THE ADMINISTRATIVE SYSTEM

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The running of the government's business and peoples' affairs is undertaken by offices, departments and administrations, their task is to ensure the management of the state's business and to serve the people. Each office (Maslaha) would be headed by a general manager, and each department (Da'ira) and administration (Idara) would be headed by a director who would be directly responsible. Those directors would be answerable to the director general in charge of their offices or departments or administrations from a professional side, and answerable to the Wali and the A'amil in regard of abiding by the rules and general systems.

The administrative system is a method of administration and not part of the ruling system.

The administrative system is a method used to accomplish a task, and one of its means, thus it does not require a specific evidence, it would be sufficient to have the general evidence that justifies and indicates its origin. It would be wrong to say that these methods are actions of the servant, therefore it should be conducted according to the Sharia'a rules, it would be wrong to say this because the evidence about these actions has come to cover their origin in a general context, thus it includes all the branches derived from that origin, unless a Sharia'a evidence comes to cover a subsidiary action, only then the action must follow that evidence. For instance Allah (SWT) says: [-]. T.M.Q "And do establish Zakat", which is a general evidence, then came the subsidiary evidences about that action such as the amount of Nisab, the A'amils and the categories of people from whom Zakat is to be collected; and all these are actions derived from "And do establish Zakat", and there were no evidences to be found about the method which the A'amils have to follow when collecting the Zakat, do they go riding or walking? Do they hire other employees to help them or not? Do they have to establish headquarters where they would all meet? Would they have warehouses where they would stock everything they collect? Would these houses be underground or built like grain houses? Would the cash Zakat be collected in bags or coffers? All these steps and any other similar actions are in fact subsidiary actions originating from "And do establish Zakat", and they are covered by the general evidence for there are no specific evidences for them; and this is the case with all the methods. The method is a subsidiary action to an action -i.e. the origin- that has a general evidence. Therefore it does not require an evidence for the evidence of its origin serves as evidence for it as well.

As for the establishment of the administration, i.e. the establishment of institutions that would attend and cater for the subjects needs, covering all the business that involves administrative work, this would be an original action and not a subsidiary, thus it requires an evidence, and its evidence is deduced from the actions of the Messenger of Allah (SAW); he (SAW) used to perform the rule and the administration. He (SAW) was a conveyor, an executive, and a manager of people's affairs The conveying (Tableegh) is well known, as for the execution, the revelation came and ordered him to collect the Sadaqa, to cut the hand of the thief, to stone the adulterer, to whip the slanderer and to kill the enemy, all of which are executive actions; he (SAW) used to destroy the idols by his own hands which is an execution, and he would send someone to remove them; he (SAW) used to kill and imprison, order people to observe justice and he established it, and he used to punish all the various wrongdoers and rebels and order people to adhere to all he was sent with, which is all part of his executive duties.

As for his role of managing the affairs, he (SAW) established a system of administration for the various departments and appointed secretaries to run those departments. He (SAW) used to run people's affairs in Madina and he appointed secretaries to assist him with the running of the various departments, Ali Ibnu Abi Talib used to be the notary of the oaths and treaties, and that was an administrative duty and not a ruling post; Al Harith Ibnu Auf Al Mari was in charge of his official stamp, and Mu'ayqib Ibnu Aby Fatima was the secretary in charge of the spoils and booties, Huthayfa Ibnu-l-Yaman was the collector of fruit levies of Hijaz, and Abdullah Ibnu Arqam was the registrar of tribes and their waters and so on, all these positions were administrative and not part of the ruling system. All this serves as evidence that the Messenger of Allah (SAW) run the administration in addition to his role as a ruler. However, he (SAW) has determined for each one of

those directors the type of task he had ordered them to do, such as the assessment of the spoils and booties, or the assessment and collection of fruit levies or similar. He (SAW) however did not specify the subsidiary actions which the directors would follow to accomplish their tasks, this non specification meant that those actions would the subsidiaries of that origin, therefore those ordered to carry out those tasks would have been free to chose any methods they wished to accomplish their tasks assigned to them in the simplest and most efficient way.

serving The Subjects Is Part Of Running Their Affairs

Helping people with their problems is part of the running of their affairs, and this is the duty of the Khalifa, therefore the Khalifa reserves the right to adopt any administrative method he wishes, and he can make it binding. The Khalifa has the right to enact all the laws and the administrative systems and obliges people to implement them, for these would be subsidiary actions, which the Khalifa is allowed to impose any of them and order people to implement it to the exclusion of all others, then people must obey his orders, for it would be a compulsion on subsidiaries of a rule he had adopted; to make such law binding means abandoning other laws, and this would be exactly the same as the adopting of Sharia'a rules and should treated following the same criteria. Therefore, it would be wrong to say that these methods are permitted (Mubah) and any person is entitled to adopt any system he wishes, and if the Khalifa imposed a Mubah and prohibited another, he would be forbidding the Mubah. It would be wrong to say this for by adopting a certain Method, the Khalifa would not be making a Mubah compulsory and forbidding another Mubah, he merely would be acting within the rights given to him by Sharia'a, one of which is the adoption of Sharia'a rules and anything that help accomplish them, therefore his mandatory powers which enable him to adopt the rules would also enable him to adopt the methods that would help him achieve them, therefore he is entitled to adopt them; and the subjects must abide by what he has adopted, and not use other methods if he prohibited them. This type of Mubah actions would be the Mubah used to look after people's affairs, thus it is Mubah to the Khalifa to adopt while running people's affairs, for the guardianship is his duty, and it would not be Mubah to the people at large for they do not have the mandate of guardianship. Therefore the obligation of abiding by what the Khalifa has adopted would be justified by the obligation of obedience and not by making the Mubah compulsory.

The Administration In Detail

This is as far as the administration as a whole is concerned. As for the details of the administration, these are taken from the nature of the administration itself, for by looking closely into its nature we find that some actions are performed by the Khalifa himself, or his assistants, whether these were ruling matters or execution of the Sharia'a or the administration, i.e. the fulfilling of people's minor needs and transactions, all these actions require means and styles, and that is why a special system is needed by the Khalifa to manage the affairs he needs to help him carry out the duties of Khilafa, and we also find that people have affairs which they need to conclude and these are related to the subjects, and these also require styles and means in order to conduct them, that is why a special system had to be set up in order to deal with such affairs.

This system consists of offices, departments and administrations. The office (Maslaha) is the high direction of any government office, such as education, health, agriculture, industry and others. This Maslaha would undertake the management of its own affairs and all the departments and administrations under its control. As for the department (Da'ira), it would run its own affairs and those departments under its control. The administration would also run its own affairs and the affairs of all the branches and divisions under its control. The purpose of establishing those offices, departments and administrations would be to manage the state's affairs and assist people with their problems and transactions.

In order to guarantee the smooth running of these offices, departments and administrations, directors must be appointed to take charge of them. For each Maslaha a director general would be appointed to take direct charge of the Maslaha and to supervise all the departments and administrations affiliated to it. For each department and for each administration a director is appointed to be directly in charge of those his department or his administration and responsible for the branches and divisions affiliated to it.

This was a description of the nature of the administration of Masalih (offices), or what is called the state's administrations, they represent a general system for all the subjects and for those who live under the authority of the state, they have been named the Diwan, some refer to them as the "Dawawin (pl.Diwan) of the state", and some learned scholars call the Diwan. The administration of Masalih was not in the time of the Messenger of Allah (SAW) organised in a specific way, he (SAW) used to appoint for each Maslaha a secretary who would act as the director, the secretary and everything.

Omar Ibnul Khattab was the first in the history of Islam to introduce the Diwan. The reason being that he once dispatched someone on a mission and Al-Harmazan was present, so he said to Omar: This is a mission you ordered to distribute monies to people, so if anyone missed out, and stayed put how would your friend know about it? Why don't you keep a record (register - Diwan) for this? So Omar asked him about the Diwan and he explained it to him. Abid Ibnu Yahya reported on the authority of Al-Harith Ibnu Nufayl that Omar consulted the Muslims about the recording of Dawawin so Ali Ibnu Abi Talib suggested: You divide all the money you collect each year and you do not keep any of it. Ohtman Ibnu Affan said: I see that there is a lot of money being distributed among people and if they are not counted to know who has taken and who has not, I fear that the matter could get out of hand. Upon this Al-Waleed Ibnu Hisham Ibnu-l-Mugheera said: I was in Al-Sham and I noticed that its kings had introduced a Diwan and recruited soldiers, why don't you do the same? So he took his advice and summoned Aqeel Ibnu Abi Talib and Makhrama Ibnu Nawfal and Jubayr Ibnu Mat'am who were young men from Quraysh and said: Prepare a house to house census.

When Islam reached Iraq, the Diwan of payments and money collection continued to be in use as it was before. The Diwan of Al-Sham was in Roman for it had been part of the Roman kingdoms, and the Diwan of Iraq was in Persian for it had been part of the Persian empire. And in the time of Abdul Malik Ibnu Marwan the Diwan of Al-Sham was transferred to Arabic in the year 81 hijri. Then several Dawawin were set up according to necessity and depending on the need for them in running people's affairs. Dawawin for the armed forces were introduced for registration and grant purposes, other Dawawin were introduced to record the fees and claims of all transactions, another Diwan was introduced for the A'amils and Walis recording each appointment and each removal, other Dawawin were used in the treasury (Bayt-ul-Mal) to record transactions and so on. The introduction of a Diwan was according to the need for it and its style varied over the years due to the difference in styles and means. A president was appointed for each Diwan, and so were other employees, and in some cases the president was allowed to appoint the employees himself.

Therefore, a Diwan would be set up according to the need so would the styles and means that would help the fulfilment of that need , and it is permitted to have different styles and means according to the era, or Wialya or country.

As far as the responsibility of the civil servants is concerned, they are hired employees and at the same time citizens; they are at a professional level answerable to their head of the department i.e. the director of the Da'ira, and as citizens they are answerable to the rulers whether the Walis or the assistants and answerable to the Khalifa, they are to abide by the sharia'a rules and the administrative systems.

THE POLICY OF ADMINISTRATION

The policy of administration is based on simplicity, speed in processing the transactions and in the competence of the administrators. This is taken from the nature of processing the transactions, for the person who requires a service needs to have it quickly and efficiently processed, and the Messenger of Allah (SAW) said: "Verily Allah has enjoined the goodness to everything; so when you kill, do so in a good way and when you slaughter, slaughter in a good way." Therefore the goodness in serving people is ordered by the Sharia'a, and to achieve this the administration should observe three qualities: the simplicity of the system, which would lead to the easiness of the process while complication leads to hardship, the speed in processing the transactions, and this would spare people the unnecessary delay, and the ability and competence of the employees and this is enjoined by the goodness in the task and required in the performance of the task itself.

Those Who Are Eligible To Work In The State's Departments

Anyone who holds the citizenship and is competent, man or woman, Muslim or non-Muslim is eligible to be appointed as a director of any Maslaha or to be an employee in a Maslaha. This is taken from the rules of (Ijara) hiring; it is permitted to hire any person whether Muslim or non-Muslim. This is so because the evidences of hiring are general and unspecific; Allah (SWT) says: [-] T.M.Q "And if they breast fed for you, do give them their wage. and that is a general evidence. The Messenger of Allah (SAW) said: Verily the worker should get his wage when his job is completed. And this evidence is also general; and the Messenger of Allah (SAW) did once hire a man from Bany Al-Deel who was a non_Muslim, this indicates that it is permitted to hire a non-Muslim just like the hiring of a Muslim. And it is also permitted to hire a woman just like the hiring of a man following the generality of the evidences.

Therefore, it is permitted for a woman to be a director of a government department or to be one of its employees, and it is permitted for the non-Muslim to be a director of a government department or an employee in that department, for they are hired staff, and the evidences about hiring are general. As for the citizenship requirement for eligibility, this is because the citizen is covered by the implementation of the rules, and the rules are not implemented on those who do not hold the citizenship i.e. those who do not settle in the Islamic household even if they were Muslims, for the Messenger of Allah (SAW) said while instructing the Amir of the Armed forces: Then ask them to emigrate from the their household to the household of the Muhajireen, and inform them that if they did they would enjoy the same rights as the Muhajireen and be subjected to the same rules. This means that if they did not emigrate they would not have the same rights and they would not necessarily have the same duties even if they were Muslims. Therefore, the persons referred to here are those whom the rules are implemented upon. Otherwise, it is permitted to hire those who do not hold the citizenship due to the generality of the evidence about hiring.

The Civil Servants Are Hired Staff

The state's directors and employees are hired staff in accordance with the rules of hire. Their appointment, removal, transfer and censure would be carried out by their directors at their respective head offices and according to the administrative systems. This is deduced from the rules concerning the hired personnel. Employer and employee should abide by the contract of hire, for the contract is binding on both sides according to what has been contracted. It would be for instance unlawful to remove the employee before the term of contract has expired. Abiding by the general administrative rules form part of the conditions laid out in the contract; and these must be honoured. The Messenger of Allah (SAW) said: The Muslims should honour their conditions. As for the transfer of personnel from one place to another, this should also be subject to the contract.

The responsible for hiring, transfer, censure and dismissal would be the director general of their respective department, office or administration, for he is in charge of their place of work, and he is the one with the powers derived from the responsibility assigned to him.

The Council Of The Ummah

It is a council formed by personalities representing the opinion of the Muslims at large, and whom the Khalifa can refer to in order to consult them in certain issues. They are the representatives of the Ummah in holding the rulers accountable, this is deduced from the Messenger of Allah's (SAW) nomination of fourteen chiefs (Nuqaba') from the Ansar and the Muhajireen to refer to them in order to consult them about certain matters. This indicates that it is permitted to set up a special council that would represent the Ummah in holding the rulers accountable, and in the Shura which is confirmed by texts from the Qur'an and the Sunnah. It is called the council of the Ummah because it represents the Ummah in accounting and consultation.

It is permitted for non-Muslims citizens to be members of the council, in order to file complaints against any injustice perpetrated against them by the rulers or against any bad implementation of Islam upon them.

The Right Of The Shura

The Shura is the right of all the Muslims that the Khalifa should fulfil, they are entitled to be consulted and the Khalifa should refer to them and consult them in certain matters. Allah (SWT) says: [-] T.M.Q. " And do consult them in the matter, and if you decide put your trust in Allah and act." The Messenger of Allah (SAW) used to refer to people and consult them. He (SAW) consulted them in the day of Badr about the position of the battlefield and he did consult them in the day of Uhud about whether to fight inside or outside Madina, and in the day of Badr he took the advice of Al-Habbab Ibnu-l-Munthir , it was a technical opinion voiced by an expert so he accepted it. And in the day of Uhud he accepted the opinion of the majority despite the fact that his personal opinion was different. Omar Ibnul Khattab consulted the Muslims regarding the land of Iraq in whether to divide it among the Muslims because it was a booty or to leave it in the hands of its people with the condition that they paid its Khiraj while the land remains the property of the Treasury. Then he acted according to his own Ijtihad and the majority of the Sahaba approved of it, so he left the land in the hands of its people and ordered them to pay the Khiraj. He also removed Sa'ad Ibnu Abi Waqqas from his Wialya because of complaints about him and he said: I did not remove him because of a betrayal or a weakness.

And as well as having the right to Shura on the Khalifa, the Muslims should also holding the rulers accountable about their actions and behaviour. Allah (SWT) has commanded the Muslims to hold the rulers accountable and He (SWT) strongly directed them to account the rulers and be firm with them if they violated the rights of the subjects or if they neglected their duties towards them or if they ignored any of their concerns or if they violated the rules of Islam or ruled by other than what Allah has revealed. Muslim reported on the authority of Umm Salma that the Messenger of Allah (SAW) said: Amirs will be appointed over you, and you will find them doing good as well as bad deeds. He who hates their bad deeds is absolved from blame. One who disapproves of their bad deeds is (also) safe (so far as divine wrath is concerned). But one who disapproves of their bad deeds and imitates them is (doomed).

The Sahaba on some occasions did disapprove of some of the Messenger of Allah's (SAW) actions and they held him accountable ; Omar strongly protested against part of the treaty of Al-Hudaybyya, the article in question was the following: Anyone who comes to Mohammed from Quraysh without the permission of his guardian would be returned to them, and whoever came to Quraysh from among those who were with Mohammed they need not be send back.

The Muslims, especially Omar did at first disown the action of Abu-Bakr when he decided to fight the apostates. Talha and Al-Zubayr also disowned his action when they learned that he was to nominate Omar to replace him. Bilal Ibnu-Rabah, Al-Zubayr and others disowned the action of Omar when he decided not to divide the land of Iraq among the fighters. A woman also challenged Omar when he decided to fix the dowries at 400 Dirhams, so she said to him: O Omar it is not up to you. Did you not hear Allah's (SWT) saying: [-] T.M.Q. "Even if you gave your wives a kantar of riches, do not take any of it." Upon this Omar said: The woman is right and Omar was wrong. Therefore, the council of theUmmah has the right to theShura, and is obliged to hold the rulers accountable.

Electing The Members Of The Council Of The Ummah

The members of the Ummah's council are elected and not appointed, for they are representatives of the people in the voicing of opinions, and the representative should be chosen by the person he represents, and the representative should never be imposed on the mandator. Since the members of the Ummah's council are representatives of the people's opinion , whether they are individuals or groups, and since knowing the representative of a large area and the unknown folk does not come about unless this representative is chosen by them. And also because the Messenger of Allah (SAW) did not choose those whom he consulted and asked their opinion according to their ability, competence and personalities, but he chose them on two bases: First because they were chiefs among their folks, regardless of their ability and competence, and second because they represented the Muhajireen and the Ansar, each half representing their respective folks. The reason for the presence of the people of the Shura is because they represent people, therefore the tenet on which the Ummah's council members are chosen should be the representation of people, as was the case of the deliberate selecting of the chiefs to represent the groups, and the deliberate selecting from the Muhajireeen and the Ansar by equal shares. This representation of the groups and individuals who are unknown cannot be achieved except by election, therefore the members of the Ummah's council have to be elected. As for the fact that it the Messenger of Allah (SAW) himself who chose those he was about to consult, this was because the area in question was small which was the Madina, and because the Muslims were known to him; whereas in the second Baya'a of Al-Aqaba, the Muslims who gave him the Baya'a were not known to him, and that is why he left the matter of choosing the leaders to them, and he said: Choose from among you twelve leaders.

Therefore, we can conclude that the members of the Ummah's councils represent the opinion of the Muslims at large. The reason for which the council has been founded was to represent the individuals and groups in voicing their opinions and in holding the rulers accountable, and this cannot be achieved if the persons were not known unless there was a general election. This concludes that the members of theUmmah's council should be elected and not appointed.

The Length Of Term Of The Membership To The Ummah's Council

The term of membership to the council of the Ummah is limited. This is so because Abu Bakr was not restricted to consult those to whom the Messenger of Allah (SAW) used to refer. Omar Ibnul Khattab also was not under obligation to consult those whom Abu Bakr used to consult; and in the latter years of his rule, Omar sought the opinions of persons other than those he had consulted in the first years of his rule. This indicates that the membership to the council of the Ummah has to be for a specific period.

Membership Of The Council Of The Ummah

Any person that hold the citizenship of the state, if he were mature and sane, has the right to be a member of the council of the Ummah, and he has the right to elect the members of the council, whether the person was a man or a woman, a Muslim non-Muslim. This is so because the council of

the Ummah is the people's representative in the opinion only, and has no mandate to rule and legislate, and since it was a representative in voicing opinions, people in the Islamic state have the right to delegate whoever they wished from among those who lawfully qualify for deputyship. And just like the Muslim, the non-Muslim has the right to voice his opinion regarding the way Islam is implemented on him, and regarding any possible unjust act perpetrated against him by the ruler; he therefore has the right to have any representative he wished, and to represent anyone he wished, the representative and the represented do not have to be Muslims, they can both be Muslims or non-Muslims. This is why it is permitted for non-Muslims just as it is for Muslims, to elect their representatives to the council of the Ummah, Muslims or non-Muslims as long as they hold the citizenship of the state.

Besides, Islam looks upon the subjects under its rule from a purely human viewpoint, regardless of the sect, race, or sex. The ruling policies designed for them would be founded on that basis, so that the rule achieves the benefit for humanity, taking it out of the darkness into the light. Therefore, the citizens are equal in terms of rights and duties related to the human in his quality as a human, as far as the implementation of the Sharia'a rules on everyone is concerned. When the judge settles the disputes and when the rulers rules, they do not differentiate between people, but they treat them as equals in their quality of citizens and nothing else. Therefore, each citizen has the right to voice his or her opinion and to choose his or her representative to express his opinion and that of his electors. This is so because Allah (SWT) has addressed all people with Islam in their quality as humans and nothing else: He (SWT) says: [-] T.M.Q. "O you people, a proof has come to you from your Lord, and we have revealed to you a shining light." And He (SWT) also says: [-] T.M.Q. "O you people, I am the Messenger of Allah sent to all of you." The scholars have consented, especially the scholars of Usul (foundations), that the Sharia'a rules are addressed to every sane person able to understand the address, whether he were Muslim or not, male or female.

This is as far as the non-Muslims are concerned. As for the woman, it is because the council of the Ummah is not part of the rule and is not subject of the hadith of the Messenger of Allah related to the woman's rule, and because it has been confirmed that when Omar had a problem brought to his attention and he wanted to consult the Muslims about it, whether the problem was related to the Sharia'a rules (legislation) or related to the rule or any other matter that related to the state, he would summon the Muslims to the mosque, and he used to summon the men and the women and ask them all for their opinion. He on one occasion reversed his opinion when a woman pointed out to him that it was wrong to fix the dowries. In the thirteenth year of his prophethood, i.e. the year he emigrated, came to the Messenger of Allah (SAW) seventy-five Muslims, among them two women, and they all gave him the second Baya'a of Al-Aqaba, which was a Baya'a of war and fighting, and a political Baya'a; and once they all gave their Baya'a he said to them: Bring me twelve leaders (Naqeebs) from among you who would have authority over their folk. And this order was addressed to everyone, to select from among everyone present, he (SAW) did not specify whether they should be men of women, and he did not exclude the women, neither in regard to who is to select nor in regard to who should be selected. The Mutlaq (unrestricted) rule should be taken as such unless there is evidence about its restriction, and the A'am (general) rule should also be taken as such unless there is an evidence that restricts it. And this case the speech was unrestrictive and general, no evidence of specification or restriction has been confirmed, this indicated that the Messenger of Allah (SAW) ordered the two women to elect the Naqeebs, and gave them the right to be chosen as Naqeebs from among the Muslims.

The Messenger of Allah (SAW) sat once to take the Baya'a from people, Abu Bakr and Omar sat with him, men and women gave him the Baya'a, and that Baya'a was a Baya'a of rule and not of Islam for the women were Muslim. And after the Baya'a of the Rudhwan in Al-Hudaybyya the women gave him their Baya'a too. Allah (SWT) says: [-].

And this Baya'a was a Baya'a of rule as well for the Qur'an states that the women were believers, and the Baya'a was that they would not disobey him. Besides, the woman has the right to commission and be commissioned in voicing an opinion, for she has the right to voice her opinion, so she can choose her representative, and because the deputyship does not necessitate manhood, she has the right to represent those who elect her.

Despite all this, non-Muslims would not be allowed to voice their opinion in matters related to legislation, because the Islamic legislation emanates from the Islamic Aqeeda, it is a host of practical Sharia'a rules deduced from their elaborate evidences, and because they treat the human's problems according to a specific viewpoint outlined by the Islamic Aqeeda; the non-Muslim embraces a doctrine that is alien and contradictory to the Islamic Aqeeda, and his viewpoint about life contradicts the Islamic viewpoint, so his opinion is not to be taken in matters of legislation. The non-Muslim does not have the right to vote the Khalifa, nor to nominate the final candidates from whom the Khalifa is to be elected, for he has no right in the rule. As for other matters that form part of the Ummah's council mandatory powers, he is just like the Muslim in these matters and in voicing an opinion about them.

The Mandatory Powers Of The Council Of The Ummah

The council of theUmmah has four mandatory powers and they are:

1- A: All the home affairs to which the word Mashura (consultation) applies should be subject to the council of the Ummah's opinion, such as the matters of rule, education, health, economy and other similar matters, the opinion of the council would be binding. And any matter that is not subject to consultation must not be referred to the council to give its opinion. The council should not be consulted in matters of foreign policy, finance and the armed forces

B: The council of the Ummah reserves the right to hold the rulers accountable on all matters that take place effectively within the state, whether these were related to home affairs, or foreign affairs, or economic affairs or military matters. The opinion of the council is binding if the majority's opinion in such matter were binding, and it is not binding if the majority's opinion in such matter is not binding. If the council and the rulers differed about an action from a Sharia'a side, the matter should be referred to the court ofMathalim.

2- The council of the Ummah reserves the right to express discontent towards the Walis or the assistants, its opinion is such case would be binding and the Khalifa should dismiss them at once.

3- The Khalifa refers the rules he decides to adopt in the constitution and in the laws to the council of the Ummah. The Muslim members of the council have the right to debate them and voice their opinions regarding those rules, however their opinion is not binding.

Any member of the council reserves the right to suggest the adoption of any rule and the enacting of any law, however those proposals are not binding on the Khalifa even if the council endorsed such proposals.

4- The Muslim members of the council reserve the right to restrict the nomination of candidates to the Khalifa post, their opinion in such matter is binding, candidates other than those put forward by the council should not be considered.

The Mandatory powers of the council of the Ummah is comprised of four articles, and the first article is divided into two sections. The evidence about section A is derived from Allah's (SWT) saying : [-] T.M.Q. "And do consult them in the matter." And His (SWT) saying: [-] T.M.Q. "And their affairs are consultation between them." So He (SWT) made the Shura general in every matter, for he (SWT) says: T.M,Q. "In the matter.", and He (SWT) says: T.M.Q. "And their affairs." and in both cases the terms are general. However this Shura would only apply to the Mubah matters, and

this indicates that it is desirable (Mandub) and not compulsory (Wajib). Therefore the Khalifa is not obliged to refer to the Ummah in every matter. However, since some of the opinions voiced by the council of the Ummah were binding, the Khalifa should refer to the council in matters where its opinions would be binding. He would not be obliged to do so in matters where the council's opinions would not be binding; and both these issues are subject to the nature of the council itself and the nature of the existing opinions in the world; once the nature of these two issues, reference should be made to the Qur'an and the Sunnah, in order to implement the relevant evidences on that reality. As for the nature of the council of the Ummah, it is the deputy of the people in voicing opinions; therefore, every matter where people's opinion is taken, the council of the Ummah is consulted to voice its opinion. And the rules of deputyship apply to the council, one of which is the deputyship in voicing opinions. As for the nature of the opinions which exist in the world, these are four:

1- Opinion on legislation (Tashri').

2- Opinion on intellectual matters whether Sharia'a related or not.

3- Opinion that requires research and deep study, and the technical opinion that requires expertise.

4- Opinion that offers guidelines to an action to be taken And by referring to the Sharia'a rules which apply to these opinions, we conclude that the Messenger of Allah (SAW) did reject the majority's opinion to apply the Sharia'a and stuck to what the Revelation dictated, i.e. he held on to the Sharia'a rule; that was in the treaty of Al-Hudaybyya, he rejected the opinion of all the Muslims and said: I am a servant of Allah and His Messenger, and I will not disobey Him. And we find that the Messenger of Allah (SAW) did accept the opinion of the individual and renounced his own opinion, without seeking the other Muslims' opinion, and that was at Badr; when he (SAW) encamped at the lowest water point of Badr, Al-Habbab Ibnu-l-Munthir was not happy about this, so he said to the Messenger of Allah (SAW): O Messenger of Allah, is your decision to camp here an order from Allah, so we cannot go forward or retreat, or is it just an opinion, shrewdness and war tactics? The Messenger (SAW) said: It is only an opinion, shrewdness war tactics. So he said: O Messenger of Allah, this is no place to camp, then he pointed to another place, and soon the Messenger and those with him got up and followed the opinion of Al-Habbab. In those two events, the opinion of the people had no value in deciding the matter, this indicates that in any matter considered to be of a Sharia'a nature, people's opinion is not sought, thus the Sharia'a rules are subject to people's opinions. The same would apply to the Sharia'a related intellectual opinion. And for what is subject to the "expert opinion and war tactics", i.e. part of the opinion that requires research and deep study, and part of the technical matters which require expertise. People's opinions would not be sought in such matters, and the same applies for the matters not related to Sharia'a. Therefore, people's opinion would not be sought in regard to money collection and expenditure, for Sharia'a has specified the types of monies that should be collected, and also determined when the taxes should be imposed, and also it has determined how the monies collected should be spent, all this with Sharia'a rules. So people's opinion would not be sought in matters decided by Sharia'a, hence the Ummah's council's opinion would not be taken in financial policy. The people's opinion would also not be sought in military matters, for the Sharia'a has made it the Khalifa's business, and has determined the rules of Jihad, thus people's opinion would be irrelevant in matters decided by Sharia'a. Also, their opinion would not be sought in regard to the relationship of the state with the other states, because this would be part of the opinion that would require research and deep study, so it is like the "expert opinion, the shrewdness and war tactics" type. Therefore, the council of the Ummah would not be consulted in matters related to foreign policy, finance and the armed forces, because the council's opinion is not binding in such matters, as confirmed by the evidence deduced from the Messenger of actions in al-Hudaybyya and in Badr. Therefore the Khalifa would not be under obligation to consult the council of the Ummah in these matters.

As for the first section of this paragraph i.e. section A, its evidence is derived from the fact that the Messenger of Allah (SAW) accepted the opinion of the majority at Uhud, and he abandoned his own opinion and that of the senior Sahaba, so he went to meet the enemy outside Madina, which was the opinion of the majority of Muslims, his own opinion was not to go out to meet them, this indicates that in such matters the opinion of the Muslims is sought and is binding, this would be in the matters that do not require research and deep thinking, i.e. in non Sharia'a related matters and in other than the matters that require intellectual opinion, and the opinion that requires research and deep study. By confining the opinions to four types, and by listing evidence that in three out of the four types of opinions the people are not consulted, there remains only one case where the opinion of people is sought, which is similar to the Messenger of Allah's action when he went along with the majority , this explains that the saying of the Messenger of Allah (SAW) when he addressed Abu Bakr and Omar: "If you two agreed on a Mashura (consultation), I would not object to it.", that it is not a Sharia'a related opinion and not an intellectual opinion, nor is it part of the opinion that requires research and deep study, nor is it a technical matter requiring an expert opinion; the hadith means that: I would not object to the opinions that would offer guidelines to actions to be taken. Therefore, the Khalifa should consult the council of the Ummah in all the opinions that would offer guidelines to actions to be taken; he would refer to the council in ruling matters, education matters and every Mubah matter not determined by Sharia'a and related to home affairs. So every matter that is not part of the "expert opinion, shrewdness and war tactics", and not part of the matters determined by Sharia'a, the Khalifa should refer it to the council of the Ummah and seek its opinion in the matter and act on the opinion of the majority.

As for the section B of the first paragraph, its evidence is deduced from the generality of the texts related to the holding of the rulers accountable; Al-Tabarani reported on the authority of Ubada that the Messenger of Allah (SAW) said: After me your affairs will be run by men who will approve of what you disown and disown what you approve of. There should be no obedience to he who disobeys Allah. And on the authority of Abu Shiba the wording was as follows: Amirs will rule over you and will order you by what you disapprove, and they will perform what you disown, so do not obey them. It has been reported that the Messenger of Allah (SAW) said: To Allah, the best Jihad is a word of truth uttered in the court of a tyrant ruler. In a Sahih hadith, he (SAW) said: The master of martyrs is Hamza, and a man who stood up to a tyrant ruler to advise him and got killed. The Messenger of Allah (SAW) also said: He whom a Wali is appointed to rule over him, and saw him committing an act of rebellion, he should disown that act without disobeying the Wali. Umm Salma reported that the Messenger of Allah (SAW) said: Amirs will be appointed over you, and you will find them doing good as well as bad deeds. One who hates their bad deeds i absolved blame. One who disapproves of their bad deeds is also safe, but one who approves of their bad deeds and follows them is doomed. These texts are general and indicate that holding the rulers accountable would cover all their actions, whether they were related to home or foreign policy. When the Sahaba held the Messenger of Allah accountable and disowned the treaty of Al-Hudaybyya, he (SAW) did not rebuke them because they held him accountable but simply rejected their opinion, and he (SAW) rebuked them because they disobeyed him in that matter and what he did was in response to the Revelation, that is why he rejected their opinion. His action (SAW) was a command from Allah (SWT) i.e a revelation; he (SAW) did not rebuke them for holding him accountable, and also Al-Habbab Ibnu-l-Munthir accounted the Messenger of Allah (SAW) when he encamped at the lowest water point of Badr and he said: O Messenger of Allah, (the hadith.....). And the Messenger of Allah did not disown him but accepted his opinion. And this indicates that the accounting covers all types of actions, whether these were related to the home policy, or to other matters such as finance, or the armed forces or foreign policy or similar. There is a difference between seeking the opinion and the accountability, for the Khalifa is not obliged to seek an opinion except in the matters where the Shura is compulsory, i.e where the opinion of the majority is binding. As for the accountability, the Khalifa is held accountable in every action. However, although the accountability is general, the

Khalifa does not abide by the opinion of those who account him except in the matters where the majority's opinion would be binding, otherwise, he is not obliged to accept the majority's opinion. This is why the Messenger of Allah (SAW) did not take the majority's opinion into consideration in Al-Hudaybyya, and by contrast, he accepted the opinion of Al-Habbab Ibnu-l-Munthir at Badr, and in both occasions the opinion was not binding. Therefore, it is permitted for the Khalifa to accept or reject the majority's opinion when he is held accountable. It would be wrong to say what is the point is accounting him if he not obliged to consider abiding by this accountability? It would be wrong to say this for the accounting is a Sharia'a rule, and it must be carried out, and it is a duty of sufficiency. Besides, the nature of the accounting is that it uncovers the opinion and makes it clearer and it helps highlighting the public opinion, which is a stronger weapon than the armed forces, and the rulers fear it everywhere. That is why it is very beneficial.

Besides, the persons who hold the rulers accountable could differ with them in certain matters from a Sharia'a side, in which case the matter would be referred to the court of Mathalim for Allah (SWT) says: [-]. T.M.Q. "O you who believe obey Allah and obey the Messenger and those in authority among you. If you disputed about a matter, refer it to Allah and the Messenger." This means that if you Muslims disputed with the people in authority about something, refer to Allah and the Messenger, i.e. to the Sharia'a. To refer to Sharia'a means to refer to the judiciary, and that is why the matter should be referred to the court of Mathalim.

As for the second article, its evidence is deduced from the fact that the Messenger of Allah (SAW) removed Al Ala' Ibnu-Hadhrami, his A'amil over Bahrain, because the delegation of Abd Qays complained about him. Also, Omar Ibnul Khattab dismissed Sa'ad Ibnu Aby Waqqas just because a complaint was filed against him, and he said: I did not remove him because of incompetence nor because of a betrayal. Nobody in fact condemned his action despite the fact that such action is usually condemned. This would mean that the silence over this matter was regarded as a general consensus confirming that the people of the Wilaya have the right to express their discontent over their Wali, and that the Khalifa in this case should dismiss him, and also, the council of the Ummah reserves the right, in its quality as representative of the all the Wilayas to show discontent over the Walis, and the Khalifa in this case should dismiss them.

As for the third article, although it is part of where the Khalifa is not obliged to refer to the council of the Ummah, for its opinion would not be binding, the actions of Omar Ibnul Khattab, which the Sahaba did not condemn, serve as evidence that the Muslism could be consulted in matters of legislations, for he used to consult the Muslims over the Sharia'a rules. It has been reported that Omar Ibnul Khattab consulted people over the issue of Al-Sawad (land of Iraq) when it was conquered, most of them thought that it should be divided, then he consulted the first Muhajireen and they differed, so he sent for ten people of the Ansar, five from Al-Aws and five from Al-Khazraj, and after lengthy debates, they agreed that the right opinion is that of Omar, ant that the land should not be divided. It has also been reported that Omar used to consult the Muslims regarding Allah's rule on a matter, the Sahaba used to witness this and used to come to the mosque and give their opinion, despite the fact that they knew that Omar was a Mujtahid, and the Mujtahid should refer to the Sharia'a evidence to extract the Sharia'a rule, and not to the Muslims, so if his referring to the Muslims had not been a lawful matter they would have condemned it, therefore, their participation indicates the general consensus that states that the Khalifa is permitted to approach the Muslims and ask about the rule of Allah, so it would be one of the mandates given to the Muslim members of the council of the Ummah to look into the legislative matters, however their opinion is not binding, for the rule is adopted when its evidence outweighs the other evidences.

The non-Muslim members of the council have no right to debate matters of legislation, for they do not believe in Islam, and they are only entitled to voice an opinion and not to the Shura, for the Shura is exclusive to the Muslims For Allah (SWT) says: T.M.Q. " And do consult them." i.e. the Muslims.

As for the fourth article, what has been confirmed is that the Muslims asked Omar in the wake of his stabbing, and when he lost hope of surviving, to name a successor but he refused, then they pressed him so he nominated six persons, and this was a silent general consensus, which proves that the Muslim members of the council of the Ummah reserve the right to restrict the candidates to the Khilafa post, and their opinion on that matter is binding, for it has been confirmed that Omar commissioned fifty persons to monitor the six candidates' progress and ordered them to kill the objector from among them, having given the six a time not exceeding three days; this indicates that the opinion in such matter is binding. As for the non-Muslims, they have no right in nominating the candidates, because the Baya'a is a matter for the Muslims only.

The Right Of Expression And Voicing An Opinion Without Impediment

Every member of the Ummah's council has the right to speak and voice an opinion as he wishes without any pressure and within the limits allowed by Sharia'a. The member would be a deputy of the Muslims in opinion voicing and in holding the rulers accountable, therefore his job would be to study closely the activities of the Khalifa or any ruler in the state or any civil servant in any of the state's departments and offices. His duty is to hold all of those accountable, giving them advice and suggestions, voicing his opinions and enter with them in debates, objecting to all the wrong actions performed by the state. He does all this in lieu of the Muslims who are commanded to enjoin the goodness and forbid what is evil, and to hold the rulers accountable, give advice and suggestions, because this is a duty upon the Muslims; Allah (SWT) says: [-]. And He (SWT) says: [-]. Allah (SWT) also says: [-].

Many ahadith have been recorded indicating the obligation of enjoining Ma'aruf and forbidding the Munkar, such as his (SAW) saying: By He Who owns my soul, you would enjoin Ma'aruf and forbid the Munkar, or Allah may inflict upon you a punishment from him, you would then supplicate Him and your supplications would go unanswered. He (SAW) also said: If anyone among you sees a Munkar, let him change it with his hand, if he could not, let him then change it with his tongue, and if he could not, then with his heart. And that is the least of Iman.

These verses and ahadith commands the Muslims to enjoin the Ma'aruf and forbid the Munkar; and holding the rulers accountable is part of the enjoining of the Ma'aruf and the forbidding of the Munkar. Some ahadith in fact specifically order the holding of the rulers accountable, this highlights the importance of such duty; Umm Atyya reported on the authority of Abu Sa'id that the Messenger of Allah (SAW) said: The best of Jihad is a word of truth before a tyrant ruler. This is a text in the censure of the ruler, and the obligation of uttering the word of truth in his face, and regarding it as Jihad, the best form of Jihad even. Allah's Messenger (SAW) exhorted this type of Jihad and made it very desirable even if it led to the loss of life, as mentioned in the Sahih, he (SAW) said: The master of martyrs is Hamza, and a man who stood up to a tyrant ruler to advise him and got killed.

The Sahaba, may Allah be pleased with them, did hold the Messenger of Allah (SAW) accountable, and they held the Khulafa' Al-Rashidoon accountable too; the Messenger of Allah (SAW) did not censure them for holding him accountable nor did the Khulafa' Al-Rashidoon. The Messenger of Allah (SAW) took the advice of Al-Habbab Ibnu-l-Munthir in the battle of Badr, and at Uhud, he (SAW) went along with the opinion of the majority who suggested that they should confront Quraysh outside Madina, despite the fact that he saw otherwise; in the day of Al-Hudaybyya, the Muslims objected strongly especially Omar, and at Hunayn, the Ansar were angered by the fact that the Messenger of Allah (SAW) handed out the booties to the ones whom he wanted to win over without allocating a share for them.

The Sahaba held Omar accountable while he was standing on the pulpit because of the way he divided the Yemeni cloaks; a woman challenged him when he tried to fix the dowries; the Sahaba also objected to his refusal to divide the lands of Iraq, Al-Sham and Egypt after they had been

conquered, Bilal and Al-Zubayr where among the main objectors, Omar debated with them and consulted otherSahaba until they were convinced.

Therefore, any member of the council of the Ummah, in his quality as representative of the Muslims at large, has the right to speak in the council as he pleases, and to voice his opinion as he wishes, without any hindrance and without any pressure. He has the right to hold the Khalifa accountable, as well as the Mu'awin, the Wali and any civil servant. They are obliged to answer him as long as he is abiding by theSharia'a rule in his role of holding the rulers accountable and of voicing his opinion.

Islam Must Be Implemented As A Whole And Simultaneously The Gradual Implementation Of Its Rules Is Forbidden

The Holy Qur'an was revealed to the Messenger of Allah (SAW) in parts according to the developments and the events, and each time a verse was revealed, he (SAW) would convey it at once, if the verse contained a command he (SAW) and the Muslims would at once execute it; and if the verse contained a prohibition, he (SAW) and the Muslims would at once refrain and abstain from doing it. The implementation of the rules used to take immediate effect after their revelation, without any delay. The rule that was revealed would become due for implementation and execution the moment it is revealed, whatever the rule was, until Allah (SWT) completed this Deen and revealed His saying: [-] T.M.Q "Today I have completed your Deen for you..." After the revelation of this verse, the Muslims became under the total obligation to implement and execute all the rules of Islam, whether these were related to the Aqa'id (doctrines), or the Ibadat (rituals), or the Akhlaq (morals), or the Mu'amalat (transactions); and whether these transactions were between the Muslims themselves, or between the Muslims and the ruler who rules over them, or between the Muslims and other peoples, nations and states; and whether these rules were related to the rule, or the economy, or to the social matters, or to the foreign policy in peace and in state of war. Allah (SWT says: [59 -7] T.M.Q " Whatever the Messenger brought you take it; and whatever he forbids you abstain from it. And fear Allah, for Allah's punishment is very severe." This means take and act by whatever the Messenger of Allah has brought to you, and abstain and keep away from whatever the Messenger of Allah has forbidden you, this is so because the relative pronoun "Ma" in the verse,-translated as whatever-, is a form of generalisation, so it contains the obligation to perform all the duties, and to abstain and avoid all the prohibitions. This command mentioned in the verse is a decisive request, thus it is obligatory, and this is deduced from the following command to observe piety, and the threat of the severe punishment for he who does not take whatever the Messenger of Allah (SAW) brought and does not abstain from whatever he forbade. Allah (SWT) also says: [5 - 49]. T.M.Q. "And judge between them according to what Allah has revealed, and do not follow their whims, and beware of them lest they tempt you away from some of which Allah has revealed to you."

This is a decisive command from Allah to His Messenger, and to the Muslim rulers after him (SAW), confirming the obligation of ruling by all the rules that Allah (SWT) has revealed, whether they were orders or prohibitions, because the word "Ma" (whatever) is a form of generalisation, this means it includes all the revealed rules.

Allah (SWT) had prohibited His Messenger and the Muslim rulers after him from following people's whims and from yielding to their desires, for He (SWT) said: T.M.Q. "And do not follow their whims."

Allah (SWT) also warned His Messenger and the Muslim rulers after him against falling prey to people's temptations and from being lured away from the implementation of some of the rules which Allah (SWT) has revealed. He (SAW) was commanded to implement all the rules which Allah (SWT) has revealed to him, whether they were orders or prohibitions, without paying attention to what the people want, for He (SWT) says: T.M.Q "And beware lest they tempt you away from some of what Allah has revealed to you." Allah (SWT) also says: [5 - 44] T.M.Q. "And those who rule by

other than what Allah has revealed, they are the disbelievers." In another verse He (SWT) says: [-] T.M.Q. "...They are the wrongdoers." And in a third verse He (SWT) says: [-] T.M.Q. "...They are the rebels." Allah (SWT) has labelled in these three verses those who do not rule by all the rules He has revealed as being disbelievers, wrongdoers and rebels, this is so because the "Ma" in the verses refers to the form of generality, so it includes all the Sharia'a rules which Allah (SWT) has revealed, whether they were commands or prohibitions.

Everything mentioned so far indicates clearly and conclusively, without any shade of a doubt, that all the Muslims, whether they were individuals, groups or a state are obliged to implement the rules of Islam as a whole, as Allah (SWT) ordered, without any delay, procrastination or gradation; it also indicates that no individual, no group, nor a state have any excuse for the non-implementation.

The implementation must be complete, comprehensive and simultaneous, and not gradual. The gradual implementation contradicts the rules of Islam totally, and it renders those who implement some of the rules, and those who abandon some of the rule, sinful before Allah, whether they were individuals, groups or a state.

The duty remains always a duty, and it should be observed, and the prohibition remains always a prohibition, and it should be avoided. The Messenger of Allah (SAW) rejected the proposal of Thaqeef when they sent a delegation and offered to embrace on condition that they kept their idol Al-Lat for three years to come, and that they are exempted from Salat. He (SAW) rejected this out of hand, and he insisted that the idol should be destroyed at once and that they should observe Salat without any delay.

Allah (SWT) has made the ruler who does not implement all the rules of Islam, or the one who implements some of them and ignore the others, a disbeliever if he did not believe in the validity of Islam, or if he did not believe in the validity of some of the rules of Islam. And He (SWT) made him a wrongdoer and a rebel if he did not implement all the rules of Islam, or if he did not implement some of them without however denying the validity of the implementation of Islam.

The Messenger of Allah (SAW) ordered the fighting of the ruler and his confrontation with arms if he committed an act of flagrant disbelief, which we have a proof about from Allah (SWT), i.e. if he rules by the laws of disbelief, which there are no doubts about them that they are rules of disbelief, no matter how numerous or how little these rules were, as mentioned in the hadith of Ubada Ibnu-l-Samit: ".... And not to dispute with the people in authority, unless you witness a flagrant act of disbelief about which you have proof from Allah."

There should be no negligence in the implementation of the Sharia'a rules, nor should there be any gradual implementation of the rules of Isalam, for there is no difference between a duty and another duty, nor between a prohibition and another prohibition, nor between a rule and another rule, All the rules of Allah are equal, they should be implemented and executed without any delay, procrastination or gradation, otherwise the saying of Allah (SWT) would apply to us; He (SWT) says: [-]

Therefore, there is no excuse whatsoever, for any state in the Islamic world today, for not implementing Islam, under the pretext that it could not implement it, or claiming that the situation is not favourable for its implementation, or that the World opinion would not accept its implementation, or that the superpowers would not allow it, or any other excuses and weak arguments that carry no weight at all. Whoever hides behind such excuses Allah would not accept from him.

The Rule Of Compulsion

Despite the fact that implementing Islam as a whole is obligatory, whether by the individuals vis-a-vis their personal duties, or by the state vis-a-vis its duties, there are cases of compulsion in which Allah (SWT) has licensed the individuals and the state to perform acts that contradict the standard rule. He

(SWT) has made it lawful for the compulsed individual who does not find food to eat a certain amount of forbidden foods not exceeding his need to save his life, he has been allowed to eat dead meat, the flesh of the swine and all other forbidden foods; he has been allowed to take money from others even by force or theft if it meant saving his life. Allah (SWT) says: [-]. And He (SWT) says: [-] To the point where He (SWT) says: Allah (SWT) has also allowed the state to pay money to its enemy if it were in a state of weakness and it feared an invasion by the enemy, without being capable of stopping it; or if the state were in an effective state of war and its enemy was far superior in manpower and weaponry, and it feared defeat for being unable to resist or for being unable to confront the enemy.

This happened in the battle of the Ditch. When the Messenger of Allah (SAW) realised the severe trial the Muslims were under, and the grave danger, when they were besieged by the disbelievers all around the ditch, and when the Jews broke their oath, and after the Muslims had been violently shaken, as Allah (SWT) says describing their situation: [-]. At that time the Messenger of Allah (SAW) sent a message to the leaders of Ghatafan, proposing that if they went back together with their folk, he would give them the third of the produce of Madina; they refused suggesting that they would only accept if they were given half of the produce; and when their envoys arrived to seal the agreement, the Messenger of Allah (SAW) summoned the chiefs of the Ansar Sa'ad Ibnu Mu'ath and Sa'ad Ibnu Ubada and conferred with them. They said to him: O Messenger of Allah, if this is a Revelation, then do what you have been ordered, but if it is your own opinion then we shall give them nothing but the sword, for we were just like them in times of ignorance, we had no Deen, nor did they, and they would not have dreamt then of taking the produce of the Madina unless they bought it or unless out of hospitality, now that Allah has honoured us with Islam and sent from among us His Messenger, do we disgrace ourselves? We shall give them nothing but the sword. He (SAW) said: I felt that the Arabs have all gathered to destroy you, so I wanted to get them off your back, but if you refuse this, so be it. He then turned to the envoys of Ghatafan and said to them: Go away, we shall give nothing but the sword.

This indicates that it is permitted if under compulsion,to hold treaties of that kind with the disbelievers, whereby money is paid to them when a grave threat is looming over the Muslims. It also indicates that it is permitted in case of severe compulsion to perform acts that contradict the standard rule.

Islam Forbids The Police State

Rule and authority in Islam mean running the affairs of the people by applying the Sharia'a rules. It is other than the force, for the force within the state is not designed to look after people, nor to manage their affairs, i.e. it is not the authority, although it existence, formation, administration and preparation do not come about without the authority. It is a physical entity that manifests itself in the shape of the armed forces, including the police force, and which with it the authority executes the rules, defeats the criminals and the rebels, oppresses the outlaws, curbs the aggressors and uses it as a tool to protect the authority and the concepts and ideologies on which it is founded, and to export them to the world.

This clearly demonstrates that the authority is other than force, although the authority could not survive without it; it also demonstrates the force is other than the authority, although its existence cannot be justified without it.

It is therefore unlawful for the authority to become a force, for if it did its management of people's affairs would be badly affected, this is so because its concepts and criterions would be based on coercion, oppression and dominion, and not based on the looking after of people's affairs, it would be turned into a police rule that knows nothing but terror, dominion, oppression, coercion and blood shedding.

And since it would be forbidden for the authority to turn into a force, it also forbidden for the force to become an authority, because it would rule people by the concept of force, and it would run people's affairs by the concepts of military rule, and the criterions of suppression and aggression, and in both cases, this would bring disaster and ruin and causes fear, terror and horror, it would lead the Ummah to the brink, and this would harm the Ummah a great deal. The military rule in the Arab and Islamic countries offers a clear example of that.

Islam Forbids Harming The Muslims And Spying On Them

Islam has forbidden the torturing and harming of people. Omar Ibnul Khattab reported: I heard the Messenger of Allah (SAW) say: Do not torture people, for those who torture people in this life Allah will torture them in the Day of judgement. He (SAW) also said: Two are the types amongst the denizens of Hell, the one possessing whips like the tail of an ox and they flog people with their help....(the hadith).

Islam has also forbidden the violation of people's sanctities, honours, monies and dignities, the violation of their houses' sanctities. The Messenger of Allah (SAW) said: All things of a Muslim are inviolable for his brother in belief: His blood, his wealth and his honour.

He (SAW) also said while circulating around the Ka'aba: How splendid you look, and how sweet is your scent. How grand you are and how grand is your sanctity. By Whom the soul of Mohammed belongs, the sanctity of the believer is greater to Allah than yours, his wealth and his blood. Nothing but goodness should be expected of him.

He (SAW) also said: Abusing the Muslim is an outrage and fighting him is disbelief.

He (SAW) said on the sanctity of the houses: If a person were to cast a glance in your house without permission and you hit him with a stone and gouged out his eyes, there would be no harm for you.

It has been reported on the authority of Sahl Ibnu Sa'ad Al-Sa'idi that a man once peeped through the hole of the door of the Messenger of Allah (SAW), the Messenger of Allah (SAW) was at the time scratching his head with a fork. When Allah's Messenger saw him, he said: If I were to know that you had been peeping through the door, I would have thrust that into your eyes. And Allah's Messenger said: Allah has prescribed seeking permission because of protection against glance.

He (SAW) also said: He who peers into his brothers' house without his permission it is as if he destroyed him.

Islam has also forbidden spying on the Muslims, watching them, chasing them and gathering news about them. It has also forbidden the Muslim from being a spy on the Muslims. Allah (SWT) says: [-]. The Messenger of Allah (SAW) said: Avoid suspicion, for suspicion is the gravest lie in talk, and do not be inquisitive about one another and do not spy about one another.

And He (SAW) also said: O you people who believed with your tongues, and Iman is yet to enter your hearts, do not talks behind the Muslims' backs, and do not follow their Awras, for he who follows the Awras of the Muslims Allah would follow his, and he whom Allah follows his Awra, He would also scandalise him even in his own home.

Therefore, the verse and the ahadith forbid the Muslims from spying against the Muslims, they also forbid from following their Awras and warn that he who follows the Auras of the Muslims, Allah will follow his Auras and will scandalise him. Other ahadith have been reported forbidding the Muslims from working for the intelligence agencies to spy on the Muslims. Al Miswar Ibnu Makhrama reported that the Messenger of Allah (SAW) said:

(Ask about exact meaning of this hadith.)

And likewise, it is forbidden ti spy on the citizens from the people of the Thimma, for they are equal to the Muslims in terms of fairness and in terms of being fair, And the Messenger of Allah (SAW) ordered that the Thimmies should be treated nicely and forbade harming them, he (SAW) said: He who harms aThimmi, it would be as if he harmed me.

The verse and the ahadith, although they were general about the unlawfulness of spying, they however exclude the spying against the belligerent disbelievers, whether they were effectively belligerent disbelievers or legally, for there are other ahadith which specified the unlawfulness of spying against other than the belligerent disbelievers. Spying against the belligerent disbelievers is not forbidden, but an obligation; the Islamic state must practise it, this is so because the Messenger of Allah (SAW) sent Abdullah Ibnu Jahsh and a group of eight from the Muhajireen, to Nakhla between Al-Taif and Makkah to monitor the movements of Quraysh and gather news about them. Spying against the disbelieving enemy is a matter that the Islamic armed forced and the Islamic state cannot do without.

To spy on the disbelieving enemies is a duty that the Islamic state must perform. It is also its duty to have a counter intelligence service to combat any spying on it by the disbelievers. This is so because Bukhari reported on the authority of Salma Ibnu-l- Akwa' who said: The Messenger of Allah (SAW) encountered a spy while on a journey; he sat among some of his companions talking and then he sneaked away. Upon this the Messenger of Allah (SAW) said: Go after him and kill him. So I beat everyone to him and I killed him, so the Messenger of Allah (SAW) gave me the booty of that spy. Ahmed related the incident concerning Furat Ibnu Hayyan, and said that the Messenger of Allah (SAW) ordered his killing, he was a Thimmi and a spy for Abu Sufyan and an ally to a man from the Ansar; he passed by a circle of the Ansar and said: I am a Muslim. A man from the Ansar said: O Messenger of Allah he says that he is a Muslim. The Messenger of Allah (SAW) replied: There are men among you whom we measure according to their belief, and Furat Ibnu Hayyan is one of them.

Bukhari reported on the authority of Ali who said: The Messenger of Allah (SAW) sent me together with Al-Zubayr and Al-Muqdad Ibnul Aswad and said: Go forth until you reach the garden of Khakh, you will find a Tha'ina (a woman riding a camel) who is carrying a document, so take it off her. So we set off riding at high speed until we reached the garden, we caught up eith the Tha'ina and said to her: Get the document out. She said: I have no document. We said: Get it out or else. So she got it out of her braid and we brought it back to the Messenger of Allah (SAW).

All this indicates that the rule in Islam is not a police rule, and it is forbidden for it to be such, for the police rule brings a grave harm to the Muslims, and contradicts the Sharia'a rules, and also contradicts the Sharia'a principle that states: No harming and no self -inflicted harm. "La Dharar Wa La Dhirar".

It also indicates that it is forbidden for the Islamic state to set up an intelligence system to spy against the citizens, Muslims and non-Muslims alike, it also indicates that it is forbidden to harm them.

It is the duty of the state to establish to set up an intelligence service in order to spy against the Kuffar and gather information about them, and to combat the espionage they carry out against the state.

Obeying The Ruler Who Rules By Islam Is An Obligation

Obedience of the Muslim ruler who implements the laws of Islam in his rule is compulsory, even if he did wrong or withheld the rights, as long as he does not order an act of disobedience and as long as he does not commit an act of flagrant disbelief.

Evidence about the obligation of obedience to the ruler is reflected in the Holy verses and the Ahadith related to that effect. Allah (SWT) says: [-] T.M.Q. "O you who believe obey Allah and obey the Messenger and those in authority among you." Bukahri reported on the authority of Abu

Salma Ibnu Abdul Rahman that he heard Abu Hurayra say: The Messenger of Allah (SAW) said: He who obeys me he has obeyed Allah, and he who disobeyed me he has disobeyed Allah. And he who has obeyed my Amir he has obeyed me and he who has disobeyed my Amir he has disobeyed me. In another narration he was reported to have said: He who has obeyed the Amir, and he (SAW) did not say my Amir. Anas Ibnu Malik reported: The Messenger of Allah (SAW) said: You must hear and obey, even if it were an Abyssinian slave who ran your affairs. Muslim reported that the Messenger of Allah (SAW) said: Whose gave his Baya'a to an Imam giving him the clasp of his hand and the fruit of his heart shall obey him as long as he can, and if another comes to dispute with him you must strike the neck of that man.

These are clear cut evidences that the obedience is obligatory, for Allah (SWT) has ordered the obedience of the people in authority, of the Amir and of the Imam, this obligation has been made conclusive by linking it to the fact that the Messenger of Allah (SAW) considered the disobedience of the Amir like the disobedience of the Messenger and that of Allah (SWT); and by linking it to the strictness of this obedience even if the ruler were an Abyssinian slave. All these serve as indication that the request is decisive, thus the obedience of the ruler is compulsory.

The obedience has come unrestricted, not confined to a certain ruler nor to certain issues, therefore it is obligatory to obey any Muslim ruler, even if he were a wrongdoer, a rebel, and unjustly squandering people's wealth, his obedience is obligatory, for the evidences have come unrestricted, thus they should remain so.

Besides, some Ahadith have been reported indicating that obedience to the ruler is obligatory even if the ruler did wrong, and even if he were a tyrant. Hisham Ibnu Urwa reported on the authority of Abu Salih on that of Abu Hurayra that the Messenger of Allah (SAW) said: Leaders will take charge of you after me where the pious one will lead you with his piety and the impious with his impiety, so listen to them and obey them in every matter which conforms with the truth. If they acted rightly it is to your credit, and if they acted wrongly it is counted for you and against them. Bukhari reported on the authority of Abu Raja'that the Messenger of Allah (SAW) said: You shall witness after me selfishness and matters which you will disown. They said: What do you order us o Messenger of Allah? Give them their due and ask Allah for your due. Bukhari also reported on the authority of Ibnu Abbas that the Messenger of Allah (SAW) said: If anyone sees in his Amir something that displeases him let him remain patient, for behold! He who separates himself from the Jama'a (the group) by even so much as a hand span and dies thereupon, he has died the death of Jahilyya.

These Ahadith are clear about the obligation of obeying the ruler whatever he did. The Messenger of Allah stressed this very strongly, for Nafa' reported on the authority of Abdullah Ibnu Omar who said: I heard the Messenger of Allah (SAW) say: One who withdraws his hand from obedience to the Amir will find no argument in his defense when he stands before Allah on the Day of Judgement and one who dies without having bound himself by an oath of allegiance (Baya'a) will die the death of Jahilyya. The Hadith of Ibnu Omar according to Al-Hakim states that the Messenger of Allah (SAW) said: He who abandons the Jama'a (the group) it is as if he has taken the noose of Islam off his neck, until he returns; and whose dies while there was no Imam of Jama'a ruling over him, his death would be that of the days of Jahilyya. Therefore it is forbidden to disobey the ruler whatever he did. It is forbidden to rebel against him or to fight him for whatever reason. The Messenger of Allah (SAW) said: He who takes up arms against us is not one of us. The ruler should not be disputed with over the authority whatever the reason, except for what has been ordered by a text which is the flagrant disbelief.

The prohibition of fighting them was also clear and decisive, even if they committed Munkar, for Muslim reported on the authority of Umm Salma that the Messenger of Allah (SAW) said: Amirs will be appointed over you, and you will find them doing good as well as bad deeds. One who hates their bad deeds is absolved from blame. One who disapproves of their bad deeds is also safe, but one

who approves of their bad deeds and imitates them is doomed. People asked: Messenger of Allah! Should we not fight against them? He (SAW) replied: No, as long as they establish prayer among you. And in the narration of Ubada Ibnu-s-Samit: And we shall not dispute the people in authority unless you witness an flagrant act of disbelief.

All these are texts which prohibit the rebellion against the ruler, fighting against him and disputing with him over the authority. Besides, there are those Ahadith which indicate the obligation of obeying the ruler no matter how tyrant he were, and no matter how many evils he committed; all those Ahadith exhort and demand total obedience to the ruler; the unrestricted verses and Ahadith which command the enjoining of Ma'aruf and the forbidding of the Munkar even by hand, these do not apply to the ruler, because this has been specified by the Ahadith mentioned earlier, therefore the obedience of the ruler is general and unrestricted except in special cases

No Obedience In Sin

One matter that has been excluded from the obligation of obeying the ruler, that is when he orders a sin, this exclusion has been confirmed by text. Nafa' reported on the authority of Ibnu Omar that the Messenger of Allah (SAW) said: It is obligatory upon a Muslim that he should listen and obey whether he likes it or not, except that he is ordered to commit sinful acts. If he is ordered to do a sinful act, a Muslim should neither listen to him nor should he obey his orders. What is meant here is that if he orders you to commit a sin, not to commit it himself, for even if he committed the sin before you, without ordering you to commit it, you still have to obey him. It has been reported on the authority of Auf Ibnu Malik Al-ashjai' that he said: I heard the Messenger of Allah (SAW) say: The best of your Imams are those whom you love and they love you and who pray for you and you pray for them, and the worst of your Imams are those whom you hate and they hate you and you curse them and they curse you. We asked: O Messenger of Allah, shall we not then declare war on them? He said: No, as long as they establish prayer among you. Mind you! One who has a Wali appointed over him and he finds that the Wali indulges in an act of disobedience to Allah he should condemn the Wali's act in disobedience to Allah, but should not withdraw himself from his obedience.

This serves as evidence that what is intended by ordering a sinful act is other than committing it, but to order it only, but if you saw the ruler committing a sin, it would not be lawful for you to disobey him, but if he ordered you to disobey Allah then do not obey him for there should be no obedience to the servant in disobedience to the Creator.

That is the only time when disobedience to the ruler is lawful and obligatory, i.e. when he orders a sinful act, knowing that the sin here does not carry any doubt that it is a sin, as if for instance he orders you to take usury; but if he orders you to perform something which in his opinion is lawful and in your own opinion is unlawful, you should obey him, and that would not be an order to commit a sin, but an order to commit a lawful act. For instance, if in your own opinion, you thought that taking a photograph in sinful, and he thought that it is lawful, and he orders the taking of a photograph for an official transaction, he should be obeyed, for he deems that the Hadith of Ibnu Abbas refers to the manual drawing and sketching, and that the Hadith does not apply to the photographic picture. Therefore it an evidence or a doubtful evidence, therefore, his order to use a photographic picture in the official transactions or documents is not an order to commit a sin; therefore he should be obeyed, and it would be unlawful to disobey him.

Holding The Rulers Accountable Is A Duty Upon The Muslims

Holding the rulers accountable is a duty upon the Muslims. The obligation of obeying them even if they did wrong and withheld people's rights does not mean that the Muslims should keep silent, but it

means that obeying them is compulsory and holding them accountable for their actions is also compulsory.

Allah (SWT) ordered the Muslims to hold their rulers accountable and strongly commanded them to challenge them if they withheld the citizens' rights or if they neglected part of their duties towards them, or if they ignored any of the citizens affairs, or if they violated the rules of Islam or if they ruled by other than what Allah has revealed.

The Messenger of Allah (SAW) has ordered the condemnation of the ruler, and by any means possible, by hand, but only if it does not lead to fighting, i.e. without the use of the sword, and by the tongue, i.e. by saying anything whatsoever, or by the heart if one were not able by hand and by tongue. He (SAW) considered he who does not disown, as being an accomplice to the ruler in the sin, for he said if anyone approved of their bad deeds and imitated them he would be doomed and would not escape the blame and the sin.

Besides, the evidences concerning the enjoining of Ma'aruf and the forbidding of the Munkar include also holding the ruler accountable, for they are general evidences which include the ruler as well as others. Allah (SWT) has commanded the enjoining of Ma'aruf and the forbidding of the Munkar. He (SWT) says: [3 - 104]. He (SWT) also says: [-]. Allah (SWT) says: [-]. And He (SWT) says: [-]. And He (SWT) says: [-].

In all these verses, Allah (SWT) commands the enjoining of Ma'aruf and the forbidding of Munkar, this was combined with evidences which confirm that the command is decisive, i.e. the praise, He (SWT) says: T.M.Q. "And those are the ones to attain felicity." and He (SWT) says: T.M.Q. " You were the best nation. " And He (SWT) says: T.M.Q. "And give glad tidings to the believers." This serves as evidence that the request is binding and decisive, i.e. an obligation. Therefore, holding the ruler accountable is in fact enjoining Ma'aruf and forbidding Munkar, thus it is an obligation.

Besides, there are many Ahadith which stress the obligation of enjoining Ma'aruf and forbidding Munkar. Huthayfa Ibnul Yaman reported that the Messenger of Allah (SAW) said: By Whom my soul belongs to, you shall enjoin Ma'aruf and you shall forbid Munkar, or Allah may send His punishment upon you, then you will supplicate Him and He will not answer your prayers. Abu Sa'id Al-Khudri reported: The Messenger of Allah (SAW) said: He who amongst you should see a Munkar should modify it with the help of his hand; and if he has no strength enough to do it, he should do it with his tongue; and if he has no strength enough to do it, he should abhor it from his heart and that is the least of Iman (belief). Uday Ibnu Ameera reported: I heard the Messenger of Allah (SAW) say: Verily Allah would not punish the people because of an individual act, unless they witness the Munkar among them while they are able to condemn it but do not do so. If they did this Allah would then punish both the individual and the people.

All these ahadith indicate the obligation of enjoining Ma'aruf and for bidding Munkar. They indicate the obligation of enjoining Ma'aruf towards the ruler and forbidding his Munkar, and without any doubt this is what holding him accountable is about, and furthermore, there are Ahadith which specifically mention the ruler, confirming the obligation of holding him accountable, thus stressing the importance of enjoining Ma'aruf towards the ruler and forbidding him from committing Munkar. Umm Atyya reported that the Messenger of Allah (SAW) said: The best of Jihad is a word of truth before the tyrant ruler. Abu Amama reported: A man came to the Messenger of Allah (SAW) when he was about to throw the first Jamra (pebble), so he said: O Messenger of Allah, which is the best Jihad? He (SAW) kept silent. When he (SAW) threw the second Jamra, the man asked him again. Again he (SAW) did not answer. And when he (SAW) threw the Jamra-ul-Aqaba - known also as Al Jamra Al Kubra - (the great Jamra), he put his foot in the stirrup to ride he said: Who asked? The man said: It is me o Messenger of Allah. He (SAW) said: A word of truth said before a tyrant ruler.

This is a text about the ruler, and about the obligation of saying the truth to his face, i.e holding him accountable, to struggle against the rulers who withhold the citizens rights, or neglect their duties

towards their subjects, or ignore some of their affairs, is a duty, for it is Allah's command, and cinsidered it to be like the Jihad, and even the best of Jihad, it is as if He (SWT) says: The best Jihad to Allah is to struggle against the tyrant rulers, and this evidence alone is sufficient to prove the obligation of holding the rulers accountable.

The Messenger of Allah (SAW) has exhorted the struggle against the tyrant rulers no matter how great were the trials endured, even if it led to the loss of life, for it has been reported that he (SAW) said: The masters of martyrs is Hamza, and a man who stood up to a tyrant ruler to advise him and got killed. This is among the best ways of exhorting the endurance of trials and harm even death in the bid to hold the rulers accountable and struggle against the tyrant rulers.

The Ruler Who Displays Flagrant Disbelief Must Be Fought

Just like the one situation excluded from the general rule concerning the obedience to the ruler, likewise there is one situation that is excluded from the general rule concerning the prohibition of rebellion against the ruler and taking up arms against him; if the rulers committed an act of flagrant disbelief, he then should be fought, for there are texts to that effect, the exception has been mentioned by text. Auf Ibnu Malik Al-Ashja'i reported: I heard the Messenger of Allah (SAW) say: The best of your Imams are those whom you love and they love you and who pray for you and you pray for them, and the worst of your Imams are those whom you hate and they hate you and you curse them and they curse you. We asked: O Messenger of Allah, shall we not then declare war on them? He said: No, as long as they establish prayer among you.

Establishing Salat means the rule by Islam, i.e. the implementation of the Sharia'a rules; because reference to the whole is made by naming the part, -this is common in Arabic- for instance Allah (SWT) says: [-] T.M.Q. "To free a neck", which means to free the slave, all of him, not just his neck. In this hadith he (SAW) said: As long as they establish prayer among you. And this means the establishment of all the rules not just the prayer; this is a figurative form where basically the part is mentioned to refer to the whole.

Muslim reported on the authority of Umm Salma that the Messenger of Allah (SAW) said: Amirs will be appointed over you, and you will find them doing good as well as bad deeds. One who hates their bad deeds is absolved from blame. One who disapproves of their bad deeds is also safe. But one who approves of their bad deeds and imitates them is doomed. People asked: Should we fight against them? He said: No, as long as they prayed. This means as long as they implemented the Sharia'a rules, which the prayer is part of the whole.

Ubada Ibnu-l-Samit reported: The Messenger of Allah (SAW) called us and we gave him the Bay'a (oath of allegiance). Among the injunctions he made binding upon us was: Listening and obedience to the Amir in our pleasure and displeasure, in our adversity and prosperity, even when somebody is given preference over us, without disputing the delegation of powers to a man duly invested with them. Obedience shall be accorded to him in all circumstances except when you have clear signs from Allah of his disbelief.

These three Ahadith, the Hadith of Auf Ibnu Malik, that of Umm Salma, and that of Ubada Ibnu-l-Samit are all related to the rebellion against the ruler, they categorically forbid the rebellion against the ruler (Imam): "Should we fight against them? He (SAW) said: No." "Should we fight them? He (SAW) said: No. "And without disputing the delegation of powers to a man duly invested with them." They all forbid the rebellion against the ruler categorically; they indicate a prohibition, and since this is combined with the disgrace attributed to the rebellion, such is the case of the hadith where Allah's Messenger (SAW) said: He who rebels against the ruler and deserts the group. his death would be that of the days of Jahilyya. Therefore it is a decisive prohibition, for it considers the death of he who disobeys and rebels against the Imam as a death of Jahilyya, asserting the fact that it is a decisive prohibition, thus the Ahadith serve as evidence about the prohibition of rebellion.

However, there is an exception, which is expressed in the first and second Ahadith, i.e. when prayer is not established or when prayer is not performed; this exception was referred to in the third Hadith as the flagrant disbelief. The non-establishment of prayer and the non-performing of prayer i.e. the rule by other than what Allah (SWT) has revealed meaning the rule by disbelief rules, would undoubtedly be considered a sign of flagrant disbelief. The flagrant disbelief is a general term, therefore any flagrant disbelief should be met with rebellion, whether this was the rule by disbelief laws, i.e by other than what Allah has revealed, or other than the rule by the disbelief laws, such as keeping silent about apostasy against Islam, and allowing the apostates to display openly their disbelief or anything similar. All this would be flagrant disbelief, which is general, including any type of flagrant disbelief. And this is the exception mentioned in the Ahadith: the clear signs of disbelief; if this happened, then rebellion becomes compulsory.

Evidence about the obligation of rebellion against the rulers in this case, is reflected in the fact that the Messenger of Allah (SAW) has forbidden us from opposing them, fighting them and dispute their authority with them, and he excluded this situation, which means it is excluded from the rule of prohibition, and this means that it becomes an order which we are to fulfil; this is so because the Ahadith indicate that there is a command stating that the ruler is to be opposed, fought and his authority to be disputed if this situation occurred. The deduced evidence (understood) is the same as the spoken evidence as far as the strength of the argument is concerned; thus it serves as evidence that the Legislator ordered the opposing and the fighting of the rulers and the disputing of their authority if there were clear signs of disbelief.

As for the indication that the command is decisive, this is deduced from the related issue that has been decisively by the Sharia'a. The rule by Islam has been made compulsory by the Legislator, and not Mandub (desirable), and the emergence of flagrant disbelief has been forbidden by Sharia'a, and not Makruh (undesirable), therefore the related issue serves as an indication that the command is decisive; therefore, the rebellion against the ruler in this exceptional case is not merely permitted but also an obligation upon the Muslims.

However, it has to be stressed that what is intended by the flagrant disbelief, is the disbelief on which we have a clear cut evidence about that it is an act of disbelief; because the Messenger of Allah (SAW) not only stopped at saying "flagrant disbelief" but he went on to say "on which you have a Burhan (proof) from Allah", and the word Burhan is only applied to indicate the clear cut evidence. Therefore, the presence of a clear cut evidence is that it is a flagrant disbelief is one of the conditions of rebellion, for if there were doubts about it not being an act of disbelief, or if there were a doubtful evidence about it being an act of disbelief, even if the evidence were correct, in that case the rebellion would be unlawful, for the rebellion is only allowed if there were a clear cut evidence that it is an act of disbelief.

Therefore, what is meant by flagrant disbelief, is the type of disbelief over which looms no doubt that it is so, and which a conclusive evidence has proved that it is disbelief. If the rulers ordered an action or performed one himself, that carried a doubt that it is not an act of disbelief, then it would be unlawful to rebel against him, under the pretext that there was flagrant disbelief, because of the doubt. For instance, if the ruler ordered the teaching of the dialectical materialism theory at universities, or the teaching of other doctrines of disbelief, and one thought that the reaching of doctrines of disbelief led to disbelief, he must in this case obey the ruler and study such doctrines, it would be forbidden to rebel against the ruler under the pretext that flagrant disbelief has been perpetrated, for the ruler would have evidence that it is permitted to acquire information about the doctrines of disbelief mentioned in the Qur'an, and which Allah (SWT) drafted and answered them.

Therefore, everything that has evidence or a doubtful evidence that it is not disbelief, and there is an evidence or a doubtful evidence that it is from Islam, and the ruler ordered it or performed it, it would not be considered an implementation of the rules of disbelief, nor a flagrant disbelief, thus it

would not be included in the exception, and it would be unlawful to rebel against the ruler in such case, and obeying him would be compulsory

Establishing Political Parties Is A Duty Of Sufficiency

The duty of holding the rulers accountable ordered by Allah (SWT), is carried by individuals in their quality as individuals and by the groups and parties in their quality as groups and parties.

As well as ordering the Muslims to invite to the Goodness, Ma'aruf and forbid Munkar, and to hold the rulers accountable, Allah (SWT) has also ordered them to establish political parties from among them, which would carry out in their quality as groups the call to the Goodness, i.e. to Islam, to enjoin Ma'aruf, to forbid Munkar and to hold the rulers accountable. Allah (SWT) says: [3 - 104]. T.M.Q. "Let there arise from amongst you a group which calls to the goodness, enjoin Ma'aruf and forbid Munkar." This means you Muslims should establish a group from among yourselves, which would have the quality of a group and which would perform two actions: The call to Islam and to enjoin Ma'aruf and forbid Munkar.

This request is a decisive command, because the action which the verse to for the group to perform is a duty which Muslims must perform as confirmed by the numerous verses and the Ahadith. This serves as an indication that the command of establishing a group is decisive, thus the command mentioned in the verse decisive, and it is a duty of sufficiency if performed by some the others would be exempted, and not an individual duty; this is so because Allah (SWT) has ordered the Muslims to establish from among them a group to carry out the duty of calling to the Goodness, enjoin Ma'aruf and forbid Munkar, and He (SWT) has not commanded all the Muslims to carry out such duty, He only ordered them to establish a group to carry out that duty, therefore the order is directed to the establishing of a group and not to the performing of the two tasks. The two tasks outline the duty of the group which its establishment has been ordered, thus they would be a description of the nature of the group.

The group, in order for it to carry out its duties as a group and to remain a group while carrying out its duties should fulfil certain requirements. What makes it a group is the presence of a bond that links all its members, so they form a single body, i.e. a bloc; without this bond, the group which Allah (SWT) has ordered its establishment would not be there, working as a group. What maintains it as a group that functions properly is the presence of an Amir which his obedience is compulsory. For the Sharia'a ordered every group of three or over to appoint an Amir over it. The Messenger of Allah (SAW) said: It would forbidden for three people wherever they may be not to appoint one from among them as Amir.

These two qualities, i.e. the presence of a bond between the group, and the presence of an Amir who must be obeyed, indicate that when Allah (SWT) says: T.M.Q. "Let there arise out of you a group." means a group that has a bond and an Amir who must be obeyed; and that is the group, or the bloc, or the party, or the association or any other name used to refer to a group, that fulfils the requirements of a group and maintains it as a group at work. Therefore, this indicates that the verse orders the founding of groups, or parties, or blocs, or organisations or similar.

As for the fact that the order to establish a group is an order to establish political parties, this is deduced from the fact that the verse has determined the duty of this group, which is the call to Islam, the enjoining of Ma'aruf, and the forbidding of Munkar; and the duty of enjoining Ma'aruf and forbidding Munkar has come unspecified and unrestricted, therefore it includes the rulers. and this entails holding them accountable, and the holding of the rulers accountable is a political task performed by the political parties, and it is the most important task of the political parties. Therefore, the verse ordered the founding of political parties which would call to Islam, enjoin Ma'aruf and forbid Munkar, and would hold the rulers accountable for their actions and behaviours.

The verse also indicates that the parties should be Islamic, based on the Islamic Aqeeda, adopting the Sharia'a rules; it is forbidden for these parties to be communist or socialist, or capitalist or nationalist, or parties calling for democracy, or secularism or Masonism, or to be founded on other than the Islamic Aqeeda, adopting other than the Sharia'a rules. This is so because the verse has determined the quality of these parties by way of determining their duties; these duties are the call to Islam, the enjoining of Ma'aruf and the forbidding of Munkar, and any party that performs such duties must be carrying Islam and founded on the basis of Islam. Any group founded on a communist, or socialist, or capitalist, or democratic, or secular, or Masonic, or nationalist, or patriotic, or regional basis cannot be founded on an Islamic basis, nor carrying Islam, nor adopting the rules of Islam, but such party would be founded on a basis of disbelief, and grouped around concepts of disbelief.

Therefore, it is forbidden for the Muslims to gather on the basis of communism, socialism, capitalism, democracy, secularism, Masonism, patriotism, nationalism, or any other basis than Islam.

These parties must be overt and not secret, for the call for the Goodness and the enjoining of Ma'aruf and the forbidding of Munkar, as well as the holding of the rulers accountable and the work towards the seizing of power via the Ummah should be carried out openly and clearly and not in camera and hiding, so that they achieved their task.

The work of these parties must not be material; they should call to Islam verbally, and enjoin Ma'aruf and forbid Munkar also verbally, thus their styles must be peaceful, they should not take up arms, nor use violence. This is so because the use of force towards the ruler is forbidden, and the Ahadith have stressed this. Therefore, the enjoining of Ma'aruf and the forbidding of Munkar as well as the holding of the rulers accountable can be carried out without the use of force, therefore the styles and means must be peaceful, and it is forbidden to use force and confront him with weapons except in the case of the flagrant disbelief of which we have proof from Allah (SWT), as mentioned in the hadith of Ubada Ibnu-l-Samit: "And not to dispute with the people their authority unless they you witness an act of flagrant disbelief about which you have proof from Allah.

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