

Standards of Judicial Justice in a Theoretical and Practical Tradition of Imam Ali (AS)

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Abstract

Undoubtedly, Imam Ali (AS) is the Islamic and Shi'ite axis of judgments and the most important figure of the Islamic legal system. In the reign of the prophetic government, he was a judge in Medina and Yemen. Judgment in Medina is a great honor in the presence of the Prophet (PBUH). At the time of the Caliphs, his dismissal of the Caliphate did not lead to the resignation of the government, including the judgment and he led and guided the nascent Islamic judicial system. Sometimes, unresolved judicial issues were referred to the Prophet and, sometimes he was directly involved, and at the end of each judgment raised their admiration. Ironically, frequent assertions of Messenger of God toward his ability in the era after the martyrdom of the Prophet, guiding Imams, particularly Imam Sadiq (AS) and Imam Reza (AS) frequently rely on his judgment. His judicial system consists of structural and legal system, providing term objective judgment and Islamic state totally together.

Key words: justice, judiciary system, judgment, theoretical and practical tradition of Imam Ali (AS)

Introduction

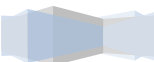
Coming together is the foundation and the consistency of human beings in creating a community, but it cannot be separated from ethics and principles because people just do not want to create a community but the ideal, healthy and moral deviation and extremes which can prevent and stop crimes occurring within the community. But the main point being in this area and can be considered a major problem is the conception and definition of diversity that comes in knowing justice because everyone searches justice from their perspective, and he considers justice as if he acts it. In this context, it is necessary to complete a clear sense of justice to be a paradigm for all human beings and this comes from someone who has been a symbol of justice and organizes justice to all senses in personal and social life. Imam Ali (AS) is the one who established the Islamic state and who was the victim of justice.

First Speech: Justice Concept from the perspective of Imam Ali (AS)

From the perspective of Imam Ali (AS), equity and justice have several meanings:

1. One of the meanings of justice and fairness of Imam Ali (AS), "Every person is entitled to the right to be legitimate." Imam Ali (AS) considers people's rights a fair procedure and the obligations

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governing Islam and he states: the most despised people is dearer to me to right back to him and a strong person is disable to get his right and also states: they do not blame him that his right to be delayed, but blame is on there it is not his right to take.

2. Another meaning of justice from the perspective of Imam Ali (AS) is "fairness". Fairness means honest and consistent with the principles of justice. Imam Ali (AS) says in this regard: Allah commands justice and charity. Justice observes fairness, and kindness is generosity and bounty.

Imam Ali (AS) was asked that justice is superior or mercy? The Prophet said: justice and righteousness place everything in their right while forgiveness is out of place. Justice is a public policy, while forgiveness includes a special group. So justice is noble and superior. Imam Ali (AS) said: Verily legal and Justice is that when giving judge, you should be fair and avoid oppression. From sayings and aphorisms of Imam Ali (AS) can be concluded that the Prophet considers justice for the rights of individuals in society. The fairness means that everything must be complied with in its place and fits right. In other words, observance of moderation in affairs and avoiding extremes are observance of fairness in affairs. The opposite of legal and justice are oppression and injustice in different affairs and it is obligatory on every Muslim who not only do not oppresses to others but also stand up and confront the oppressors.

The second speech: judicial justice features from the perspective of Imam Ali (AS)

Alavi tradition is full of legal justice. The narrations of the Prophet in Islamic principles of justice and judgment quoted, on the one hand, litigations and events from people presented to him and he judged them or her visits to the judges for their rights are all documentary evidence of the importance of judiciary fairness to him. He's coming to justice for justice and he stressed that the granting of the right to judicial justice of Islam could be the reason for them to consider. The judicial system consists of general principles of judgment providing legal justice in the Islamic government totally together and some of the general principles of judgment coming in his works are rivals with the newest challenging contemporary legal theories, but also excels on them.

A: Judicial independence

Pious master Imam Ali (AS), who is explanatory and interpretive for sacred religion purposes of Islam, demonstrates the principle of judicial independence after appointment of judges at his command to Malek Ashtar and states: add judge's salary and give him so much that he has overcome poverty and reduce the need for people and give him such a status in your rule domain that none of your properties and relatives do not close the dignity and authority of greed to be safe at the height of that great status from deception and slander thought and all the intrigue and the opportunity do not lose on him and place him beside you and sign his judgment and run his rule and back up him.

B: Open trials

Another attribute of the criminal justice to Imam Ali (AS) is publicity of the courts. In addition, we find out in his tradition that he judged in the mosque and there he had a place called "bombed the judiciary".

C: Speed of action in hearing

Although the accuracy and quality of justice in judicial work is important, the speed of action in its realization is necessary. Promptness means doing the tasks in the shortest possible time and avoiding slow and inertia in work and avoiding delay of clients and work in more time than necessary.

Ease of judgment, speed of action, removal proceedings causing delay and loss of opportunity, loss of judgment and execution of the fights and influence in society are some of the most important characters

of the judicial justice of Imam Ali (AS). From the viewpoint of Imam Ali (AS), indifference and slowness in works have been resulted in violation of other rights and hesitating and flagging are some signs of ignorance for person after creating the opportunity, a person who does not act quickly he is not sufficient to others.

D: The principle of individualizing punishments

According to this principle, the judge should take into account individual factors (age, sex, sanity, etc.) and the factors outside the will of the person (anxiety, coercion and duress, etc.), the principle of proportionality between the act committed (mass) and in criminal and other types of criminal options choose the one that both justice is run and provided punishment purposes better. Providing personal records is a requisite for requiring the principle of individualizing punishments that an appropriate punishment with offender's status and personality can be applied with its consideration. This type of principle has been accepted in Islamic system and physical and mental conditions of the offender have been mentioned in determining punishments in traditions.

In view of Commander of the Faithful Ali (AS), the method of dealing with criminals refers to the kind of attitude that psychological and mental element must be considered. According to the holy, a criminal is an ordinary human, responsible, and deserving of punishment, but rather deserve mercy and compassion and he considers delinquency a formal affair, not innate. Imam delayed punishments of the sick, women s long-term, and the pregnant and said: Carrying out of four women will be delayed until a certain time: long-term, lying to clean, and bleeding pregnant woman to give birth her child.

E: The right to defense and a lawyer for the accused

The right to defense and a lawyer for the accused are the important attributes of the judicial proceedings. The right to defense: In the tradition of Imam Ali (AS), we see that in his judgments, the defendants were heard and they had right to defend; even ordered the judge to retain the right of defendant and even emphasized witnesses by putting forth the claim adjudication.

The right to choose a lawyer: judiciary proceedings and sentencing authority are responsible for ensuring justice and this result is achieved when the environment is favorable and provides suitable facilities for trial. As legal entities judiciary and informed empower judges to prosecute people on behalf of the community and recognize and defend their skills at all stages of the proceedings of public law, It is fair that each of the parties also have the same right to self-defense and deny the charges act, to maintain the balance among the parties in this trial. Therefore, having a lawyer is taken into account in all cases of the basic rights for every person.

F: the right to violate the rule and appeal

The works of Ali (AS) are evident that he violated the right to appeal the verdict and judgment notwithstanding the trial judge would reserves. This means that the ruler has the right to appeal the judgment or discrimination. In the narration of Imam Ali (AS) is: "when a judge is to discern an error of judgment, the judge dismisses or judgment is rejected".

G: Presumption of innocence

The presumption of innocence is one of the fundamental principles of criminal trials that support the rights of citizens against the powers of the trial forces. Although in reality it is possible that the offence commit a crime, due to lack of evidence and creating doubt and suspicion in the alleged offender, according to the principle of the presumption of innocence, we issue the verdict on his innocence.

Proving the innocence of the accused before the court of justice sentence is one of the attributes of Imam Ali (AS), especially on the rights of Allah. In these cases, the removal of doubt, and without the evidence, the defendant is not required to take an oath.



H: The principle of equality

One of the fundamental issues that need to be met in the proceedings is the same approach to litigants. Imam Ali (AS) is excellent to bring objectivity to the principle of self and others. 1. Klein reports from Salamah ibn Keyhil saying Imam Ali (AS) said to the judge: "respect equality among Muslims in his looking, talking, and sitting not to hope your close relatives to your and your enemies of justice not to lose. 2. In other news of Imam Ali (AS) has come: it is not appropriate that the judge be noted by one party and the other party is unconcerned, the judge should look fairly divided between the parties and dominated by one party to the other states and encroach. According to Imam: "Anyone who is caught the judgments among people must behave among them in referring, looking at, and sitting the same".

I: Judicial Ethics

Imam (AS) was gentle and calm in their judgments to others, he knew himself the same to them, he was helpful for the incapacitated, but at the same time to his family and relatives and governors, he was strict. It is the most important attributes for judiciary justice. However, Imam Ali (AS) has said: "the strong person is weak to me as long as I take the rights of the oppressed and the weak person is strong to me as long as I give him his".

J: oversight of judging the judges

Imam Ali (AS) of the Treaty Malek Ashtar commands that must be monitored judging the judges. He says: Very aware of their own judgment and work lest they were taken out of the conduct and operation of the judgment of divine and Islamic ethics. Examples of punishing the wrongdoer are mentioned in Islamic history, which shows the sensitivity of Imam Ali (AS) to their violation. Ebne Akhou, the 6th century AD reports that: Imam Ali (AS) dismissed Abol Asvad Doeli on the first day when he was appointed to a judgeship and because Abol Asvad received his dismissal command, he came to Imam frantically and said: Oh AmiralMomenin, what is the reason for my dismissal? If not betray I swear to God and I am not guilty of treason.

Imam said: Your claim is honest and trusts in his duty to observe the condition of the loan, but I have been informed that the two sides fight for a trial to you; you speak louder than them.

K: Invitation to peace and reconciliation

Imam Ali (AS) emphasized promoting peace and reconciliation before the judgment in several cases as a principle of legal principles. Then, after quoting one of the judgments of the Prophet (PBUH) he said: "the Prophet (PBUH) invited the parties to the peace and he continued so that they compromised".

This principle is now a judicial or non-judicial debug and resolves a number of disputes through non-judicial bodies such as the council for dispute resolution of the duties of the judiciary. Because indeed a need to investigate all crimes and actions undertaken within the framework of justice. Ironically decentralization do not mean denial of justice as a general rule and formal grievances reference, but it means that people are obliged to go before justice in reference to the rights of another which may be faster, easier, so just act and refer in case of failure of the reference (at the end of the chapter and the full issue) as well as the need for reference to the judgment of the public and formal justice in the courts of justice. Ironically, decentralization does not mean there is no absolute, but the aim is the relative mean.

The third speech: judgment analysis of Imam Ali (AS)

Certainly, such a criterion judgments of God says in the Quran, (and if he orders among you by what Allah has revealed ...) Imam Ali (AS) was the model for all of the features on this verse, when he judged, according to the revelations of Allah and the Koran, and whenever he observed one of the Caliphs before himself or the owners of the judgments judging contrary to God's order he was not indifferent around it,

and he will attempt to reform it, but he cited to explain by using God's book. It has been reported that a man complained to his wife to Caliph that my wife had a baby six months after the wedding. She also accepted the fact that I stated before, I had a relationship with someone else. Caliph commented that she be stoned, but Imam prevented the implementation of the Quran and said she would bring the baby six months, because the Quran has given thirty months in verse maternal and infant period; As he says: (and the bearing of him and the weaning of him is thirty months) Pregnancy and breastfeeding are thirty months. In another verse he knows only two years during breastfeeding. He says: (and his weaning is in two years) breastfeeding is for two years. If pregnancy for up to two years is less than thirty months, six months remain. After hearing the logic Imam, Omar said: (Ali was not sure if Omar was destroyed). His conviction was based on the level of God's judgment on the issue that if someone was busy to judge, but he was not aware of the implications of the issue, he kept judgment and before the judgment of God and Quranic learning and abrogating and abrogated as sturdy and similar calls. There are many versions of this chapter; among its provisions, the judges are judging the deal and said to him (the abrogating and abrogated you know?) He said: no. Imam said (you have been destroyed and you destroy).

Solid and fundamental teachings of the Qur'an include justice, poses justice and judgment based on justice and equity. Justice was manifested in the behavior of Imam without description, as it is known; the reason for his martyrdom was the severity of the justice. Her treatment of opponents and enemies, including Al-Talha and Zubair, resolutely safeguard from the treasury of the Muslims, his uncompromising about greed materialistic pacifism, his decisive encounter against the policy and politics of his players and stand against any form of discrimination, blackmail and loving all aspects of practical justice and justice was brilliant; In order to bring justice and equity as she screams reverberate in the ears. His letters to Malek and the governors of the government in this regard is remembrance. herein Imam followed the path of the Prophet that their mission was to bring installment: (We have sent our messengers based and revealed with them the book and the balance in the people with justice ...) (Iron / 25) (But if thou judges, judge between them with equity...) Another verse in several letters to the rulers of Imam effects of this verse indicates that: (if you judge between mankind, that you judge justly...) to protect the rights of peasants and others in order to respect the rights of subordinates, Imam Ali (AS) was the typical practice in this verse. Formal written instructions and circulars to governors and commanders of the great things about collecting tax and zakat and other resources there Nahj expresses his concern for the rights of the citizen, and this effort is derived from the verse, as some commentators have addressed the rulers of Islam, and they know the purpose of (safe) in the sentence (that trusts to their owners) the rights of people among responsible authorities. Tabarsi also knows this possibility confirmed and knows its seeing in the next verse that (O ye who believe! Obey Allah and obey the Messenger and the rulers of you...) that the first verse is reminiscent of the rights of the rulers and this verse is reminiscent of jurisdiction over people; as the story about Imam Baqir (AS) is reached.

Conclusion

From the judgments of Imam Ali (AS) can be deduced several important points that he had taken in his judgment: Faith in justice and the prevention of cruelty to audit day in the community is essential. That is the best approach to achieve justice and the eradication of oppression in society, enhancing the belief and faith (authorities) to audit the Day of Judgment.

Ethnicity is the biggest obstacle to justice in the country's administrative structure. He dealt with firmly and seriously about injustice that we can see this encounter on Aqeel request of Imam Ali (AS) clearly.

Respecting justice has the limits: A - justice does not conflict with the Islamic politics and politicians. B- Justice does not sacrifice other things. C- Raising the intellectual community level is a path to strengthen justice. Rulers and administrators of justice from the perspective of Imam Ali (AS) have some attributes.

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