

Hanafi Ulama on Khilafah and its Fiqh

Ulama of the Hanafi madhhab, like those of the other madhahib, emphasised the role and importance of the Khilafah throughout the ages. In many respects, they had more to say about issues of ruling and governance than other ulama since many khulafa – the Abbasids and Uthmanis in particular – adopted the Hanafi madhhab and sought advice and rulings from the Hanafi ulama of their times. For example, the Abbasid Khalifah Harun al-Rashid wrote to Abu Yusuf (rh), the student and companion of Abu Hanifa (rh), asking him questions about how to manage the finances of the state. Abu Yusuf wrote back with his famous and excellent treatise entitled *al-Kharaj* detailing many of the Shari’ah rules regarding state finances.

In this article we have a look at some of what the Hanafi ulama said about the Khilafah, noting that this should be of particular interest to the ulama, students of shar’i knowledge and activists of Pakistan, who predominantly follow the Hanafi madhhab.

Imam al-Nasafi (d. 537 AH) highlights the importance of the Khilafah in his famous treatise on aqa’id (creed) entitled *Aqa’id al-Nasafiyya* (p. 354): *والمسلمون لا بد لهم من إمام يقوم بتنفيذ أحكامهم وإقامة حدودهم وسد ثغورهم وتجهيز جيوشهم وأخذ صدقاتهم وقهر المتغلبة والمتلصصة وقطاع الطريق وإقامة الجمع والأعياد وقطع المنازعات الواقعة بين العباد وقبول الشهادات القائمة على الحقوق وتزويج الصغار والصغار الذين لا أولياء لهم وقسمة الغنائم* “*The Muslims must have an Imam, who carries out the implementation of their ahkam, the maintaining of their hudud, the guarding of their frontiers, the equipping of their armies, the receiving of their alms [zakat], the subjugation of those who rebel, thieves and highway robbers, the establishment of jumu’a and the two ‘Eids, the settlement of disputes which take place amongst people, the receiving of evidence based on legal rights, the facilitation of the marriage of the young men and women who have no guardians, and the distribution of the booty.*”

He emphasises here how important the Khilafah (Caliphate) is in Islam, showing that so many of the fundamental Islamic obligations depend on it and cannot be fulfilled properly without it.

In commenting on this statement of Nasafi (rh), Imam Sa’d al-Din al-Taftazani (rh)- a Shafi’i scholar but one who wrote the most renowned commentary on *Aqa’id al-Nasafiyya* and also a prolific author of brilliant works widely studied in the madaris of Pakistan, such as his *Mukhtasar al-Ma’ani* in balagha – says, *ثم الإجماع على أن نصب الإمام واجب وإنما الخلاف في أنه هل يجب، على الله تعالى أو على الخلق بدليل سمعي أو عقلي. والمذهب أنه يجب على الخلق سمعاً، لقوله عليه السلام: ((من مات ولم يعرف إمام زمانه مات ميتة جاهلية)) ولأن الأمة قد جعلوا أهم المهمات بعد وفاة النبي عليه السلام نصب الإمام حتى قدموه على الدفن، وكذا بعد موت كل إمام، ولأن كثيراً من الواجبات الشرعية يتوقف عليه* “*There is (scholarly) consensus on the appointment of an imam being obligatory. The difference of opinion is only on the question of whether the obligation is on Allah or man, and whether is it by textual or rational evidence. The correct position is that it is obligatory upon man by the text, due to his saying (saw), ‘Whosoever dies not knowing the Imam of his time dies the death of jahilliyah’, and because the Ummah (the companions) made the appointing of the Imam the most concerning of important matters after the death of the Prophet (saw) to the extent that they gave it priority over the burial; similarly after the death of every imam, and also because many of the other shari’a obligations depend upon it.*” (*Sharh al- Aqa’id al-Nasafiyyah*, p.353-354)

Imam al-Taftazani (rh) mentions a number of important points here. First, he notes that there is *ijma’* of the ulama that the Khilafah is an obligation on the Ummah. As for the

difference he alludes to, he is referring to the disagreement of the Shi'a, who held that it was obligatory but on Allah (based on their belief that Allah appoints the imams) and the Mu'tazila, who held that it was an obligation based on the mind (based on their usul in which the mind can establish certain obligations). However, he notes the correct position held by all the scholars of the four madhhabs that it is an obligation on man based on the text.

Second, he cites one narration of the hadith in Sahih Muslim in the chapter of Imamah (governance) whereby the noble Prophet (saw) said, «مَنْ مَاتَ وَلَيْسَ فِي عُنُقِهِ بَيْعَةٌ مَاتَ مِيتَةً جَاهِلِيَّةً» **“Whosoever dies without having a pledge of allegiance (to a Khalifah) on his neck, dies a death of Jahilliyah.”** Dying a death of *jahilliyah* here denotes prohibition, as noted by Ibn Hajr in *Fath al-Bari*.

Third, he mentions the well-known fact that the noble Sahaba considered the Khilafah of such utmost importance that they delayed the burial of the noble Prophet (saw) for it, giving it priority. Fourth, he explains its importance above other obligations in that it is not just an obligation but one on which other obligations (such as the ones mentioned by Nasafi (rh)) depend, therefore of the highest priority.

It is also relevant to note here that all this discussion about the Khilafah is taking place in a book on Aqeedah, even though the Khilafah is a matter of fiqh, not belief per se. This is because the Khilafah was a matter on which certain Islamic madhabs with wrong beliefs held wrong positions. Therefore the matter entered debates that had their origin in creedal matters, and since it was a matter of great importance in Islam, scholars discussed it in books of Aqeedah.

This is also why many scholars referred to it as the Imamah, since this was the popular term used in debates with some of these madhhabs, like the Shi'a. It should be noted, however, that *Imamah* and *Khilafah* are synonymous terms, both referring to the political leadership of all Muslims entrusted with the duty of implementing Islam. *Imam* and *Khalifah* are also synonymous, referring to the person in whom this leadership is manifest, or in modern parlance, the head of state in the *Khilafah*. The noble Prophet (saw) also used both words in when speaking about the matter. For example, in the hadith of Muslim which underscores the importance of the Khilafah's unity he (saw) said, «إِذَا بُويعَ لِخَلِيفَتَيْنِ فَأَقْتُلُوا الْآخَرَ مِنْهُمَا» **“If the pledge of allegiance is given to two Khalifah's, kill the latter of them,”** while in the hadith of the Khalifah being a shield, also in Muslim, he (saw) said, «إِنَّمَا الْإِمَامُ جُنَّةٌ يُقَاتَلُ مِنْ وَرَائِهِ وَيَتَّقَى بِهِ» **“Indeed, the Imam is a shield...”**.

Shah Waliullah al-Dehlawi (d. 1152 AH), a renowned authority in the subcontinent also emphasises the fard of Khilafah, "اعلم أنه يجب أن يكون في جماعة المسلمين خليفة لمصالح لا تتم إلا بوجوده" **“Know that it is obligatory for there to be in the *jama'a* of the Muslims a *khalifah* for interests that simply cannot be fulfilled except with his presence...”** (*Hujjat Allahi al-Baligha*, 2:229)

Of course, the issue is also mentioned in many books of Hanafi fiqh. One of these is the *magnum opus* of the great Shami scholar of the 12 century Hijri, Muhammad Amin Ibn Abidin (d. 1252 AH) of Damascus, who is perhaps the most renowned of the latter Hanafi fuqaha, particularly in the Subcontinent. He is known as the final verifier (*khatimat al-muhaqqiqin*) of the Hanafi madhhab. His work, *Radd al-Muhtar* [Reply to the Perplexed], also known as *Hashiyat Ibn Abidin*, is taken as the final word on most issues in Hanafi madhhab. It is an elaborate commentary on the excellent treatise of the erudite Hanafi faqih of the 11 century hijri, Ala'-Din al-Hasaki (d. 1088 AH), *Durr al-Mukhtar* [The Choice Pearl], which itself is a commentary on the work of al-Turtumashi of Gaza (d. 1004 AH), *Tanwir al-Absar* [Illumination of the Eyes].

In *Durr al-Mukhtar*, Imam al-Haskafi writes (Ibn Abidin's commentary in brackets), "فالكبرى استحقاق تصرف عام على الأنام، وتحقيقه في علم الكلام، ونصبه أهم الواجبات (أي من أهمها لتوقف كثير من الواجبات الشرعية

عليه)، فلذا قدموه على دفن صاحب المعجزات (فإنه - صلى الله عليه وسلم - توفي يوم الاثنين ودفن يوم الثلاثاء أو ليلة الأربعاء أو "The major *imamah (khilafah)* يوم الأربعاء ح عن المواهب، وهذه السنة باقية إلى الآن لم يدفن خليفة حتى يولى غيره)" is the right of general disposal over the people. Its study is in 'ilm al-kalam and establishing it is the most important of obligations [it is of the most important obligations because the fulfillment of so many other *shari'a* obligations depends on it]. For this reason did they (the *sahaba*) give it priority over the burial of the Prophet (saw) [He (saw) passed away on Monday and was buried on the day of Tuesday or the night of Wednesday or its day (according to the different narrations), and this *sunnah* remains till this day such that the *khalifah* is not buried until another is appointed]." *Radd al-Muhtar 'ala al-Durr al-Mukhtar*, 1: 548.

Al-Haskafi thus defines the Khilafah as the right of general disposal over the people. By this he means it is the right to manage the affairs of the people and is an absolutely general right, that is, it encompasses all the people in the lands of the Khilafah in all their public affairs. This is as opposed to the particular right of governors and judges, whose right of authority is in over some people in some areas to the exclusion of others.

In commenting on this, Ibn Abidin (rh) cites the definition of Taftazani in *Sharh al-Maqasid*, where he defines the Khilafah as, "رياسة عامة في الدين والدنيا خلافة عن النبي" "The general leadership in the deen and worldly affairs in succession of the Prophet (saw)."

This latter part of the definition indicates that the Khilafah is a position in succession of the Prophet (saw). This means that the role of the Khilafah is to succeed the Prophet (saw) in implementing the Shari'ah. This is why he is called a Khalifah, which linguistically means successor.

Al-Haskafi then goes on to mention the conditions of the Khalifah, noting those which are agreed upon such as his being Muslim, free, male, sane, baligh, and able and some which are differed upon such as his being from Quraysh, a mujtahid and brave. He also negates some of the conditions claimed by other sects like that he be Hashimi, Alawi or infallible.

More generally with reference to the fiqh of matters of ruling and governance, many Hanafi works have been written dealing with the subject matter from various angles, starting with the *Kitab al-Kharaj* of Abu Yusuf (d. 162) and *al-Siyar al-Saghir* and *al-Siyar al-Kabeer* of Imam Muhammad ibn al-Hasan al-Shaybani (d. 189), the two students of Abu Hanifa. Imam al-Sarkhasi (d. 483 AH) then wrote a commentary of *al-Siyar al-Kabeer*. Many later works were also written.

All of this shows the absolute importance attached to the Khilafah by the ulama of the Hanafi madhhab. This should serve as motivation for today's ulama and students of Shar'i knowledge to pay due attention to this matter and indeed to be at the forefront of working for the re-establishment of the Khilafah (Caliphate) upon the method of the Prophethood.

Written for the Central Media Office of Hizb ut Tahrir by
Usman Badr