

THE JUDICIAL SYSTEM IN ISLAM (PART 1 OF 2): INTRODUCTION

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Description: The process Islam has laid in regards to seeking and meting out justice in Society. Part 1: Introduction and the Islamic approach to the judiciary.

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Man is a social being by nature. He cannot live perpetually on his own, completely independent of others. People are interdependent. Consequently, friction arise between them when their personal interests come into conflict with each other, or when what they perceive as their individual rights infringe upon those of others. Conflicts between them inevitably break out. In some cases, one party to the conflict might be strong and aggressive while the other is weak and condescending, incapable of defending his rights.



Because of this, it becomes necessary for there to be a way to prevent people from oppressing one another, to ensure that the weaker members of society receive justice, and to determine right from wrong when issues get complicated or uncertain. This can only be realized through a judge that has the power to give legal verdicts in cases of dispute.

For this reason, we find that the existence of a judge is considered by Islamic law and the laws of all the other revealed religions to be both a religious obligation and a necessity of human life. God says:

“We have sent Messengers with clear proofs, and sent down with them the Scripture and the Balance that mankind can establish justice...” (Quran 57:25)

Islam – the religion that God wants for mankind from the time that He sent Muhammad, may the mercy and blessings of God be upon him until the Day of Judgment – shows great concern for the judicial system and those appointed to carry out its responsibilities. Islam prescribes for it many legal injunctions. How else could it be, when Islam is the religion of mercy, equality, and justice? It is the religion that comes to free people from worshipping Creation and bring them to the worship of God. It is the

religion that comes to remove people from oppression and iniquity and bring them to the highest degree of justice and freedom.

God's Messenger was the greatest of judges. He used to act in the capacity of judge in the city of Medina, which was the first Islamic state. He used to appoint people to be judges in other cities. Among these were `Utâb b. Asyad who was sent to Mecca, Ali b. Abu Talib and Muadh b. Jabal, both of whom were sent to Yemen.

In the era of the Rightly Guided Caliphs, the head of state continued to be the one to appoint judges, govern their affairs, protect their independence, and keep the governors and political appointees – and even the Caliphs – subject to the judges' verdicts. Umar b. al-Khattaab, the second Caliph, was the first person to make the judge an independent entity, distinct from the Caliph and the governors.

In this way, the judicial system continued to evolve throughout the early Islamic era, during the Umayyad era, and well into the Abbasid era. The office of Chief Justice came into being at this time. The Chief Justice became responsible for appointing and removing judges. He was responsible for supervising their behavior and monitoring their performance. The first person to be appointed to this post was the justice Abu Yusuf, the student of the great jurist Abu Haneefah (may God have mercy on them both). Thereafter, this office became widespread throughout the Muslim lands. It continued to exist up to the fall of the Ottoman Empire.

The names of many just judges have been preserved in Islamic History. Their names have become like synonyms for justice and integrity. Many pages in the history books are devoted to the lives and careers of eminent judges like Iyâs b. Muawiyah, Shurayh b. Abdallah, al-`Izz b. `Abd al-Salam and others who applied the teachings of Islam in the best possible manner. They give us a living example of how a Muslim judge is supposed to conduct himself.

We should mention, since we are discussing the Islamic judicial system, that Islam sets down broad guidelines and basic principles concerning the affairs of life and rarely concerns itself with the particular details of life. This is so these guidelines can stay relevant for every time and place. One of these guidelines is that establishing justice among people is an obligation that has to be carried out. As for the manner of achieving this objective, this has not been detailed by the sacred texts. This has been left for the people of each generation to deal with in a way most suited to their unique set of circumstances. The only condition is that whatever methods are chosen must not run contrary to Islamic Law.

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