Surah Nisaa. 60]

This is the reason that the scholars of India, at least in those matters in which the decision of the judge is necessary, have always found great difficulty. Subsequently, Maulana Abdul Hayy Lakhnawi received a question from Bengal that a person who was not the guardian of an immature girl, forced her to marry. After becoming mature, based on Khiyaar ul Buloogh, without the decision of the judge, she annulled her marriage and got married to someone else.

Maulana wrote in reply that to annul a marriage based on Khiyaar ul Buloogh, the presence of a judge is conditional. Therefore, the second marriage was impermissible and he also wrote that the cities that are controlled by the non Muslims, and there is no court there, and such an incident happens, then wherever there is a judge, the matter should be presented to him and a decision should be sought, e.g. Hijaaz, Room, Rampur, Bhopal etc. [Majmu’a Fataawa Maulana Abdul Hay vol.1 p.327]

How delicate a matter this is, whereas making a system for decisions of this type is compulsory. This is because

‘deciding is a duty that is established and it is a followed practice’ is very famous. So, looking at these subsidiary rulings and subsidiary conditions, it is compulsory to establish leadership and to appoint a judge. This is because whatever a compulsion depends on, it is also compulsory. The summary is that there is no doubt in the compulsion of establishing leadership and none of the pious scholars and jurists have rejected this.

### **The position of the Ameer and his duties**

Scholars and nobles, after explaining the standing, the compulsion and the importance and necessity of the law of leadership, I also want to briefly explain that whoever will be the leader in this province, what will be his status and what will be his responsibilities.

It is quite apparent that when the elite of the Muslims appoint a person as the governor and leader themselves, so that standing as the governor and leader he will organize their works according to the shari’ah, then he will be the leader of that circle of Muslims and his standing will be like that governor who is appointed by the khalifah. There is no difference between the two governors in terms of the shari’ah and in terms of law.

This is because when a person excuses himself upon being placed by the khalifah of the Muslims, or it is not possible for him to hold the post, the according to the shari’ah, the Muslims are obligated to establish it



because the right of establishing the leadership given to the khalifah, it is to observe the conditions of the Muslim Ummah and it has been given to him.

So, when the khalifah is excused, then the Muslims appointing a governor on their own, will have the same status, as though the khalifah has given the command. The example of this can be gauged by reading the following text of Mabsoot carefully,

فقد ذكر ابن رستم عن محمد رحمهما الله انه لو مات عامل افریقیة فاجتمع الناس على رجل فصلی بهم الجمعة اجزاهم لأن عثمان رحمه الله لما حصر اجتمع الناس على على رضي الله عنه فصلی بهم الجمعة ولأن الخليفة إنما يأمر بذلك نظرا منه لهم فاذا نظروا لأنفسهم واتفقوا عليه كان ذلك بمنزلة أمر الخليفة اياه . مبسوط

Ibn Rustam narrates from Imam Muhammad that, for example, if the governor of Africa dies and the people there agree upon one person and that person performs the Jumu'ah and Eidayn, then it is totally correct. This is because when Hadhrat Uthman  $\tau$  was besieged, then the Muslims of the time agreed upon Hadhrat Ali  $\tau$  and he performed the Jumu'ah. (and no one said this to be impermissible until today).

The second proof is that whoever names the khalifah, then he ponders over the benefit for the Muslims and selects. So, when the Muslims have pondered over their

benefit and they agreed upon one person, it will stand in place of the Muslims appointing him themselves.

By carefully looking at the second proof, it becomes clear that in terms of the ruling, it is totally correct. Its correctness is also proven in the Ahadith. However, the proof encompasses all matters because I have just said that the proof is correct, and it is proven from the Ahadith, I wish to mention the Hadith as well.

عن أنس بن مالك قال قال رسول الله صلى الله عليه وسلم أخذ الراية زيد فاصيب ثم أخذها جعفر فاصيب ثم أخذها عبد الله بن ربيعة فاصيب وان عيني رسول الله صلى الله عليه وسلم لتذرفان ثم أخذها خالد بن وليد من غير امره ففتح له. بخارى

Hadhrat Anas  $\tau$  narrates, he said that Rasulullaah  $\rho$  said that Zayd bin Thabit took the leadership flag. He was martyred and then Ja'far took the flag. He was also martyred and then Abdullaah bin Rawaaha took the flag. He was also martyred. (When Rasulullaah  $\rho$  was mentioning this) there were tears flowing from his eyes. Then Khaalid bin Walid took the flag, whereas he was not appointed the leader, and he gained victory.

This narration comes in a number of chapters of Bukhari, e.g. Kitab ul Janaiz, Kitab ul Jihaad, Kitab al Maghaazi, but it is narrated with great brevity in each place. The original incident is that when Rasulullaah  $\square$  sent an army to Shaam, he appointed 3 people in sequence as the

leader of the army. First was Zayd bin Haritha □ and he said that if he is martyred, then Ja'far □ should be the leader. If he is also martyred, then Abdullaah bin Rawaaha □ should be the leader. It happened exactly as he said, that all 3 of them were made the leader in sequence and were martyred. Finally, the army was left without a leader. Rasulullaah ρ did not name a fourth leader. So, when Abdullaah bin Rawaaha □ was martyred, Thabit bin Arqam took the flag and addressed the people and said that all the people should agree upon someone and make him the leader. Many people told him that he should be the leader. He rejected. Finally, all the people made Khalid bin Walid □ the leader and he led the war until Allaah granted the Muslims victory under his leadership. This research has been done from the books of the battles and Fath ul Baari 393-394 and is mentioned with a chain of narration.

In summary, this battle was taking place in Shaam and the senior companions were martyred. After this, Khalid bin Walid □ was made the leader by consensus. No messenger had yet come to Madinah Munawwarah, so Allaah informed Rasulullaah ρ of the events that were occurring. Upon being informed, he was mentioning the incident and upon the demand of human nature, he was crying at the martyrdom of the senior Sahabah.

The news that Rasulullaah □ was conveying to the people was without any apparent means and this was a

miracle. Moreover, when the Muslim army returned from Shaam, then Rasulullaah ﷺ did not state that the action of the Muslims was impermissible, nor did he show any dislike. In fact, he liked it and approved it. Looking at this, the action of the people was classified as correct from Rasulullaah ﷺ - this is called Sunnah Taqreeri according to the terminology of the Hadith scholars.

People, this Hadith is a principle and proof of many rulings. This is the Hadith on account of which the jurists have written of the permissibility of the suspended appointment of judges, governors etc. This Hadith is the source of this ruling. From this Hadith, Imam Tahawi ﷺ has also drawn the conclusion that when the Imam is absent, then it is compulsory upon the people to appoint an Imam for that time until the Imam returns. Subsequently, Hafiz Ibn Hajar ﷺ writes in Fath ul Baari,

قال الطحاوى هذا اصل يؤخذ منه أن على المسلمين أن يقدموا رجلا إذا غاب الإمام يقوم مقامه إلى أن يحضر . فتح الباری

**Imam Tahawi ﷺ has made this Hadith the basis and has drawn this ruling that when the Imam is absent, then it will be compulsory on the Muslims to select someone who will stand in his place until he returns.**

Allamah Badr ud Deen Ayni ﷺ has drawn another important ruling from the Hadith that encompasses all

matters. He writes in Umdatul Qaari, commentary of Bukhari,

وفيه جواز تولى امر القوم من غير تولية اذا خاف ضياعه وحصول الفساد  
بتركه . عمدة القاري

The permissibility of this matter is proven from this Hadith that there should be a governor in the communal works (even if there is no khalifah, or deputy appointed by him) when there is fear of the communal works being harmed, and there is fear of corruption in leaving it out.

The above quoted Hadith narrated by Bukhari has the words ‘without being appointed’. Looking at this, Imam Bukhari ﷺ has a chapter in Kitab ul Jihaad with the title ‘chapter on the one who takes command in battle without being appointed the leader.’ In this, there is great possibility that people will doubt that it is permissible to become the leader by ones own action, whereas this is not the case, nor is it correct. The happiness of the people/nation is necessary.

The words narrated about Khalid bin Walid mean that Rasulullaah ﷺ did not appoint him as the leader but the people appointed him, as I have explained before. This detail is proven from an authentic narration as Hafiz Ibn Hajar ﷺ has written in the commentary to it.

والمراد نفى كونه كان منصوبا عليه وإلا فقد ثبت أنهم أتفقوا عليه . فتح  
البارى

The objective of the words ‘without being appointed’ is that the leadership of Khalid bin Walid □ was not clearly stated by Rasulullaah □ as were the other 3 companions. If this meaning is not correct, then it will be such because it is proven in an authentic narration that the people agreed to his leadership.

Some people have only looked at the words of Bukhari and did not do research. Therefore, they were mistaken and understood that Khalid bin Walid □ became the leader on his own.

Also, people have drawn this ruling that a person can become the leader or governor on his own, on condition that the person is appointed in terms of his ability and condition. However, this is not totally correct, nor is it proven from the Hadith. Subsequently, Hafiz Ibn Hajar J writes in Fath ul Baari,

قال ابن المنير يؤخذ من حديث الباب أن من تعين لولاية وتعذرت مراجعة الأمام أن الولاية تثبت لذلك المعين شرعا وتجب طاعته حكما. كذا قال ولا يخفى أن محله ما إذا اتفق الخاضرون . فتح الباری

Ibn ul Muneer said that from this Hadith mentioned in the chapter, this ruling can be drawn that whoever is appointed for leadership and there is excuse of return from the side of the Khalifah, then in this case, the right of leadership will be proven for him according to the Shari’ah, and according to the command of the Shari’ah,

it will be compulsory to obey him. (But Ibn Hajar says) that it should not be hidden that it will be correct when the nation that is present agrees upon it.

Just as this Hadith of Bukhari is the basis of this ruling, that at the time of need and for the benefit of the nation, the people should appoint one person as the leader. Similarly, it is also proven from this Hadith that the nation can appoint a leader without the permission of the Khalifah. In fact, when it is not possible to take permission from the Khalifah for some reason, then the nation should definitely make a leader. Then, it is also proven from this Hadith that according to the Shari'ah, the leader has the same status as the leader appointed by the Khalifah because Khalid bin Walid □ became the leader by the people choosing him without the command of Rasulullaah □. The companions over who he was the leader, all of them obeyed Khalid bin Walid □ in this way. Then, Rasulullaah □ made his pleasure apparent and gave permission to the Ummah for this.

So, in these conditions, there remains no room for doubt that the leader and governor chosen by the nation and whichever localities are part of the nation, he will have the leadership post over them from the side of Shari'ah.

Just as the governor who is appointed by the Shari'ah that does all the work of religion and the nation and

administrates, the governor that is appointed by the nation will do the same.

However, because the English ruled in this country, in the execution of many laws and in fulfilling many duties, the government will oppose. Because of this difficulty, many matters cannot be arranged. However, those matters in which the government does not oppose, it is the duty of the leader to do all of them, like appointing judges, to be the guardian of the orphans and destitute who do not have guardians, to collect zakat, to arrange for the spread of Deen. Subsequently, the fatwa of Maulana Abdul Aziz Dehlawi <sup>1</sup> that I have stated, look at it. He mentioned a few laws and indicated towards what type of services the governors of India do. Finally, he clearly stated that the purport of which is that the governor should not interfere in the governmental affairs, i.e. besides this, all the other communal and Shar'i work, he can do all of them. Those laws have explained that according to Shah Saheb, the status of the governor is the same as the one appointed by the Khalifah and through this fatwa, its being correct is proven – that which was explained in Majmu'a Fataawa of Maulana Abdul Hay.

Besides these fataawa of the scholars of India, it is also proven from the views of the Hanafi jurists because below the non Muslim government, there are places for which the jurists have written that it is compulsory to



appoint a governor, so they write this ruling in the chapter on judgement and they also write that this governor should appoint a judge.

It is apparent that a single person can do this if he is a governor in reality and he has the governance in the light of the Shari'ah.

The duty of this type of governor in explaining that they (the people) have to follow judgment – its proof is that he is the governor according to the Shari'ah and he has all the rights that the governor has.

Similarly, if the governor of the nation did not choose, but the nation consulted and appointed someone as the judge so that he may decide in their cases, then he will be a judge according to the Shari'ah. In these conditions, whatever ability the judge has according to the Shari'ah, the judge will do them and it will be correct for him to fulfil those duties. This is because whatever calls for the appointment of a judge nowadays, the Shar'i judges also demand it. Therefore, the jurists have directly wrote this discussion in the book of judgment, not in the book of arbitration. The texts of the jurists also testify tho this, for e.g.

يصير القاضي بتراضي المسلمين

Because when there is no governor and no Khalifah or his deputy, then according to the Hadith of Bukhari of

Anas bin Maalik  $\tau$ , the Muslims should appoint a judge for the arrangement of their affairs. All the places for which he was appointed judge, he becomes the judge – as a matter of command as well as according to the Shari’ah, not an arbitrator. This is because arbitration is only for one matter, and that too, it is only between two people disputing. In such a condition, what will the meaning of the arbitrator being by the happiness of the disputing parties mean?

The summary of this is that the person chosen by the noble and influential Muslims for Muslim governance over whichever areas, and they pledge to obey him in matters of good, he will have the right of governance according to the Shari’ah. The texts and principles of the Shari’ah as well as examples and Islaamic rulings all testify to this and there is no doubt in it being true.

In the places under non Muslim rule, to place the governor and judge of the status of an arbitrator has no specialty because in Islaamic countries, under the Khalifah, where there are governors and judges present, an arbitrator can be appointed there as well (between two disputing parties) and it has always been permissible and this law is clearly mentioned in all the books under the chapter of arbitration.

Then, in the book of judgement, on account of a non Muslim government being established and on account of

the destruction of the Islaamic government, what is the meaning of the compulsion of appointing governors and judges and giving them the position of just being arbitrators?

People, I have explained all the proofs and testimony of the Ameer e Shari'ah and his duties. I am convinced that it is sufficient for the contentment of heart of every scholar, and for the person, whom Allaah has granted far sightedness in Deen and understanding in Islaam, he can understand well and I understand that all of you have also grasped. Therefore, I feel it necessary to mention a Hadith regarding the important duty of the Ameer e Shari'ah.

أحسنوا إذا وليتم واعفوا عما ملكتم . رواه دارمى عن أبي سعيد الخدري .  
سراج المنير

When you are made the governor, then show good character and deal with forgiveness with those under you.

This Hadith commands the governor to show good character and to forgive. A governor should always adhere to this duty and he should do his work intelligently, according to the Shari'ah.

The masses should also understand that there is no difference between a governor (waali) and leader (ameer). Both words are used in the Shari'ah. According

to the lexicon and the Shari'ah, both have the same meaning.

قال العلقمى الولاية هى الإمارة فكل من ولى أمرا أو قام به فهو مولاه  
ووليّه.

Allamah Alqami says that wilaaayat is Imaarat. So whoever is the wali of some matter and he does that work, that person will be the Maula or wali of that work.

Imam Raaghib Isfahani writes,

والولاية تولى الأمر وقيل الولاية والولاية نحو الدلالة والدلالة وحقيقته  
الأمر . مفردات راغب

The meaning of wilaaayat is to control some work. Some have said that wilaaayat and walaayat are like this and the meaning of it is to control work.

So, whichever nation chooses a person for religious and national work and promises him obedience, he will be the waali and Ameer. Whichever word is used, it will be correct according to the Shari'ah.

When the waali or ameer controls the work of the Muslims, he should not be negligent in fulfilling his duties otherwise he will be deserving of severe punishment by Allaah.

## **The duty of the Ummah**

People, in whatever way the religious and national work has reached its present condition, it is compulsory upon the leader to remain engaging in his responsibilities. Similarly, all the individuals that are under jurisdiction of the leader, it is their duty to obey the leader and to accept all his commands that are in accordance to the Shari'ah. The summary is that besides sin and disobedience, they should obey the leader in all matters and accept what he says. This is because it is compulsory to obey the leader. It is a sin to be disobedient and not to accept. This ruling is clearly proven from the Qur'an and Hadith. The Shari'ah has placed great emphasis upon listening and obeying. For the knowledge of the masses, a few verses and Ahadith are written here. 'O you who believe, obey Allaah and obey His Rasul and those in authority among you.' [Surah Nisaa, 59].

This verse clearly states that it is obligatory to obey those in authority and Allaah mentioned the word in plural form so that it includes everyone in authority and this law will cover every stage of those in authority. Just as this verse makes obedience to the Khalifah obligatory, similarly, it makes obedience to the governor of the province obligatory. Similarly, it makes obedience to the leader of the army obligatory. It is general, referring to those people appointed by the Khalifah or those appointed by the general Muslims. Through the Ahadith

and Aathaar, the generality of this command is explained. It is for this reason that the jurists have written that obedience to every type of leader is necessary.

Subsequently, it is written in Siraaj ul Muneer, commentary of Jami us Sagheer,

قال العلقمى قال القاضى عياض وغيره أجمع العلماء على وجوب طاعة  
الأمرء في غير معصية وعلى تحريمها في المعصية لقول الله تعالى  
أطيعوا الله وأطيعوا الرسول وأولى الأمر منكم. قال العلماء المراد بأولى  
الأمر من أوجب الله طاعته من الولاة والأمرء هذا قول جماهير السلف  
والخلف من المفسرين والفقهاء وغيرهم . سراج المنير

Allamah Alqami | said that Qadhi Iyaad | said that the scholars are unanimous that it is necessary to obey the leaders (whose leadership has been proven by the Shari'ah) – in those matters that are not sinful. They have also reached consensus that it is forbidden to obey the leader in matters of sin. This is on account of the verse, ‘obey Allaah and obey His Rasul and those in authority among you.’ And the scholars have said that ‘people in authority’ refers to those people – that obedience to them has been made obligatory by Allaah, these people are the governors. This view is the view of majority of the scholars of tafseer, the jurists and other Islaamic fraternities.

On account of this clear text of the Qur'aan, Rasulullaah ρ laid great emphasis on listening and obeying the governors and he gave the glad tidings of Jannah upon obedience. Subsequently, it stated in a Hadith,

وأطيعوا إذا امركم تدخلوا جنة ربكم . الجامع الصغير

Obey the person in authority over you, you will enter the Jannah of your Rabb.

عن عبد الله عن النبي صلى الله عليه وسلم قال السمع والطاعة على المرء المسلم فيما أحب وكره ما لم يؤمر بمعصية فإذا أمر بمعصية فلا سمع ولا طاعة.

Hadhrat Abdullaah τ narrates from Rasulullaah ρ that he said that listening and obedience is necessary upon a Muslim, whether he inclines to it or whether it is a burden upon him. However, the condition is that he does not give the command of sin and when the command of sin is given, then there is no listening and no obedience.

عن مسلم بن عامر قال سمعت أبا أمامة يقول رسول الله صلى الله عليه وسلم يخطب في حجة الوداع فقال اتقوا الله وصلوا خمسكم وصوموا شهركم وأدوا زكاة أموالكم وأطيعوا إذا امرتم تدخلوا جنة ربكم . الترمذي

Muslim bin Aamir narrates that he heard from Abu Umamah that during the farewell Hajj, Rasulullaah ρ was delivering a sermon. He said that (O Muslims), fear Allaah and perform the five times Salaah, keep the fast of the month of Ramadaan, give the zakaat of your

wealth and when you appoint someone the leader, then obey him. The result will be that you will enter the Jannah of your Rabb.

In this Hadith there is a clear command that when you make anyone the leader, then obedience to him is compulsory. This Hadith makes obedience to the leader compulsory through Ibaaratun Nass. Through Dalaalatun Nass, this Hadith also indicates that it is permissible for the people/nation to appoint the leader themselves.

Although this leader will not be the most virtuous person of the nation, Rasulullaah ρ still gave the command that he should be obeyed. Subsequently, it is stated in Bukhari,

ان انس بن مالك قال قال رسول الله صلى الله عليه وسلم اسمعوا وأطيعوا  
وإن استعمل عليكم عبد حبشي كأن رأسه زبيبة

Hadhrat Anas bin Maalik τ narrates, he says that Rasulullaah ρ said that listen and obey, even if an Abyssinian slave has been made the leader over you – whose head is like raisins, i.e. he has a small head, and apparently, he seems lowly.

In fact, beyond this it is said and commanded that if the personal actions of the leader are worthy of dislike and his actions are very bad according to you, even at that time you must obey him in good and you should not leave his obedience even at that time. This is because if



it was not done, then the Islaamic system will not stand. Therefore, even if one dislikes, disobedience in matters of good has been classified as leaving the group because according to the Shari'ah, a group refers to a band of people that have one leader and governor and all the people have pledged allegiance of obedience to him, at that time, to leave the obedience of the governor will be classified as leaving the group according to the Shari'ah – which is the worst of sins. Subsequently, it is stated in Bukhari,

عن ابن عباس قال قال النبي صلى الله عليه وسلم من رأى من أميره شيئا فكرهه فليصبر فإنه ليس أحد يفارق الجماعة شبرا فيموت إلا مات ميتة جاهلية .

Hadhrat Ibn Abbaas  $\tau$  narrates that Rasulullaah  $\rho$  said that he who sees such an action from his leader which he understands to be incorrect, he should be patient (and he should not reject obeying him in matters of good) because he who separates from the group even to the extent of a hand span and he died, then he died a death like that of ignorance.

Allaah, Allaah! Look at what firm principles has the Islaamic shari'ah placed for the continuity and protection of the Islaamic system, there can be no better system.

Ponder over the words of this Hadith. This command is not specific with the Khalifah of the Muslims but this

command applies to every person in authority. From this Hadith we also learn what does an Islaamic group/nation refer to. The Hadith states that leaving the obedience of the leader is leaving the group. **It is as though the group of Muslims will not remain a group until they do not have a leader.** Subsequently, Hafiz Ibn Hajar | writes,

قال الطبرى والصواب أن المراد في الخبر لزوم الجماعة الذين في طاعة من اجتمعوا على تأميره فمن نكث بيعته خرج عن الجماعة . فتح البارى

Tabari said that the correct thing is that the command of holding firm to the group in the Hadith, it means holding firm to that group which is obedient. That person upon whom being made the leader, the people have united (i.e. whoever the people made the leader by agreement, he should remain among them). So, he who broke his pledge, he has left the group.

And what is said that the person who left the group and he died, then his death was a death of ignorance, it does not mean that he has become a disbeliever, but the objective is that he died a sinner. Subsequently, Hafiz Ibn Hajar | writes,

والمراد بالميتة الجاهلية وهى بكير الميم حالة الموت كموت أهل الجاهلية على ضلال وليس له إمام مطاع لأنهم كانوا لا يعرفون ذلك وليس المراد أنه يموت كافرا با يموت عاصيا . فتح البارى

A death of ignorance refers to the condition of death, i.e. a death like the people of the era of ignorance (i.e. before the era of Nubuwwah) with deviation and his condition is such that he has no leader who he obeys because the people of ignorance (before Islaam) did not know leadership and Imaamat. (and there was no official leader) it does not mean that he died a disbeliever, but it means that he died a sinner.

The summary is that it is the duty of the Muslim nation that when a leader is chosen and the government is established, they should obey the leader and accept the truth from him and if he gives the command of sin and disobedience, then they should never obey the leader.

This is because the ruling of the Shari'ah is 'there is no obedience to the creation in the disobedience of the Creator', obedience is only in that which is correct. And, Allaah save us, if a leader does something against the Shari'ah, then at that time also, one should not go beyond obedience in matters of good for the objectives of Islaam and the perpetuity of the Islaamic system. A person should not divide the group in any condition. This is because this itself is the worst sin. This is besides when the Ameer/leader does something that is clear kufr and no correct interpretation could be made of it, then undoubtedly, a person should not obey him at that time. Such a person cannot remain the governor and leader of the Muslims for even a moment. The clear directive of

Rasulullaah ρ is narrated in Bukhari from Hadhrat Ubadah bin Saamit τ and Hafiz Ibn Hajar J writes in one place,

وتقدم البحث في هذا الكلام على حديث عبادة في الأمر بالسمع والطاعة إلا أن تروا كفرا بواحدها يغنى عن أعادته وهو في كتاب الفتن وملخصه أنه ينعزل بالكفر إجماعا فيجب على كل مسلم القيام في ذلك فمن قوى على ذلك فله الثواب ومن داهن فعله الإثم وعجز وجبت عليه الهجرة عن تلك الأرض . فتح الباري

Upon this Hadith of Ubadah bin Samit τ that it is compulsory to obey the leader, except in the case where you see clear kufr from him, the entire discussion on it has passed. There is no need to repeat it. It is explained in Kitab ul Fitan. The summary of it is that when clear and open kufr comes from the Imaam and leader, then it is compulsory upon every Muslim to remove (i.e. they should prepare to remove the non Muslim government), whoever gets ready for this, he will be rewarded, and he who was pleased with the disbelieving ruler and remained silent will be guilty of sin. As for the one who is totally helpless, it is compulsory on him to migrate from that country.

Every Muslim should always bear these principles of the Shari'ah in mind. They should overlook the objectives that are of lesser importance compared to the objectives of greater importance. **They should throw behind all**

**personal agendas and objectives in the face of general and communal objectives.**

### **The power of the Ameer of Shari'ah**

Scholars and nobles, after this discussion, I wish to draw your attention to an important matter. When the non Muslim government is in power and they have an established government and the Muslims of India are ruled by them, then in such a case, what is the power of the Ameer e Shari'ah on account of which he can execute his command according to Shari'ah?

Regarding this, I wish to say that there is no doubt that Allaah has commanded the Muslims to prepare means of power, horses, weapons etc. and there is great emphasis upon it as well. Allaah says, 'prepare against them whatever forces of strength you can muster, as well as trained horses with which you may strike fear into Allaa's enemies and others besides them. You do not know them but Allaah knows them.' [Surah Anfaal: 60]

There is emphasis and glad tidings regarding this mentioned in the Ahadith as well. Therefore, this is also something necessary. However, we have to ponder over this point that for Imaarat and governance, is material power necessary, just as it is necessary for the khilafat, such that in every condition the foundations of the

khilfat cannot be established except with a properly ordered army and police force.

I understand that whoever studied the laws of the Qur'aan and the initial stages of Islaam, until the era of the khilafat of Abu Bakr  $\tau$ , he will definitely say these things are not necessary parts of it because it is known that in the era of Rasulullaah  $\rho$ , there were governors established in some provinces but there was no material force, a ordered police force and army under their influence. Then, in the era of Hadhrat Abu Bakr  $\tau$  also, there was no proper system for it. In fact, the system of all this began in the era of Hadhrat Umar  $\tau$ . So, if material power is classified as a necessary part of the government, then it will not be correct in any way.

From this we learn that these things are not necessary directly, i.e. it is not that as long as there is no material power, until then, the foundations of leadership and governance should not be established, this type of thinking is totally incorrect.

### **The real power of the Muslims is in religious unity and in listening and obedience**

In fact, the reality of the situation is that the real power of the Muslims lies in them agreeing upon one person and to follow him in commanding the good and to obey him in good works. Taking obedience to him to be

compulsory, a person should remain ready to carry out his commands, leaving aside one's personal agendas and objectives.

This is the real power in reality. The result of this power will lead to the existence of material power. Study the history of Islaam carefully, this result will come before you. **So the Muslims should make this power of their's firm and prove it practically, i.e. they should obey every true command of the leader, then see how much power is created among the Muslims.** Then, whatever you want will come to pass.

The truth is that the power over the Muslims that will lead them to carrying out the commands/orders of the leader is faith in Allaah, faith in the book of Allaah, faith in the Rasul and faith in the laws of the Rasul. In the beginning stages of the Islaamic system, this was the practised way and today too, it is needed the most. The need for material power will always be needed to face the opposition. Ponder over the verse quoted before, Allaah Himself mentions the wisdom and the expediency of gathering material power, that your enemy and the enemy of Allaah may fear. The disbelievers are meant by this.

**So, in reality, the need for material power is to protect the Muslims from the evil of the disbelievers.** Although there is a need for it to enforce/execute law

upon those who do not practice on the Shari'ah and are involved in sin, but it is not directly commanded, but it is needed on account of temporary matters. Also, it is not directly commanded, but it comes second. Therefore, the principle in khilafat and leadership is that the Khalifa and governor should be chosen and the combined power of the nation will be his power – which will be created by the nation/people following and obeying. If a person gains control and power by material power and he attains power and through this, the khilafat/leadership is established, then it will be out of force and need.

So, we learn that when the nation has appointed someone as the governor and they attest to obedience, then the governor will be made, although he does not have material power through which he can enforce law. This is the reason why from amongst the conditions of the establishment of the khilafat and leadership it is not a condition that the person chosen has direct material power in order to enforce law, or his personal self is powerful. This is because these things will be created by the unity and harmony of the Muslims and through the good planning of the chosen governor and leader. So, we should not be deceived by the following text of Fataawa Qaadhi Khan, which has been quoted elsewhere also. It should be read carefully and understood.

السلطان يصير سلطانا بامرین بالمبايعة معهم ويعتبر في المبايعة مبايعة  
أشرافهم وأعيانهم. والثانى أن ينفذ حكمه في رعيته خوفا من قهره وغلبته



فإن بايعه الناس ولم ينفذ حكمه بعجزه عن قهرهم لا يصير سلطانا . وإذا صار سلطانا بالمبايعة فجاز إن كان له قهر وغلبة لا ينعزل لأنه لو انعزل يصير سلطانا بالقهر والغلبة فلا يفيد وأن لم يكن قهر وغلبة ينعزل . فتاوى قاضي خان

There are two types of kings in Islaam. The first is by the pledge of the nation, and the pledge of the noble and influential people is considered. The second is that his command is executed upon the subjects by fear of his power and authority (this will be a government that rules by force). So, if they pledge of allegiance at the hands of someone and his command is not executed on account that he is not able to force the people, then he is not a king/ruler. So, when a person becomes the leader by the people pledging allegiance to him, then he oppresses – if he has power and control, he will not be removed because if he is removed/dismissed, then he will become the ruler by force. There will be no benefit in dismissing him. If he has no power and authority, then he will be removed.

In this text, two ways of becoming the ruler are explained. One is by choice and the other is by force, i.e. one is that the Muslim nation chooses and makes someone the ruler – this is by choice. This is the essence of the principle. The second is that a person overpowers and ascends to power through material power and becomes the king. This is by force. Such a ruler will also be accepted by the Muslim nation to be the Muslim ruler

– out of necessity. After this second angle, it is written that after this second way of Muslim government is established over the Muslims, they choose a worthy person and pledge allegiance to him and this person is such that his command cannot be executed because he does not have material power to force the people, then this person will not be the ruler. This is because although the Muslim leader is overpowered, but he is present and the laws of Islaam and the nation is protected, although the pleasure of the nation is not part of it. Therefore, pledging allegiance in such a case at the hands of a hopeless person, the person will not become the ruler.

This is the meaning of the text of Qaadhi Khan. If this is not the meaning, then the last part of the text will not be correct. This is because Qaadhi Khan then writes that when a person has become the ruler by people pledging allegiance, then he becomes an oppressor, then after a person becomes the ruler and an oppressor he writes that there are 2 forms; one is that he attains power and authority so he will not be removed by his oppression because if he is counted to be dismissed then he will have become the ruler by power and force.

The second form is that he does not have power and authority, i.e. after becoming the leader, he oppresses. He begins to sin, he has no power over the nation, i.e. he cannot force the nation, then he will be dismissed.

From this we learn that despite being helpless, he becomes the king on account of the pledge of allegiance. However, he was removed after his oppression because being dismissed is necessitated, that first he was the ruler. Otherwise, being dismissed has no meaning. This last text shows that if the ruler has no authority and does not overpower, but he is helpless from enforcing, then too he will be the leader.

So, if the meaning of the text of Qaadhi Khan was not that which we have explained, then the text of Qaadhi Khan itself will not be correct, but confusion will be created in it. However, the meaning that we have explained, no contrast/confusion arises if we take it and it does not oppose any principle of the Shari'ah.

Therefore, this meaning of the text of Qaadhi Khan should be taken and we should not be deceived.

Assuming if the power and authority of the Muslim leader is taken to be necessary and this is necessary for him and the meaning of Qaadhi Khan is that if the people have pledged allegiance at the hands of someone and his command could not be executed on account of him being helpless, then he is not the ruler.

This view is not backed by clear texts. In fact, the beginning stages of Islaam give a contrasting picture to this. There is no support for it in the texts of the jurists and scholars of belief too. Therefore, this view should

not be given importance, nor is it worthy of being given fatwa upon. In fact, the text of Abdus Shakoor Salimi totally contradicts it, he writes,

وقال بعض الناس بأن الإمام إذا لم يكن مطاعا فإنه لا يكون إماما لأنه إذا لم يكن له القهر والغلبة لا يكون إماما قلنا ليس كذلك لأن طاعة الإمام فرض على الناس فلو لم يطيعوا الإمام فالعصيان حصل منهم وعصيانهم لا يضر بالإمامة ألا ترى أن النبي صلى الله عليه وسلم ما كان مطاعا في أول الإسلام وكان لا يمكنه القهر على أعدائه من طريق العادة والكفرة قد تمردوا عن إمامه ونصرة دينه وقد كان هذا لا يضر ولا يعزله عن النبوة وكذلك الإمامة لأن الإمام خليفة النبي لا محالة وكذلك على رضي الله عنه ما كان مطاعا من جميع المسلمين ومع ذلك ما صار معزولا فصح ما قلنا لو ان الناس ارتدوا عن الاسلام العباد بالله فان الامام لا ينعزل من الامامة فكذلك في العصيان

Some people have said that when the leader is not obeyed, then he will not be the leader. This is because when he does not have power and authority, then he is not a leader. We say that it is not such because it is obligatory upon the Muslims to follow the leader. So, if the people do not obey the ruler, a sin will be occurring from them and their sin does not harm the leader. Do you not know that in the beginning stages of Islaam, Rasulullaah ﷺ was not obeyed, nor did he have power and authority over his enemies. The disbelievers rebelled from helping him and his religion, whereas he was not harmed by this, nor was he removed from the position of Nubuwwah. This is exactly the case with leadership and governance because the leader is definitely the deputy of

Rasulullaah ρ. Similarly, Ali τ was not obeyed by all the Muslims. Despite this, he was not dismissed. Therefore, what I have said is correct and Allaah forbid, if the people turn renegade, then the leader will not be dismissed. Similarly, he will not be removed on account of his sin and disobedience. The author supports this with a verse of the Qur'aan, Allaah says, 'I sent the Rasuls only with this objective that they be obeyed.'

So, if the objective of sending the Ambiya was that they be obeyed and they are not obeyed, then the Rasul will not be dismissed if the objective was not met. Similarly, the governors under him will not be dismissed. This subject has been discussed in the light of research. It does not mean that there is no need for material power or that Islaam does not emphasize that it is not provided. Never, one should never have this misunderstanding.

If, assuming it is accepted that a person must have material power and authority when becoming the leader and ruler and the leader/ruler must be powerful and authoritative, so that he can enforce law upon the Muslims, then this condition is possible where every country is Dar ul Islaam and it is totally free of any control by the non Muslims. It should not be such a country where the non Muslims have control and they have power and authority and on account of the fact that India is such a country where the non Muslims have control, they rule – the condition that the Muslim governor should have power and authority can never exist, in order to establish an Islaamic leadership/government.

No one has ever mentioned this because when the jurists and the scholars were writing this that where the non Muslim government is established, the Muslims should agree upon one person and it is quite apparent that in the presence of the non Muslim government, no Muslim can be powerful and authoritative.

It is totally clear from this that in order to make a leader in such a country, it cannot ever be considered that the leader should be powerful and authoritative and if this was the case, then the jurists have never classified it obligatory to select a leader in such a country and to establish a court and when the jurists have said it to be compulsory, then they considered that it will be without power and authority. Therefore, the discussion of power and authority here is useless and it is baseless to make it a condition for the establishment of the leadership and governance.

People, turning away from this discussion, I say that there is a general principle in the Shari'ah, '**obedience is according to ability**' and the jurists of Islaam have written this and Allaah also said, '**Allaah does not burden a person except according to what he can bear**'. So, considering this principle, you are obligated to do this that a worthy person should be chosen and he should be made the leader to establish the Islaamic system and he should be obeyed so that the Muslim nation here could become a proper Muslim Ummah and

in the presence of the non Muslim ruler, they will be obligated to carry out all the laws of the Shari'ah and the amount necessary on them is according to their ability. You have heard the statement of Ibn Taymiyyah that he said in the discussion of establishing a court and leadership that whoever carried out the laws according to his ability, then he is not responsible for those laws which he is helpless of.

Scholars and nobles, this entire discussion that I have explained in detail, it is what you know and you have understood it before, therefore you have established the leadership and have established this Sunnah that you have opened a road for the success of the Muslims of India. It was not necessary to explain those things to you. However, for the information of the general Muslims, I have clarified them so that the reality of the Shari'ah can be understood and I wish to explain 2 or 3 more things for their understanding.

### **The existence of a group through establishing government and the way of salvation for the Muslim Ummah**

Assume that after the leadership is established and after the leader is chosen, many Muslims rebel. They do not practice on the commands of the leader. After the decision of the judge, the rebellious do not accept but there are some people who do accept. They practice on

the commands of the Ameer e Shari'ah that are in accordance to the Shari'ah. They understand the Ameer to be such, listen, obey and practice. Many disputants turn to the Qaadhi of the Shari'at in search of a decision in accordance to the Shari'ah and they accept the decision. So, in all these cases, it will be correct to say that in Bihaar, there is a group of Muslims which can be referred to as a group – in accordance to the terminology of the Shari'ah. The Muslims of Bihaar are not without a leader or governor and there is a means for them to attain a decision according to the Shari'ah, thereby saving themselves from seeking a decision based on un-Islamic ways. Through the steadfastness of this small group, it can hoped that a large group will be created, although this group is 100000 from 3 700000 or they are 50000, but it will be correct to call it a group and it is totally correct according to the Shari'ah.

This is in contrast to the situation where the person is not chosen now and the leadership is not established, as is the case with the other provinces. Then the result will be that the Muslims in Bihaar are about 3700000 (the Muslims were 3 700000 in 1921, and now in 2010, the Muslims have reached more than 2 Karor). The usage of the term group for them will not be correct and the entire nation will be spread out and worried. Those that desire the Islaamic system and they want decisions exactly in accordance to the Shari'ah and they want to stay away from the sin of taking their case to the non Muslim court, there is no way out for them and there is no



way from coming out of the thousands of corrupt cases. In this case, upon whom will the blame fall for these people doing this sin? Have conviction that it will be the noble and influential ones.

Now ponder that will this reply be correct according to Allaah that because there was no material power and because every individual did not accept the command of the Ameer, that is why we did not choose the leader, never, this reply is not worthy of consideration according to the Shari'ah, nor is it acceptable logically.

It is not correct according to the Shari'ah because however much ability a person has, leaving it out will be sinful. 'Obedience is in accordance to one's ability.' It is not correct logically because **'what cannot be found in total, it should not be left out completely'** is a clear matter.

### **The example of the government in the last era of Nubuwwah**

Scholars and nobles of the Ummah, although I have taken much of your time in the discussion of Imaarat, yet I could not discuss a number of aspects. E.g. pledging allegiance, the system of the shar'i Imaarat, the influential people, method of choosing etc. however, all these have been left out due to shortage of time. The general people, especially, those educated in the present time seek an example of everything and they are

contented with an example to a greater extent than they are with proof. Therefore, I want to also explain an example of the Imaarat e Shar'iyah. It will give an opportunity to this type of people to have conviction.

People, towards the end of the life of Rasulullaah ρ, Aswad Anasi claimed nubuwwah in Yamamah and many people followed him and they killed most of the governors of Rasulullaah ρ to such an extent that there was no one remaining who could take the name of Allaah openly. The Azaan was stopped, a few Muslims remained hidden and many fled. Finally, through clever action, the hidden Muslims killed him at night through which weakness was created in the non Muslim government. After he was killed, there was an opportunity after a long time for the Azaan to be called out. However, the Muslims did not get control as yet but they got a chance to announce Islaam openly. So, the first thing that the Muslims did after announcing Islaam was that they chose Hadhrat Mu'aadh τ as the leader.

They then fought the disbelievers again and were successful. Then, a messenger brought this good news to Madinah Munawwarah. When the messenger reached, they heard of the demise of Rasulullaah ρ. This glad tidings reached Hadhrat Abu Bakr τ finally. This incident is clearly mentioned in Islaamic history. At this juncture, I bring a sentence of Ibn Khaldun as well, 'the

noble companions desired Imaarat. Finally, they all agreed upon Hadhrat Mu'aadh  $\tau$  and he led the Salaah. This was the way of practice that whoever was the governor, he would lead the Salaah. So the leadership of San'a that Hadhrat Mu'aadh  $\tau$  got, it was only on account of the nation unifying and because of being far and very little time, there was no way of obtaining the law from Rasulullaah  $\rho$ . **Mu'aadh  $\tau$  was made the leader without it being commanded by Rasulullaah  $\rho$  and he became the leader of the province.** So, if there no khalifah today or there is a khalifah but he cannot give any command because of political difficulties, then in such a case, establishing an Imaarat will be enlivening this Sunnah, although some conditions are different, but in terms of the objective, and practising upon the law, there is no difference between them.

Scholars and nobles, I have taken much of your time and the discussion is very long. Therefore, I come to the conclusion and make Du'aa' to Allaah that whatever you have gathered for today, May He bring it to fruition and may He grant the nobles and influential ones, especially the scholars to keep their gaze on the path of the objective and success. They should choose someone who is worthy of this great service and from whom it could be hoped that the objective be completed.

We make Du'aa' to Allaah that He removes jealousy, malice, hatred and other illnesses from the hearts of all Muslims so that they can all unite and hold firm onto the rope of Allaah and establish the Imaarat Shar'iyah and that He protects the Deen through His power and may He protect them from all those irreligious ones who are destroying Islaam.

Scholars, nobles of the nation, I cannot thank you. This is the general custom. I do not want to thank you as a matter of custom. You will be deserving of thanks when you complete this work well for which you have gathered and for which all this difficulty has been taken up and to explain it, I have taken up so much of your time.

Therefore, when you complete this duty, then you should engage in making it strong, then not only will you be deserving of our gratitude but the entire nation will thank you and Allaah and His Rasul will be pleased with you. I complete with this Du'aa'.

رَبَّنَا لَا تُؤَاخِذْنَا إِنْ نَسِينَا أَوْ أَخْطَأْنَا رَبَّنَا وَلَا تَحْمِلْ عَلَيْنَا إصْرًا كَمَا حَمَلْتَهُ  
عَلَى الَّذِينَ مِنْ قَبْلِنَا رَبَّنَا وَلَا تُحَمِّلْنَا مَا لَا طَاقَةَ لَنَا بِهِ وَاعْفُ عَنَّا وَاعْفِرْ لَنَا  
وَارْحَمْنَا أَنْتَ مَوْلَانَا فَانصُرْنَا عَلَى الْقَوْمِ الْكَافِرِينَ

### **The objectives of the Imaarat Shariah**

1. To establish the Islaamic system upon the nature of Nubuwwah so that Muslims can live a proper life in accordance to the Shari'ah.

2. Through this Shar'i system, as far as possible, opportunities to create execution of Islaamic law should be created, for example, to establish the laws of Nikaah, Talaah, inheritance, khula', waqf etc. according to their shar'i forms, besides the different forms of worship.
3. There should be a separate effort made to create the ability in people through which they will practice upon the commands of Allaah and so that the just system of Islaam can be established.
4. All the Islaamic rights and benefits of the Muslims should be protected and guarded.
5. All the Muslims should gather on the way of 'there is no deity but Allaah and Muhammad is the Rasul of Allaah' so that they can practice on the commands of Allaah and the Sunnah of Rasulullaah ρ and their united power should be utilized in raising the word of Allaah.
6. In the field of progress in education of Muslims, the people should be guided in the light of the Islaamic system of education and the Islaamic system of trade.
7. There should be institutions established for the general benefit of the people.

8. In establishing and protecting the rights of Muslims, the laws of the Shari'ah and the tolerance of Islaam, the Muslims should deal peacefully with all the groups of people living in India for the sake of completing the objectives of the Islaamic shari'ah. Powers that desire peace should be explained and the enthusiasm to fulfil the rights of each other with honour should be created. Every such group should be given support whose objective is to protect the life, wealth, honour and respect of each other and all such movements should be given strength whose objective it is to honour the life, wealth and honour of all those living in India and to remove all hatred that is based on tribalism and racism.

**Translation edited by: A.H.Elias (Mufti)**

**1st Ramadhaan 1433,21 st July 2012**