



THE FORMATION OF ISLĀMIC LAW

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Annotation: In the initial stage, legal institutions existed in an undeveloped form in the Islāmic state, and the moral tasks and sectarian figure of Islām were harmonious and harmonious with each other.

Islāmic law began to take shape in the 1st century of the Hijri and rose to the stages of development in the 2nd and 3rd centuries of the Hijri. At the beginning of the 2nd century A.H., the first legal schools (madhhabs) began to appear, and the newly formed Islāmic society managed to build its primary legal and legal institutions.

Key words: Islāmic law, fiqh, madhhab, sunnah, civilization, penal law.

In 610, the religion of Islām was announced by our Prophet Muḥammad ibn ‘Abd Allāh (pbuh) as the new and most perfect divine religion to all mankind and in a short period of time it spread widely throughout the world.

Thousands of books and pamphlets have been written about the events that happened during the life of Muḥammad (pbuh), especially the events of the 23-year period of prophethood. They provide extensive information about the birth, growth, prophethood, morals, virtues, legal teachings and all the rules of the Islāmic religion. Therefore, researchers today do not have so many sources of information about any historical figure.

From his youth, the Prophet of Islām was distinguished by his sharp mind, deep thinking, great spirit that hated superstition, strong will and determination. He single-handedly fought against the superstitions, baseless beliefs and convictions that were ingrained in people's minds without any hesitation. He eloquently saved his people from falling into corruption and destruction, condemned evil and vices. Known as the patron of the downtrodden, he urged them to turn away from stone dates and follow the right path and worship the one Creator.

Adherence to the teachings of Islām led to the abandonment of false beliefs, images and customs that had been ingrained in people's souls for centuries, and created conditions for historical and social changes.

Islāmic values such as the equality of all people in front of the Creator, always observing the criteria of honesty and justice, respect for universal standards, pursuit of knowledge, virtue and goodness soon made their way into the hearts of people and caused the spread of Islām in different countries, and the number of believers in it increased day by day.

Currently, according to the data, the number of Muslims in the world reaches one billion three hundred million people¹. In the 9th and 12th centuries, Islām spread widely in the Eastern countries and became a common religion.

Although the people of Central Asia fought hard against the Arabs who carried Islāmic ideas in the early stages, they gradually accepted it and became supporters of Islām after

¹ Husniddinov Z. Islām: directions, sects, currents. –T.: Movarounnahr, 2000. – P. 6.



realizing that these ideas corresponded to their vital interests. Especially by the beginning of the 10th century, the voluntary conversion of many Turkic peoples to Islām brought the region closer to the Caliphate of Baghdad². According to Arab historians, this event was a turning point for the spread of Islām in the region.

In Eastern countries, under the influence of Islāmic teachings, the cultures belonging to different peoples and peoples came closer to each other, and the ground was created for the emergence of a "syncretic", that is, a new joint civilization.

Although Islāmic jurisprudence arose within the framework of Islāmic teachings, various materials from other nations and peoples were used for its development³.

In the initial stage, legal institutions existed in an undeveloped form in the Islāmic state, and the moral tasks and sectarian figure of Islām were harmonious and harmonious with each other.

It should be noted that in every society, regardless of the conditions in which it lives, there is a need for laws to regulate affairs, problems, personal and social relations, to ensure peace in society, to prevent crime and to solve many other life problems. Arab society, which was the first to convert to Islām, had its own rules and traditions, although it was not sufficiently developed. They include salam (an agreement to pay in advance and buy unripe goods, such as wheat later), muzarab (giving money to someone to use for profit on the basis of partnership), various forms of marriage, hakamiyat (arbitration), a number of udums and urfadat related to trade and commerce and they took the color of law in society.

But due to the insufficient growth and development of these rules and regulations, they were not enough to build a unified society and a common legal system, covering all spheres of social life. Because the Arabs lived in tribal conditions, they did not have a centralized authority, which did not allow for the establishment of a unified judicial system.

The city of Mecca was the most important commercial center. Laws in trade and commerce were mutually enforced by merchants. Laws regarding family relations (kinship and inheritance), as well as penal law, were influenced by the old tribal system among both nomads and urban dwellers. According to it, a person who did not belong to any tribe was excluded from the protection of tribal law.

When disputes and disagreements arose among the Arabs, if the parties could not come to an agreement through negotiation, they would resort to arbitrators. Arbitrators are not of any particular denomination, but are well-educated, intelligent and well-known people. The Prophet of Islām Hazrat Muḥammad (pbuh) (before his prophethood) was able to settle the dispute between the clans regarding the replacement of Karatash (Ḥajar al-Aswad) during the renovation of the Ka'bah.

As Islām developed its legal system and legislation, it also used rituals and traditional customs that were raised to the level of law in Arab society based on the Qur'ān and Sunnah. In this sense, some of them were abrogated by the Qur'ānic verses or hadiths, some of them were accepted after making changes, and some of them were given a legal tone. For example, out of the six types of marriages in force at that time, first four and later the fifth (muta or

² Jurjī Zaydān. History of Islāmic culture. – V:4. – Tehran: Amiri Kabir, 1960. – P. 216.

³ Law in Islām, / Compilers: Majid Hadduri and Herbert J.Libesni. (The group of authors: including 12 famous jurists, Islāmic scholars and Oriental scholars of the East and Arab world, including Muḥammad Abū Zahrā', Ṣubḥī Muhassamani, Shukrī Qardashi, Abu al-'Alā' Mordin, Joseph Shakht and others). – Tehran-New York, 1955. –P.34.

temporary marriage) were canceled, and one form of them - the current legal marriage - was accepted.

Also, the norms of negotiation and partnership were adopted, two conditions were included in the salam transaction, and riba (usury) was declared completely forbidden.

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In the Arab caliphate, executive activities and legislative activities were closely related to each other, and its purpose was to organize and administer the offices of the newly conquered countries based on Islāmic law.

By the middle of the first century of the Hijri, Islām faced political contradictions. The Khawārij (foreigners) and the Shī'ah sects opposed the Ahl al-Sunnah wal Jama'ah, which constituted the majority. Later, the Shī'ahs quoted the legal systems founded and improved by the great scholars of Sunnism and made some changes in them in the second half of the second century of Hijri⁴.

In most part of the 1st century of Hijri, Islāmic law had not yet been formed in its scientific sense. The 1st century of the Hijri was spent mainly with the process of reviewing the legal norms of the settled countries and adapting their traditions to the laws of Sharia. The creation and regulation of Islāmic law began in the middle of the second century of the Hijri and followed its own path of development.

Islāmic law went through its stages of development in this direction. Many non-Arab peoples, especially the jurists and muḥaddiths of Mā Warā' al-Nahr, have made an incomparable contribution to its development.

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⁴ Law in Islām, / Compilers: Majid Hadduri and Herbert J.Libesni. (The group of authors: including 12 famous jurists, Islāmic scholars and Oriental scholars of the East and Arab world, including Muḥammad Abū Zahrā', Ṣubḥī Muhassamani, Shukrī Qardashi, Abu al-'Alā' Mordin, Joseph Shakht and others). – Tehran-New York, 1955. –P.34.