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## The Department of Justice during the Caliphate of Hazrat Ali (R.A)

**Saira Tariq,**  
Visiting Lecturer,  
University of Agriculture Faisalabad, Pakistan.  
sairatariq1813@gmail.com

**Dr. M. Mudassar Shafique**  
Visiting Lecturer,  
NUML University Multan Campus, Pakistan  
mudassaraarbi@gmail.com

### Abstract

Judiciary has been given a supreme and vast power in Islam. It is the most important and influential fact in the life of human being that can solve the problems of society in a peaceful manner. Prophet Muhammad (P.B.U.H) was known for impartial administrative of justice. He strictly implemented the Quranic instructions. The successes of the Prophet (P.B.U.H) also ensured the implementation of judicial independence and impartiality. Islam is the religion of peace that emphasizes equality to establish a peaceful and rewarding society. Hazrat Ali (R.A) was the fourth caliph of Islam. He set upon effective system of judicial administration. Judges were appointed at all administrative levels and justice was administered according to the principles of Islam. In case of any doubtful matters, he followed the previous caliphs. This paper will explore the style and procedure of judgment of Hazrat Ali (R.A).

**Keywords:** Islam, Justice, Judicial, Administrative, Caliphate, Peaceful Society.

## 1. Introduction:

In Islam, the judicial system is of special importance. This command has been specially given to the ruler of the Islamic state in the Holy Qur'an that judge between the people in the light of the law revealed by Allah. The scope of justice is very wide and universal. The demands of justice must be met in all circumstances, matters of mutual transactions or management of the country. The survival of a society depends on it that there must be a balance in all its elements, and to run a business on a balanced basis in the Islamic State, various institutions are set up at the governmental level. The court system is one of them, because the court is the reality on which the system of the universe is based, and it is necessary to live a calm and fearless life that the court system in human society should be based on stable pillars of balance, so that society can be safe from destruction and ruin.

In governmental and judicial matters, one's personal interests are considered but in the case of the Khulfa e Rashdeen, the case was quite the opposite, competence and ability were given priority here. These were the representatives of Allah, in their view, the aim of the government was to establish justice in the society, an end to oppression, and worldly ultimate success and prosperity. The fourth caliph of Islam was Hazrat Ali (R.A). Hazrat Ali had the great command in the decisions of cases. The laws that Hazrat Ali had formulated in his caliphate those were the same rules, which were the Prophet (P.B.U.H)) had appointed for the Islamic government. Hazrat Ali (R.A) himself was a regular member of the court of the three former caliphs. Whenever they had difficulty in any case, they were referred to Hazrat Ali (R.A). During his caliphate, Hazrat Ali (R.A) paid special attention to justice. He used to instruct his agents to establish justice. Hazrat

Ali's (R.A) style of "Qaza" is described below. But before that, it is important that the reality and nature of Aqzia should be clarified in terms of Qur'an and Hadith.

## 2. The importance of "Qaza" according to the Qur'an:

The Qur'an is the central and primary source of justice in Islam. In the Qur'an, "justice and legal equality" mentions this principle with the word "justice" and "Qist" meaning justice is also mentioned in many verses.

It mentions in the Qur'an:

”يٰۤاٰدٰۤاِ اِنَّا جَعَلْنٰكَ خَلِيْفَةً فِى الْاَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ وَلَا تَتَّبِعِ الْهَوٰى فَيُضِلَّكَ عَنْ سَبِيْلِ اللّٰهِ ط اِنَّ الَّذِيْنَ يَضِلُّوْنَ عَنْ سَبِيْلِ اللّٰهِ لَهُمْ عَذَابٌ شَدِيْدٌ مَّرِيْمًا نَسُوْا يَوْمَ الْحِسَابِ“<sup>1</sup>

((And it was said unto him): O David! Lo! We have set thee as a viceroy in the earth; therefor judge aright between mankind, and follow not desire that it beguile thee from the way of Allah. Lo! those who wander from the way of Allah have an awful doom, forasmuch as they forgot the Day of Judgement.)

This verse shows that Allah Almighty gave the responsibilities of divine caliphate and God's representation to Hazrat Dawood (as), the first duty was imposed on the right to judge between people with justice.

It is also mentions in Quran:

”اِنَّمَا كَانَ قَوْلَ الْمُؤْمِنِيْنَ اِذَا دُعُوْا اِلَى اللّٰهِ وَرَسُوْلِهِ لِيَحْكُمَ بَيْنَهُمْ اَنْ يَقُوْلُوْا سَمِعْنَا وَاَطَعْنَا۔ وَاُولٰٓئِكَ هُمُ الْمُفْلِحُوْنَ“<sup>2</sup>

(The saying of (all true) believers when they appeal unto Allah and His messenger to judge between them is only that they say: We hear and we obey. And such are the successful.)

It is also mentions in Quran:

”فَلَا وَرَبِّكَ لَا يُؤْمِنُونَ حَتَّىٰ يُحَكِّمُوكَ فِي مَا شَجَرَ بَيْنَهُمْ ثُمَّ لَا يَجِدُوا فِي أَنفُسِهِمْ

حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا“<sup>3</sup>

(But nay, by thy Lord, they will not believe (in truth) until they make thee judge of what is in dispute between them and find within themselves no dislike of that which thou decide and submit with full submission.)

”وَأُمِرْتُ لِأَعْدِلَ بَيْنَكُمُ“<sup>4</sup>

(And I have been commanded to do justice among you.)

In the commentary of this verse, Pir Muhammad Karam Shah Al-Azhari is as follows:

"I have also been ordered to put an end to all forms of oppression, eradicate all falsehood, introduce such a system in every sphere of life that the requirements of justice be met. In preaching the rules, in enforcing the rules, I do not maintain any distinction between rich, poor, Arabic, non-Arabic.

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### 3. The importance of “Qaza” according to the hadith:

Many such hadiths have been narrated from the Holy Prophet (P.B.U.H) in which the emphasis is on justice and fairness and the promise on oppression and the reward for doing justice is mentioned.

”عَنْ ابْنِ بُرَيْدَةَ، عَنْ أَبِيهِ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ: الْقُضَاءُ ثَلَاثَةٌ: وَاحِدٌ فِي الْجَنَّةِ، وَاثْنَانِ فِي النَّارِ، فَأَمَّا الَّذِي فِي الْجَنَّةِ فَرَجُلٌ عَرَفَ الْحَقَّ فَقَضَىٰ بِهِ، وَرَجُلٌ عَرَفَ الْحَقَّ فَجَارَ فِي الْحُكْمِ فَهُوَ فِي النَّارِ، وَرَجُلٌ قَضَىٰ لِلنَّاسِ عَلَىٰ جَهْلِ فَهُوَ فِي النَّارِ“

(The Prophet صلى الله عليه وسلم said: Judges are of three types, one of whom will go to Paradise and two to Hell. The one who will go to Paradise is a man who knows what is right and gives judgment; accordingly, but a man who knows what is right and acts tyrannically in his judgment will go to Hell; and a man who gives judgment for people when he is ignorant will go to Hell.)

”عَنْ عَبْدِ اللَّهِ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "لَا حَسَدَ إِلَّا فِي اثْنَتَيْنِ: رَجُلٌ آتَاهُ اللَّهُ مَالًا فَسَلَّطَ عَلَيْهِ هَلَكْتَهُ فِي الْحَقِّ، وَآخَرُ آتَاهُ اللَّهُ حِكْمَةً فَهُوَ يَقْضِي بِهَا وَيُعَلِّمُهَا“<sup>7</sup>

(Narrated `Abdullah: Allah's Apostle said, do not wish to be like anybody except in two cases: The case of a man whom Allah has given wealth and he spends it in the right way, and that of a man whom Allah has given religious wisdom (i.e., Qur'an and Sunna) and he gives his verdicts according to it and teaches it. (To others i.e., religious knowledge of Qur'an and Sunna (Prophet's Traditions)).

”عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ وَلِيَ الْقَضَاءَ، أَوْ جُعِلَ قَاضِيًا بَيْنَ النَّاسِ، فَقَدْ ذُبِحَ بِغَيْرِ سِكِّينٍ“<sup>8</sup>

Abu Hurairah narrated that the Messenger of Allah (ﷺ) said:

(Whoever takes the responsibility of judge, or is appointed as judge between the people, then he has been slaughtered without a knife.)

This hadith refers to the importance and delicacy of the position of qaza. The responsibilities of this position are so great that it is such a laborious task to earn them fully like slaughtering without a knife. Islam has placed great emphasis on justice and fairness. This is also explained in several places in the Holy Qur'an and the Holy Prophet (P.B.U.H) also always maintained justice. This was the first period of the Islamic judiciary, and this period includes the period of the Khulfa e Rashdeen. This period of the Khulfa e Rashdeen lasted for about thirty years. The rule of the Muslims increased day by day and the most sacred and highest office was that of Qaza.

The importance of the early Khilfat in the matter of making up is evident in two basic matters. Muhammad al-Zuhili, in his "History of Judgment" in Islam, writes about this as follows:

”المحافظة على نصوص العهد النبوي في القضاء، والتقيد بما جاء فيه، والسير في ركابه، والاستمرار في الالتزام به وضع التنظيمات القضائية الجديدة لترسيخ دعائم الدولة الإسلامية الواسعة وواجهة المستجدات المتنوعة“<sup>9</sup>

(Preservation of the texts of the Prophet's (P.B.U.H) covenant regarding Qaza, its implementation, its implementation, and its full commitment modern laws of the judiciary were formulated in order to strengthen the foundation of the vast Islamic empire and to offer solutions to various new problems.)

#### 4. Allegiance of Hazrat Ali:

After the martyrdom of Hazrat Uthman (R.A), the people of Madinah swore allegiance to Hazrat Ali (R.A). On Friday, Hazrat Ali (R.A) delivered a sermon on the pulpit. After that, those who did not swear allegiance also swore allegiance.

The words of Hazrat Ali's (R.A) sermon are:

“Allah Almighty has sent His Book as a guide which explains good and evil with clarity, so embrace the good and turn away from the evil. Allah Almighty has declared the sacred land to be honorable. He stressed on sincerity, love, unity, and solidarity of Muslims. A Muslim is one from whose tongue and hand Muslims are safe unless a Shari'ah right is obligatory. Fear Allah when dealing with His servants. On the Day of Judgement, you will be questioned about the land.

Obey Allah Almighty. Do not disobey its commands. Accept the good and avoid the evil.”<sup>10</sup>

##### 5. The Department of Justice in the period of Ali ibn Abi Talib (R.A):

When the fourth caliph, Hazrat Ali ibn Abi Talib (R.A) took over the post of Qaza, so there were a lot of strife and accidents at that time. Like the previous three caliphs Hazrat Ali (R.A) paid special attention to the establishment of justice during his caliphate. During his caliphate, he gave special instructions to his followers to establish justice.

The style of Qaza is being explained in the caliphate of Hazrat Ali (R.A) is given below. It is necessary in this regard first of all, let us mention the famous judges of the caliphate of Amir al-mu'minin on whom he had every degree of confidence, and he also wrote letters to the judges during his caliphate in which he used to exhort to do justice and also gave them advice. They are briefly mentioned below. Amir al-mu'minin Ali ibn Abi Talib ((R.A) took over the department of Qaza So there were a lot of strife and accidents at that time, but all these incidents and tribulations could not stop him from making special arrangements and organizing the judiciary.

6. The famous judges in the era of Ali ibn Abi Talib (R.A):

Syedna Ali (R.A), during his reign, was one of the first judges to be appointed as a judge he retained him in office and appointed more judges and governors.

The main judges and guardians of his caliphate are:

"Sharh ibn Harith was already in charge of Qaza for Kufa. He kept him there and paid him a monthly salary of 5 dirhams."<sup>11</sup>

"Abu Musa al-Ash'ari(R.A) was appointed by Uthman (R.A) as the judge of Kufa. Hazrat Ali (R.A) kept him in his post for a few days during his reign and then deposed him. Hazrat Obaidullah bin Masood (R.A) appointed Governor and Judge of Yemen."<sup>12</sup>

"He made 'Uthman ibn Hanif (R.A) the judge of Basra. Qais ibn Sa'd (R.A) was the judge of Egypt Hazrat

Ali (R.A) also made him the governor of Egypt, then deposed him and made Muhammad bin Abu Bakr in his place.”<sup>13</sup>

“Amra bin Shahab (R.A) was the judge of Kufa. Jeddah bin Habira Makhzumi (R.A) was appointed judge of Khurasan and Khalid bin Qaira Yarboi was appointed judge in his place. Qatam ibn Abbas (R.A) was appointed judge of Madinah and then of Makkah and Taif in 5 AH.”

<sup>14</sup>

Abdullah bin Abbas (R.A) was made the governor of Basra and Abu al-Aswad al-Dawli was made the judge there.

What Imam Abu Ubaidah said about Ibn Abbas is recorded in Waqi 'Akhbar Al-Qada as follows: "Ibn Abbas used to give fatwas to the people and also decide their affairs." <sup>15</sup>

"Saeed bin Nimran Hamdani (R.A) was made the judge of Kufa by Hazrat Ali (R.A) when he himself went to Kufa but a few days later he was deposed and Masab ibn Zubair (R.A) was made the judge of Kufa, he held this position for three years, then Ibn Zubair made Abdullah ibn Utbah ibn Mas'ud (R.A) the judge there. <sup>16</sup>

Obaida al-Salmani His real name is Muhammad bin Hamza. Hazrat Ali (R.A) had also appointed him Qazi of Kufa and it was a reminder that as your predecessors have come to judge, you keep deciding. Then he deposed him and made Sharih a judge.

Ibn Sa'd's commentary on what Imam al-Shu'bah says about Qaza for it is as follows:

”كان شريح أعلم الناس بالقضاء، وكان عبدة يوازي شريحاً في القضاء، وله أقضية طريقة، وكان من علماء الكوفة المشهورين، وكان شريح يستشير به ويرجع إليه“

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(Sharih was the most expert in Qaza and Obaidah was on par with Shariah in Qaza. He made great and unique decisions Shari'ah used to refer to him in many matters.)

Hazrat Ali (R.A) had given the power to appoint judges to the governors even during his caliphate. But you instructed them to select them after careful research.

“The appointment of judges in small towns under the jurisdiction of large states was the prerogative of the governor, people also had the right to sue against the decisions of judges and in that case the governor of the state had the right to review such cases.”<sup>18</sup>

#### 7. Letter to the Egyptian Governor regarding Judicial System:

Hazrat Ali (R.A) had written a letter to the Governor of Egypt, Ashtar Nakhai, about Qaza. In the letter you wrote:

“Appoint a person who is respected by you to decide between the people, so that no one would dare to object to it and if he slipped, he would not rebel, be free from lust, get to the bottom of the matter, no one's

recommendation or position should intimidate him, set his salary higher so that he does not become addicted to bribery, in your opinion, his status should be such that no one can turn a deaf ear to him.”<sup>19</sup>

It is clear from this letter that the attributes of a judge, his rights and duties are beautifully described.

#### 8. Duties and Attributes of a Judge:

To bring full justice to the parties, it is necessary that the judge has the qualities to cover every part of the case. If we look at the Hazrat Ali (R.A) caliphate, the decisions of his various cases show that he set the duties and characteristics of a judge. As Hazrat Ali (R.A) had said to Qazi Sharih:

”لسانك عبدك ما لم تتكلم، فإذا تكلمت فأنت عبده. فأنظر ما تقضى، وفيم

تقضى؟ وكيف تقضى؟“<sup>20</sup>

(Your tongue is your slave until you speak and when it spoke, you became its slaves. So be careful what you decide, and what are you judging? And how do you decide?)

“Hazrat Ali (R.A) also maintained equality between the parties. Once, a guest came to Hazrat Ali and stayed with him and as soon as the opportunity arose, he spoke out against his opponent, So Hazrat Ali (R.A) asked him, "Have you brought a case?" So, he replied "yes". He said: Then get out of here, we are not allowed to entertain any one party except that both parties come together.”<sup>21</sup>

This shows that the duties of a judge include the judge should maintain the aspect of equality between the parties.

Once Hazrat Ali appointed Abu al-Aswad al-Dawli as a judge and then deposed him, on this Abu al-Aswad said: “I did not betray or commit any sin, then why did you depose me?”

Hazrat Ali replied: “I saw your voice is getting louder on the one side party.”<sup>22</sup>

This shows that it was also included in the duties of a judge in the caliphate of Hazrat Ali (R.A) that they should not raise their voices against the parties or scold them. The duties of a judge include seeking advice and who could know this better than Hazrat Ali? Who himself was a permanent member of the council committee of the former caliphs and the caliphs used to summon him in case of any difficulty.

Muhammad Rawas Qilaji writes about this as follows:

“When two men used to come to Uthman (R.A) with a quarrel, so he used to gather the Companions and also called Hazrat Ali (R.A) and when all the people would have come whom Hazrat Uthman (R.A) would have called So he asked the parties to keep their word. Then Hazrat Uthman (R.A) used to ask the Companions for their views on their quarrel, Hazrat Ali (R.A) was also a permanent member of this advisory committee.”<sup>23</sup>

This analysis that in the duties of a judge, it is also necessary to consult the dignitaries So that he knows as much as possible about the right thing and decides according to the truth.

#### 9. Hazrat Ali's guidelines for judges:

Hazrat Ali's style of Qaza was that he was content with the previous case.

So, in “Al-Musanif” Abdul Razzaq writes:

”قال اقضوا كما تقضون حتى تكونوا جماعة. فاني أخشى الاختلاف“<sup>24</sup>

(He used to say, "Keep on doing as you used to do Until you all become one party, because I am afraid of disagreement.”)

As Hazrat Ali (R.A) had also written in his letter that Qazi should be pure, he should not be greedy. Besides, he should know the abrogation of the rules of Shariah.

So Hazrat Ali (R.A) asked one of his judges: “Do you know the abrogation of the Shari'ah?” He said: “No.” He said: “You killed yourself and killed others too.”<sup>25</sup>

Hazrat Ali says:

"No judge can be a judge unless he has five attributes - (1) Purity, (2) Tolerance, (3) Knowledge of previous decisions, (4) Consultation with scholars and intellectuals, (5) For the sake of Allah, there is no need to blame anyone.”<sup>26</sup>

”كان عليٌّ يأصر شريحاً، القاضي بالجلوس في المسجد الاعظم لييسر الوصول اليه“<sup>27</sup>

(Syedna Ali (R.A) used to order Qazi Sharih to sit in the Jama Masjid for decision, so that the complaints can reach them easily.)

This shows that it is important for the judge to sit in the city center for the trial so that it is easy for everyone to get there.

## 10. Conclusion

For the survival and stability of an Islamic society, it is necessary to implement justice and to fulfill this responsibility, it is necessary to establish a court of law because the judiciary is an important and delicate matter. From this point of view, the period of the Prophet (P.B.U.H) was the first period of Islamic judiciary and in the adjoining era of the Caliphate, the most sacred and highest office was that of Qaza. Hazrat Ali (R.A), the fourth caliph of Islam, spent most of his life as a judge. Even in the judiciary of the three previous caliphs, Hazrat Ali (R.A) maintained most of the decisions that the previous caliphs had made, in the same way, most of the people who were appointed by the previous caliphs were retained in the post of Qaza. Khulfa e Rashdeen had a prominent position in the Ummah in every respect. They set an example that is impossible to find in the world. Scholars, jurists, judges and rulers continued to use Hazrat Ali's (R.A) style of judging. Hazrat Ali (R.A) himself was a permanent member of the Shura Committee of the former Caliphs. This style can be

used in modern times. By adopting all these principles and methods, a peaceful society can be established even today.

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