

**Administration of Justice in Medieval India:  
An Analytical Study of Legal Systems of Salateen  
of Dehli**

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**Abstract**

*The research paper, being descriptive and explorative in nature, describes the establishment of Muslim State in India and the legal systems developed therein for the administration of justice. The discussion revolves around the role of Qazis and judge, working of the Courts and the principles based on which justice was dispensed within the legal system established by Salateen of Delhi. The research concludes that the judicial and administrative machinery introduced by Salateens was so comprehensive that still, it is traceable in the current district and tehsil level in Pakistan.*

**Keywords:** Medieval India, Salateen, Administration of Justice, Legal system, Court's procedure,

## **1. Introduction**

Muslims came to India in 712 AH, with the conquest of the Sindh by Muhammad Bin Qasim. He was a seventeen years old general whose story is one of the romances of history. He came to the Sindh, Debal (now Karachi), through Mekran and conquered Multan and the Indus Valley too. It was the time of sixth Umayyad Caliph Waleed bin Abdul Malik. In consonance with the Arab practices, liberal terms were offered to the local population. Lands and lives of people were spared. A customary poll tax was imposed, Shrines were not destructed, and Brahmans were protected and entrusted with high offices. Instructions of the Conqueror were “Deal honestly, between the people and the governor, if there be distribution, distribute equitably, and fix the revenue according to the ability to pay”.<sup>1</sup>

After the conquest of the Sindh, Muslims came there in large number, but a full-fledged State was not established there yet. Therefore, the conquest of Sindh was merely an episode in the history of Islam and India. It was a victory with no political results. Subsequently, there were different attempts made by Afghans with Turk Salateens descent which finally resulted in the establishment of Muslim State in India. They established a legal system and managed to keep a metropolitan society under their control.

Sabuktigin of Ghazni, who was a successor to Alaptagin (of Turk background), gathered the Afghans under his banner. He was the first who attempted to invade India from North West. At that time the seat of Caliphate was transferred to Baghdad by Abbasids after falling of Umayyad. After him, his son Mahmood took over the reign in 997. Mahmood made at least 16 distinct campaigns in India between 1000 A.D to 1026 A.D. First attack was on the frontier town of Khyber Pass. Then he conquered Punjab, Gujarat, Kanauji and finally Somnath. After the conquest of Somnath and gaining the title of Idol Breaker, he retired to Ghazni. His reign was extended from Persia to the mountains of Kurdistan. As long as he lived, he governed every part of his dominions with Justice, but history shows that neither laws nor legal institutions were established during his

period. The kingdom founded by Mahmood Ghaznavi lasted for a century and a half but diminished with every decade.<sup>2</sup>

Between Ghazni and Heart, stood the castle of Firoz kuh “Hill of Victory” which was under the reign of Ghors. After a conflict between Suris and Ghors, Ghazni came under highlanders of Ghors in 1155. In 1163, Muiz-ud-din (Muhammad Ghori) was installed in Ghazni by his brother Ghayas-ud-din. He came to India to gather the Muhammad provinces of India. Began with Indus, he took Multan, Anhalwara and then the whole Sindh. In 1184, Muhammad Ghori took over Lahore and then Sialkot. Muhammad Ghori abandoned the previous policy of employing native Indians (Hindus). This brought him to battles with Prithvi Raj Chohan. He was defeated first time in 1191 and went back to Ghazni. Again came back next year and defeated Prithvi.

He appointed his slave Qutb-ud-din Aibak his Viceroy in India in 1192. Afterwards, Muhammad Ghori Rathors and Kanauji and Banaras became part of the Ghor Empire. In 1203, Muhammad Ghori invaded Khwarizmi were overnight success followed a terrible defeat. In its result, governors at different places revolted against him, but after several fights, he gained back his provinces. He was murdered in 1206. On the death of Muhammad Ghori in 1206, his slave and viceroy Qut-ud-din Aibak started famous “The Slave Dynasty” in India. From 1206 till the War of Independence in 1857, there was always a Muslim king on the throne of Delhi.<sup>3</sup>

## **2. Sultans of Delhi (Salateen e Delhi)**

In Sultanate established by Qutb-ud-din Aibak in 1206, India had its first Muslim king ruling in India instead of someone ruling from outside capital. Thirty-four Muslim Salateen ruled India till the invasion of Babar in 1526 and Aibak was the first. Thirty-four Muslim Sultans fall into following five successive Dynasties;

- The Slave Dynasty (1206 – 1290)

- The Khilji Dynasty (1290 – 1320)
- The Tughlaq Dynasty (1320 – 1414)
- The Sayyid Dynasty (1414-1454)
- The Lodhi Dynasty (1454 – 1526)

1. The Slave Dynasty: Qut- ud-din Aibak administered his vast provinces in the ways of justice, and people were happy. He was an impartial ruler. The Hindus both high and low castes were treated with Royal benignity. Shams-ud-din Altutmish, Razia Sultana and Balban were the important sultans from the Slave Dynasty.

2. The Khilji Dynasty: It includes six sovereigns. Sultan Jalal-ud-din Feroz Shah founded it. His nephew and successor Ala-ud-din Khilji was a strict administrator. He fixed price for commodities and salaries. His successors proved to be incompetent, and the sultanate was lost to them in 1321.

3. The Tughlaq Dynasty: Ghayas-ud-din Tughlak founded it. Three competent rulers of The Tughlaq Dynasty were Ghayas-ud-din Tughlaq, Muhammad bin Tughlaq and Firoz Shah Tughlaq. Muhammad Tughlaq was a just, high minded Sultan. Under his firm hand, an order was restored as if by magic. He introduced token money (copper coins). Firoz Shah ruled for 37 years. Not a single event of rebellion was reported in his era. He gave India Fiqh-e-Firoz Shahi which remained a source of law even after his death.<sup>4</sup>

4. The Sayyid Dynasty: First Sayyid ruler was Khizr Khan who was succeeded by Mubarak Shah, Muhammad Shah and Alam Shah. Alam Shah himself abandoned Delhi in 1448 and Bahlul Lodhi 3 years later seized Delhi.

5. The Lodhi Dynasty: Bahlul Lodhi was the first. Sikandar Shah was the most capable ruler of the dynasty. Ibrahim Lodhi was the last Sultan of Delhi. Defeated by Babar in Panipat and Sultanate came to an end after 320 years.<sup>5</sup>

## **2.1. Legal System of Sultans of Delhi**

In an Islamic State, Sovereignty belongs to Allah Almighty, and Caliph acts as vicegerent of Allah, a legal sovereign, often called as Sultan. Administration of justice is considered a religious duty in an Islamic State. Sultans of India were the followers of *Hanafi* School of thought and so was the majority of Muslims in India. During the period of Salateens, as in all Islamic States, *Shariah* was the supreme law of the, which is eternal and immutable. The sources of *Shariah*, as per Hanafi law, were primary including Quran *Sunnah* and *Ijma* and secondary including *Qiyas*, *Istihsan*, *Istislah* and *Itishab*. The sultanate of India, though legally remained a part of Eastern Caliphate for a considerable part of its history, was always an independent state for all practical purposes. Beside *Shariah*, Legal system of India in the time of Salateen comprised of the<sup>6</sup>

- The Canon law (personal law of Muslims applied exclusively in matters of religion).
- The Common law (consisted of torts, crimes, and nuisance and applied to all subjects of the State irrespective of their religion).
- The *Qanun e Shahi* ( Set of Regulations issued from the Sultan from time to time in the form of proclamations i- e Farman, *Dasturul Amal*).
- The *Qanun e Urf*: deep-rooted local customs.

## **2.2 Administrative / Judicial Division at State Level**

The Sultanate was divided into the provinces and Provinces in turn composed of districts (Sarkars) which were subdivided into Parganahs (a group of villages). Department of Justice was comprised of “Diwan e Mazalim” being the highest court of Criminal Appeal headed by Sadr e Jahan and Diwan e Risalat known as Highest court of Civil Appeal which was also headed by Sadr e Jahan. Apart from these courts, there was King’s Court presided by Sultan, Chief Justice’s Court headed by Qazi ul Quzat dealing with all kinds of Cases. There was Sadr e Jahan’s Court having jurisdiction over Ecclesiastical Cases.

There was also a court named Diwan e Syasat which was headed by M. Tughlaq. Following is the brief of Sultan, Sadr e Jahan, Qazi al Quzat.<sup>7</sup>

The Sultan was considered as a fountain of Justice. He sits in Diwan e Mazalim and Diwan e Risalat but presided occasionally. In the king's court, he tried cases both in original and appellate jurisdiction. He was assisted by two muftis of acknowledged legal reputation in applying the law. Sultan Nasir Uddin created the post of Sadr e Jahan in 1248, and since then he became head of the imperial judiciary. He acted as Head of Ecclesiastical Department. He recommended candidates for appointment of Qazis.<sup>8</sup>

Chief Justice (*Qazi ul Quzat*) was considered to be the head of Judiciary. As Sadr e Jahan had other duties to perform, sometimes one or two eminent Qazis were appointed as puisne Judges in his court, and they dispose of cases in *Diwan e Mazalim* and *Diwan e Risalat*. Chief Justice was appointed by Sultan and may be dismissed by him at any time. Chief justice was responsible for taking the oath of office to the Sultan and played substantial role legislation of new Rules and Regulations of the state. Other Judges were also appointed by Sadr e Jahan in consultation with Chief Justice. The Staff of Chief Justice's Court included *Muftis*, *Pundits*, *Mohtasib* and *Dadbak*.<sup>9</sup>

Mufti was, a lawyer attached to the Court, appointed by Sultan in consultation with Chief Justice. His views and opinions regarding law were to be followed by the court, but in case of difference of opinion, the matter was referred to the higher Court, i.e. king. The Pandit was to assist the court in civil cases arising out of personal law of Hindus. Mohtasib was in charge of Prosecution in canon law cases whereas Dadbak were administrative officers of the court to ensure that all persons, whether of high rank or low, have to appear before the court when summoned. He was also responsible for regulating the filing of complaints and appeals.<sup>10</sup>

### **2.3 Justice Department at Provincial Level**

Justice Department at Provincial Level includes Adalat Nazim Subah (Governor's Court), which was the court of Original and Appellate Jurisdiction, Adalat Qazi e Subah (Chief Provincial Qazi, Governor's Bench (Highest Court of Appeal in Province having original Jurisdiction), *Diwan e Subah* Revenue Court and *Sadr e Subah* (Ecclesiastical Court).

The Governor was the representative of the Sultan in Province. While exercising original jurisdiction, he sits as a single judge. In hearing appeals, the Bench consists of two or three members (qazis). Governor or his Finance Minister heard land revenue cases. Qazis could not hear revenue cases. Qazi Subah was appointed by Chief Justice or Sadr e Jahan and the Sultan. He had the power to try civil and criminal cases and hear appeals from District Qazis except for revenue cases. The appeal from his decisions lies to the Governor. Mufti, Pandit, Mohtasib Dadbak were the staff attached to his Court to assist and perform the same duties as mentioned earlier.<sup>11</sup>

*Diwan e Subah* (Finance Minister) was there to deal with the finance cases and appeal from his decision lie to Governor or the Sultan. Sadr e Subah was representative of Sadr e Jahan at Provincial level. He sits in canon law cases with Qazi Subah.

### **2.4 Justice Department at District Level (Sarkars)**

The highest Justice department at the district level was the court of Qazi who was empowered to adjudicate all civil and criminal cases. He heard appeals from decisions of *Parganah Qazis, Kotwals and Village panchayats*. The Staff in the court of Qazis included *Kaatib* (writer of evidence or statements), *Faqih* (writer of fatwa), *Nazir* (In charge of establishment), Sub-ordinate clerks, *Barqandaz*, guards and *Akhbar Nawis* or news writer to all District courts to record daily proceedings.

Faujdar and Kotwals were also appointed and empowered to try criminal cases of petty nature. Appeals against his decision lied to Governor whereas Amil was appointed to hear land revenue

cases. Appeals against the decisions of Amil were preferred to Diwan e Subah.

### **2.5. Justice Department at Parganah Headquarters, Villages and Cantt.**

*Qazi parganah* had all powers of District Qazi except he could not hear appeals. Court of Village was a Panchayat. It heard civil and criminal cases of local nature and was held responsible for law and order in the village. In Cantt *Qazi Urdu* or *Qazi Askar* had the same powers as *Parganah Qazi* but limited to Cantt area.

## **3. Procedure in the Courts**

### **3.1. Basic Rules of procedure**

The basic rules of procedure as provided in Fiqh-e-Firoz Shahi during trial/hearing of cases. Qazis were enjoined to be watchful of their jurisdiction and were not allowed to exceed it. Only King, *Qazi-ul-quzat*, *Qazi Subah* within the province had an inherent jurisdiction to try every type of case. Qazi could not adjudicate upon a case in which he was personally interested. Trial of cases on the spot, if possible, was encouraged/emphasized. *Qazi* could try a criminal case in which he was an eyewitness.

Powers of appellate courts and their revisional jurisdiction was not defined. The decision of the lower court could be challenged in a higher court. In the ordinary course of business, there was one presiding officer in the court. However, Canon law cases were heard by Bench in which *Sadar* of the place was a member. Sometimes, the question of law or fact were referred to the *ulema*, as was the tradition of Caliphs, and the matter was decided according to the majority view. Only the king and the Governor had the power to transfer the case from one court to another. Representation through lawyer was permissible.

The suit against the State was allowed. Trial by ordeal was not allowed. Law of limitation was not applicable. The aggrieved

party could approach the Court at any time for relief. Arbitration was allowed if parties agree to it. The arbitrator was called *Salis*, and his decree was binding on the parties. Compounding in private complaints was generally allowed. In other cases, the permission of court was necessary. According to *Fiqh e Firoz Shahi*, compromise in criminal cases was permissible if accused was in custody of the court. Confession in police custody was given no weight. Administration of justice was considered as a responsibility of the state; therefore, Salateen were not in favour of charging court fee from a litigant. Costs were on the discretion of the Court.

The arrest of accused was necessary on production of prima facie evidence of a cognizable offence and bail was discouraged. Kotwal was in charge of arrest generally. Investigation and search: Police officers or even the Qazi could search the house or person of the suspect.<sup>12</sup>

As *Hanfi* law was applicable during Salateen's time. Rules of evidence were the same as provided by Hanafi law. According to Hanafis, there are three classifications as per merits of the evidence *Tawatur*, *Ehad* and *Iqrar*. Generally, two *Adil* and truthful witnesses were necessary, and in *Hudood* cases, the fixed number of witnesses was required as mentioned in the *Quran* and *Sunnah*. The number of witnesses also depended upon the discretion of the qazi. Oaths were administered to witnesses. The Witnesses were required to be Muslims. Women were a competent witness. Father, son, wife were not competent to testify. The convicted person, habitual liars and previously discredited witnesses were assumed to be unreliable. Direct evidence was preferable but hearsay was not altogether excluded. Circumstantial evidence could be accepted if conclusive. Oral evidence was always preferred.

Admissions were acceptable if unconditional. In criminal cases, confession was acceptable. Confession of a co-accused against other co-accused was not conclusive. A confession by the lawyer on behalf of the accused was not admissible on the principle of *Istehsan*. Estoppel and Resjudicata were recognized. Evidence recorded by the commission was accepted if certified by the Qazi of that place.<sup>13</sup>

### **3.2. Procedure in Civil Cases**

Kitaab ul Dava, *Fiqh e Firoz shahi* provided the following basic rules of procedure in civil cases. Plaintiff had to file a claim at the sitting of the Judge. An authorized agent could also file it. If the case was in order, the opposite party was summoned. The defendant was required to admit or deny the claim. On denial of the defendant, the issues were framed, and the plaintiff was required to produce his witnesses. If Plaintiff insisted on administering oath to the defendant and he denied and vice versa, it could result in summary dismissal of the claim. On production of evidence by the plaintiff, the defendant was given an opportunity to bring evidence in rebuttal. Judgment was to be pronounced after weighing the whole evidence. According to Hidayat, a decree could not be passed against an absentee defendant. If the plaintiff died, the suit abated.<sup>14</sup>

### **3.3. Proceedings in Criminal Cases**

In criminal cases, the procedure was simple, which involves the filing of the complaint to the court personally or through an authorized representative. Government prosecutions were initiated by Mohtasib or kotwal. The Court had the power to summon the accused at once, or it may require the complainant to present evidence first. In petty cases, no record was kept except a note in register. The sentence was pronounced in open court. Evidence could be heard in the absence of absconding accused but they were to be recalled on his arrest. If the complainant was absent, the accused was to be released. In offences against religion, *Mohtasibs* were the prosecutors. The court may make a personal enquiry into the matter.<sup>15</sup>

### **3.4 Judgment, Decrees, Appeals and Executions**

The final judgment was recorded in the book of judgments. It was not signed, but the impression of seal appeared on top. It was pronounced in open Court. Hidayat shows that Qazi was required to keep records carefully and hand them over to his

successor. Judgments were not regarded as binding precedents on the points with which they dealt.

In Civil Cases, execution of the decree was the duty of the Court issuing it. Imprisonment in case of default was permissible. The compromise between parties was allowed. In some cases, decrees were sent to the revenue officer of the *parganah* where the judgment debtor resided. In criminal cases, the convict was handed over to kotwal who ensured that the punishment was carried out in jail. Police also realized fines in Tazir cases under the command of kotwal or faujdar. In case of the death sentence, executioners were appointed by the State. King and governor also had the power to remit the sentence. However, only the king had the power to enhance the punishment. Appeals were allowed on both points of law and facts. There was a compulsion to file an appeal in the next appellate court. The aggrieved party had the right to approach King for redressal directly. King's Bench was the final court of appeal. Revision, reference & Review were allowed and were in practice.<sup>16</sup>

#### **4. Conclusion**

The legal system developed in the time of Salateen was sophisticated and detailed, covering almost all legal and regulatory aspects. It provided different forums to an aggrieved party. A litigant had much choice for the litigation forum. He could take his case to Qazi parganah, Qazi district, *Qazi Suba* or even to the sultan in the first instance. Salateen maintained the strict supervision through news reports and spies. The sultans visited the lands frequently to acquaint themselves with the general condition of their subjects and conduct of their officers. The severity of punishment and responsibility of local public officers in days of sultanate had reduced the crime rate to the minimum. According to Beveridge, "robbery and theft formerly common were almost unknown and the travelers slept securely on highways and the merchants carried their commodities in safety from the sea of Bengal to the mountains of Kabul and from Talingana to Cashmere". The Medieval State in India, however, had the disadvantage of an autocracy. Everything was temporal and had no fundamental strength.

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History shows that the administrative machinery functioning in the reign of one king was not the same in the reign of another introduced number of legal reforms which are still present in Pakistan and India.

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