

Q&A: Can the Caliphate have elected governors?

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One of the mandatory powers of the Caliph is that he appoints and removes the governors (wulah).

Since the Council of the Ummah (Majlis ul-Ummah) has the right to remove the governors then the Caliph should appoint those who the Majlis approves of. The Caliph should therefore take shura (consultation) from the Majlis on who the governors and Assistants should be.

A possible style for this is the Regional Assembly (Majlis ul-Wiliyah) votes in a governor and then the Caliph based on this vote ratifies their decision, so the final decision is with the Caliph.

This is what happened in the Caliphate of Uthman bin Affan when the influential people (ahl hali wal-aqd) from Egypt came to complain about their governor ibn Abi Sarh.

Uthman said to the ahl hali wal-aqd, “Choose from amongst yourselves a man whom I shall appoint over you in his (ibn Abi Sarh’s) place.” They said, “Appoint Muhammad ibn Abi Bakr over us.” Uthman wrote his covenant and appointed him. [Suyuti, Tarikh ul-Khulufa]

I believe this was undertaken in the presence of the companions (sahaba) so constitutes ijma us-sahaba (consensus of the companions).

Based upon the above evidence (daleel) is it therefore allowed to have elected governors (wulah) in the Caliphate?

In answer to this the powers of the Caliph include “the appointment and dismissal of governors”. The provisions over this matter are general, so it is not allowed to specify any of these general provisions unless there is evidence. If there is no evidence the powers of the Caliph remain general concerning appointment and dismissal. This power belongs to him alone, and no one else can oblige the Caliph to appoint or dismiss a governor without an evidence of specification.

There is evidence to dismiss the governors if their provinces (wiliyaat) complained about them. Therefore, the Caliph is obliged to dismiss the Governors if their provinces complained about them, i.e. if the Regional Assembly or the Council of the Ummah complained about them. There is no place here for divine analogy because the evidence is general so it is subject to specification, and it does not depend on a divine reason ('illah) to allow analogy (qiyas).

Therefore, although the Council of the Ummah can oblige the Caliph to dismiss a governor, they cannot oblige the Caliph to appoint a governor, because the specification came regarding the dismissal rather than the appointment of the governor.

As regards the issue of appointing Mohammad bin Abu Bakr by Uthman (ra) as requested by the people of Egypt, and describing this as consensus (ijmaa') for it took place in the presence of the Sahabah, this is not true. This is because everything that is subject to the opinion of the Caliph is not considered a consensus, even if the companions were silent. In other words, everything of the powers of the Caliph does not come under the consensus. Appointment of governors is the right of the Caliph, so no one can oblige the Caliph by removing any of his powers unless there is evidence upon that. The evidence came over the dismissal of the governor if the province complained about him, but not over the appointment of a governor if requested by the province. Rather the appointment depends on the opinion and diligence of the Caliph.

Therefore, the approval of Uthman (ra) to appoint Muhammad ibn Abu Bakr was subject to his opinion and diligence and not imposed upon him. He rather considered it a good action so he agreed to the request of the people of Egypt. Thus, the matter was discharged based on his opinion and diligence. Had Uthman (ra) rejected to appoint him he would not have violated a divine ruling.

In conclusion, the Caliph is not obliged to appoint a particular governor upon the request of the Council of the Ummah, he rather consults them, but the appointment decision is subject to his opinion and diligence because it is of his powers.