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Exploring Intellectual Capital

A Comparative Analysis of Bay'ah
during the Time of the Prophet S.A.W

Wan Mohd Yusof Wan Chik, Mohd Sufian Moktar, Ahmad Faizol Ismail, Mohamad Zaidin Mohamad & Abdul Wahid Salleh

Faculty of Islamic Contemporary Studies, Universiti Sultan Zainal Abidin, Universiti Sultan Zainal Abidin (UniSZA), Terengganu, Malaysia
E-mail: wanmohdyusof@unisza.edu.my

ABSTRACT

Bay'ah occurred during the time of the Prophet S.A.W. in various conditions and situations. Each bai'ah had its own background; hence, each one, upon some pondering, surely has prudent intentions and wisdom. Among the famous treaties are Hilf al-Fudul, Treaty of 'Aqabah 1 and 2, Treaty of Madinah and Treaty of Hudaibiyyah. Hence, a comparative study of each treaty should be initiated. The objective of this study was to compare the treaties held during the time of the Prophet S.A.W. by focusing on the similarities and differences. Generally, this study used the library research method while basing it on a comparative, inductive and deductive analysis. The findings showed that each treaty had a different background based on the maturity of the preaching, the strength of the ummah's solidarity and the investigative strategies of the al-dakwah. Similarly, the agreement in each treaty had a specific weighing mechanism based on different circumstances and situations. The implications according to the study are that bay'ah in Islam proves that Islam is open and capable of facing various situations and the intricacies of siyasah (the application of the Quran and Sunnah in the world), which would then be benefited in the context of a borderless world.
Keywords: Bay'ah, Fiqh Sirah, Islamic Politics

1.0 INTRODUCTION

Bay'ah is an oath of allegiance practiced for a long time now. In relation to this, when discussing any issues or problems, Islam should always be the point of reference. Basically, discussions on bay'ah have been elaborated by the Islamic clerics, as mentioned in the sirah scriptures. This study focused on bay'ah that occurred during the time of the Prophet S.A.W because the Prophet S.A.W himself had experienced and participated in it, and he knew the wisdom and

secrets behind it. Furthermore, the main bay'ah at the time of the Prophet S.A.W occurred according to a different situation and circumstance. Hence, to elaborate on the bay'ah, comparisons should be made by looking into the similarities and differences as well as important elements that form the basis of the bay'ah. The treaties referred to here are the Hilf al-Fudul, the first and second bay'ah 'Aqabah, the Madinah Treaty or Sahifah Madinah and the Treaty of Hudaibiyyah.

2.0 Definition of Bay'ah

Bay'ah originates from the word ba'a (بَاعَ), masdar or its root word bay'un (بَيْعُ), which means sell (Ibn Manzur, t.th. : 401) and is the accord in a sales contract (al-'Ayid et al., n.d. : 189). In al-Misbah al-Munir, al-bay' actually means the exchange of wealth with goods but allegorically it means accord because it has a meaning related to 'own' or 'control the owner' (Al-Fayumi, 1922: 96-97). It also means a sales and purchase agreement that contains the ijab and qabul. Thus, the word bay'ah means "treaty", "pledge" or "to agree and be loyal" because the implementation usually involves two voluntary parties. It also means to agree to be loyal to the accord related to the transaction of goods or rights and responsibilities as well as to be mutually loyal (Ritonga et al., 1997: 179).

As a terminology, al-Qalqashandiy stated that bay'ah is a collection of ahl al-hall wa al-'aqd, which means the oath of allegiance to leaders (imamah) who fulfil the criteria of a leader (Al-Qalqashandiy, t.th.: 39). Similarly, the definition by Ibn al-'Athir states that bay'ah is the contact with the leadership (al-Mubarak, t.th.: 270).

Lutpi Mustafa el-Batnani gave a more general definition by saying that bay'ah is an oath of allegiance to the ruler that was handed-down by Allah SWT and delivered by the Prophet S.A.W (el-Batnani, 2007: 35). It places the responsibility on a person to fulfil the trust bestowed by Allah SWT concerning every circumstance, including conserving and protecting the sanctity of the religion from being smeared because this bond is an undivided pledge of allegiance to Allah SWT and whatever that is delivered by the Prophet SAW (Lutpi Mustafa el-Batnani, 2007: 35).

Ramli Kabi´ concluded that bay'ah is a transaction concerning an agreement between leaders and fellow Muslim subjects when forming the daulah Islamiyyah in accordance with the al-Quran and al-Sunnah of the Prophet S.A.W. According to modern Islamic political terminology, bay'ah is the public's optimistic statement of love about the Islamic political system that is in power (Ritonga et al., 1997: 179). Bay'ah is an affirmation made by a person about himself to obey the Imam (leader) and makes it compulsory to fulfil this promise after it has become his commitment (Ahmad, 1987: 159-160). The affirmation or oath is called bay'ah because it is

similar to the exchange of goods and the exchange aspect itself. This was the oath of allegiance or bay'ah by the companions with the Prophet SAW; they agreed and affirmed that they would obey the Prophet SAW and offer their commitment to HIM. They were promised heaven in the afterworld and happiness in this world (Ensiklopedia Kesenian dan Warisan Islam, 2009: 55).

Thus, when observed closely, the ulamak frequently relate bay'ah with its implementation in politics, although it could be related to other fields. Bay'ah is closely related to the oath of allegiance by one party to another who holds power, in other words from a follower to a leader. Implementation of the bay'ah in politics could potentially cause a situation whereby one has to either obey the wishes of syarak or disobey it. It is vital for this concept to be bound with the criteria of leadership, which qualifies to be called ahl al-hall wa al-'aqd. It must be an oath, allegiance or an undertaking of loyalty to a leader who actually intends to implement the syari'at Allah and is capable of good governance.

3.0   Bay'ah During the Time of the Prophet S.A.W and HIS Companions

The Prophet S.A.W is the bearer of the syariat. The duty of a Prophet and Messenger held by the Prophet S.A.W comes with a character void of priestly or worldly pleasures. It is also void of character such as being a conqueror or even a rebel. The Prophet S.A.W was sent by Allah S.W.T as a role-model or an example (qudwah) that bears all the excellent characteristics of a human being and topped with moderation. This is evident in the life history of the Prophet S.A.W that HE had experienced together with HIS companions. Among the main characteristics portrayed by the Prophet S.A.W was his wisdom in bay'ah. Moreover, it had occurred even before HE was sent as the Messenger. Events related to bay'ah that occurred before and after Madinah was formed had highlighted the distinguished and splendour of the Prophet's S.A.W personality and Syariat that HE brought along. There are examples of bay'ah that occurred during the lifetime of the Prophet S.A.W together with HIS companions. These examples are divided as follows:

a.   Oath of allegiance or bay'ah in the context of statelessness
b.   Oath of allegiance or bay'ah in the context of statehood

3.1   Agreement from a Stateless Context

Oath of allegiance or bay'ah in the context of statelessness occurred on three occasions during the time of the Prophet SAW, which was the Hilf al-Fudul, Treaty of 'Aqabah 1 and 2. Bay'ah occurred when the Muslims were still weak and lacked the political will from the aspect of power to rule. The oath of allegiance or bay'ah is as follows: -

a.   Hilf al-Fudul

Hilf al-Fudul was an oath of allegiance (bay'ah) made by several Arab Quraysh tribes in order to defend against perecution by providing protection and defence for whoever has become the victim of persecution. The oath was called 'al-Fudul' because it was a noble oath and highly acclaimed by the Arabs. This oath was taken in order to eradicate the fanatical tribal sectarianism among the tribes that had neglected others from different tribes who had also been persecuted.

This event emerged when a trader named Zubayd from Mecca brought along merchant goods. Al-'Asi bin Wa'il bought these goods; however, the goods were valued less than the actual value, which was valued much higher in Mecca. Thus, when his claim to justice was rejected, he seeked the assistance of his friends, namely 'Abd al-Dar, Makhzum, Jumah, Sahm and 'Adiy bin Ka'ab. However, all of them paid no attention to his complains, instead he was scorned and reprimanded.

Therefore, he wrote a poem that contained verses about the oppression he faced in the hands of the residents of Mecca and read the poem a loud but with a sad tone near the Kaabah. Hence, at that time Zubayr bin 'Abd al-Mutalib said, "Why did you people neglect this issue?". Then, Zubayr, representing the grandchildren (bani) of 'Abd al-Mutalib, gathered the rest of the grandchildren represented by Hashim, Zuhrah and Tayim in Ibn Jud'an's residence for a meeting. At the end, they agreed to an oath (bay'ah) between themselves in order to defend the oppressed so that their rights would be upheld regardless of their appearance, race, skin colour, position etc. Based on this event, the oath was name Hilf al-Fudul. After the Hilf al-Fudul oath materialised, they promptly met Al-'Asi bin Wa'il to collect the merchant's goods and return it back to the merchant ('Ibn Hisham, 1990: 153-154).

This event was recorded during the jahiliyyah era when the Prophet S.A.W was yet to be appointed as the Prophet and Messenger to deliver Islam to the whole universe. They collectively agreed to eradicate persecution without considering the differences between them. Although the agreement was among the non-Muslims, the Prophet's S.A.W participation in the agreement gave an indicator of how Muslims should face conciliation with non-Muslims.

The Hilf al-Fudul Treaty was witnessed by the Prophet S.A.W (Ibn al-'Athir, 1987: 570) before HE was appointed by Allah SWT to become the Prophet. The Prophet S.A.W said:

عَنْ طَلْحَةَ بْنِ عَبْدِ اللهِ بْنِ عَوْفٍ, أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَقَدْ شَهِدْتُ فِي دَارِ عَبْدِ اللهِ بْنِ جُدْعَانَ حِلْفًا مَا أُحِبُّ أَنَّ لِيَ بِهِ حُمْرَ النَّعَمِ، وَلَوْ أُدْعَى بِهِ فِي الْإِسْلَامِ لَأَجَبْتُ

(Al-Bayhaqiy, 'Ahmad bin al-Husayn, 2003: 596)

Meaning: Narrated by Talhah bin 'Abd Allah bin 'Awf, verily the Prophet S.A.W said: "Verily I have witnessed the pledge of allegiance (oath) that was held in the dwelling of 'Abd Allah bin Jud'an. I detest accepting a camel as compensation for transgressing the allegiance stated in the pledge. And if invited to conclude an oath of a similar kind in Islam, surely I would accept it".

This hadith shows that agreements and covenants among non-Muslims should be supported and Muslims should involve themselves in those agreements. In addition, the Prophet S.A.W laid down several principles to aid in the involvement of Muslims in the agreements, such as:

i.   To eradicate persecution without considering religion or race.
ii.   To introduce good virtues when considering something that leads to benefits and reject destructive outcomes.

The principle of involving individuals in a non-Muslim agreement is a principle that should be nurtured and preserved when the Muslim(s) is situated far away from other Muslims or when Muslims are mixing with non-Muslims. This method of how Muslims face an agreement with non-Muslims could happen when Muslims are not in power or rulers, similar to the actions of the Prophet S.A.W.

b.   The First 'Aqabah Treaty
This bay'ah occurred when the Prophet S.A.W introduced himself to the tribes outside of Mecca. After 11 years of receiving the prophethood, Islamic preaching blossomed handsomely (Al-Mubarakfuriy, 2005: 88) by receiving support from those living outside Mecca, including those in Madinah. Their interest in Islam grew when they saw the protection offerred by Islam to its followers, especially by eradicating continuous persecution and oppression.

When the Prophet S.A.W was in a place called al-'Aqabah (situated between Mecca and Mina, where the casting of jamrah al-'aqabah takes place), HE met with several people from the al-Khazraj tribe and a conversation ensued. They told the Prophet S.A.W that they lived amongst the Jews and were neighbours with them. The Prophet S.A.W then invited them to live

with HIM. HE then convinced them to follow the path of Allah SWT and Islam, besides that the Prophet S.A.W read several verses from the al-Qur'an.

Their life with the Jews had paved the way to accept Islam as their sole religion. As it is known that the Jews are people of the scripture and knowledge, so when altercations occurred between other tribes (among them were the al-Khazraj) and the Jews, the Jews threatened the tribes. The Jews said, "The time has come for a Messenger to be delegated. At that time, we will follow his teachings and together, we will destroy all of you, as how the 'Ad and Iram were destroyed". After the Prophet S.A.W introduced himself and made the call for them to embrace Islam, they recalled the threat of the Jews. Hence, they all accepted the Prophet's S.A.W call and accepted the teachings of Islam because they did not want to give the Jews the opportunity to lead them. They also promised the Prophet S.A.W that they would propagate Islam to the other tribes living in Madinah ('Ibn Hisham, 1990: 77).

After one year of the meeting between the Khazraj and the Prophet S.A.W in 'Aqabah, they met again during the Hajj season, also in 'Aqabah, which was 12 years after Prophethood. The entourage consisted of 12 men and they pledged bay'ah at night. This event was called the first bay'ah al-'Aqabah (Hasan Ibrahim Hasan, 1996: 80). The first Bay'ah al-'Aqabah was known as bay'ah al-Nisa' (bay'ah by women) because the contents of the bay'ah had no relations with war since war was not allowed on Muslims at that time (Al-Suhayli, 'Abd al-Rahman bin 'Abdullah, 1967: 71). According to some views, there was a woman together with the 12 men, who was called 'Afra' binti 'Ubayd bin Tha'labah ('Ibn Hisham, 1990: 78) and she was the first woman who pledged bay'ah with the Prophet S.A.W.

Among the agreements pledged were:

عَنْ عُبَادَةَ بْنَ الصَّامِتِ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ، وَحَوْلَهُ عِصَابَةٌ مِنْ أَصْحَابِهِ: " بَايِعُونِي عَلَى أَنْ لاَ تُشْرِكُوا بِاللَّهِ شَيْئًا، وَلاَ تَسْرِقُوا، وَلاَ تَزْنُوا، وَلاَ تَقْتُلُوا أَوْلاَدَكُمْ، وَلاَ تَأْتُوا بِبُهْتَانٍ تَفْتَرُونَهُ بَيْنَ أَيْدِيكُمْ وَأَرْجُلِكُمْ، وَلاَ تَعْصُوا فِي مَعْرُوفٍ، فَمَنْ وَفَى مِنْكُمْ فَأَجْرُهُ عَلَى اللَّهِ، وَمَنْ أَصَابَ مِنْ ذَلِكَ شَيْئًا فَعُوقِبَ فِي الدُّنْيَا فَهُوَ كَفَّارَةٌ لَهُ، وَمَنْ أَصَابَ مِنْ ذَلِكَ شَيْئًا ثُمَّ سَتَرَهُ اللَّهُ فَهُوَ إِلَى اللَّهِ، إِنْ شَاءَ عَفَا عَنْهُ وَإِنْ شَاءَ عَاقَبَهُ " فَبَايَعْنَاهُ عَلَى ذَلِكَ

(Al-Bukhari, Muhammad bin 'Isma'il, 2001: 12-13)

Meaning: Narrated by 'Ubadah bin al-Samit r.a., "that the Allah's Apostle said while a group of his companions were around him, "Swear allegiance to me for:
1. Not to join anything in worship along with Allah, 2. Not to steal, 3. Not to commit illegal sexual intercourse, 4. Not to kill your children, 5. Not to accuse an innocent person (to spread such an accusation among people), 6. Not to be disobedient (when ordered) to do

good deed. The Prophet (pbuh) added: "Whoever among you fulfills his pledge he will be rewarded by Allah. And whoever indulges in any one of them (except the ascription of partners to Allah) and gets the punishment in this world, that punishment will be an expiation for that sin. And if one indulges in any of them, and Allah conceals his sin, it is up to Him to forgive or punish him (in the Hereafter)." 'Ubada bin As-Samit added: "So we swore allegiance for these." (points to Allah's Apostle)".

Following the conclusion of the pledge of allegiance, Mus'ab bin 'Umayr was sent by the Prophet S.A.W to Madinah in order to explain the contents of the al-Quran, teach and understand Islam, until he became famous among the people of Madinah as the al-Muqarri' ('Ibn Hisham, 1990: 82).

c.   The Second 'Aqabah Treaty
        Subsequent to the first 'Aqabah Treaty and in line with the responsibility of being together with the Prophet S.A.W in times of threats or sufferings in Mecca, they again had to have a bay'ah, which was called the Second Bay'ah 'Aqabah or Bay'ah al-Harb or al-Kubra. It was called the Bay'ah al-Harb because Allah S.W.T. had permitted Muslims to go to war in this event (Al-Tabari, Muhammad bin Jarir, 1968: 368). They had this oath in the middle of the day of tashriq and the night of the first nafar ('Ibn Sa'd, 2001: 188). The lingering question about the bay'ah not only concerns the morality and personality of Muslims, rather the oath points to the intention of building Muslims who would be ready to sacrifice for the sake of defending the teachings of Islam and protecting against any form of oppression.

This important event was joined by 33 people comprising the 'Aus and Khazraj tribes, including two women (Ibn Khaldun, 2000: 418). The women were represented by Nusaybah binti Ka'ab and Asma' binti Amru. They gathered in 'Aqabah with full trepidation and caution so that the Quraisy would not get wind of this important mission. When the entourage was asleep, they sneaked out to meet the Prophet S.A.W.

        When they all had gathered, the Prophet S.A.W came with HIS uncle, 'Abbas bin Abdul Mutalib, who at that time had not embraced Islam yet. The Prophet S.A.W read several verses of the al-Quran and invited them to the path of Allah as well as to be with Islam ('Ibn Hisham, 1990: 88-89).

The contents of the agreement were presented by the Prophet S.A.W, exhorting:

عَنْ جَابِرٍ، فَقُلْنَا: يَا رَسُولَ اللهِ، علَامَ نُبَايِعُكَ، قَالَ: تُبَايِعُونِي عَلَى السَّمْعِ وَالطَّاعَةِ فِي النَّشَاطِ وَالْكَسَلِ، وَالنَّفَقَةِ فِي الْعُسْرِ وَالْيُسْرِ، وَعَلَى الْأَمْرِ بِالْمَعْرُوفِ، وَالنَّهْيِ عَنِ الْمُنْكَرِ، وَأَنْ تَقُولُوا فِي اللهِ، لَا تَخَافُونَ فِي اللهِ لَوْمَةَ لَائِمٍ، وَعَلَى أَنْ تَنْصُرُونِي، فَتَمْنَعُونِي إِذَا قَدِمْتُ عَلَيْكُمْ مِمَّا تَمْنَعُونَ مِنْهُ أَنْفُسَكُمْ، وَأَزْوَاجَكُمْ، وَأَبْنَاءَكُمْ، وَلَكُمُ الْجَنَّةُ

('Ahmad bin Hanbal, 1995: 347-348)

Meaning: Narrated by Jabir, "We enquired, O Prophet, on what grounds do we pledge our allegiance?" The Prophet said: "On the grounds of listening and being loyal in a vigorous but lazy situation, on the grounds of nafqah (ready to spend) during easy or difficult times, on the grounds of seeking goodness and avoiding what is forbidden. On the grounds of development in order to uphold the religion of Allah without fear of being reproached by persons who reproach. On the grounds of providing assistance to me and protecting me when I come to you as how you protect yourself, your wife and your children, if you do it, surely you will be afforded heaven".

After the oath regarding the contents of the agreement was taken by the Prophet S.A.W; hence, began the bay'ah with the handshake started by Mus'ab bin 'Umayr and 'As'ad Ibn Zararah (Al-Mubarakfuriy, 2005: 99). Acceptance of this bay'ah indicates readiness, willingness and deep confidence among the 'Aus and Khazraj until they were willing to sacrifice their body and soul just for Islam. Bay'ah is proof of their determination to shoulder the trust as a Muslim, whereby they would not pledge the bay'ah unless the Prophet S.A.W clearly commanded them to do so (Al-Mubarakfuriy, 2005: 98).

Then, the Prophet S.A.W asked them to choose 12 leaders among themselves to become the naqib or prefect for each tribe. Lastly, 7 people from the Khazraj and 3 from the 'Aus were chosen (Al-Mubarakfuriy, 2005: 99) before they were asked to disperse by the Prophet S.A.W (Ibn Khaldun, 2000: 419).

Basically, both treaties were treaties between Muslims. In a situation where Muslims did not hold the seat of power, the Prophet S.A.W adopted several concepts, such as:

i.   Practice secrecy and caution when preparing actions and strategies
ii.   Appoint several representatives to represent the Muslims and form a body such as an organization

Treaties among Muslims is different compared to the involvement of Muslims in treaties among non-Muslims, such as the Hilf al-Fudul event. The involvement of Muslims in treaties among non-Muslims prioritises the principles that should be preserved and defended. Whereas strategy and unity are important aspects that needs to be prioritised in a treaty among Muslims. Different actions taken when political power is not in the hands of Muslims is a wise action and full of wisdom, especially when confronting parties involved in a treaty.

3.2 Agreement in a Stateful Context

The oath or bay'ah in the context of stateful, occurred twice during the time of the Prophet S.A.W, which was the Sahifah al-Madinah and the Treaty of Hudaibiyyah. The bay'ah occurred when the Muslims began to gather strength and succeeded in ruling Madinah. The oath or bay'ah is as follows:

a.   Sahifah al-Madinah

The Madinah Treaty or Sahifah al-Madinah is a treaty intended to unite the people of Madinah, who at that time consisted of various tribes and religions. This treaty became the core in building a new nation and creating a society that was united and able to exercise tolerance under the principles of Islam. This treaty was divided into two sections by the Prophet S.A.W (Basyuni, Mahmud Sharif, 2003: 27-29), namely:

i.   Treaty between the ruler and the Mulims

The Prophet S.A.W, as a ruler, made the treaty with the people that consisted of two groups, namely the Muhajirin and Ansar. The aim of this treaty was to nurture good relations between Muslims. In order to abolish the differences between each Muslim, they must regard all other Muslims as their relatives in Islam. They also agreed to mutually safeguard the rights of both parties in order to ensure the well-being of the society in Madinah (Al-Hamidi, 'Abd al-'Aziz 'Abd Allah, 1997: 43-45). Hence, the dissatisfaction of each party was avoided or alleviated until a strong Islamic society was created in Madinah.

ii.   Treaty between the ruler and non-Muslims

This section involved the treaty between the Prophet S.A.W and the Jews with the intention of ensuring their rights and roles in Madinah. Besides that, this treaty also prevented the Jews from betraying and committing treason towards the nation. As a reward for their loyalty, security rights and protection were equally provided to them and the Muslims (Al-Hamidi, 'Abd al-'Aziz 'Abd Allah, 1997: 45-46). Hence, the fear of the Jews that they would lose their rights was eradicated and this avoided them from committing betrayal.

This Madinah Treaty clearly shows that the treaty involved parties that were living in a particular country. It did not consider whether it involved Muslims or non-Muslims. This shows the universality of Islam in expanding well-being and protection to every individual who has basic rights. The basic important elements in a treaty in any country controlled by Muslims are:

a.   Prioritise unity instead of disunity or discord
b.   The assurance afforded would provide overall benefits to the parties involved

The two elements mentioned above are secrets to the success of the Prophet S.A.W in HIS mission to build a nation based on the oath. Thus, the Madinah Treaty is the best model for the unification for a nation, especially a multi-racial nation. Besides that, this treaty shows the familiarity of Islam in providing a modas operandi for solving disunity in a country and the presumption that Islam can accept a diverse society.

b.   The Hudaibiyyah Agreement

Basically, before the Treaty of Hudaibiyyah, there was a bay'ah, which was the third bay'ah introduced by the Prophet S.A.W with HIS companions and proclaimed under a tree when they were in Hudaibiyyah in the year 6 Hijrah. This event occurred when the Prophet S.A.W was denied entry into Mecca to perform the Umrah (Al-Mubarakfuriy, 2005: 238). Since Uthman bin Affan, who was sent to negotiate with the Quraisyh in Mecca returned late; thus, the news spread that Uthman was killed.

Hence, the Prophet S.A.W asked HIS companions to form the bay'ah to revenge Uthman's death. The bay'ah was acknowledged by the companions, initially three times by 'Abu Sinan al-'Asadiy and Salamah bin al-'Akwa'. The Prophet S.A.W raised HIS hand and said, "this is for Uthman". After the bay'ah ended, Uthman came to them and he joined the bay'ah. This bay'ah was called Bay'ah Ridwan because it was acknowledged (Al-Mubarakfuriy, 2005: 241) and commended by Allah S.W.T in the al-Quran, HE exhorted:

> Meaning: "Certainly Allah was pleased with the believers when they pledged allegiance to you, [O Muhammad], under the tree, and He knew what was in their hearts, so He sent down tranquility upon them and rewarded them with an imminent conquest" (Basmeih, 2001: 1375).

Surah al-Fath: 18

The Quraysh eventually agreed to a negotiation with the Muslimins by sending Suhayl bin 'Amru as their envoy. The envoy conveyed the contents of the treaty and the Prophet S.A.W agreed. The treaty stated that:

i.   The Prophet S.A.W must return on that year and cannot enter Mecca except the following year, together with the Muslimins. They were afforded only three-days stay in Mecca and could bring along weapons in a sheath. The Quraysh were not allowed to disturb them.
ii.   Both parties must honour a truce for 10 years.
iii.   All individuals are given the freedom to join any party, either that of the Prophet S.A.W or the Quraysh. If any tribe wishes to join any one party, then the tribe becomes part of that party. Thus, if there is any quarrel with that tribe, then there is quarrel with the party that the tribe joined.
iv.   If any Quraysh runs over to the Prophet S.A.W without the permission of the wali or the family, then that party must be returned. However, if the followers of the Prophet S.A.W were to run to the Quraysh, that party would be returned (Al-Mubarakfuriy, 2005: 242).

According to the contents of the treaty, the Muslims were not able to fully dictate the treaty. Although the Muslims had some agreed rights such as performing the Hajj and security assurances; hence, the ease of protecting and controlling the followers of the Prophet S.A.W did not side with the Muslims. The Treaty of Hudaibiyyah also indicated whether the treaty was between two nations or with another nation. The actions of the Prophet S.A.W from the Muslim side that decided on the negotiations with the Quraysh understood several important basic elements in the relationship, between two nations or internationally, found in a treaty. The basics are as follows:

i.   A treaty should lend priority to conciliation compared to violence or war.
ii.   One sided treaties or one that does not side with any party should be an excuse to disagree. Agreement to numerous benefits should be a priority compared to a few benefits that are not agreed upon.

4.0   Analysis of the Bay'ah by the Prophet S.A.W and HIS Companions
Based on the five examples of bay'ah implemented by the Prophet S.A.W and HIS companions mentioned above, the analysis shows several similarities and differences in characteristics between them. The characteristics have been combined in particular contexts, as shown below.

4.1 The Level of Maturity of Preaching and the Strategy of al-Dakwah Politics

Basically, the level of maturity of preaching is evident through the intentions and actions stipulated in an agreement. The participation of the Prophet S.A.W in Hilf al-Fudul and HIS resistance to persecution is the primary aspect in the mission to spread religious preaching. The preacher should possess universally accepted human values that offer an opportunity for society to accept the preacher. Similarly, the call for truth must be initiated in stages and periodically so that the call is accepted well without any coercion. A well organised form of preaching and the need to formulate appropriate strategies is evident in the First and Second Bay'ah 'Aqabah.

The level of maturity of preaching is seen from a wider scope, which is in the context of governing a country. The attention is given to bi al-hal preaching by ensuring that a Muslim-ruled country has good and trustworthy governance. Sahifah Madinah is one part of the agreement that attracts the attention of society to admire the wonders of Islamic administration and gives basic assurance to its people, such as providing benefits and security. The Treaty of Hudaibiyyah shows that Muslims did not receive much political gain compared to the Quraysh, as some parts of the treaty were one-sided. Although there was no short-term political gain, the element of preaching was able to expand in the long-term based on the contents of the treaty. Hence, the Prophet S.A.W drove HIS subjects through politics by prioritising the politics of preaching (siyasat al-dakwah) instead of the politics of power (siyasat al-quwwah).

4.2 The Strength of the Ummah's Solidarity

In reality, the ummah faced numerous internal and external issues that were both challenging and difficult. To handle the disunity of the ummah from the context of actions to be taken, was not something easy. Hence, the treaties undertaken by the Prophet S.A.W in Islam could be the basis of how to continue preserving the strength of the ummah's solidarity. When the Muslims did not have the political strength, there were calls to unite with any organization that did not contradict with the maqasid syar'iyyah, which was one of the obligations that could be neglected. This action is explained in Hilf Fudul, which was joined by the Prophet S.A.W, when HE was still receiving divine deliverance (wahyu) and alone. Hence, after the Muslim population grew and had their specific groups, solidarity was formed and had united them like the events of the first and second bay'ah 'aqabah. The initiative to combine was made when the Muslims had not yet begun to rule or were still stateless.

After obtaining political power by having a nation ruled by Muslims, the nurturing of strength needs to be emphasised. In order to strengthen a nation's solidarity, the efforts should not

solely focus on only the Muslims. Thus, the position of non-Muslims should be acknowledged and combined with universal Islamic principles, such as the combination found in Sahifah Madinah. The preservation of solidarity at the international level is seen in the Treaty of Hudaibiyyah. The treaty is a form of diplomatic relations that united Madinah with nations outside Madinah; in other words, it enabled conciliation. Hence, solidarity was built in the contexts of nurturing peace inside and outside the nation.

5.0 A Balance of Considerations in the Treaty

According to Diagram 1 (in the attachments) and the basic elements that should be prioritised in each treaty, it could be concluded that an agreement should have certain priorities before the agreement is agreed upon. The priority in concluding an agreement is to place the mission of preaching (dakwah) as the main aspect in a political agreement. Preaching in a political agreement must focus on universal elements and avoid minor questions that invite disunity among Muslims as well as destabilise the relationship with non-Muslims. However, the principle of preaching must be preserved. Allah S.W.T. exhorted as follows:

Meaning: "O you who have believed, do not violate the rites of Allah or [the sanctity of] the sacred month or [neglect the marking of] the sacrificial animals and garlanding [them] or [violate the safety of] those coming to the Sacred House seeking bounty from their Lord and [His] approval. But when you come out of ihram, then [you may] hunt. And do not let the hatred of a people for having obstructed you from al-Masjid al-Haram lead you to transgress. And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty". (Abdullah Basmeih, 2001: 243).

Surah al-Ma'idah: 2

This verse says that Allah S.W.T. had commanded the pious to help each other to do good deeds (al-birr) and avoid what is prohibited (al-taqwa) as well as prohibits them from committing what is sinful, illegal and prohibited. Ibn Jarir defined sins as neglecting what is commanded by Allah S.A.W and intrusion as over-stepping the boundaries set by Allah S.A.W regarding religious matters and what is religiously mandatory on humankind (Ibn Kathir, 2000: 18). Therefore, in order to preserve the act of preaching in the framework of an agreement, the important aspects that need attention during the process of negotiations are:

a. Preserve the maqasid syar'iyyah

b.   Unity when considering what benefits need to be achieved and what negative elements should be rejected.

c.   Priority is given to general benefits compared to specific benefits.

d.   Conciliation compared to violence.

e.   Benefits of the demands of the agreement.

The aspect of priority in an agreement is one method that should be considered when wanting to achieve a successful negotiation. However, it still depends on the circumstances, situation and the location where the prospective agreement would take place.

6.0   Conclusion

In the adduced discussion, it could be concluded that the bay'ah that occurred during the time of the Prophet S.A.W was not only a treaty of loyalty, but the bay'ah contained various conditions and became a huge collection with objectives as well as an organised modus operando. The bay'ah also contributed effectively to society, either in the country or internationally according to important basics of the agreement. Besides that, the universal concept and principles that were the core in every bay'ah during the time of the Prophet S.A.W were highlighted. These then became the standard for agreements in the modern era besides making the aspect of preaching as the main core in expanding the call of Islam. Moreover, it had also highlighted the success of bay'ah implemented by the Prophet S.A.W from a political perspective; although initially the situation looked like it was a disadvantage for Islam. Hence, it is not impossible for political practitioners to presume it to be the best formula for implementing a political agreement, especially that related to the importance of Islam. It is hoped it would become a useful wasilah (means of achieving a goal or objective) for solving a disunity crises or conflict among the ummah, more so a conflict or life's struggle in a community on the contemporary political stage.

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