



Waali, the Shariah Governor in the Khilafah

The geographical extent of Muslim lands spans across multiple continents from the Atlantic Ocean eastward to the Pacific. The thought of reuniting all this land under one ruler is seen by some as an impossibility. The Khilafah (Caliphate) State is a unitary political system, but this does not mean that one man does it all! The territories the Islamic State rules over would be divided into provinces, each known as a Wilayah. The Wilayah is geographically specified because the Messenger of Allah used to specify the area over which he appointed the Waali.

The Waali (governor) is the person whom the Khaleefah (caliph) appoints as ruler and Ameer over a Wilayah (province) of the Khilafah State. The Wilayah is then further divided into districts and each district is known as an 'amalah and the person appointed over the amalah would be known as the Amil or Hakim.

Only the Khaleefah has the authority to appoint the Wali, and he is the deputy of the Khaleefah in his area. The Khaleefah will choose a Wali according to the qualifications for this post. They are: the Wali must be Muslim, male, free, mature, sane, and just, as well as competent in their task, and should be chosen from among the God-fearing (taqi) and influential Muslims. The Wali's position is an important one, and the qualifications are to ensure the appointment of someone who is able to rule justly and wisely according to the Shariah Law of Allah (swt).

The Khaleefah can choose which type of appointment he makes for the Wali. He can make a general appointment; this would include all the ruling matters within the Wilayah. Appointing someone to that Wilayah would mean that the Khaleefah delegates to the Waali the Imarah of a country or a province, as a Wilayah over all its people for supervising all the normal functions of running an area. This means he would be responsible for all the various government departments. Or the Khaleefah could choose to make a specific appointment; this means that the Wali would be restricted to running the armed forces, governing the citizens, protecting the territories, or defending the women and children in that country or province. However, he would have no say in the judiciary or in the collection of Kharaj and Sadaqah.

Within the bounds of his responsibility and as the deputy of the Khaleefah, he has the authority to make decisions on his own. However, this must be done in accordance with the Quran and Sunnah. We have the example of when the Prophet (saw) sent **Mu'adh ibn Jabal** to Yemen. Al-Bayhaqqi, Ahmad and Abu Dawood narrated on the authority of Mu'adh that, «لَمَّا أَرَادَ أَنْ يَبْعَثَ مُعَاذًا إِلَى الْيَمَنِ قَالَ " كَيْفَ تَقْضِي إِذَا عَرَضَ لَكَ قَضَاءٌ " . قَالَ أَقْضِي بِكِتَابِ اللَّهِ . قَالَ " فَإِنْ لَمْ تَجِدْ فِي كِتَابِ اللَّهِ " . قَالَ فَبِسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . قَالَ " فَإِنْ لَمْ تَجِدْ فِي سُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَلَا فِي كِتَابِ اللَّهِ " . قَالَ أَجْتَهِدُ رَأْيِي وَلَا أَلُو " . فَضَرَبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ صَدْرَهُ وَقَالَ " الْحَمْدُ لِلَّهِ الَّذِي وَفَّقَ رَسُولَ رَسُولِ اللَّهِ لِمَا يَرْضَى رَسُولُ اللَّهِ » **The Messenger of Allah said to him, when he sent him to Yemen: 'How would you rule if a case was presented to you?' He said, 'By the Book of Allah.'** He said, 'What if you do not find it (the verdict) there?' He replied, 'I would judge by the Sunnah of Allah's Messenger.' And he said, 'What if you do not find it there?' He said; 'I would exert an opinion (perform Ijtihad), saving no effort.' Upon this the Messenger of Allah put his hand on my chest, and said; Praise be to Allah Who has helped the messenger of the Messenger of Allah to find something which pleases the Messenger of Allah."

It is incorrect to say that this hadith allows someone to use their own mind to come to an opinion based on their whims and desires and not according to the Shariah evidences from the Noble Quran and the Prophetic Sunnah. The meaning of this hadith establishes the Waali cannot make a decision that goes against Islam as ijihad is part of Fiqh, and it means the alim forms an opinion based on Islamic evidences.

However, the Waali is part of the State, and this means he is not independent and without any overwatch or accountability. Part of the duty of the Khaleefah is inquiring about the actions of the Waali and monitoring him closely. Umar (ra) used to gather the Wulah during Hajj to review their performance.

The dismissal of the Waali would be up to the Khaleefah, and this can be done for any reason including if the majority of people in his Wilayah or their representatives were unhappy

with him. The Messenger of Allah dismissed Mu'adh bin Jabal from Yemen without any reason, and he removed Al-Ala' Ibnul-Hadhrami, his 'Amil over Bahrain, because the delegation of Abdu Qays complained about him. 'Umar ibn Al-Khattab used to dismiss the Wulah with or without reason. He dismissed Ziad Ibnu Abi Sufyan without giving a reason, and he dismissed Sa'd Ibnu Abi Waqqas because the people complained about him, and then said, "I did not remove him because of incompetence or betrayal." This is evidence that the Khaleefah can remove the Waali whenever he wished if the people living in his Wilayah filed a complaint against him. It is important for the political unity of the State that the people do not become unhappy or dissatisfied with their rulers, as we see happening all over Muslim lands today.

'Umar (ra) was known to be strict when accounting the Wulah and the 'Aamileen. He would even remove some of them on mere suspicion, without conclusive evidence. He even used to remove a Waali on the slightest doubt that did not even reach the level of suspicion. He was asked about this one day, and he said, 'It is easy to swap an Ameer for another to amend the people's affairs.'

However, despite his strictness with them, he used to give them a free hand and safeguarded their reputation in ruling. He used to listen to them and consider their argument. If he liked an argument, he would show his approval and conviction of it and would shower the 'Amil with praise afterwards. One day, news reached him about his 'Amil, Umayr Ibnu Sa'd, who had said while over the pulpit of Homs: "Islam will remain formidable as long as the authority is strong. And the strength of the authority does not come about with the killing by the sword or the lashing by the whip, but with the judging by the truth and the upholding of justice." Upon hearing this, 'Umar said, "I wish I had a man like Umayr Ibnu Sa'd to help me with the Muslims' affairs."

Therefore, the Waali must be capable of taking care of the affairs of the people in their Wilayah. This is a position of great responsibility and the accountability on them is very harsh; they cannot do whatever they please. Sulayman Ibnu Barida reported on the authority of his father that he said, **«كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا أَمَرَ أَمِيرًا عَلَى جَيْشٍ أَوْ سَرِيَّةٍ أَوْ صَاهُ فِي خَاصَّتِهِ يَتَّقَى اللَّهَ وَمَنْ مَعَهُ مِنَ الْمُسْلِمِينَ خَيْرًا»** **"Whenever the Messenger of Allah appointed an Ameer over an army or an expedition, he used to advise him to fear Allah and to be good to the Muslims who accompany him."** [Muslim]

If we contrast the rule of Waalis to similar positions today, there are provincial governors, chief ministers or state administrators. Provincial governments implement provincial legislation and policies. Chief ministers and provincial legislatures can make provincial laws in systems where they have legislative powers. And often we see the frustration of the Ummah as these 'representatives' do not show concern for the people and they lack accountability. Their reference is not Qur'an and Sunnah, but man-made laws and their own desires and benefit.

The true ruler in Islam is the one that is aware of their responsibility to the Ummah; it has been narrated on the authority of Ibn 'Umar that the Prophet (saw) said, **«أَلَا كُلُّكُمْ رَاعٍ، وَكُلُّكُمْ مَسْنُونٌ عَنْ رَعِيَّتِهِ، فَأَلَامِيرُ الَّذِي عَلَى النَّاسِ رَاعٍ، وَهُوَ مَسْنُونٌ عَنْ رَعِيَّتِهِ، وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ، وَهُوَ مَسْنُونٌ عَنْهُمْ، وَالْمَرْأَةُ رَاعِيَةٌ عَلَى بَيْتِ بَعْلِهَا وَوَلَدِهِ، وَهِيَ مَسْنُونَةٌ عَنْهُمْ، وَالْعَبْدُ رَاعٍ عَلَى مَالِ سَيِّدِهِ، وَهُوَ مَسْنُونٌ عَنْهُ، أَلَا فَكُلُّكُمْ رَاعٍ، وَكُلُّكُمْ مَسْنُونٌ عَنْ رَعِيَّتِهِ»** **"Indeed, each of you is a guardian, and each of you is responsible for his charge: the amir over the people is a guardian and is responsible for his charge; the man is a guardian over his household and is responsible for them; the woman is a guardian over her husband's home and his children and is responsible for them; and the servant is a guardian over his master's wealth and is responsible for it. Indeed, each of you is a guardian, and each of you is responsible for his charge."** [Muslim and Bukhari]

**Written for the Central Media Office of Hizb ut Tahrir by
Nusayba bint Zubayr**