

ANSWERS TO QUESTIONS: BAYA'A OF AL-AQABA

I have looked into the issue of taking the Baya'a for a man in a similar manner to that of the first Baya'a of ALAqaba and I concluded the following:

1- The twelve persons who gave the Baya'a to the prophet (SAW) came during the season of Hajj and met the Prophet (SAW) at Al^aAqaba, and that was the first Aqaba, and there they gave the "Baya'a of women". This was before fighting became an obligation. Therefore this Baya'a became insufficient once fighting became obligatory. Ubada-Ibnu-s-Samit reported: " I was among the ones who attended the first Baya'a of Al-Aqaba, and we were twelve men, so we gave the pledge of women to the Messenger of Allah (SAW), and this was before fighting had become an obligation upon us."

2- The text of the first Baya'a of Al-Aqaba was as follows: "And that we should associate none with Allah, we should not steal, we should not commit fornication, we should not kill our offspring, we should not slander our neighbours and that we should not disobey him in what was right, if we fulfilled this paradise would be ours, if we committed any of these sins, it was for Allah to punish or forgive as He pleased. Allah revealed in Madinah the punishments such as Hudud, Jinayat and Ta'azeer, and made these binding upon the believers in this life. So whoever does not fulfil these obligations, his matter would not be left until he stands before Allah (SWT), he would rather be tried and punished for his sin in this life.

3- Allah (SWT) has made it an obligation upon the Muslims to appoint an Amir from among themselves if they happened to be a group, not to give a Baya'a to one of them. Abdullah Ibnu Omar reported that the Messenger of Allah (SAW) said: "It would be unlawful for any three persons or over to be in any part of the earth without appointing an Amir from among them." Abu Sa'id reported that the Messenger of Allah (SAW) said: "If any three persons happened to travel together, let them appoint an Amir upon themselves." Abu Hurayra also reported that the Messenger of Allah (SAW) said: "If three persons set off on a journey, let them appoint one from amongst them as Amir." All these Ahadith explain that the way for the group to establish someone to manage their affairs, is by appointing an Amir from among them, and not to give Baya'a to one of them.

4- The Ahadith of the Baya'a uttered by the Messenger of Allah (SAW) in Madinah are all specific to the Baya'a of the Imam i.e. the khalifa: "And a man giving his Baya'a to an Imam for the sake of worldly gains...", Whoso pledged the Baya'a to an Imam giving him the clasp of his hand and the fruit of his heart..." , "If the Baya'a were given to two khalifas... ", "And there will be khalifas and they will number many. Upon this they said: What then do you order us? He said: Fulfil your Baya'a to them one after the other.", in addition to many other Ahadith which clearly indicate that the Baya'a is exclusively to the khalifa, and that it is the method of appointing the khalifa.

5- When the Messenger of Allah (SAW) came to Madinah and seized power, he had already taken the second Baya'a of Al-Aqaba from those he had taken the first Baya'a of Al-Aqaba from. Ubada Ibnu-s-Samit reported: The Messenger of Allah (SAW) called upon us so we gave him our Baya'a. He said: We pledged ourselves to war in complete obedience to the Messenger of Allah (SAW), in weal and woe." Ubada Ibnu-s-Samit was among the twelve who gave the first Baya'a of AlAqaba.

The saying of the Messenger of Allah (SAW): "Whoso dies without a Baya'a on his neck..." is exclusive to the Baya'a of the Imam, i.e. the Khalifa, for he (SAW) said : "A Baya'a on his neck.." and did not say: "Whoso did not give a Baya'a." This indicates there ought to be an Imam i.e. a Khalifa in office whom he should obey. This means that the word Baya'a refers to that which is given to the Khalifa. All these texts indicate that the first Baya'a of Al-Aqaba has become insufficient since fighting became an obligation, and since it has become necessary for this Baya'a to be that which of obedience to the ruler, hence it has been taken again from the people who had given the first Baya'a. The content of the Baya'a became subjected to legislation from Allah (SWT) entailing punishment; the issue of adherence to the rules of Islam was no longer subject to the ruling of Allah (SWT) in the Day of judgement, if He wished He would punish and if He wished he would forgive. They also indicate that the method of appointing a president or a leader of a group is to make him an Amir and

not to give him the Baya'a. The texts indicate that the Baya'a would be the method of appointing the Khalifa and nobody else, thus it could not be used to appoint other than the Khalifa, and the Khalifa could not be appointed without it.

All this indicates that the method of these people is wrong and contradictory to the Sharia'a texts. The Baya'a could only be given to the Khalifa, and the Islamic method of appointing a group president or leader is by making him Amir. He who uses a different method, i.e. by giving the Baya'a to other than the Khalifa or by appointing a president in a method other than making him Amir, he would have violated Sharia'a.

Hizb-ut-Tahrir