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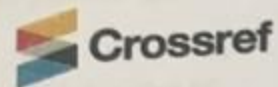
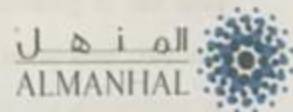
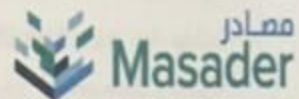
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Qualifications, Functions and Accountability of Qazis during the Salateen Period: An Overview

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ABSTRACT

The justice has been an inescapable element of Islamic governance, the governance rules for an Islamic state have to build upon justice as its base. That's the reason that the judiciary had a core position in the doctrine of Islamic ruling history. In the honour of the office, a person for the selection of Qazi post had to strictly fulfill the criteria of the post-selection such as Islam, manhood(al-dhukuriyyah), adulthood(al-bulugh wa al-aql), freedom(al-huriyyah), intelligence, sound vision and hearing(alsalamah fi al-sam' wa al-Basar), profound scholarship(al-'ilm) and piousness(al-Adalah).

In shariah, a Qazi, who is known as al-Ahkam al-Shariah's impartial interpreter (Islamic Law law), plays a special role. Being a distributor of adal (justice) must act honestly and impartially, and make independent, Amanah-based decisions (confidence or good faith). His decisions should be according to the laws that are imposed by the Islamic state. He is responsible for all public and criminal issues, whereas its duty includes the resolution of citizens' quarrels, the deterrence of any damage to ummah(community) interests and disputes settlement resulting from government mismanagement and misdemeanours. All the judgments were supposed to be done in the light of Islamic teachings let that be the decisions regarding "Waqf (Endowment), Marriages, Talaq". The Salateen rulers also followed the Islamic judiciary system with advancement, they spread a network of the judicial system across the state.

Keywords: Legal System; Sultans, qualifications of Qazi; Administration of Justice

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1. Introduction

Throughout Islamic history, the role of Qazi and Mufti has been the central one in state affairs. In all the civil, criminal and administrative cases of the community, they were very influential. The judicial system was the common aspect of all Indian Muslim eras. The practice of the judicial system in India started in the regime of the Iltutmish the sultan of Delhi. The Bahmani Ruler of Gujrat named Muhammad Shah was also a punctual practitioner of Islamic Law as per Islamic teachings the responsibility of the king was to prevail justice in the society. He would not have compromised on even the acts which are commonly neglected. All the problems were to be sorted out and all the questions were to be answered by the Qazis in the light of Islamic teachings.

An account of the Sultanate period shows that the Qazi was to be appointed by the king directly among the law professors. The purpose of the direct appointment was to empower the Qazi in the society as everyone in the state has to subdue in the front of the Qazi in judicial affairs. Qazi is considered to be a legal expert posted against the post of legal officer. The eligibility criteria for the Qazi post was the person to be the Qazi supposed to be an adult, male, intelligent, processing sound judgement, a freeman, a trustworthy person and physically able specifically in hearing and seeing. They were prohibited from taking any kind of presents and accepting invitations.

The core responsibility of the Qazi is to provide the justice to everyone with equality in the light of Islamic teachings however the jurisdiction of the Qazi was then expanded to other estate affairs like property issues, investigation of someone who is missing and many others. The district Qazi was to also an independent position who was believed in with trust. His signature on any paper was considered to be the sign of authenticity.

A Qazi was then mandatorily subjugated to the Islamic Law, in case of need he was supposed to seek the guidance of the mufti before finalizing any decision. However, the minorities were exceptions to Islamic rule. This does not mean the jurisdiction of the Qazi was only restricted to the only the religious matters rather the minorities were to be treated according to their own religious law.

2. King's Position

The monarch has been held responsible for the provision of justice among the masses as per the teachings of the Quran. By the virtue of his position, he was a legislator, the protector of the Laws as well as the distributor of Justice. Being the chief executive of the nation, he has to respect the law and sharia. As per Islamic law, he got no privilege under the judiciary acts as Islam pledges of equality. Although due to being highly authoritative some of the Muslim kings considered themselves as above the rule of law and they were tilted as they shadow of God on the earth (Zell-e-Elahi). Islam does not recognize the king as being innocent of wrongs thus he can be charged by the court although being a king he sues as well.

As the basic jurisdiction of the king was to ensure the equality and justice equal to all of the masses therefore king must have to exercise cases in his own court where he could make decisions by himself.¹ Genuinely, the decision taken by the king himself would have been quick and impartial as he would decide without any stress of the authority or fear.²

However, to assist himself in tackling cases, the king/ sultan could appoint Qazis in his own supervision although he could alone manage the court if he could by law. As per Islamic jurisprudence the selection of Qazi was not a piece of cake rather it needed extreme care and keenness. "Barni relates the story of the appointment by the Sultan Qutab Uddin of an incompetent man Qazi Zia Uddin, to the office of Chief

Justice which incited the people to revolt and murder not only the Qazi but the King himself. The King was also expected himself to have practical knowledge of Law as in theory he alone could "remove the Qazis from their posts" and they held office during the King's pleasure".³

3. The Management of Judicial System in The Delhi Sultanate's Reign

In this era, the king was the head of the state who hold the supreme authority of the administrative wing as well for the justice system. For the justice management, three ways were adopted by the king, as under;"i) Diwan-i-Qaza, (ii) Diwan-i-Mazalim, and (iii)Diwan-i-Siyasat". Furthermore, there were 6 important tribunals during Salteen era i.e "The King's Court, Diwan-i Siyasat, Diwan-i-Mazalim, Diwan-i-Risalat, Sadre Jehan's Court and Chief Justice's Court the Muftis tried these courts but the highest authority after the king was possesses by the Qazi ul Quzat.

The magistrate of the Chief Justice (Qazi ul-quzat) was the King's highly legislative representative, although the Islamic scholars tried the Tribunals. This court was established in 1206 by the Sultanate. Moreover, the Chief Justice had the power to take care of the fatwas and substantive advice in the absence of a king in this process. They have tried almost every type of private case. Four excellent officials, namely Mohtasib, Mufti, Dadbad and Pandit, have also helped the Jury for Check Justice. Mufti and Pandit were nominated in private matters for the clarification of Muslims and Hindus.⁴

3.1 Appointment of Magistrates and Judicial Standard

In the Sultanate period, the king was supposed to select the Qazi according to the designed criteria in a justified way. The Emperor selected Qazi ul Quzat from being one of the noblest of the qualified citizens of his Empire. The judges were persons of great intelligence in society (Afzal-e-Rozgar). Mostly Sultanate Chief Justices were renowned for their sovereignty and neutrality in the judicial process. Ibn Battuta claimed that the justices were often law professors who can judge correctly. When individuals who are resented and tainted have been designated as Qazis, social frustration was clearly observed. Even a chief justice could be reduced to a low-ranking Qazi, where the Sultan considered him to be dishonest and unable. Qazis, in case incompetency and dishonesty were mocked and terminated.⁵

4. Qualifications of Qazi

The head of the state was the king who administrated judicial administration and all judicial posts were appointed by him. by following the criteria for the post of judicial officers, the person would have to be competent and high integrity. The office of the judges held pleasure by the king.⁶

It can be said that the qualifications for a Qazi at the time of sultanate was same as per required by Islamic Law. The selection of Qazi was not an easy task, as it was the indemnity of justice and law, therefore they were to be selected among the men of knowledge and scholarship. For a person to get selected as a Qazi the following criteria had to be fulfilled.

1. Adult male: A woman is qualified for the post of Qazi according to some jurists and Muslim Queens like Razia has attempted cases. However Commonly aQazi must have been a male.⁷
2. Intelligent: intellectual yet possessing good judgement and independence that discriminates.
3. An Independent Man: Slaves were not permitted to act freely in Islam. The Slave dynasty kings were no longer captives after reaching the throne. Before he could

be admitted, Sultan Iltutmish had to appease the Qazis surrounding his manumission.⁸

4. A Muslim: As a rule, the Qazis were not designated from non-Muslims. In Hidayahit is mentioned that a Qazi must be a punctual and strict follower of the Islamic Law in his personal life as well. Acceptance in office included a thorough review in Islamic rules on the incumbents and also the obligation to guide the prayers on Friday. Non-Muslims were excluded since they typically did not learn Islamic law but were openly serving in other agencies. Non-Muslims could be appointed to decide their disputes as per Zailai’.
5. An Adal: He must capable to be a credible witness. Significant attention was given to the character of a Qazi, and he was required to maintain a high level of behaviour. The purity of character was key to a justice office according to Zia Uddin Barni. A Qazi who had started consuming liquor was arrested during the reign of Ala Uddin Khilji (1296-1316) and was killed.
6. Good Vision and Listening Ability: As stated in Hidayah, a Qazi's decision was not deemed correct if it was issued at a period when his interpretation was not clear. In general, no retirement time has been set.
7. Profound Law Scholarship: Barni stated that the position of a Qazi symbolizes a high degree of obligation thus only the profound scholars of law should be referred for this post.⁹
8. “According to the Mahabharata, it was essential for a Judge to be familiar with the nature and the character of the people.”¹⁰
9. The judges should be mild and polite and not very harsh. They should be free from rapacity and ignorance.
10. Selection for Qazi’s post was also rendered from among the professors of law during the Sultanate and Mughal eras.
11. The Qazis were supposed to not host parties nor receive presents from visitors.
12. Due to the virtue of the position, which was highly authoritative in nature, the appointment was to be announced by the king himself.

There were other common limitations and the possibility of cutting the Ruler's dissatisfaction was often present. This was no surprise that in the early days of Islam the Qazi office was recognized with feat and hesitation, as absolute adherence to both the letter and the meaning of the law was the usual practice.

5. General Responsibilities of Qazis

The jurisdiction circle of the Qazi was quite outspread and authoritative, everyone has to subjugate to his order. The Qazi had the authority to declare a sovereign act illegal similar to the Juries of the Supreme Court of the USA. They had the power to send the governors back to their homes if they would surpass the law. Similar to the powers of judges given by the English ancient “System of Goal delivery” they got the powers “under the Habeas Corpus Act.

In criminal matters, they exercised the full control conversed on the District Magistrate under the Indian Criminal Procedure Code, and also all powers corresponding with those conferred on the modern District Judge by the Guardian and Wards, Lunacy, Trust and Insolvency Acts of today. All the authorities which could be conferred upon the court of original jurisdiction were in their influence. The Qazi for their piousness and scholarship were thought to be close to Allah Almighty and thus

were advised to think of Allah lonely before deciding any case.¹¹ Officials were not immune from the rigour of the law and high position did not give any ease from the law, if we look at the reign of Hazrat Umar (RA), he did not accept any prevail age for the officers. All of them were equal in the eye of the Law. The same root was tracked by the Sultans and Mughal monarchs, as they did not reserve any privilege legally for the officers and authorities.

The status of the state and subject was the same concerning law. The courts where the state would appear either as the petitioner or the respondent were separate from the common courts. Although the accessed literature by the investigator does not show any such instance. No such special courts for the state were constituted, even for highly severe political cases. Ordinary courts had to exercise jurisdiction in such cases. If any person would file a case against any state officer, the officer was liable to all compensation and punishment if applicable, however, the state may pay the fine or compensation to the petitioner on the behalf of the officer. The state could be sued as well.

In-State versus Shiqahdar the police officer was exacted to compensate to the citizen for the unlawful arrest. In one of the cases where the governor Khan Jahan made a wrong decision in a murder trial, the state was declared liable to pay the compensation to the descendants of the deceased.

“In Jahangir’s time a Police Officer Kotwal, to prosecute an intrigue with a subordinate’s wife, compelled the policeman to absent himself from his house on a pretext of duty. The policeman’s mother came to the palace and shook Jahangir’s chain of justice, which resulted in the Kotwal being sent to prison.”¹²

Another instance of the subject- state equality could be spotted, when a near dear drunk person of the governor of the Balban murdered a person and was tried and executed in a public gathering. Khafi Khan presented niceties of a thought-provoking instance once Mirza Beg, Kotwal of Lahore, filed to arrest a Qazi who had been suspected of a crime. The Qazi fortified himself in his home. A fight followed in which the Qazi was murdered. His descendants tried the case against the kotwal in which he was proved guilty of murder and the court ordered to hand over the kotwal to the heirs of the Qazi for the Qisas, although during the pendency of the appeal the kotwal give over during and an order was passed to hand him over to the heirs of the Qazi in blood fine (Qisas).

6. Criteria for a Qazi

i. Chief Justice

Chief Justice (Afzal ul Quzat or Qazi ul Quzat) was responsible for all the judiciary acts in the dominion. Two Puisne Judges among the skillful judges have sometimes appointed for his assistance. As the king could not always be present in the courts so the chief justice and Puisne judges had to handle all the cases which would appear both in the “Diwan e Mazalim or the Diwan e Risalat”. They tried all cases either from the appellate side or from the original side. The position of Qazi ul Quzat was different from that of the Shaikhul Islam, the chief justice was an official state employee while the sheikh ul Islam did not have any office.

ii. Selection

The appointment of the Qazi ul Quzat was not an easy task as he had to be selected among the state’s most pious (Muttaqi Tareen) and knowledgeable men. The appointment was to be done directly by the sultan himself. There was no age limit for selection and the selection was lifelong. Ibn Battuta’s account of his Qazis during his travel shows that the most often the Qazis were selected among the law professors who had a good grip on the correct judgment. When he recruited Ibn Battuta as the Justice

of the Court of the Chief Justice, “Do not suppose that your office of Judge of Delhi will cost you little trouble. On the contrary, it requires the greatest attention”.¹³

iii. Removal

Regarding the case of Qazi Jalal Uddin, Badaoni, a Qazi ul Quzat may be dismissed or lowered by the Sultan as a Qazi of lower rank. The role of Qazi Imad Uddin Shakurkhani was suspicious and discarded in the year “1248 A.D”. Qazi Shams Uddin executed by King Moiz Uddin Bahram “without trial for sedition” and charged the punishment for doing so by sacrificing his own self in a revolt sparked by the execution. Qazi Shams Uddin Mehr has been withdrawn as a result of the accused individual having effectively appealed. The dismissal of a Chief Justice from office did not disqualify him for re-appointment, if not because of his partiality.

iv. Other Functions

A Qazi-ul- Quzat under the Sultanate was necessary, as per the assertion of Ibn Battuta, to procure “the promise of office to the King” while making sure his presence at his appointment. He had been appointed by the king personally and had to sign a loyalty oath to him. As the policies and rules for the Sultanate were created, the Chief Justice was informed. Some of the Supreme Court justices were often granted the responsibility for academic institutions. Mufti, Pundit, Mohtasib and Dadbak were attached to the Chief Justice Office. Due to the core importance of the Qazi, they got good salary packages, in 1332 the salary of the Qazi was twelve thousand dinars, as stated by Ibn Battuta. Along with Jigar, he was granted the free residential apartment as well.

7. Courts in Subahs(Iqta)

Adalat Nazim Subah Governor's Court and Adalat Qazi-e-Subah (Chief Provincial Qazi) Canon Law and Common Law Court had Original and Appellate jurisdiction. Governor's Bench Highest Appellate Court in the Province as well as had Original Jurisdiction. Diwan-e-Subah Revenue Court had Original and Appellate jurisdiction. Sadre Subah Ecclesiastical Court where Special Benches could be constituted by the Sultan to try any case.

i. Functions of Qazis in the provincial courts

In the courts for the provinces the following officers were there;

1. The Governor

He was the head of the province a representation of the king in the province. His court vested with both “original and appellate jurisdiction”. He would designate one Qazi for judgments, however, the Qazis had no power to deal “land revenue cases”, it was the sole jurisdiction of Governor. The basic duty of the Governor was to ensure the law and order in the province.

2. Qazi-e-Subah

Chief Provincial Qazi was the legal officer at the provincial level, his work was to proceed both the civil and criminal cases. However, revenue issues were not under his jurisdiction. His jury was sovereign. Although he was under the subordination of the Governor, he would not create any interference in the Qazi’s work. The Qazi e Subah also presided the courts dealing with religious matters. Rest of the justices in the province worked under his supervision, the provision of justice in the province was the virtue of his office.

He handled significant tasks and was designated by the sultan. He used to be serving as Chief Justice occasionally. His assistants included: Mufti, Pandit, Mohtasib and Dadbak. Being an administrative officer Dadbak observed the people who were called to report to the Trial.

3. *Diwan-e-Subah*

Diwan was the highest authority concerning land income instances. Appeal laid before the court of the governor; and

4. *Sadre Subah*

He was the province's leading ecclesial investigator. He would often make decisions regarding religious issues. He got to sit with Qazi-e-Subah on the governor's desk, too. In the provincial capital, he portrayed Sadre Jahan. He had to address only those procedures that may not come under the Qazis' competence.

8. *Sarkars or district headquarters*

Six independent courts and prosecutors were assigned to it in districts to execute the judicial duties. These courts are I Qazi Court: he had to consider criminal matters of all sorts. He also got to hear petitions from "Parganas, Foudjars and Kotwals". This was the district's superior court of record (ii) Dadbak or Mir Adl: The subsequent kings i.e. Lodis established this tribunal. They also had to settle strictly political and small-scale affairs. This tribunal's plea was to Qazi's Provincial Court (iii) Faujdar: His duty was to judge the small-scale cases of criminal nature. These issues are not of high scale but a small nature; (iv) Sadr: He mainly concerned with property and registry cases (v) Amils: property tax cases in the district have been determined by Amils; and (vi) Kotwals: his tribunal has been involved in working with small criminal matters. Police issues often fall within its control.

9. *Jurisdiction of the Qazi Courts*

The appointment of District Qazi was made on the recommendation of Qazi Subah.

First, District Qazi: he was the Regional Chief Justice Officer. He used to determine every form of district event. He concentrated on all legal and factual issues. He made decisions on the question of law and facts. He contributed the Sadr Jehan in granting of stipends, land, etc for education/religious purposes. He could also consider taking mufti's perspective. He has criminal jurisdiction and could pass the death sentence and can hear Cases against the state. He was the district director and used to make decisions regarding juveniles, loons, missing people, and decedent's assets, as well as Waqf and Trust situations. He also had a responsibility to monitor district jail cell. His annexed offices are similar to province Qazi. There court officials might include: (i) Katib (To write facts and claims before the Court), (ii) Faqih (To write Fatwas or case law before the Court), (iii) Nazir (To conduct Establishment), (iv) Subordinate clerks (To serve officially), (v) Barqandaz (To guard in the Court). Both connected to this court were Akhbar-Nawis alongside them; Second Faujdar: Governor was there to appoint the Faujdar. He often used to arbitrate minor criminal cases. In case of any security risk, he would become alert. Kotwal is the third one official and his jurisdiction was restricted to small cases of criminal activity.

10. *Parganah headquarters*

A Parganah had been split into a cluster of villages. There was a Village configuration or Panchayat for each cluster of villages, which consisted of five renowned men in power of legislative and executive matters. The Nazi or Faujdar selected the Sarpanch or Chairman. The Panchayats did decide on a specific internal civil and criminal event. In Parganas, the judiciary and officials are I Qazi-Parganah: it was the smallest jury. It can sue both civil, criminal and mythos lawsuits; and (iii) Kotwal: there was a court in Kotwal, apart from the Court in Qazi-e-Parganah, whose authority was constrained to a small criminal proceeding.

11. Qazi-e-Parganah Court Judicial Officials

Firstly, Qazi-e-Parganah: emperors followed the Abbasid template rule, under which one Qazi-e-Parganah existed in each region. Apart from the appeal, he had all the judicial powers the 2nd suspect is Kotwal, who decided on civil prosecutions of lesser significance. The 3rd officer was named Shiqahdar. So, if Kotwal was not present, the Shiqahdar was influential. He had some teaching influences in the city. He also needed to prevent crime commission in cities.

12. Qazi-e-Urdu or Qazi –e- Askar

Through almost every cantonment or defensive region had its Qazi, named Qazi-e-Askar. His jurisdiction was constrained by the boundaries to which soldiers were sent. His strength is much like the Parganah Qazi powers. As per Sateen's constitution, the following matters were emphasized upon

1. Original jurisdiction was vested by all courts.
2. Appellate courts could not practice the original petitions, although they had gotten the basic powers of intervention in the cases being practiced by the lower rank courts. As an instance, in a murder case of "Khwajah Ahmad and others VS State", the king made local courts not to permit the Qisas.
3. A petitioner can file the lawsuit to the court of "Qazi-e Parganah or the District Qazi or the Qazi-e-Subah or the Governor or the Chief Justice or even to the Sultan in the first place".
4. The rights of the justices in the context of trials and the nature of alleged criminal matters were unregulated, and by here the Qazis were treated as same. However, the judgment of lower-ranked Qazi could be taken to the higher supreme authority as well.

13. Accountability

The process of accountability is considered to be an important requirement for judicial sovereignty. The Sultan was not only the ultimate decider in the Court but also of the government. He would seek almost any sort of case. He has been the King's Court's presiding appellate court. Where he troubles in coming up with solutions, he can take account of the views of two morally righteous and Sharia Law scholars who are attached to his jury. Sadre Jahan has been the Diwan-e-Muzalim's representative too. He has become the ultimate highest judicial authority at the imperial stage from 1248-1290. He was also chief of the religious services. The Qazi-ul-Quzat there was the supreme justice authoritative figure. He headed the judiciary; he could dismiss all the petitions by "Diwan-Muzalim and Diwan-e-Syasat". The king ordinarily nominates the knowledgeable man for being Qazi-ul-Quzat. In the judicial system before, the Qazi -ul-Quzat was the ultimate power to prosecute all sorts of cases. He has been named Chief Justice by the king. "The Chief Justice of the Supreme Court and the Judges of Puisne" were skilled people and respected. Talking to Qazi Sadr Uddin Arif, both chief justice and Sadre Jahan Barni, he said, "His information was so wide and his judgement of men so remarkable that no one dared to put pretenses in his Court"¹⁴ Sultan Jalal Uddin ordered the death sentence against Qazi Jalal Uddin, who was guilty of perjury but the Qazi declined his conviction. Muhammad Tughlaq once put out his outfit at the office of the Qazi ul Quzat, when he found the Court unwilling to approve him. Such incidents made the Qazi ul Quzat more reputed and his affiliates influential. On the side, incompetent Qazis were ridiculed and often executed, presumably on condition that culture as a whole was responsible for a reliable legal structure. "However, there were few cases of misconduct and the Main Qazis were of great esteem and exerted significant strength, as Elphinstone states. In-State vs. Qazi

Kashani was executed for treason, "a Qazi of some repute" but none of him will give evidence, and he was acquitted. , Quasi Shams Uddin Mehr once charged Darwesh (Holy Mendicant), but was found guilty of trial, so instead the king forced the Qazi out."

14. Acknowledgment

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15. Conclusion

The key concern of this work, in a nutshell, is to investigate information about the Qazi position in Salateen era, their Qualification, Job and authorities. A Qazi had to be a professor in law and was to be appointed by the king's decree only. The selection criteria for a Qazi were, according to Imam Abu Hanifa a woman could be a Qazi, adulthood, freedom, Intelligence, adal (justice), command on law, Muslim, Having the Sound capability of seeing and hearing. Qazi was a powerful post, everyone according to Islam, is subjugated to the law let that be the king of the time even, thus whatever the Qazi would have decided the state and the subjects had to follow that in the light of Islam and constitution. Among Qazis the post of Qazi ul Quzat/ Chief Justice was of core significance, he was the person under whom authority the whole state had to run. The selection of the chief justice was honored by the king among the most poise people of the Kingdome and the king had the authority to remove the chief justice or degrade him on his well. The chief justice was placed next to the king; thus he had a wide range of authority and influence. He would have been paid with generous salaries. Then there was a proper network of courts and thus Qazis in provinces, their functions and roles were classified according to their posts, moreover, the authorities were further distributed on the district level. The jurisdiction of Qazi district courts was encircling many areas like marriages, property cases, waqaf cases etc. The officials at the district courts were Mufti, Pandit, Mohtasib, and Dadbak Katib: writer of statements & evidence, Faqih: writer of fatwas & precedents, In charge of the Establishment, Subordinate Clerks, Barqandaz or Guards.

Therefore, the Adalat system of Salateen Era was enough organized and well structured.

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