

## The Continuation of Imaarah in the Case of a Captive Imaam

Islam is a perfect system of life organising all of the affairs of the people in the best possible way. The supremacy of Islam established by many general and specific ayaat and ahadeeth, the continuous duty of unity among the Muslims (based upon the two pillars of belief and Imaamah [leadership]). The conditions of Imaamah, which the classical scholars derived from the Quran and Sunnah, possess the objective of maintaining the continuity of the Muslim unity and the running of its affairs. Thus, the Imaam was to be deposed if he became insane or kaafir and the like, due to him not being able to, in that case, command the Muslims in the interests of Islam and its objectives. We should note that such conditions do not exist to prevent Imaamah but rather, the individual is removed so that another can be immediately appointed. The objective being, the continuation of unity and commanding of affairs according to shari'ah in all situations. This point has been much overlooked by the common people and even the 'scholars' today and thus we witness the mass neglect of supporting the position of Imaamah in the stage of weakness.

The obligation of the continuity of the khilaafah and general authority over the Muslims in all circumstances is not only indicated by the general commands and specific daleel, but also by other signs in the application of the sunnah concerning similar circumstances of adversity. The sunnah emphasized organisation and preparation for organisation and authority in circumstances of difficulty so much that even there are ahadeeth that establish an example of successive consecutive nomination of authority, that is that an ameer is nominated with successors in case of death of the original ameer. U'rwah bin az-Zubayr reported 'Rasool Allah (saw) sent out his expedition to Mu'ta in Jumaada al Ulaa, 8h. He appointed as their ameer Zayd bin Haaritha saying "If Zayd should be killed then Ja'far bin Abu Talib will take command. If he should fall, then A'bdullah bin Rawaaha will lead." (IBN ISHAAQ, IBN KATHEER 'as Seerat an Nabaweeyah' [vol.3 p.326], same information is in the hadeeth of Ibn A'baas collected by AHMAD) In a narration from A'mr bin al Hakam from his father it is mentioned that Rasool Allah (saw) added "If he (A'bdullah ibn Rawaaha) should be killed, then the Muslims should choose one from among themselves to appoint over them." (WAAQIDI, IBN KATHEER 'as Seerat an Nabaweeyah' [vol.3 p.326]) Classical scholars partly based nomination of successors in the khilaafah on this. That demonstrates the importance for the ummah always to have authority. Therefore in cases where a khaleefah is captured provision must be made for either an immediate temporary replacement, or delegated form of authority while maintaining contact or similar provisions, it is clear that the simple ceasing of Imaarah so as to leave the ummah without any authority and leadership is not an option. Imaam Mawaardi said concerning this incident "If the Prophet (saw) did this with regards to Imaarah, the like is permitted regarding the khilaafah. If it is argued that it is a contract of authority with a particular character and condition, and that contracts of authority are not based upon such specific conditions and characteristics, then it must be replied that it is a general matter of public interest which should be addressed with more largesse than in the case of private contracts with individuals. This was acted upon during two dynasties (of khulafaa' i.e. khilaafah Amaweeyah and khilaafah A'bbaseeyah) and none from amongst the u'lemaa' of the age have rejected it." (MAWAARDI 'Ahkaamus Sultaneeyah' [p.22]) This indicates the necessity of the continuity of affairs in the sight of the sunnah, if this is necessary for the Imaarah of jihad then it is even more needed in the case of the governance and unity of the ummah as a whole. From this we see the importance of maintaining a system of Imaarah at all levels that does not cease immediately upon the death, arrest or incapacity of an Imaam. This means procedures should be in place to appoint another Imaam or to have existing ameers and existing people of shooraa appoint a temporary representative Imaam and to have tasks delegated.

An area of confusion common to people in this time has been the case of an Imaam captured by the enemy or rebellious force. Many have erroneously thought that an Imaam captured by the enemy is automatically deposed. Some of the more sharia'h-illiterate but zealous opponents of Imaamah in the stage of weakness have even considered that the possibility of arrest alone is enough to consider the invalidity of Imaamah in the absence of Dar al Islam. This error is not only due to the ignorance of the reality and objectives of conditions in general and the objectives of conditions of Imaamah in particular but also by the ignorance of the daleels and fiqh in relation to this specific case. We now list the following points to shed light on the case of a captive Imaam:-

1. The Restricted Circumstances of the Prophet (saw) in Makkah Resembles Captivity. This resemblance is from the aspect of difficulty of communication and issuing commands, difficulty of viewing the ummah and restricted movement. The Prophet (saw) in his capacity as Ameer of all believers, was at certain times, in circumstances in Makkah before the hijrah where he was weak and restricted. Various narrations described that and some occasions were narrated as being in a state of hiding. Nevertheless, in this weak and restricted state, his authority and command remained valid, and he (saw) is the best example in all affairs. Thus, a restriction imposed by circumstances alone which effect the duties of the Imaam will not automatically invalidate his Imaamah. E.g. A'mr bin A'basa reported 'When I was in the state of Ignorance (before embracing Islam) I used to think that the people were in error; they were not on anything (that might be called the right path) and they worshipped idols. Meanwhile I heard of a man in Makkah who was giving news (on the basis of his prophetic knowledge); so I mounted and rode to him. The Messenger of Allah (saw) was at that time hiding as his people had made life hard for him. I adopted a friendly attitude (towards the Makkans and thus managed) to enter Mecca and go to him (the Holy Prophet). I said to him: Who are you? He said: "I am a Prophet." I again said: What is a Prophet? He said: "I have been sent by Allah." I said: What have you been sent to do? He said: "I have been sent to join ties of relationship, to break the idols, and to proclaim the oneness of Allah (in a manner that) nothing is to be associated with Him." I said: Who is with you in this (in these beliefs and practices)? He said: "A free man and a slave." He (the narrator) said: AbuBakr and Bilal were there with him among those who had embraced Islam by that time. I said: It intend to follow you. He said: "During these days you will not be able to do so. Don't you see the (hard) conditions under which I and (my) people are living? You had better go back to your people and when you hear that I have been granted victory, you come to me." (MUSLIM)
2. The Reality of Imaamah and its Objectives are not automatically severed due to restriction of movement and circumstances such as captivity. The reality of Imaamah is a relationship of a command in the deeni and dunyawi affairs of the Muslims emanating from an Imaam who meets the basic conditions. The people relate to this by receiving the command (of the Imaam) either directly or via appointed umaraa. The people implement those commands and laws by listening and obeying. If the Imaam is captive in a way which ceases all communication for an extended period with little hope of his recovery, then a new Imaam will need to be appointed. However, if the Imaam is only captive in a way which permits regular communication with him, then it can not be said that his command is automatically redundant. Rather it is possible that his decision is sought in matters beyond the authority or delegation of appointed umaraa. This is because the obstacle of the Imaam not being able to assess every situation due to his captivity can be overcome by the advisers the Imaam appoints. This case is similar to when the non-

captive Imaam must gain assistance in all affairs that he can not witness directly through umaraa', wuzaraa' and wulaa'. In this regard, Allah (swt) mentions the words of Moosa [as] "And appoint for me a wazeer from my people, Haroon, my brother and consolidate my strength by him and make him a partner in my affair." (Ta Ha 20:29-32) and Aisha reported that Rasool Allah (saw) said "When Allah has good purpose for a ruler, he appoints for him a sincere minister who reminds him if he forgets and helps him if he remembers. But when Allah has a different purpose from that for him, He (swt) appoints for him an evil minister who does not remind him if he forgets and does not help him if he remembers." (ABU DAWOOD [vol.2 no.2926]) and In a mursal narration from A'bdullah bin Hautab, it is reported that Nabi (saw) saw Abu Bakr and U'mar and said "They are the hearing and sight." (TIRMIDHI) Thus, the Imaam can communicate through an intermediary or appointed naai'b [representative] and the Imaam can also gain information about circumstances through the reports of advisers, experts and witnesses.

3. Delegated Imaarah [Authority] and its levels and spheres of responsibility allow the governance of affairs to continue. Another possibility made possible by the supremacy of the shari'ah sanctioned ruling system and its modes of organization, is that when the captivity of the Imaam is only of a temporary nature, in this case umaraa who were appointed by the Imaam can continue the normal duties of government. Command and organisation in the absence of Imaamah can therefore continue until he is released. This is because the Imaam appoints wulaa [governors of provinces] and umaraa [commanders] to fulfil the tasks of organising the affairs of the Muslims and their authority is binding in the sharia'h. The ayah "O you who believe! Obey Allah Obey the Messenger and those in authority amongst you..." (an Nisaa' 4:59) according to the hadeeth of Imaam MUSLIM narrated by Abu Hurayrah the ayah actually refers not specifically to the Imaam himself but was instead revealed concerning the umaraa whom the Imaam appoints, and indeed it is in the plural [oolil amr] which further establishes that. This shows that the Imaarah operative in the Islamic structure of government is not only the Imaam himself but also those umaraa appointed by him. This also is indicated perhaps more specifically by the command in the following ayah whose context includes such issues as the capture of the Imaam, Allah (swt) says "When there comes to them some matter touching (public) safety or fear they divulge it. If they had only referred it to the Apostle or to those with authority among them [oolil amri minhum] it would become known to those who could extract it from them. Were it not for the Grace and Mercy of Allah unto you all but a few of you would have fallen into the clutches of Shaytaan." (an Nisaa' 4:83) Qaadi Abu Bakr al Jassaas [d.370 h.], reports that Hasan [d.110 h.], Qataadah [d.118 h.] and Ibn Abi Laylah [d.148 h.] all said the people of authority, mentioned in this verse are 'ulemaa' and fuqahaa' and Imaam as-Suddi [d.127 h.] says it refers to 'umaraa' and hukaam' [rulers and judges or governors] (AL JASSAAS in 'Ahkaamul Qura'n) Thus, people should not spread panic when an Imaam is captured, nor should they despair and neither tell people 'Imaamah has ceased' and 'There is no more system or authority' but rather they should refer the affair to the appointed umaraa', and seek a systematic solution while adhering to the existing sharia'h structure. So when the Imaam dies or is captured it can not be said that Imaarah has ceased and this is because the Imaam's command is still binding until another Imaam is appointed. This authority and command includes those ameer whom he appointed, thus it is not necessary to re-appoint every wali and ameer once a new Imaam takes his position. When we look to the appointment of Abu Bakr [r] as khaleefah, we see that those engaged in his appointment such as U'mar ibn al Khattab and Sa'd ibn U'baadah were already figures of authority and governance that were in the government of the Prophet (saw). Further to this, when people try to justify the absence of an Imaam by referring to the tartars massacre of the A'bbaasi Khaleefah al Musta'sim [d.656 h.] in Baghdad (i.e. the subsequent absence of an A'bbaasi Imaam for three years) they fail to realise that shari'ah authority still existed in that period because the Imaam himself had appointed or recognised the wulaa' and umaraa' of different regions. So it can not be said that a time existed without the sharia'h authority, rather the authority of the wulaa' of that time was derived from their appointment or obedience to the Khaleefah. It is indeed for this reason, that the Umaraa [They were the Mamlookeyyah] in Cairo sought to further justify and enhance their own authority by appointing a khaleefah called Mustansir who was the first of the Abbasids of Cairo, he was relative of the deceased Imaam in Baghdad and despite the Umaraa of Cairo being the real power, they sought legitimacy from the original authority of the khaleefah (i.e. they sought authority not only by appointing a figurehead Imaam above them who was Qurayshi, but they also sought to connect it to the previous dynasty of Imaamah whom they and the bulk of the ummah had previously been commanded by). It is this process which makes the appointment of a khaleefah by the previous Imaam legitimate, as in the case of Abu Bakr to U'mar. The Imaam nominates an Imaam while he himself is still Imaam, the command remains operative even when he passes away as the command originates from the Imaam and from his duty to look after the affairs of the Muslims, among which is a priority being to preserve the unity of the Muslims by ensuring the continuity of Imaamah. Imaam Mawaardi [d. h.] said "If the appointment of the ameer was made by the khaleefah, he is not deposed at the death of the khaleefah. If however, it was at the hand of a minister, he is deposed at the death of this minister because an appointment made by the khaleefah is made in the name of all the Muslims, whereas an appointment made by a minister is merely made in his name. A minister is deposed at the death of the khaleefah, while an ameer is not as the ministry [wizaarah] represents the khaleefah while the amirate [imaarah] is established in the name of the Muslims as a whole." (MAWAARDI 'al Ahkaam as Sultaniyyah wal Wilaayat ad Deeniyah' [p.50]) Further evidence concerning the continuation of Imaarah despite the absence of the Imaam is indicated by many points, including:-

- i) Although the Muslim gives baya'h to a specific individual in his capacity as Imaam, the root of this obligation is the unified system of governance by recognising the command of legitimate authority. Therefore, the emphasis is on the system of imaarah as a means to settle disputes and organise, rather than dependency on the individual figure of the Imaam. This is indicated for instance by the ayah, "Verily those who give baya'h to you they are giving baya'h to Allah. The Hand of Allah is over their hands. Then whoever breaks his baya'h, breaks only to his own harm and whoever fulfils what he has covenanted with Allah, He will bestow on him a great reward." (al Fath 48:10)
- ii) The Muslims were not allowed to be without Imaarah even if the Ameer appointed was not even the Khaleefah, A'bdullah ibn A'mru ibn al A'ss reported that Nabi (saw) said "It is not halaal for any three in a deserted place except that they appoint one as the ameer" (AHMAD)
- iii) The believers were described as being in a continuous state of obedience to the wulaa', It is reported that Nabi (saw) said "The heart of a believer does not show hatred or rancour in three things – Performing good deeds for the sake of Allah alone, obeying the ameer (wulaatul umoor), adhering to the jama'ah. Since their supplication encompasses those who are behind them." (AHMAD [4/80] TIRMIDHI [no.2567] AL HAAKIM in 'al Mustadrak' and he said 'saheeh' and also according to AL HAYTHAMI in 'Majmu'az Zawaa'id' [1/137]) and A'wf bin Maalik reported that Nabi (saw) said, "...one who has a wali appointed

over him and he sees that the wali engages in disobedience (ma'seeyah) to Allah, then he should hate the wali's disobedience to Allah but should not withdraw his hand from obedience." (MUSLIM kitaabul Imaarah [no.4574])

- iv) Allah (swt) says **"And hold fast to the rope of Allah altogether and do not divide..."** (aali l'mraan 3:103) The command to unity remains operative even in the absence of an Imaam, the only way this can be fulfilled is through sticking to obedience to existing umaraa' and wulaa', giving them advice, Abu Hurayrah reported that Nabi (saw) said **"Allah is pleased with three things from you he detests three others – He is pleased that you worship Him alone not associate anyone with Him in worship and that you hold fast to the rope of Allah and not to be divided. The three things He detests are futile gossip, scepticism, and the wasting of money."** (MUSLIM [no.4255-4256] and **"Allah is pleased with three things from you, and He is angry with three things from you. He is pleased that you worship Him and do not associate anything with Him, and that you take hold of the rope of Allah altogether, and that you give good counsel to the one to whom Allah gives command over you. He is angry with you for gossip, squandering property, and asking too many questions."** (MAALIK [56/20])
- v) Consultation [shoorah] remains an obligation upon the Muslims even in the absence of an Imaam, this is more correct when operating under the existing umaraa' and indeed this principle relates to avoiding division in the case of an absent Imaam by the Umaraa' or previously appointed Majlis ash Shoorah, appointing a new Imaam or Naai'b Ameer, Allah (swt) says, **"They manage their affairs by mutual consultation"** (ash Shoorah 42:38) and **"Consult them in the conduct of affairs. And when you are resolved then put trust in Allah"** (aali l'mraan 3:159) Thus in the light of these ayaat, when an Imaam is captive or deceased and the like, then the people should not scatter and divide but rather they should consult the umaraa' and accept the shari'ah processes of authority and organization.
- vi) The Prophet (saw) would appoint authorities for consultation and representation, it is even more important these positions are adhered to in the time of preventing chaos and division due to attacks on leadership, Ka'b bin Maalik narrated that at the second baya'h of al A'qabah that 'Rasool Allah (saw) said to the ansaar, **"Select twelve naqeebs from amongst you and send them to me whenever you need consultation."** Therefore twelve leaders, nine from the tribe of Khazraj and three from the tribe of Aws were selected.' (IBN ISHAAQ as cited by IBN KATHEER in 'Al Bidaayah wan Nihaayah' [vol.3 p.60] also transmitted by AHMAD and TABARAANI as related by AL HAYTHAMI in 'Majmu az Zawaa'id' [vol 6 p.42] and AL HAYTHAMI said 'The narrators of the hadeeth trasmitted by AHMAD are saheeh' and IBN HAJR said '...transmitted by IBN ISHAAQ and graded 'saheeh' by IBN HIBBAAN...' [Fathul Baari' vol.7 p.157])
- vii) The Prophet (saw) made clear the importance of the continuation of the affairs in his absence, through legitimate authority and settling of division by way of delegated representation and other than that e.g. Jubayr bin Muti'm narrated that a woman came to the Nabi (saw) and spoke to him about something and he told her to return to him. She said 'O Rasool Allah! If I come and do not find you?' Nabi (saw) saw said **"If you should not find me then go to Abu Bakr."** (BUKHAARI Kitaab al Ahkaam [vol.9 no.327]) and A'li reported that Nabi (saw) said to him **"There will be differences after me so if you have a way to settle them in peace then do so."** (AHMAD) and Hudhayfah reports that Nabi (saw) said **"I don't know how long I shall live among you, follow the two after me, Abu Bakr and U'mar."** (TIRMIDHI) and Sa'd ibn Abi Waqqaas reported that Nabi (saw) left A'li ibn A'li Talib behind during the expedition of Tabook, whereupon he (A'li) said 'Rasool Allah, are you leaving me behind amongst women and children?' Thereupon Nabi (saw) said **"Aren't you satisfied with being unto me what Haroon was unto Moosa but with the exception that there would be no Prophet after me."** (MUSLIM [no.5913-5915] BUKHAARI [Eng. vers. vol.5 no.56, 700])
- viii) Listening and Obeying was commanded generally for the Muslims, that is, their affairs should always be organized under imaarah, this is not only including the Imaam but all the positions of authority other than that, this was proven by many ahadeeth e.g. al Haarith al Asha'ri reported that Nabi (saw) said **"I command you with five which Allah commanded me with: Listening and obeying, jihaad and hijrah and the Jama'ah for he who leaves the jama'ah by a (hand) span, then he has thrown off the yoke of Islam from his neck."** (AHMAD [4/130, 202] AT-TAYAALISI [no.1161] IBN HIBBAAN [no.1550] IBN KHUZAYMAH [no.930] AL-HAAKIM [1/236]) and Ibn U'mar **"It is obligatory upon the Muslim to listen and obey in what he likes and dislikes except when commanded to ma'seeyah (disobedience to Allah). If he is commanded to ma'seeyah then there is no listening and no obeying."** (BUKHAARI, MUSLIM) and Yahya ibn Hussayn who heard from his grandmother that Nabi (saw) was delivering his sermon during the farewell pilgrimage [hajjatil wadaa'] and he (saw) said **"If a slave is appointed over you and he leads you according to the Book of Allah then listen to him and obey."** (MUSLIM kitaabul Imaarah [no.4528]) and l'rbad ibn sariyah reported that nabi (saw) said **"...and stick to obedience even if it is an abyssinian slave, since the believer is like the submissive camel, wherever he is led he follows."** (AHMAD [4/126] IBN MAAJAH [no. 43] AL HAAKIM [1/96] BAYHAQI in 'al Madkhal' [no.51])and U''mar ibn al Khattab said **"There is no Islam without jama'h and there is no jama'h without Imaarah and there is no Imaarah without obedience."** (DAARIMI)

4. The existence of continuous Shari'ah laws and the Muslims being engaged in specific objectives which includes a stages of revival managed by appointed umaraa mean the Muslims are not left wandering without direction. The Imaarah of the Imaam does not cease as soon as he becomes captive because two factors remain for the affairs of the ummah to remain operative. The first, is the general shari'ah commands to the ummah concerning their affairs which remain operative whether an Imaam exists or not and whether the Imaam agrees or not (i.e. the Muslims must continue to follow sharia'h laws). Such commands of shari'ah mean that the people continue to submit to the shari'ah in all affairs and that they organise their priorities according to them, this is further emphasized when the ummah is at a stage when its actions are focussed on specific objectives, and these objectives were also commanded by the Imaam. E.g. In the absence of Dar al Islam, the sharia'h has a priority to re-establish Dar al Islam by the da'wah to the belief and system, changing the societal relationships by commanding ma'roof and forbidding munkar, strengthening the alliances of the believers by practising al walaa' wal baraa' and continuing to call on the masses and the people of nussrah. This means even if the ummah has little contact with the Imaam, they are still under the shariah obligation to engage in these duties and fulfil the existing command of the Imaam concerning them in his absence. This is similar to the way Usaamah bin Zayd was sent as ameer of Jihad by the prophet (saw), the sahaabah as a whole regarded this as still an obligation even though the prophet (saw) passed away. However, this duty was considered in relation to problems arising from the need to appoint an Imaam and the possibilities of division and fitnah that may occur from this (we mention this to counter those who mention the priority given to appointing an Imaam and the delaying of the expedition). Regardless of that, we did not see that the sahaabah claimed the original command of the prophet (saw) (to send

the military detachment) ceased to be an obligation even though this command was an administrative command (i.e. one based on choice and operational circumstances rather than a fixed immovable duty such as Salah etc.) from the prophet (saw) in his capacity as Imaam.

The second reason, is that the original link to the shari'ah structure (of authority and governance) is still existing until a new Imaam is appointed. This remains so until the new Imaam changes that structure and this is because the Imaam appoints ameer and delegates tasks and those positions and duties remain authorised until they are cancelled by a successive authority. This is proven by the general implication of the hadeeth of Abu Hurayrah that Nabi (saw) said "...**whoever obeys my ameer obeys me and whoever disobeys my ameer disobeys me.**" (MUSLIM) That is, the Prophet (saw) was the Imaam and simultaneously, ameer whom he appointed had to be obeyed, whether in his presence or absence. This reality was followed on from the appointments of the prophet (saw) to the various regions, as those appointments remained in place after the prophet (saw) until a later khaleefah changed them. This was also the practise of the khulafaa raashideen amongst the sahaabah, they appointed an ameer or wazeer for a task and they appointed a wali of a region, and such appointments remained in place, unless a succeeding khaleefah changed the appointment. The Muslims did not automatically regard themselves as having no shari'ah authority amongst them simply due to the death of a khaleefah and this is because they still had the furoo' [branches] of authority with them, those being the wulaa, umaraa', wuzaraa' etc and their asl [foundational root] being the original Imaam who appointed them or recognised them. Imaam Mawaardi said "If the appointment of the ameer was made by the khaleefah, he is not deposed at the death of the khaleefah..." (MAWAARDI, 'al Ahkaamus Sultaneeyah' [p.50]) Therefore, these branches of authority sanctioned by the connection with the Imaam are even more well established in the case of an Imaam who is not dead but is only captive. The same case is with the concept of the ahlu halli wal a'qd, they derive their authority from being a majlis ash-Shoora directly appointed by the Imaam or that their knowledge and authority was recognised by the Imaam as they served under his government, they have a form of niyaabah [representation] for the ummah because they have a connection to an original authority derived from the khaleefah who derives his authority from the command of the prophet (saw) to be united under a leader. Therefore, the majlis ash Shoora which appointed U'thmaan ibn A'ffan (r) possessed authority because it was commanded by the Khaleefah U'mar ibn al Khattab. The appointment of Abu Bakr (r) as khaleefah at the hand of U'mar ibn al Khattab, derived authority from the Imaamah of the Prophet (saw) because U'mar, Abu Bakr and others present served in positions of authority in the government of the prophet (saw).

5. The Circumstances of Restriction and Concealment during the Hijrah did not Invalidate the Authority of the Prophet (saw). The Prophet (saw) in his capacity as Imaam of the ummah was in a position during the hijrah where he was hiding and unable to directly command the Muslims. The Muslims though were under his authority regardless and were under his general command with knowledge of the duties they had to perform at that point. Allah (swt) says **"If you help him not (it does not matter) for Allah did indeed help him when the disbelievers drove him out, the second of the two, when they were in the cave and he said to his companion 'Be not sad surely Allah is with us' Then Allah sent down his sakeenah upon him and strengthened him with forces which you saw not and made the word of those who disbelieved the lowest while it was the Word of Allah that became the highest and Allah is A'zeezun Hakeem."** (at Tawbah 9:40) Therefore, a captive Imaam has greater reason not to be automatically deposed, as an Imaam in temporary captivity is restricted, but still can maintain communication in many cases which is not the case with one concealed due to fear of attack. In this regard a captive Imaam has a greater capacity for communication and command.
6. The baya'h of obedience is to remain even in cases of comprehensive hardship on all. The fact that Imaamah continues in a time of hardship is proven by narrations of the baya'ah itself which sahaabah took e.g. the hadeeth of U'baadah bin as Saamit make clear the continuity of Imaamah in a time of hardship. U'baadah bin as Saamit narrated **"We gave the baya'h to Rasool Allah (saw) to listen and obey in ease and in hardship and in what we like and what we dislike and not to fight against the people of authority and to speak or to establish the truth wherever we are without worrying about the blame of the blamer"** (MAALIK kitaabul Jihaad [vol.1 no.977] similar from BUKHAARI & MUSLIM) This hadeeth and various other similar ones are general concerning the implication of hardship. This hardship includes cases such as captivity, until the case is such that it nullifies the objectives and functionality without hope of recovery.
7. The Restricted Capacity of Imaam A'li ibn Abi Talib indicates the Continuity of Imaarah. The Khaleefah Raashidah A'li ibn Abi Talib [r] was without doubt the Imaam, Ameerul Mu'mineen and legitimate khaleefah until his death. The circumstances of A'li [r] were such that the disobedience and neglect of those who had given him baya'h, rebellion of others and the onslaught of his opponents made him a virtual prisoner to the circumstances and unable to enforce his command. A'li (r) was in such a condition that he could not punish the murderers of U'thmaan (r) and was eventually even exposed directly himself to the violence of the people while he was attacked and killed. However, up to this point, he still was able to maintain a communication and command with certain people and due to him possessing the basic conditions of Imaamah was still rightly regarded as the khaleefah. (For details of the Khilaafah of A'li ibn Abi Talib refer to 'Tabaqaat al Kabeer' of Imaam Ibn Sad [d.230 h.], 'al Bidaayah wan Nihaayah' of Haafiz Ibn Katheer [d.774 h.], Tareekh al Khulafaa' of Imaam as Suyooti [d.911 h.], 'Tareekh at Tabari' of Imaam Ibn Jareer at Tabari [d.310 h.] and similar books of history and biography)
8. The Virtual Captivity of Imaam U'thmaan ibn A'ffan indicates the Continuity of Imaarah. The Khaleefah Raashidah U'thmaan ibn A'ffan [r] was also said to be imprisoned for twenty days in his own home during the last days of his khilaafah. Yet everybody agrees on the validity of his authority despite his opponents overpowering him and nullifying the effectiveness of his command. (For details of the Khilaafah of U'thmaan ibn A'ffan refer to 'Tabaqaat al Kabeer' of Imaam Ibn Sad [d.230 h.], 'al Bidaayah wan Nihaayah' of Haafiz Ibn Katheer [d.774 h.], Tareekh al Khulafaa' of Imaam as Suyooti [d.911 h.], 'Tareekh at Tabari' of Imaam Ibn Jareer at Tabari [d.310 h.] and similar books of history and biography)
9. The Virtual Captivity of A'bdullah ibn az-Zubayr indicates the Continuity of Imaarah. The Same case is with A'bdullah ibn az-Zubayr, a sahaabi appointed as Imaam while rejecting the corruptions of the Khilaafah Amaweeyah. He was made virtual captive in the Haraam of Makkah until he was killed there by the existing regimes' forces. The following ahadeeth have been said to refer to it, A'bdullah bin Safwaan reported that Umm ul Mu'mineen has said that Rasool Allah (saw) said **"They would soon seek protection in this house, people who would have no strength [mana'h] and no numbers [a'dad] and no weapon [u'ddah]. An army would be sent to fight them and when they would enter a desert the army would be sunk in it."** (MUSLIM kitaabul Fitn wa ashraatus Sa'ah [no.6889]) and in another narration

from Aishah, Nabi (saw) is reported to have said “Strange it is that some people of my ummah would attack the house, a man from Quraysh and he would try to seek protection in the House (Ka’aba). And when they would reach the plain ground they would be sunk....” (MUSLIM kitaabul Fitan wa ashraatus Sa’ah [no.6890])

10. Imaam Mawaardi on the continuity of Imaarah in the case of captivity. He said “...If he is made captive after having become the Imaam, it is up to the whole Ummah to save him, as the office of Imaamah obliges that he be saved, he remains the Imaam as long as there is hope he will be released, either by force or by ransom...” (al Ahkaamus Sultaneeyah wal Wilaayat ad Deeneeyah [p.34]). In the following passage Imaam Mawaarid clarifies that Imaamah continues to be valid until it can not be recovered, in which case it must continue by deputation until another Imaam is appointed, the authority of Imaamah is indicated further by the fact the captive Imaam's nomination of a deputy will take precedence. Imaam Mawaardi said “As for deficiencies in his capacity to act, it is of two kinds, control or coercion by others. ‘Control’ here describes the situation when someone from his retinue gains authority over him and rules autocratically over affairs without any manifest sign of opposition. This does not exclude him from Imaamah and it does not impair the validity of his governance, but the actions of the person who has taken over his affairs should be investigated, if they are in accordance with the judgements of the deen and according to the requirements of justice, he may be allowed to remain in order that the Imaamah may continue to function and its rulings be executed, lest the affairs of the deen be interrupted and the Ummah is corrupted. If however, his actions are outside the rule of the deen and the requirements of justice, he may not tolerate his actions and he must seek the help of another in order to overcome him and put an end to his dominance. The ‘coercion’ referred to here means that the Imaam has become the captive of an overpowering force from which he cannot free himself. This prevents the contract of Imaamah being concluded with him because he is incapable of examining the affairs of the Muslims. It is of no consequence whether the enemy is a mushrik or a rebel Muslim. The ummah may choose another than him from those who have power to act by themselves. If he is made captive after having become the Imaam, it is up to the whole Ummah to save him, as the office of Imaamah obliges that he be saved, he remains the Imaam as long as there is hope he will be released, either by force or by ransom. If there is no hope for him, consideration must be made of whether his captors are mushrikoon or rebel Muslims. If he is a captive of the mushrikoon, he is excluded from the Imaamah as there is no hope of his release and the electors should make the baya’h to someone else. If he assigns the Imaamah to another at the point of capture, the matter is investigated, if it occurred after there was no hope of his release, his baya’h is annulled as it was made after his exclusion from Imaamah and was thus invalid. If he made the baya’h before all hope was lost of his release, that is, at a time when there was still some hope of his release then his baya’h is valid, as he was still the Imaam. The Imaamah of his heir is thus established when there is no longer hope of his release, his Imaamah having come to an end. If he is freed from captivity, after having nominated a successor, his release is investigated. If it occurred after all hope was lost, he may not return to office because he was excluded from Imaamah, the moment this was lost and the transfer of Imaamah to his heir and ensued. If he was released before loss of hope, he retains his Imaamah and his successor is established, even though he does not become the Imaam.

If he is made captive by rebel Muslims and there is hope of his release he retains his Imaamah. If there is no hope of his release, then the rebels will necessarily be in one of two situations. Either they have set up an Imaam for themselves or they have not. If there is chaos and they have no Imaam, the captive Imaam in their hands retains his Imaamah, since their baya’h to him is binding and their obedience to him is obligatory. His relationship to them is the same as that of someone placed under a restriction (by a subordinate) to people of probity. The people of election must appoint someone to stand in for him if he can not act himself. If he is able to do this, he is more entitled to choose someone to take his place than them. If the captive renounces office himself or he dies, the person appointed to take his place, does not become the Imaam as he was only representing someone who was still in office, this office ceases when the office ceases.” (MAWAARDI ‘Ahkaam as Sultaneeyah’ [p.34-35])

11. Historical Examples of Captive or Virtually Captive Khulafaa’ indicating the Continuity of Imaarah. There is also the example of many khulafaa’ among Bani Umayyah and Bani A’bbaas who were weak, overpowered by opponents or their own umaraa’, and even imprisoned but were still regarded as khulafaa’:-
- i) Waleed II ibn Yazeed II (Khilaafah Amaweeyah 743-744ce) Waleed II was said to be corrupted and the people of Damascus rose against him and this was under the leadership of his cousin Yazeed who was son of Waleed I. Waleed II was so weak that he locked himself in his palace but he was eventually taken captive and killed.
  - ii) Yazeed III (Khilaafah Amaweeyah 744 ce). The rebels revolted against Yazeed III under the leadership of Marwaan II a grandson of Marwaan I. These rebels wanted a son of Waleed II to be put back as khaleefah. Yazeed III died in this weakened state.
  - iii) Marwaan II (Khilaafah Amaweeyah 744-750c.e.) Abu Muslim declared himself as the governor of Khurasaan on behalf of the A’bbaaseeyah. This was following the fighting that broke out in Khurasaan between the Yemenites who were supported by the Khawaarij, the Shi’a and the A’baaseeyah and the Qaisites who were on the side of the Umayyad governor of Khurasaan. The leader of the A’bbaaseeyah was in Humaymah, Jordan. The main leader of the A’bbaaseeyah in Jordan was Abu Muslim. The Yemenites won the battle but their leader was killed. The Umayyad governor fled to Rayy. Marwaan II marched from Harran to Koofah and the A’bbaasi armies marched from Koofah under the command of A’bdullah an uncle of the A’bbaasi khaleefah Abu’l A’bbaas. In January 750c.e. eighty miles south of Mosul at the Zab River, the Amawee army was defeated. Marwaan II retreated to Mosul but the people of Mosul did not let him in so he went to Harran, the A’bbaaseeyah pursued him and he fled to Damascus, the A’bbaaseeyah continued to pursue him and he went to Egypt. The people of Damascus opened their city to the A’bbaaseeyah. Marwaan II could not find protection in Egypt and in August 750 c.e., he was taken prisoner and killed. This was the end of the ninety years of the Khilaafah Amaweeyah.
  - iv) al Muqtadir (Khilaafah A’bbaaseeyah 908-932ce) Taken prisoner and deposed twice. The ameerul umaraa’ called Munis became more powerful than him and he was imprisoned in his house.
  - v) al Qaahir [Abu Mansoor Ahmad] (Khilaafah A’bbaaseeyah 933-934ce) Al Qaahir was said to be corrupt and tyrannical. Some of the army rebelled and went to his palace and asked him to abdicate, he refused. He was therefore blinded and deposed all his property was confiscated. He was imprisoned for some years and released. He was reduced to begging in the streets of Baghdad, he lived for sixteen years after being deposed and then he passed away in 950ce. He was the first of the A’bbaasi khulafaa’ to be blinded and reduced to begging.

- vi) ar Radi [Abu'l Abbaas Muhammad ibn al Muqtadir] (Khilaafah A'bbaseeyah 934-940ce) He was so weak that the title of Ameerul Umaraa' was first given to Muhammad ibn Raiq who was the governor of Basra, he was the first to take this title.
- vii) 'al Qaa'im' [Abu Ja'far A'bdullah ibn al Qaadir] (Khilaafah A'bbaseeyah 1031-1075ce) Imprisoned by the Turkish general al Basasiri for one year, he proclaimed the Faatimi Khaleefah 'al Mustansir' as Khaleefah, so that his name was mentioned in the jumua'h khutbahs in Baghdad.
- viii) al Mustarshid (Khilaafah A'bbaseeyah 1118-1135ce) Imprisoned by Sultan Masoo'd.
- ix) We also have for two centuries the A'bbasi Khulafaa' of Cairo, starting with Mustansir (1261 c.e.), followed by Haakim and so on. These khulafaa' were installed by the Mamlook Sultaneeyah based in Cairo, the real power were the Sultaans and they held the Khulafaa' as virtual prisoners for ceremonial use and official duties, giving legitimacy to their own positions.

{NOTE: For an Elaboration of the details of these khulafaa' in Arabic refer to historical works such as 'Tareekh al Khulafaa' by Imaam Jala ad Deen as Suyooti [d.911 h.], 'Tareekh at Tabari' by Imaam Ibn Jareer at Tabari [d.310 h.], 'al Bidaayah wan Nihaayah' by Haafiz Ibn Katheer [d.774 h.], 'Tabaqaat al Kabeer' by Imaam Ibn Sad [d.230 h.], 'Usd al Ghaabah fi Ma'rifaat as Sahaabah' & 'al Kaamil fi'l Tareekh' by Imaam Ibn Atheer [d.630 h.], 'al Futooh al Buldaan' by Imaam al Balaadhuri [d. 279 h.], Tareekh Ya'qoobi by Imaam al Ya'qoobi [d.276 h.], 'Wafayat al A'yaan' by Imaam ibn Khallikan [d.681 h.], 'Murooj adh Dhahab' by Imaam al Masoo'di [d.346 h.] and for a summary of the details in English refer to works such as 'Tareekh al Khulafaa' – Khulafaa Raashideen (The History of the Khalifahs who took the Right Way)' Imaam Jalal ad Deen as Suyooti [d.911 h.], 'Arab Muslim Administration 622-1258' by S. M. Imamuddin, 'History of Islamic Civilization Umayyads and A'bbasids' by Jurji Zayadan, 'A Short History of the Saracens' by Syed Amir Ali, 'The Caliphate' by T. W. Arnold, 'Seerat al Khulafaa ar Raashideen (Biographies of the Rightly Guided Caliphs, prepared from the works of Ibn Katheer, at Tabari, as Suyooti and other historians)' by Tamir Abu Su'ood Muhammad, 'Succession to the Rule in Islam' by Dr. Anwar Chejne, 'Khulafaa Raashideen(The Ideal Caliphs of Islam, Authentic biographies of the four early caliphs of Islam)' by Shah Moinuddin Nadvi, 'A Chronology of Islamic History' by H. U. Rahman, 'History of Islam' by Prof. Masud al Hasan}

There are several other khulafaa' who could be listed as actual or virtual prisoners under their opponents.

These historical examples show that many khulafaa' during the period of major u'lemaa, were regarded as khulafaa' despite restrictions on their movement, communication and ability to command independently. It is not the ideal situation and it is not to be sought, but it simply shows that an Imaam is not immediately deposed when hardships effect him and his relations with those under his authority.

#### The Captive Imaam and the Ma'moor [those under his authority]

It is clear from the above guidance that:-

- i) A captive Imaam is not automatically deposed from his office, but rather his situation is first investigated.
- ii) The Imaam is not the only position of authority in the khilaafah system, the absence of the Imaam due to captivity or even death does not mean that the Muslims have no authority. Rather the legitimacy of the Imaarah of the Wulaa' [regional governors], U'maraa [commanders], Nuqabaa' [deputized officials], Wuzaraa'[appointed assistants] and Nuwaab [representatives] continues until the replacement of those officials by a sharia'h process.
- iii) A Naa'ib Ameer will have legitimacy in the temporary absence of the Imaam, and before the naai'b Ameer is appointed either by the Imaam or other Umaraa' the people still remain under the authority of their immediate Wulaa' and Umaraa'
- iv) The decision concerning whether a new Imaam needs to be appointed, and who is appointed as a Naa'ib Ameer etc will rest with the those authorized in the sharia'h system such as the qudaa', wulaa', umaraa' and Majlis ash Shooraa. It is only if they abandoned the unity of the ummah, abandoned organizing the affairs or reverted to kufr when they should be bypassed.
- v) The prevention to a captive Imaam's authority being effective is that his decision can be compromised and influence in the hands of an enemy, and that he may not be able to witness the affair of the ummah so as to exercise judgement or that his command may not be able to reach the ummah. These three preventions to his capacity to fulfil his role are relative to his circumstances, those holding him and the relations he maintains with any of those under his authority such as a naqeeb or ameer etc. Therefore the judgment on the validity of decisions made by the Imaam and decisions made by the Majlis ash Shooraa, Umaraa, Nuwaab, Wuzaraa' and Nuqabaa' in his absence will vary with every situation.

In a situation where an Imaam is not recognized by much of the ummah and the ummah not holding to an alternative Imaam, and the ummah is in a state of mass deviation and abandonment of Islamic laws and systems, the significance of a captive Imaam becomes lessened, this is because the amount of people he directly commands is much less and the ease for them to hold their unity and affairs is much greater. The possibilities of such a situation occurring at a time of weakness are much greater than those at a time of strength and security, therefore it is important that the system of administration is not constantly disrupted by immediate deposition of Imaams, but rather maintenance of the current administration should be sought while maintaining a connection to the Imaam and an attempt to free him. If the opposite was the case, i.e. that the Imaam was deposed and another elected as soon as the existing Imaam became captive, then this would give the enemies of Islam an advantage by constant disruption to the affairs of the Muslims by merely targeting the Imaam, this is indeed part of the hikmah in the shari'ah making emphasis on the system of Imaarah rather than the individual. When emphasis is upon the system, then all levels of authority have significance and a role to play such as the qaadi, the ameer, the wali, the wazeer etc. This means that those levels of authority and the duties they fulfil can remain operative in cases such as the Imaam becoming captive. When the emphasis is only on the individual personality and qualities of the Imaam then all hope is lost if he died or became captive. Additionally, the ummah would be in constant conflict and turmoil over the issue of authority if all emphasis was put on the individual position of khaleefah/Imaam, this is part of the benefit in tolerating a deficient Imaam, that being, the greater importance of unity and the system as opposed to the leader himself, thus the many ahadeeth prohibiting removing the leader except upon his kufr.

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