

## A Comparative Analysis between Voting in a Democratic System and Bay'ah in the Islamic Political System

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### Abstract

Voting is one of the important elements in the appointment of a leader in a democratic system. The appointment is invalid without referring to the choice of the people. Nevertheless, in the implementation of the current electoral system, voting is always associated with the Islamic method of bay'ah despite the fact that the latter is remotely related to the democratic system. Hence, this working paper aims to elaborate on the position of voting in the democratic system when comparatively analysed with the akad or proclamation of bay'ah in Islamic politics. This study employs library research to analyse the data deductively and inductively which enables the authors to highlight several important issues pertaining to the practice of bay'ah in the current electoral system. This study determines that voting is an element of bay'ah between leaders and the people when it is conceived in the context of religious obligation. Bay'ah is implementable as part of democracy if all parties participating in the election understand the fundamentals of voting and bay'ah in more detail. The implication of this study concludes that understanding bay'ah in its actual concept is crucial in ensuring the reformation of the democratic electoral system. This would positively encourage the enhancement of the integrity level amongst the leadership.

**Keywords:** Voting, Bay'ah, Islamic Political System, Democracy

### Introduction

Following the voting issue mentioned mainly in the field of administration and government, numerous views sometimes seem partisan or biased. Some mention the implementation of *bay'ah* in the democratic system, mainly in the voting process. Thus, the discussion is not about the actual context based on the fundamentals and types of voting as well as *bay'ah*. Hence, in-depth discussions should be held to explain the basis of voting from the actual *bay'ah* perspective.

**Vote**

Voting is something to choose or determine something like who will get something or start a game. The ballot paper refers to the marked paper as indicating options such as one's election of one or the determination of something with a tagging on ballot papers (polls and so on). While voting is defined as determining or choosing by removing votes (Fourth Edition Chamber Dictionary, 2005). With this, it can be concluded that voting is a poll to select a person or a group of candidates, or the determination of a motion or proposal with a marking on the ballot paper.

Voting is a basic rule in the electoral system that determines who can and cannot vote. This is very important as the election is one of the key bases of an independent state (Md Lateh, Mat Resad, & Mohd Fadzil, 2016) who practices the democratic system (Ayub, 2001). The purpose of the voting was to provide space for the people to use their right to choose the government they believed could rule and be able to meet the needs of the people (Sakdan, 1997). Therefore, voting is one of the most important political events that give the people the opportunity to give their mandate to the representing government or political party in a democratic system (Mohamed, 1987; Wan Chik *et al.*, 2018). The protocols and the voting process are based on the freedom of a person to choose a leader and the willingness of the candidate to represent others as a leader (Mohamed, 1987).

For example's practice in Malaysia, voting is carried out by voters on the day and place designated in the Voter Register (voters). For voters who cannot attend they are given the option of voting by post, where they can vote ahead of the prescribed voting day. The postal voters consisted amongst the army, police, media officers and public pilot officers as well as overseas postal voters such as overseas citizens, students or civil servants on duty overseas (EC, 2021).

**Rules and Rights of the Voters**

To ensure that an election is fairly conducted and truly representing the rightful majority, there must be conditions and pre-requisites before anyone is given the right to casting a vote. A voter in Malaysia must fulfil the conditions as follows

- a. A Malaysian citizen.
- b. Has attained the age of 21 years old.
- c. Residing in the registered constituency.
- d. Is not prevented or has lost the eligibility by legislation that is presently enforced<sup>1</sup>.

These conditions imply that the people have the right to involve in the voting process. Also, each citizen has the right to choose the leader(s) if he or she possesses the level of maturity; stipulated as anyone who has reached 21 years of age. Furthermore, the right of the people living in a locality should not be impeded unless they have broken the law.

**Bay'ah**

The word *bay'ah* is derived from the Arabic verb *ba'a* (بَاعَ) or its *masdar* (root word) *bai'un* (بَيْعٌ), which means 'to sell' (Ibn Mandhur, d.u.: 401) which originally denotes as a consensus to a sales agreement (*akad*) (al-'Ayid *et al.*, d.u.: 189). *Bay'ah* also suggests a handshake to

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<sup>1</sup> [http://www.spr.gov.my/index.php?option=com\\_content&view=article&id=97&Itemid=196](http://www.spr.gov.my/index.php?option=com_content&view=article&id=97&Itemid=196)  
6 November 2013.

accept the sale or an agreement of loyalty and allegiance as the noun *ba'un* (عبا) connotes the act of outstretching hand or the measuring unit: fathom.

The people pledge allegiance to their leader, as understood from the expression “*extend your hand in a handshake for him*”. The Prophet SAW mentioned the word *bay'ah* in his saying, “*Have you not all pledged allegiance to me because of Islam?*” This statement hints at a mutual *akad* or agreement between two parties as if each party has mutually exchanged something they possess. In this case, they give all their soul and allegiance (Ibn Mandhur, d.u). *Bay'ah* also refers to a sales and purchase agreement that contains the *ijab* and *qabul*. Thus, *bay'ah* has two meanings, namely agreement to show allegiance and shake hands to receive the sale.

The Islamic scholar of the past and present proposed several terminological definitions for *bay'ah* depending on their area of expertise. Ibn Khaldun defined *bay'ah* as a contract and an agreement of loyalty. For example, one who pledges allegiance (*bay'ah*) agrees with his leader, declaring that he has surrendered the control over his matters and that of Muslims to their leader. One who pledges allegiance (*bay'ah*) makes an affirmation that he would not contest the power of his leader and he would be loyal to him by carrying out all his duties and trust given to him, whether he agrees or not (Ibn Khaldun, d.u.).

### **Pillars of Bay'ah and Conditions for Its Validity**

According to the Hanafi scholars, the only pillar of *bay'ah* is the consensus (*akad*) which is the agreement between two parties that have claimed their intentions either in the form of actions, signs, or writing via the *ijab* and *qabul*. Whereas the majority of the scholars (*jumhur*) have agreed upon three elements that are compulsory to perform *bay'ah*, listed as follow:

#### **a. Parties in Agreement (*akad*) (*al-'aqid*)**

Parties in the agreement are people who bilaterally perform the *bay'ah* deal or the grantors who possess the right and the grantees who are given the right, such as those who have received and offered the *bay'ah*. This is similar to sales and purchase transactions in which the parties in the agreement are the buyer and the seller. The *ulamak* have laid out conditions or criteria that necessarily be fulfilled by those in the deal (*akad*), as follows:

#### **i. Eligibility (*al-ahliyyah*)**

Parties in the *bay'ah* agreement are required to be competent and permissible to perform the deal. The eligibility is marked by them being *mumaiyiz*, *baligh* (pubescent) and *al-rushd* or rationally matured. *Mumaiyiz* means the ability to discern between right and wrong as well as what benefits and what causes losses. *Baligh* refers to the state of *mukallaf* or one who is accountable to carry his or her religious responsibilities. Meanwhile, the meaning of maturity is one's ability to differentiate between trust and deceit, which depends on the person's surroundings, education level, and knowledge.

#### **ii. Authority and Ability (*al-wilayah*)**

This condition refers to the right and the liberty of a person to perform a deal or agreement. The parties in the agreement must be individuals who are capable to remain loyal and able to represent others or the grantor in the *bay'ah* agreement. It is utmostly crucial that the person who gives consent to *bay'ah* deal to do it at his or her liberty and is free of any form of coercion or pressure upon making up his or her choice (Al-Zuhayli, 2004).

There are also compulsory conditions that are vital to validate the *bay'ah* deal. Among the conditions are

i. The candidate fulfils the criteria of an Islamic leader

Islam has stipulated conditions to whoever wants to be the leader of Islamic territory. The conditions refer to prospective candidates who participate in the *bay'ah*. The basic conditions are that they must be Muslim, independent, possess physical maturity (*baligh*), and a male (Al-Qasimi, 1990). Al-Mawardi mentioned seven conditions that should be fulfilled (Al-Mawardi, 1989), whereas Ibn Khaldun outlined four conditions (Ibn Khaldun, d.u).

The first condition is that the candidate must be fair or have wisdom by fulfilling all the criteria. According to Ibn Khaldun, fairness here means one who is knowledgeable and carries the religion. It is the main criteria compared to the others. One would fail to be fair or wise by committing major sins and hold beliefs contrary to Islam.

In a similar vein, the candidate should possess knowledge that would enable one to perform *ijtihad* on current problems and religious by-laws. Ibn Khaldun stated that it is a criterion that one must be knowledgeable so that one could implement the laws of Allah SWT and if one does not possess that knowledge then that person cannot be nominated. Besides that, it is not enough that the candidate is only knowledgeable but he must also be a *mujtahid* because it is not enough for one who is *taqlid* to hold the echelons of leadership among Muslims, which demands perfection in character and circumstances.

To possess perfect sensory faculties such as hearing, sight, and speech when communicating without distractions is a condition that must be fulfilled. Besides that, a candidate must also be physically fit so that nothing obstructs his mobility and speed. Ibn Khaldun stated that this includes being insane, blind, deaf, mute, and all forms of physical incapability that could affect work such as lack of hands and feet. Hence, the condition is to possess perfect sensory faculties that one may smoothly carry out the duties of a leader.

The candidate should possess strong views when managing the affairs of the people and be efficient in administration. Some of the other conditions are the fortitude to protect the people and *jihad* when facing enemies. Ibn Khaldun further explained this condition by saying that one should possess the ability to implement *hudud*, go to war to protect the safety of the people, to determine the strength and strategies of the enemy as well as the ability to defend his reign.

The last condition is that he must be a descendent of the Quraysh. When discussing this condition, the *fuqaha'* had different views. The majority of the *fuqaha'* laid down this condition based on the *ijmak* between the companions during the Saqifah gathering, which was understood from the exhortations of the Prophet s.a.w that the leader must be a Quraysh. Whereas, the views of the *muktazilah* and *khawarij* had not made ethnic origin the main condition for becoming a leader among Muslims by saying that one who is the noblest among the faithful is one who is God-fearing (Al-Khayyat, 2004). Nevertheless, when the last Quraysh family held the seat of Islamic rule during the frail rule of Abbasiyyah, the *fuqaha'* at that time had relaxed this condition (Fu'ad, 1998). Al-Ka'bi stated that, comparatively, the Quraysh were given priority but *bay'ah* had to be pledged between them if there is fear of false accusations (*fitnah*). Dirar was of the view that candidates of Quraysh descent and non-Arabs were equally qualified; hence, non-Arab candidates should be given priority (Al-Baghdadi, 1928). According to al-Taftazani, the condition of being Quraysh descent was

insignificant when building a government or dealing with religious matters. Hence, what is important is knowledge, sense of God-consciousness, sharp thinking, experience in administration, possess strength, etc. (Al-Taftazani, 1998).

ii. Only one candidate can receive the *bay'ah* as the main leader of Muslims.

All of the *ahl al-sunnah, al-murji'ah, al-mu'tazilah, syi'ah*, and *khawarij* had agreed that they would not pledge *bay'ah* to more than one main leader for Muslims in this world (Ibn Hazm, 1996). According to Imam al-Haramayn al-Juwayni, there should not be *bay'ah* for two main leaders for Muslims in one territory. Hence, if the territory is huge and the candidate lives far away, then their appointment could be considered (Al-Juwayni, 1950). Among the views that allowed two or more main leaders for Muslims at one time were from al-Sajastani and al-Samarqandi. One of their arguments was that Islamic rule was once lead together by 'Ali and Mu'awiyah, as well as Hasan and Mu'awiyah (Ibn Hazm, 1996). Therefore, one *akad* should not be touched upon by another *akad*, as stated in the *feqah* method, such as:

المشغول لا يُشغل

(Al-Suyuti, 1997)

Meaning: "Something that is related or is bound by an *akad*, hence that *akad* will forever be not involved with another *akad*".

Al-Suyuti explained that two *akad* that occur for one occasion cannot occur at a similar location or occasion (Al-Suyuti, 1997). This shows that *akad bay'ah* cannot be certified when another *akad bay'ah* has taken place. However, the situation differs when the *akad bay'ah* by the first party is not finished, but the second party has finished causing the first *bay'ah* to become void. However, the consensus by both parties to the *akad bay'ah* must be clear and strong, especially the party that gives the *bay'ah*, which is the citizens.

b. Object of Transaction (*al-ma'qud 'alayh*)

There are numerous objects of transaction in the *akad*, which goes according to the transaction. Some are in the form of property, while some are not, benefits accrued from goods as well as benefits accrued from people. The object of transaction in *bay'ah* is the allegiance in the form of *maknawi*. The *fuqaha'* had outlined several conditions that validate the objects of transaction in an *akad*, such as

- i. The object of the transaction must be present when the *akad* or contract is finalized.
- ii. The object of the transaction must be permitted according to syarak such as complete ownership by the owner and possess benefits according to syarak.
- iii. The object of the transaction must be surrendered during the *akad*.
- iv. There must be certainty and clarity about the object of the transaction.
- v. The object of the transaction must be cleansed, not in contact with ritually impure materials, and not a ritually impure material (Al-Zuhayli, 2004).

Thus, if the conditions outlined above are scrutinised, the object of the transaction in the *akad bay'ah*, which is loyalty or allegiance, can fulfil the conditions stated. Although allegiance is intangible and cannot be touched or held, the *jumhur fuqaha'* stated that *akad* could also occur based on one's wishes or from one party only. When the people offer *akad bay'ah* to a leader, then the object ceded to the leader is their allegiance. Besides allegiance,

the right to administer is another object of transaction in *bay'ah*, which is known as people's power.

Moreover, the important condition in *bay'ah* between two parties is the agreement to implement Allah's *syariat*. The implementation of Allah's *syariat* is the main object of the transaction when enforcing leadership according to HIS rules. All parties who have taken the oath of *akad* need to obey and abide by HIS laws by putting Allah's *syariat* higher than man-made laws. The power of *syariat* in Islamic rule is subject to its implementation and the earnestness to continue implementing the whole system of Islamic law. In addition, the regulations and system of the *syariat* shape the life of Muslims consisting of citizens and rulers as well as has objectives and high values as mentioned in the Al-Qur'an and the Sunnah.

The comprehensive implementation of Islam is the basis for incorporating *syariat* into the *bay'ah* in an Islamic context. The *akad bay'ah* cannot be certified unless *aqidah* Islam and the implementation of the *syariat* becomes the fundamental policies of the government (Fu'ad, 1998). Besides that, the implementation of *syariat* is also an important oath in *bay'ah* among the companions when appointing a Khalifah (Al-Damiji, 1988). The stipulation of this condition is based on the clear command of Allah s.w.t. in the Al-Quran in several continuous verses. HE exhorted in Surah al-Ma'idah: 44, meaning:

Meaning: "Indeed, We sent down the Torah, in which was guidance and light. The prophets who submitted [to Allah] judged by it for the Jews, as did the rabbis and scholars by that with which they were entrusted of the Scripture of Allah, and they were witnesses thereto. So do not fear the people but fear Me, and do not exchange My verses for a small price. And whoever does not judge by what Allah has revealed - then it is those who are the disbelievers" (Basmeih, 2001: 260).

This verse was repeated twice. During the second repetition, Allah s.w.t. categorized those who did not adjudge with what was delivered by Allah s.w.t. as being cruel and the third time as those who are *fasik* or 'impious' (Al-Qasimi, 1990). When someone who has pledged the *bay'ah* neglects the conditions by not implementing what is stipulated in the al-Qur'an and Sunnah or implements something contrary to the *syariat*, then the *bay'ah* is not valid (Al-Damiji, 1988).

Hence, the main object of transaction in the *akad bay'ah* that certifies the *bay'ah* is the *syarak*. If the *bay'ah* occurs without an agreement to implement the *syariat*, then the *bay'ah* itself is invalid by virtue of non-compliance to conditions.

#### c. *'Ijab and qabul (sighah)*

*'Ijab and qabul* are expressions that show the consensus and willingness of two parties that have performed the *akad bay'ah*. The definition of *'ijab* according to *ulamak* Hanafiyyah is a specific action that shows willingness pledged by the first party, either it is the party that offers or accepts the object of the transaction (allegiance and power of the people), Meanwhile, *qabul* is the pledge by the second party after the first party has pledged the *'ijab*, which shows the willingness towards the pledge of the first party. According to the *ulamak* besides that from Hanafiyyah, *'ijab* is the statement from the party that surrenders possession, although it is the last person to pledge the surrender. Whereas *qabul* is the statement from the party that accepts, although it is the first party that pledged to accept the possession (Al-Zuhayli, 2004).

The *fuqaha'* had laid down several conditions for the *'ijab qabul* that should be fulfilled, such as

- i. There is a clear meaning of *'ijab* and *qabul* between both parties.
- ii. There is congruence and conformity between *'ijab* and *qabul*.
- iii. There is a relationship between *'ijab* and *qabul* in sequence, such as in an *akad* as well as a consensus between the two parties (Al-Zuhayli, 2004).

Besides that, there are also specific conditions that need to be observed in order to certify the *bay'ah*, such as

- i. The Candidate for Leadership that Accepts the *Bay'ah*.

The basic condition that validates *bay'ah* is the agreement by the prospective leader to accept the *bay'ah* offered to him. The candidate cannot be coerced to accept the *bay'ah* if there are other prospective candidates. Thus, when there are no more candidates except one remaining, then accepting the *bay'ah* under these circumstances is mandatory. According to al-Haskafi, the importance of the candidate accepting *bay'ah* without being coerced was emphasized by the *fuqaha'* because *bay'ah* is a *akad shar'i* that requires *'ijab* and *qabul*, just as in other *akad*. Moreover, the leadership *bay'ah* is a *bay'ah* that offers allegiance to someone who rightfully deserves allegiance; hence, acceptance is an important element that validates or certifies the *akad* (Fu'ad, 1998).

According to al-Nawawiy, a condition that validates an *akad* concerning the appointment of the main leader is that the person who is offered the *bay'ah* accepts the *bay'ah*. Thus, if that person does not accept the *bay'ah*, then the appointment as a leader is invalid and he cannot be coerced to accept that *bay'ah*. If there is no individual qualified to accept, then it is mandatory for that person to accept the *bay'ah* and he can be coerced in this circumstance (Al-Nawawiy, 2003). Meanwhile, Imam Malik was of the view that the oath of *bay'ah* initiated under duress is invalid (Ibn Khaldun, d.u).

- ii. The *akad* must be witnessed

The *ulamak* have established that there must be a witness for *bay'ah*. In the al-Bayan, the condition was for two witnesses for the *bay'ah*. According to al-Nawawiy in *Rawdah al-Talibin*, witnesses are not required if there are many involved in the *akad bay'ah*. If only one person is involved in the *akad*, then there must be a witness (Al-Nawawiy, 2003). Whereas, Imam al-Haramayn stated that there must be a witness when the *bay'ah* takes place. This would facilitate the validation of the *bay'ah*, especially a *bay'ah* that has occurred in secrecy. However, witness to a *akad bay'ah* concerning leadership is not like the *akad nikah* (marriage vow), so one witness is sufficient (Al-Juwayni, 1950).

According to al-Shanqitiy, the *ulamak* had differed in opinion regarding this condition. Some *ulamak* were of the view that it was not mandatory because the need for mandatory witnesses needs *dalil naqli* and in this case, there was none. Some *ulamak* made witnessing mandatory in order to avoid conflicts and false accusations (*fitnah*). They had made it mandatory for two witnesses, except for al-Jaba'l, who made it mandatory for witnesses. He argued by saying that 'Umar had left six friends to settle matters pertaining to the *syura'*. 'Abd al-Rahman bin 'Awf was the individual offering the *bay'ah* and 'Uthman was accepting the *akad*, while the remaining four persons were witnesses. However, al-Qurtubiy and Ibn Kathir mentioned that al-Jaba'i's argument was weak (Al-Shanqitiy, d.u.). According to al-Qalqashandiy, when only one person was offering the *akad*, then there must be a witness

present. Whereas if many are offering the *bay'ah*, then there is no need for a witness (Al-Qalqashandiy, d.u.).

Besides that, there is a condition for *bay'ah* that is not included in the tenets of *bay'ah*. The condition is *'ahl hall wa al-'aqd*, which means those who are appointed must represent the people. *'Ahl hall wa al-'aqd* must obtain the trust of the people by their *bay'ah*, in which the people must bless the *'ahl hall wa al-'aqd* as their representative by giving meaning to *'ahl hall wa al-'aqd*, or people's power. With an eye to achieve the necessary qualifications, the *'ahl hall wa al-'aqd* needs to fulfil the condition of membership/qualification in order to ensure their ability to choose the best leaders. They also need to conform with the mandatory condition as a means to fulfil the right to *bay'ah* among all the Muslims; such as being a Muslim, possessing mental capabilities, and having reached physical maturity. These conditions are closely related to the agreement and important aspects in an *akad bay'ah* (Fu'ad, 1998).

It could be concluded that *bay'ah* is built upon several tenets (*rukun*). Thus, by having these tenets, the *bay'ah* is created. Each tenet is a *juzuk* to the *bay'ah* and all the tenets must combine to form a valid *bay'ah*. The *bay'ah* cannot be realized without the fulfilment of the mandatory conditions. Hence, the party that offers the *akad*, allegiance, and the *'ijab qabul* are the fundamentals for implementing the *bay'ah*, whereas the conditions of the *bay'ah* are the core elements that certify or validate the *bay'ah*.

### Analysis of Voting from a Bay'ah Perspective

Based on the conditions for voting found in the electorate system and the *bay'ah*, several similarities and differences could be outlined.

### Similarity between Voting and Bay'ah

The voting process has several similarities, which shows that voting is like *bay'ah*:

- i. The *baya'h* and voting, both involve a free and independent choosing process without any coercion.
- ii. Choosing leaders via *bay'ah* and voting is based on the voice of the majority.
- iii. *Bay'ah* and voting are a form of determining the nation's leadership (Al-'Ajlani, Fahd bin Salih, 2009: 49).

The aspects of similarity that exist in voting as well as *bay'ah* are namely choosing freely, the voice of the majority, and being one form of determining the nation's leadership, which leads to voting and also *bay'ah*. Hence, in reality, the similarity is only from a conceptual perspective. If observed in-depth, *bay'ah* is essentially quite different compared to voting.

### Differences between Voting and Bay'ah

The differences are seen from the aspect of the party involved and the process that occurs in both voting and *bay'ah*, such as

- a. Voting is a referendum, while *bay'ah* is an *akad* (pledge)

Based on the voting that transpired, there are only several elements of *bay'ah* present in the voting process. Among them is the vote given to the leader as a mark of willingness to offer allegiance. Hence, there is no clear element of acceptance (*qabul*) from the leader. In addition, the elements of *akad* demanded by *syarak* do not occur in an election or during voting.



*Bay'ah* is an *akad* that occurs between the people and the appointed leader with each pledging allegiance to the people and the leader pledging to administer the affairs of the people (Said Hawwa, 2001: 383). Since *bay'ah* is an *akad*, so its implementation must create a combination of the *'ijab* (statement to initiate the pledge) from one party and *qabul* (statement about accepting the pledge) from the other party or a proclamation that both parties are responsible to each other. The *bay'ah* that contains the proclamation of *'ijab* and *qabul* must compliment the demands of *syarak*. Moreover, a valid *bay'ah* needs three elements or tenets as well as terms that must be fulfilled as mentioned earlier.

b. Voting and *bay'ah* are different processes

Voting is one of the processes involved in choosing a leader during an election. Basically, in an election that is based on a democratic system, the process that ends with the appointment of a lawful leader would go through nomination, voting, and declaration of results of which candidate eventually won (A. Rashid A. Rahman, 1994: 19) or is appointed. Whereas, in an Islamic political system, the process of choosing a leader involves three stages, namely nomination, voting, and an appointment certified with a *bay'ah* (Al-Khayyat, 2004). Although the process is similar, the appointment stage of these two systems differs in the legitimacy of the appointment.

According to the process of choosing leaders between the democratic and Islamic political systems, it clearly shows that voting differs from *bay'ah*. Moreover, when choosing leaders through the Islamic political system, *bay'ah* is a process of appointment with the *akad* between the people and the leader occurring after the voting process. Thus, if there are views that say that voting in a democratic system is *bay'ah* then it is clear that *akad* did not occur as demanded by *syarak* by fulfilling the tenets and conditions. Even in the Islamic political system, voting and *bay'ah* are at different stages.

When the choosing or voting stage in the democratic system takes place, the nominated candidate would be chosen or voted into. Hence, how could the *akad* occur during voting? Especially when the contesting candidate has yet to know whether he has been chosen with free will and by the majority. In reality, the free will of the majority of the people should exist before the *akad bay'ah* occurs.

Therefore, it is clear that voting is not *bay'ah*. However, the elements of *bay'ah* do exist in voting such as the willingness of the people through the voting process. Nevertheless, the willingness of the people cannot be the basis to allege that voting is *bay'ah* because the element of *akad* from aspects such as tenets as well as conditions have not been comprehensively fulfilled in the voting process.

### Conclusion

Voting, in reality, should be viewed from the perspective of fundamentals and the actual soul of *bay'ah* in its implementation. Otherwise, confusion would arise concerning voting, which is presumed to fulfil the demands of *bay'ah*. Hence, the aim of implementing it would vanish and confusion would prevail from its perspective in a democratic system. The question arises as to how the appointment of the leadership could be upheld through *bay'ah* when it is not a method accepted by many. Moreover, the democratic system has its respective methods to handle this issue such as voting and appointments. Besides that, voting in a democratic system is also an element of *bay'ah* in the Islamic political system and *bay'ah* is a strong binding social contract compared to a referendum through voting. This shows that *bay'ah* is universal in nature compared to the confined nature of voting. Hence, its implementation in

a democratic system is not something impossible because *bay'ah* is presumed not to contradict voting but rather performs much better in the issue of choosing leadership in a democratic system.

## References

- Al-Baghdadiy, A. Q. T. (1928). *Usul al-Din*. ed. 1. Istanbul: Madrasah al-Ilahiyyat bi Dar al-Funun al-Turkiyyah.
- Al-Damiji, A. U. (1988). *al-'Imamah al-'Uzma*, al-Riyad: Dar al-Tayyibah.
- Al-Juwayni, A. M. A. (1950). *Kitab al-'Irshad*. Musa, M. Y. et al.. t.tp.: Maktabah al-Khaniji.
- Al-Khayyat, A. A. I. (2004). *al-Nizam al-Siyasi fi al-'Islam*. ed. 2. al-Qahirah: Dar al-Salam.
- Al-Mawardiyy, A. M. (1989). *al-'Ahkam al-Sultaniyyah wa al-Wilayat al-Diniyyah*. al-Baghdadiy, 'Ahmad Mubarak. ed. 1. al-Kuwait: Maktabah Dar Ibn Qutaybah.
- Al-Nawawiy, M. D. Y. (2003). *Rawdah al-Talibin*. 'Adil 'Ahmad 'Abd al-Mawjud et al.. jil. 7. Bayrut: Dar al-Kutub al-'Ilmiyyah.
- Al-Qalqashandiy. (t.th.). *Ma'athir al-'Inafah Fi Ma'alim al-Khilafah*. 'Abd al-Satar Ahmad Faraj. ed. 1. jil. 1. Bayrut: 'Alam al-Kutub.
- Al-Qasimi, Z. (1990). *Nizam al-Hukm fi al-Shari'ah wa al-Tarikh al-'Islamiy*. ed. 6. Bayrut: Dar al-Nafa'is.
- Al-Shanqitiy, M. A. (t.th.). *'Adwa' al-Bayan*. jil. 1. t.tp.: Dar 'Alam al-Fawa'id.
- Al-Suyuti, J. D. (1997). *al-'Ashbah wa al-Naza'ir*. Markaz al-Dirasat wa al-Buhuth. ed. 2. jil. 1. al-Riyad: Maktabah Nizar Mustafa al-Baz.
- Al-Taftazani, M. U. (1998). *Sharh al-Maqasid*. 'Abd al-Rahman 'Umayrah et al.. jil. 5. Bayrut: 'Alam al-Kutub.
- Al-Zuhayli, W. (2004). *al-Fiqh al-'Islamiy wa 'Adillatuh*. ed. 4. jil. 4-8. Dimashq: Dar al-Fikr.
- Ayub, A. (2001). *Demokrasi dan Pilihan Raya*. ed. 1. Selangor: Pustaka Minda Aktif.
- Basmeih, A. (2001). *Tafsir Pimpinan Ar-Rahman Kepada Pengertian Al-Qur'an*. ed. 12. Kuala Lumpur: Darul Fikir.
- Dewan Bahasa dan Pustaka. 2005. *Kamus Dewan*. ed. 4. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Fu'ad, A. (1998). *al-Bay'ah 'Inda Mufakkiriy Ahl al-Sunnah wa al-'Aqd al-'Ijtima'iy fi al-Fikr al-Siyasiy al-Hadith*. al-Qahirah: Dar Quba'.
- Ibn Hazm, A. A. (1996). *al-Fasl fi al-Milal wa al-'Ahwa' wa al-Nihal*. ed. 2. Jil. 4. Bayrut: Dar al-Jil.
- Ibn Khaldun, A. R. (t.th).. *Muqaddimah Ibn Khaldun*. al-Misri, Abu Mazin et al.. t.tp.: al-Maktabah al-Tawfiqiyyah.
- Ibn Mandhur, A. F. J. D. M. (t.th). *Lisan al-'Arab*. jil. 1-4. al-Qahirah: Dar al-Ma'arif.
- Mohamed, H. (1987). *Membangun Demokrasi: Pilihanraya di Malaysia*. ed. 1. Kuala Lumpur: Karya Bistari Sdn. Bhd.
- Sakdan, M. F. (1997). *Pengetahuan Asas Politik Malaysia*. ed. 1. Kuala Lumpur: Dewan Bahasa dan Pustaka.

**Website Reference**

[http://www.spr.gov.my/index.php?option=com\\_content&view=article&id=97&Itemid=196](http://www.spr.gov.my/index.php?option=com_content&view=article&id=97&Itemid=196)  
6 November 2013.

SPR. (2021). Kategori Pengundi Pos dalam Negara. <https://www.spr.gov.my/ms/kategori-pengundi-pos-dalam-negara-dan-luar-negara>. Retrieved: 20 November 2021.