

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

Answer to the Question:

The Meaning of “Competence” in the Conditions of the Khaleefah

To: Ntham Rd

(Translated)

Question:

Bismillah ar-Rahman ar-Raheem, Assalamu Alaikum wa Rahmatullahi wa Barakatuh,

I have a question: it was mentioned in the book *The Islamic Personality* - Volume II, page 20 (page 33 Arabic edition), the competence under Item VII of the conditions of the Khaleefah, then explained the competence and elaborated until it reached the following statement: “Also it is not a contracting condition for the Khilafah that the Khaleefah must be brave, or the people of good vision to manage the affair of the community and to conduct its interest”. Question: is this not considered competence?

Answer:

Wa Alaikum Assalam wa Rahmatullahi wa Barakatuh,

The text contained in the book is: “*Also it is not a contracting condition for the Khilafah that the Khaleefah must be brave, or the people of good vision to manage the affair of the community and to conduct its interest, this is so because there is no sound Hadith was reported on this issue, and it does not come under a Hukum Shari’ that makes it a contracting condition, although it is preferable that the Khaleefah be brave and of deep insight and vision*” **End**. As you know a contracting condition means that if the Ummah elected a Khaleefah who does not fulfil the conditions of contract then his Khilafah is invalid ... And reflecting on those two things you mentioned it shows that they are not a condition of contract, in the sense that if the Ummah elected a Khaleefah who does not fulfill them it does not invalidate his Khilafah because the Shari’ evidences do not indicate this. But the two are the conditions of preference, that is, it is preferred for the Ummah to take into account these two conditions when electing the Khaleefah, so that it is attentive to elect one who fulfils the conditions of contract and most of the conditions of preference, for this is better and stronger.

As for the competence, it is of the conditions of contract, which means that the Khaleefah must be competent to undertake the duties of the Khilafah, without specifying the competence by a certain thing. So whatever affects, a defect effect, the ability to perform the duties of the Khilafah, it is considered an infringement of the competence condition. This is because the work of the Khaleefah is the application of the Ahkam (rules) of the Shariah, and this necessitates the ability to undertake the deeds himself or to follow-up the deeds by himself if he assigns others to do so. Accordingly if he is unable to perform the deeds then he cannot fulfill the contract of the Khilafah that he personally is appointed for in order to apply the Ahkam of the Shariah. It is enough for this to meet the conditions of contract including the competence, which if missing, the Khilafah contract will no longer remain valid. For example

if the Khaleefah has a memory loss due to a disease, or entered into a long time recovery, or similar diseases where the disease persist for a long period that affects the integrity of governance in the State, so that the Khaleefah due to the disease could not perform the deeds himself or follow-up the deeds by himself if he assigns others to do them... And so the Court of *Madhalim* will conduct the procedures to prove the incompetence and thence the decision necessary to declare the vacancy of the Khilafah post.

As for the failure to fulfil the conditions of preference, it does not invalidate the Khilafah contract. Thus to be brave, mastering the finest methods for fighting, or be of the people of opinion, graduated from top universities ... All this is not the condition of contract, therefore it does not invalidate the Khilafah contract, because there is no Shari' evidence for it, and because such conditions do not affect, a defect effect, performing the deeds of the Khilafah. Also because if the matter necessitates an appropriate bravery in some issues, such as wars, for example, the Khaleefah can use some of the owners of bravery in this matter. As well as, if the matter necessitates the opinion of holders of high degrees, the Khaleefah can refer to such people from his subject. However, as we said earlier, the priority for the Ummah is to elect a Khaleefah who possesses both the conditions of contract and the conditions of preference. But if the Ummah chooses one who possesses the conditions of contract but does not possess all the conditions of preference then his Khilafah is valid as long as it fulfils the conditions of contract because the sound Shari' evidences indicate so.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

27th Muharram 1436 AH

20/11/2014 CE

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

https://www.facebook.com/Ata.abualrashtah/photos/a.154439224724163.1073741827.154433208058098/367752486726168/?type=1&relevant_count=1