

COURT PROCEDURES AND QĀḌĪ SYSTEM IN ISLAMIC LAW

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Abstract

This article examines the distinctive features of judicial proceedings from the early Islamic period up to the nineteenth century, the functions of qāḍīs, the requirements imposed on their personal qualities, as well as the depiction of judicial ethics in the sources of Islamic law.

Keywords: Qur’ān, qāḍī, office of qāḍī al-quddat, caliph, plaintiff, defendant.

Introduction

With the emergence of Islam in the early medieval period, Islamic law also began to develop. From the earliest days of Islam, judicial affairs in Muslim states were conducted on the basis of the Holy Qur’ān. In addition to matters of worship, the Qur’ān also contains issues related to the administration of justice. There are 20 verses in the Qur’ān that address these matters.

Methods

In this article, methods of systematic, historical, comparative-analytical and logical analysis style were used. The information was taken from articles and books of the laws of the Republic of Uzbekistan, Uzbek, Russian, English scientists.

Results

The structure of judicial institutions in Islam was characterized by its simplicity. A single individual—the qāḍī—was responsible for examining all types of cases, including criminal, administrative, and civil matters.

In the early period of Islam, the issue of separating judicial authority from executive power had not yet been resolved. Both the Prophet and the caliphs were regarded as the supreme judges for Muslims.

Initially, judges were appointed by Caliph ‘Umar ibn al-Khaṭṭāb (634–644) to administer justice in Medina, Basra, and Kufa. Judges were appointed exclusively by the caliph, and complaints regarding their decisions could only be reviewed by the caliph as well. In the second half of the 8th century, the position of Qāḍī al-Qudat (Chief Judge) was established, granting authority to appoint all judges of the caliphate and to review appeals against their rulings.

After the emergence of independent states separate from the caliphate, their rulers assumed the authority to appoint judges and chief judges themselves.

During the early rule of the Abbasids, judges attained high status. However, Islamic jurists (fuqahā’) often held a negative attitude toward judicial office and frequently declined such

positions when offered by caliphs. For example, when Caliph al-Manṣūr offered the position of judge to Abū Ḥanīfah, he firmly refused.

By the 10th century, judges also began to resolve inheritance-related disputes. Typically, disputing parties would submit their claims to the judge in writing, including their names and patronymics. The judge's clerk would collect these submissions until the case was heard, and depending on his capacity, a judge could review up to fifty such petitions per day. Court proceedings were required to be public and open. For this reason, judges initially conducted trials in mosques, though later they were held in separate court buildings.

One distinctive feature of early Islamic judicial practice was the absence of legal representation; there were no lawyers. The judge required the personal presence of both the plaintiff and the defendant. Moreover, a defendant was considered guilty only after the case had been decided and a verdict issued, reflecting the principle of the presumption of innocence.

Another characteristic of judicial proceedings at that time was their continuity and the lack of formal written documentation. Cases were handled orally, openly, and without excessive formalities, and their outcomes largely depended on the judgment of the qadi.

Over time, judicial procedures in Islamic law became more refined. For example, it became legally established that judges must maintain official records of proceedings and decisions in special registers, which were to be handed over to their successors.

According to Islamic law, a judge had to be free, healthy, of legal age, and Muslim in order to be considered reputable. If a judge was initially just but later became morally corrupt—for instance, by accepting bribes or committing sinful acts—he would not automatically resign but would become subject to dismissal. Appointing a suitable person to this office was considered the duty of the ruler, who was expected to select someone capable and just. In this regard, the Prophet Muḥammad stated: “If someone appoints a person to a position while there is another more qualified individual available, he has acted unjustly toward God, His Messenger, and the Muslims.” Those confident in their abilities could be appointed, and often the Companions accepted such roles; in some cases, acceptance was even considered obligatory. However, a person lacking confidence in their competence and fairness should not be appointed, as this could lead to widespread injustice.

Islamic law imposed strict requirements on judges: they had to be mature, independent, intelligent, firm, serious, and trustworthy. They were expected to have deep knowledge of the law and to apply it justly in court. Individuals who were minors, mentally ill, blind, or mute were not eligible for judicial appointment, as full discernment was essential.

Judges were required to avoid any behavior that might undermine the dignity of the court. For instance, they were not allowed to engage in trade or joking during sessions. They could not accept gifts from either party, attend their events, or host them during ongoing proceedings. Judges were expected to treat both parties with the highest level of fairness.

When seated between two disputing parties, a judge had to maintain strict neutrality—without favoring one side over the other, standing closer to one, or showing undue kindness. He was not allowed to privately converse with either party, accept invitations, laugh at them, mock them, make gestures, or assist either side in presenting evidence.

The authority of a judge was limited by time, place, and other factors. If two judges were appointed to hear a case but it was decided by only one, the decision was considered invalid. Where multiple judges were present, the defendant had the right to choose which judge would hear the case.

If a judge issued a ruling after being dismissed but before learning of his dismissal, the decision remained valid. However, if he knowingly issued a ruling after dismissal, it was considered invalid.

A judge authorized to appoint an assistant had the right to do so. Decisions could be made based on evidence presented by the assistant, and the assistant could also issue decisions based on the judge's instructions.

In judicial proceedings, it was prohibited for the judge to have any familial relationship with the winning party or to have any personal interest in the subject matter of the dispute.

A judge was advised to refrain from issuing decisions while experiencing extreme grief, hunger, or fatigue.

Judges were required to maintain official court registers documenting their rulings and issued documents, to preserve them, and to transfer them to their successors or trusted representatives upon leaving office, thereby preventing falsification.

Under Islamic law, judges could be dismissed under the following circumstances:

1. Loss of mental capacity;
2. Loss of sight;
3. Severe hearing impairment;
4. Loss of speech;
5. Engaging in dishonesty or immoral conduct;
6. Apostasy;
7. Accepting bribes or issuing unjust rulings;
8. Proven incompetence in performing judicial duties.

Debate

In many periods of Muslim states, the shortage of sufficiently knowledgeable and qualified judges led to the appointment of unfit individuals to judicial positions. As a result of their abuse of authority, public trust in the judiciary declined, which in turn contributed to an increase in legal violations within society. Therefore, like other sources of Islamic jurisprudence, «Majalla al-Ahkam al-Adliyya» included rules concerning the legal status of judges, aimed at ensuring that they conducted their duties within the framework of justice.

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