

THE JUDICIAL SYSTEM IN ISLAM (PART 2 OF 2): ITS LEGAL BASIS AND ISLAM RULING

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Description: The process Islam has laid in regards to seeking and meting out justice in Society. Part 2: Defining the judicial system and its legal basis, and the Islamic ruling concerning the judiciary.

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Defining the Judicial System and its Legal basis

The judicial system in Islam is a system for deciding between people in litigation with the aim of settling their disputes in accordance with the injunctions of the Divine Law, injunctions that are taken from the Quran and Sunnah.

All of the Messengers of God (peace be upon them) acted as judges. God says:

“And remember David and Solomon, when they gave judgment concerning the field when people’s sheep had browsed therein at night, and We were witness to their judgment. And We made Solomon to understand the case. And to each of them We gave good judgment and knowledge.” (Quran 21:78-79)

God also says:

“O David, verily we have placed you as a successor on Earth, so judge between people in truth, and do not follow your desires for it will mislead you from the path of God. Verily, those who stray from the path of God have a severe punishment because they forgot the day of reckoning.” (Quran 38:26)

Prophet Muhammad, who came with the final and eternal Message, was ordered by God to pass judgment in disputes just as he was ordered to spread the word of God and call people to Islam. This is mentioned in the Quran in a number of places. God says, for instance:

“So judge (O Muhammad) between them by what God has revealed and do not follow their vain desires, but beware of them lest they turn you away from some of what God has sent down to you.” (Quran 5:49)

God also says:

“...And if you judge (O Muhammad), judge between them with justice. Verily, God loves those who act justly.” (Quran 5:42)

And He says:

“But no, by your Lord, they shall have no faith until they make you (O Muhammad) judge in all their disputes and find in themselves no resistance against your decisions and accept them with full submission.” (Quran 4:65)

The Sunnah also provides for the legal basis of the Islamic judicial system. It is related by Amr b. al-Aas that the Prophet said:

“If a judge gives a judgment using his best judgment and is correct, then he receives a double reward (from God). If he uses his best judgment but makes a mistake, then he receives a single reward.” (Ahmed)

God’s Messenger said:

“You should not wish to be like other people, except in two cases: a man who God has given wealth and he spends it on Truth and another who God has granted wisdom and he gives verdicts on its basis and teaches others.” (Saheeh Al-Bukhari, Saheeh Muslim)

Many scholars have related to us that there is consensus among Muslims on the legal status of the judicial system in Islam. Ibn Qudamah says:

“The Muslims are unanimously agreed that a judicial system must be established for the people.”

The Islamic Ruling Concerning the Judiciary

The jurists agree that the duties of the judge are an obligation that must be carried out by society. If some members of society carry out this duty, it is sufficient for everyone. If, on the other hand, everyone neglects it, then everyone in society is sinful.

The proof that these duties are obligatory comes from the Quran:

“O you who believe! Stand out firmly for justice...” (Quran 4:135)

It is only necessary for a small number of individuals to perform judicial duties since judicial concerns come under the broad duty of enjoining what is right and forbidding

what is wrong. It is not obligatory for every individual to carry out this duty as long as some people are doing so.

The affairs of the people will not be correct and upright without a judicial system. It is, consequently, obligatory for one to exist, just like it is necessary to have a military. Imam Ahmad, one of the greatest and most well-known scholars of Islam said:

“People have to have a judicial authority or their rights will disappear.”

The duties of the judiciary include enjoining what is right, helping the oppressed, securing people’s rights, and keeping oppressive behavior in check. None of these duties can be performed without the appointment of a judiciary.

A judicial system is a necessity for the prosperity and development of nations. It is needed to secure human happiness, protect the rights of the oppressed, and restrain the oppressor. It is the way to resolve disputes and ensure human rights. It facilitates enjoining what is right, forbidding what is wrong, and curbing immoral behavior. In this way, a just social order can be enjoyed by all sectors of society, and every individual can feel secure in his life, property, honor, and liberty. In this environment, nations can progress, civilization can be achieved, and people are free to pursue what will better them both spiritually and materially.

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