

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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

### Answer to a Question

## **The Condition of Al-'Adl (Being Just) in the Appointment of the Khalifah**

To: Abdul Kareem

(Translated)

### **Question:**

Assalamu Alaikum Wa Rahmatullah Wa Barakatuh

One of the conditions of the Khalifah is that he must be 'adl (just). We use Qiyas to derive this Hukm; but can the following verse of Qur'an be used as a *daleel* (evidence) for this condition also ﴿وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ﴾ **"when you judge between people, judge with justice ('Adl)"** (An-Nisa': 58)?

May Allah reward you with the good.

### **Answer:**

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

Your question concerns one of the conditions of the appointment of the Khalifah (Caliph) as stated in our books:

**"In the book, *The Institutions of State in the Khilafah (In Ruling and Administration)*:**

The Khalifah must be just ('adl). It would not be right for the Khalifah to be a 'Fasiq'. Integrity is an obligatory condition for contracting the Khilafah and is important for its continuity. This is because Allah has stipulated that the witness must be just. He (swt) says: ﴿وَأَشْهِدُوا ذَوَيْ عَدْلٍ مِّنكُمْ﴾ **"And seek the witness of two just men from amongst you"** - [TMQ; 65:2] so if the witness must be just, then the Khalifah who holds a higher post and rules over the witness himself should, by greater reason, be just. For if justice was stipulated for the witness, its presence in the Khalifah must exist by greater reason."

The issue as you see is related to the Khalifah being just, that is, justice is achieved in the Khalifah so that it is one of his attributes, and not only that he governs by justice or settles dispute by justice. The kafir may judge between two rivals with justice, although the kafir who is a fasiq, is not just. Therefore the correct reference (daleel) for the condition of justice is what we mentioned; i.e. it is obligatory in the witness and by greater reason it should exist in the Khalifah.

In conclusion, the condition of justice in the Khalifah means that he is just and judges with justice. The evidence here is the presence of the condition of justice in the witness and therefore it is in the Khalifah by greater reason, and if the Khalifah is just, he will judge with justice.

As for using the noble verse as a daleel, it means the judgment with justice and not necessarily that the person who rules by justice or settles the dispute with justice have to be just. Because as we mentioned above that the kafir can judge between two rivals with justice, while he is not just, therefore the daleel we used is more correct. And Allah knows best, He is Most Wise.

It should be noted that the term "rule" used by the Arabs, i.e. in the language or so-called linguistic truth, is "to judge":

It came in the "Lisan": (And the ruling: is the science, jurisprudence and judging with justice, it is the source (masdar) of ruling (hakam, Yahkum) ... Judge: Judgment: the ruling).

In the dictionary "Al-Muheet": (Hukum with Dham vocalisation (ruling): the judgement) ... In Mukhtar Al-Sahah (Hukum: Judgment).

But this term "Hukum (rule)" is a term used in the era of the Prophet (saw) and the Khulafa' Ar-Rashidoon and the Arabs after them to mean the Hukum and the Sultan (ruling), which is the use of a term that is a "customary truth."

**Thus**, the term "Hukum" is a linguistic fact in the judgment, and a customary truth, namely a term for Hukum and Sultan.

**Your brother,**

**Ata Bin Khalil Abu Al-Rashtah**

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

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/859569700906769/?type=3&theater>

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

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/1U8J3ADqiQz>