Khalifa Umar bin al-Khattab - Hadith and Fiqh

Umar and Fiqh

Umar was the founder of Fiqh or Islamic jurisprudence. Over one thousand juristic pronouncements of Umar are on record. All the four schools of law in Islamic jurisprudence follow the law laid down by Umar. The pronouncements of Umar are cited in the Musannaf of Ibn Abi Shaiba. These are also found in Shah Wali Ullah's book Faraq's Fiqh.

Umar not only declared the law; he also established principles of inference and construction and formulated rules therefor. He distinguished between the acts of the Holy Prophet performed in pursuance of his prophetic mission and the acts that he performed as an ordinary man. All that the Holy Prophet did in the first capacity was held by Umar to be binding and a basic source of law. In matters falling in the second category room remained for devising new laws to suit the changing conditions and circumstances.

Umar also laid down the principle of Qiyas or logical deduction. According to this principle when the Quran and the Hadith did not mention the details of law on any point, such law could be arrived at by logical deduction. In his instructions to his judicial officers Umar said:

"When you do not find a judgement on an issue in the Quran or Hadith and you are in doubt about it, ponder over the question and ponder again. Then look for dicta on like and similar issues, and decide accordingly."

In addition to these fundamental principles Umar enunciated numerous rules about inference and generalisation of laws which form the basis of Islamic jurisprudence.

When some one asked Umar's verdict on a mere academic question which had not actually arisen, Umar forbade people raising hypothetical propositions.

Umar held that one should not urinate standing.

Umar was asked whether one could perform the ablution with sea water. Umar answered the question in the affirmative.

Umar was asked whether one could perform ablution with water taken from a non-Muslim. Umar found no objection to such ablution.

Umar was asked whether one who has had sexual intercourse could perform Tayammum and offer prayers. Umar said that for him bath was essential.

Umar was very strict about the offering of prayers. He issued instructions to the provincial Governors that their foremost duty was the offering of prayer.

Umar was asked as to the time for the morning prayer. He said "In the shadow of the twinkling stars".

Umar held that the prayer of Zuhr should be delayed as far as possible and the prayer of Isha should be offered as early as possible.

Umar was asked: if the meals are ready and it is also the time for prayers, which should be given priority. Umar said "first take your meals".
When Umar saw a person offering prayer by the roadside he was advised to pray in the mosque.

Umar forbade the people to talk loudly in the mosque.

Umar enjoined that one should not come to the mosque having eaten some thing which produces a bitter smell.

Umar was very particular that when offering prayers in congregation the lines should be straight.

Umar held that journey on a Friday was not forbidden.

Umar enjoined that around a person on death bed one should recite the article of faith.

When one of the wives of Umar died Umar led the funeral prayers himself.

Umar held that in one's shroud three sheets were enough.

Umar ruled that on the occasion of a funeral prayers four Takbirs should be offered.

Umar held that in a garden those trees the fruit whereof was reserved for distribution among the poor were exempt from Zakat.

Umar held that if any thing was given as Sadaqa it could not be repurchased whatever the price or consideration.

Umar held that when a man was under debt, he should offer Zakat on the value of his property after deducting the amount of the debt.

Umar held that one should not fast unless he had seen the moon of Ramazan and he should not fast after he had seen the Eid moon.

Umar advised the people to keep a fast on the tenth of the Muharram.

Umar insisted that in the month of Hajj priority should be given to the Hajj and not to Umra.

Umar prohibited the sale of wine.

Umar held that one should not purchase anything already mortgaged with him.

Umar held that if one passed through a garden he could pick up fruit that had fallen on the ground.

Umar forbade Mutah.

Umar held that where three talaqs were announced simultaneously such divorce would be irrevocable.

Umar held that a slave woman who bore children to her master stood emancipated.

Umar held that justice should not be delayed.

Umar enjoined his officers to dispatch the State business expeditiously.

Umar held that in the court the Judge should not be praised.

All acts should be judged according to the test of public interest.
Any act which did not harm any one and was otherwise not forbidden under law was permissible.

In the famous Fidak case Umar held that the property which vested in the Holy Prophet vested after him in the State and not in his heirs.

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