

Khalifa Umar bin al-Khattab - Political and Governmental Actions

Judicial Administration

Umar took particular pains to provide effective and speedy justice for the people. He set up an effective system of judicial administration, "hereunder justice was administered according to the principles of Islam.

Qadis were appointed at all administrative levels for the administration of justice. Umar was the first ruler in history to separate judiciary from the executive. The Qadis were chosen for their integrity and learning in Islamic law. High salaries were fixed for the Qadis so that there was no temptation to bribery. Wealthy men and men of high social status were appointed as Qadis so that they might not have the temptation to take bribes, or be influenced by the social position of any body. The Qadis were not allowed to engage in trade. Judges were appointed in sufficient number, and there was no district which did not have a Qadi.

Umar issued 'Farmans' from time to time laying down the principles for the administration of justice. In one of the Farmans issued to Judicial Officers, Umar laid down the following principles:

"Praise to God.

Verily justice is an important obligation to God and man. You have been charged with this responsibility. Discharge the responsibility so that you may win the approbation of God and the goodwill of the people.

Treat the people equally in your presence, in your company, and in your decisions, so that the weak despair not of justice, and the high-placed have no hope of your favour.

The onus of proof lies on the plaintiff. He who denies must do so on oath. Compromise is permissible, provided it does not turn the unlawful into lawful, and the lawful into unlawful. Let nothing prevent you from changing your previous decision if after consideration you feel that the previous decision was incorrect.

When you are in doubt on a question and find nothing about it in the Quran or in the Sunnah of the Prophet, think over the question over and over again. Ponder over the precedents and analogous cases, and then decide by analogy.

A term should be fixed for the person who wants to produce witnesses. If he proves his case, get him his right. Otherwise, the suit should be dismissed.

All Muslims are reliable, except those who have been punished with flogging, or who have borne false witness or are doubtful in integrity."

History has preserved the names of some of the eminent persons who held judicial office during the caliphate of Umar.

Zaid bin Thabit was appointed by Umar as the Qadi of Madina. He was well versed in Syriac and Hebrew, and was an expert in civil law.

Ka'b-b. Sur al-Azdi was the Qadi of Basra. He was a man of keen insight and wide learning. Many of the dicta laid down by him became classical and were reported by Imam Ibn Sirin.

Ibada b. al-Samat was the Qadi of Palestine. He was one of the five men who had memorised the Holy Quran in the lifetime of the Holy Prophet. Umar held him in great esteem.

Abdullah b Masud was the Qadi of Kufa. He was a man of great scholarship and judicial acumen. He is considered the Father of the Hanafi law.

Qadi Shuraih succeeded Abdullah b Masud as the Qadi of Kufa. He was well known throughout the country for his intelligence and keen sense of judgment. He was regarded as a model Judge. Ali used to call him 'Aqd-ul-Arab'-i.e. the most judicious of all the Judges of Arabia.

About Qadi Shuraih's appointment as a Judge there is a story on record. It is related that Umar purchased a horse on approval, and gave it to somebody to try it. The horse got hurt in the ride, and Umar wanted to return it, but the owner refused to take it back. In the dispute that arose as a consequence, Shuraih was chosen as the arbitrator. He gave the verdict that if the horse was ridden with the permission of the owner it could be returned; otherwise not. Umar said that that was the right decision and at once appointed Shuraih as the Qadi of Kufa.

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