

## Seeking Judicial Appointment and Passing Judgement

The dangers inherent in seeking judicial appointment and in passing judgement have been made clear by Allah and His Messenger, may Allah bless him and grant him peace.

Of the *Jews*, Allah says :

If they come to you,  
you can either judge between them  
or turn away from them.  
If you turn away from them,  
they cannot harm you in any way.  
But if you do judge,  
judge between them justly.  
Allah loves the just. (Qur'an : 5. 42)

Those who do not judge by what Allah has sent down,  
such people are kafirun. <sup>1</sup> (Qur'an : 5. 44)

Those who do not judge by what Allah has sent down,  
such people are wrongdoers. (Qur'an : 5. 45)

Of the *Christians*, Allah says :

Those who do not judge by what Allah has sent down,  
such people are deviators. (Qur'an : 5. 47)

Of the *Muslims*, Allah says :

And we have sent down the Book to you with truth,  
confirming and conserving the previous books.  
So judge between them by what Allah has sent down  
and do not follow their whims and desires  
deviating from the Truth that has come to you.  
We have appointed a law and a practice for everyone of you.  
Had Allah willed, He would have made you a single community,  
but He wanted to test you regarding what has come to you.  
So compete with each other in doing good.  
Every one of you will return to Allah  
and He will inform you regarding the things  
about which you differed.  
Judge between them by what Allah has sent down  
and do not follow their whims and desires.  
And beware of them lest they lure you away  
from some of what Allah has sent down to you.  
If they turn their backs, then know that Allah  
wants to afflict them with some of their wrong actions.  
Many of mankind are deviators.  
Do they then seek the judgement of the Time of Ignorance? <sup>2</sup>  
Who could be better at giving judgement than Allah  
for people with certainty? (Qur'an : 5. 48-50)

He gives wisdom to whoever He wills  
and he who has been given wisdom  
has been given great good.  
But no one pays heed but people of intelligence. (Qur'an : 2. 268)

Some companions of Mu'adh ibn Jabal said: When the Messenger of Allah, may Allah bless him and grant him peace, intended to send Mu'adh ibn Jabal to the Yemen, he asked, "How will you judge when the occasion of deciding a case arises?" He replied, "I shall judge in accordance with Allah's Book." He asked, "And if you do not find any guidance in Allah's Book?" He replied, "(I shall judge) in accordance with the Sunna<sup>3</sup> of the Messenger of Allah, may Allah bless him and grant him peace." He asked, "And if you do not find any guidance in the Sunna of the Messenger of Allah, may Allah bless him and grant him peace, and in Allah's Book?" He replied, "I shall do my best to form an opinion and I shall spare no effort." The Messenger of Allah, may Allah bless him and grant him peace, then patted him on the breast and said, "Praise be to Allah Who has helped the messenger of the Messenger of Allah to find something which pleases the Messenger of Allah." (*Sunan of Imam Abu Dawud*: 18.1348.3585).

Yahya related to me from Malik from Hisham ibn 'Urwa from his father from Zaynab bint Abi Salama from Umm Salama, the wife of the Prophet, may Allah bless him and grant him peace, that the Messenger of Allah, may Allah bless him and grant him peace, said, "I am but a man to whom you bring your disputes. Perhaps one of you is more eloquent in his proof than the other, so I give judgement according to what I have heard from him. Whatever I decide for him which is part of the right of his brother, he must not take any of it, for I am granting him a portion of the Fire." (*Al-Muwatta* of Imam Malik : 36.1.1).

Malik related to me from Yahya ibn Sa'id from Sa'id ibn al-Mussayab that 'Umar ibn al-Khattab had a dispute brought to him between a muslim and a jew. 'Umar saw that the right belonged to the jew and decided in his favour, The jew said to him, "By Allah! You have judged correctly." So 'Umar ibn al-Khattab struck him with a whip and said, "How can you be sure?" The jew said to him, "We find that there is no judge who judges correctly but that there is an angel on his right side and an angel on his left side who guide him and give him success in the truth as long as he is with the truth. When he leaves the truth, they rise and leave him." (*Al-Muwatta* of Imam Malik : 36.1.2).

'Amr ibn al-'As related that the Messenger of Allah, may Allah bless him and grant him peace, said, "When a ruler gives a decision having tried his best to decide correctly and is right, he will have a double reward; and when he gives a decision having tried his best to decide correctly and is wrong, he will have a single reward." (*Sunan of Imam Abu Dawud*: 18.1339.3567).

Anas ibn Malik related that the Messenger of Allah, may Allah bless him and grant him peace, said, "If anyone desires the office of judge and seeks help for it, he will be left to his own devices; if anyone does not desire it, nor does he seek help for it, Allah will send down an angel who will direct him aright." (*Sunan of Imam Abu Dawud*: 18.1340.3571).

Abu Hurayrah related that the Prophet, may Allah bless him and grant him peace, said, “If anyone seeks the office of judge among Muslims until he gets it and his justice prevails over his tyranny, he will go to Paradise; but the man whose tyranny prevails over his justice will go to Hell.” (*Sunan of Imam Abu Dawud*: 18.1339.3568).

Buraidah related that the Prophet, may Allah bless him and grant him peace, said, “Judges are of three types, one of whom will go to Paradise and two to Hell. The one who will go to Paradise is a man who knows what is right and gives judgement accordingly; but a man who knows what is right and acts tyrannically in his judgement will go to hell; and a man who gives judgement for people when he is ignorant will go to Hell.” (*Sunan of Imam Abu Dawud*: 18.1339.3566).

Abu Hurayrah related that the Prophet, may Allah bless him and grant him peace, said, “Whoever has been appointed a judge among the people has been killed without a knife.” (*Sunan of Imam Abu Dawud*: 18.1338.3565).

It is clear from the above ayats of Qur’an and *hadith*<sup>4</sup> that whoever seeks judicial appointment does so at his or her own peril; that whoever judges by other than what Allah has revealed is in danger of going to the Fire unless his or her intention is good; and that whoever judges in accordance with what Allah has revealed and strives to be just and do justice will be guided and rewarded with the Garden.

In spite of the very real dangers of being a judge, every society is in need of good judges. Justice cannot be done without them. In a secular society there are certain areas of the law in which it is possible to do justice without contradicting the *shari’a*.<sup>5</sup> There are others in which it is impossible to do justice, because the laws which have to be applied prohibit what Allah has made *halal*<sup>6</sup> and permit what Allah has made *haram*.<sup>7</sup>

It is up to each individual lawyer who has gained a certain degree of knowledge and experience in his or her chosen field in the legal system to decide whether or not to apply for judicial office. It may be that they will through their understanding be able to achieve the implementation of a certain degree of justice of which others could not even conceive. It may be that by becoming judges they will thereby ensure a place in the Fire.

I have witnessed judges blinded by pride and self-importance who are oblivious of Allah and the *akhirah*<sup>8</sup> – and I have met judges who ask Allah to guide them every time they sit in judgement, fearful of that Day when they in turn will be judged by Allah.

I feel sorry for those judges who have been blessed with good intellects and a sense of justice and all the abilities and qualities that a good judge needs – and yet are doomed to judge in accordance with man-made laws which are so often not in harmony with the *shari’a*. I feel just as sorry for those judges who are aware of the *shari’a*, but who do not possess the characteristics just mentioned and who do not really understand it and are therefore unable to apply it. I have the deepest admiration and respect for those judges who do possess all these characteristics and who know the *shari’a* and who judge justly in accordance with it. How few they are.

Ultimately each one of us is answerable to Allah on the Last Day – and our intentions and the actions which spring from them will take us either to the Garden or the Fire:

He is Allah.

There is no god but Him.

Praise be to Him in the *dunya*<sup>9</sup>  
and the *akhira*.

Judgement belongs to Him.

You will be returned to Him. (Qur'an : 28. 70)

Sovereignty on that Day will be Allah's.

He will judge between them.

Those who have *iman*<sup>10</sup> and do right actions  
will be in Gardens of Delight.

But those who are *kafir*<sup>11</sup> and deny Our Signs  
will have a humiliating punishment. (Qur'an : 22. 54-55)

Ahmad Thomson

### Notes :

<sup>1</sup> *kafirun* : the plural of *kafir* (see note <sup>11</sup> ).

<sup>2</sup> *Jahiliya* : the time before the coming of the Prophet and the revelation of the Qur'an.

<sup>3</sup> *Sunna* : the customary practice of a person or group of people. It has come to refer almost exclusively to the practice of the Messenger of Allah and of the first generation of Muslims.

<sup>4</sup> *hadith* : reported speech of the Prophet.

<sup>5</sup> *shari'a* : lit. road, the legal modality of a people based on the Revelation of their Prophet. The final *Shari'a* is that of Islam.' Islam can be defined briefly as: 'submission to the will of Allah, the way of life embodied by all of the Prophets, given its final form in the guidance brought by the Prophet Muhammad, may Allah bless him and grant him peace.'

<sup>6</sup> *halal* : lawful in the *shari'ah*.

<sup>7</sup> *haram* : unlawful in the *shari'ah*.

<sup>8</sup> *akhira* : the Next World, what is on the other side of death.

<sup>9</sup> *dunya* : this world, not as cosmic phenomenon, but as experienced.

<sup>10</sup> *iman* : belief, faith, acceptance in the heart of Allah and His Messenger. Iman consists of believing in Allah, His angels, His Books, His Messengers, the Last Day, the Garden and the Fire, and that everything, both good and bad, is by the decree of Allah.

<sup>11</sup> *kafir* : someone who rejects Allah and His Messenger and the *deen* of Islam; *deen* means life-transaction, religion in the broadest sense. The *deen* of Allah and the Muslim community is Islam but every society and cultural grouping have a *deen* which they follow.

### Bibliography :

*THE NOBLE QUR'AN – a New Rendering of its Meaning in English* by Abdalhaqq and Aisha Bewley, (Bookwork, Norwich, 1999).

*Al-Muwatta* of Imam Malik translated by Aisha Bewley and Yaqub Johnson (Diwan Press, Norwich, 1982).

*Sunan* of Imam Abu Dawud translated by Professor Ahmad Hasan (Sh. Muhammad Ashraf, Publishers, Lahore, 1984).

*A Glossary of Islamic Terms* by Aisha Bewley, (Ta-Ha Publishers, London, 1998).