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# Legal System during Ancient India

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## ABSTRACT

*India has the oldest judiciary in the world. No other judicial system has a more ancient or exalted pedigree. But before describing the judicial system of ancient India. There were several proceedings which took place during the ancient legal system, we will be discussing deeply the legal system during the Mughal Empire, the agency of the judiciary was the Qazi. The officials of the judiciary system were the same but the time and territory and nature of the Emperor were changed. Before that let us look at what a legal system is.*

## I. INTRODUCTION

A legal system is a **procedure or process for interpreting and enforcing the law**. For any society to function in a proper manner, it is necessary for us to create laws and implement those for the peace and stability of society. We will be examining the legal system during the Mughal empire.

### A glimpse of the Mughal Empire

One of the biggest centralized states in pre-modern history was the Mughal empire. By the late 1600s, the Mughal emperor had complete governmental control over a region that included much of the Indian subcontinent and a population of between 100 and 150 million people. Safavid Persia and Ottoman Turkey, the two rival early modern Islamic empires, were significantly smaller and less resourced than Timurid India. Only the territories and subjects governed by the Ming emperor in early modern China were superior to those of the Mughal emperor.

The richness and splendor of the "Great Mughal" were legendary. His treasuries were filled with the looted wealth of numerous conquered kingdoms, and his regalia and throne were adorned with some of the most magnificent precious stones ever set. Almost all of the observers were awed by the Mughal empire's wealth and brilliance. A separate aristocratic high culture was produced by the fusion of rituals, etiquette, music, poetry, and superbly crafted paintings and artefacts of the imperial court. Long after the empire had shrunk to a shell, Mughal courtly culture continued to hold charm and influence. The Mughal style has a strong and direct appeal today, whether it be in the form of beloved structures like the Taj Mahal or small paintings.

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The Mughal empire continued to be a dynamic, centralized, and complicated system for approximately one hundred and seventy years. Every province had loyal officials and warriors under the emperor's command who carried out his directives. According to official requirements, men, money, knowledge, and resources were routinely transported throughout the empire. The success of the Mughals was a result of their aggressive, tenacious leadership, which was carried out by incredibly competent rulers who served as their own chief executives

### **Introduction**

When the Sultanate of Delhi in India fell, Mughal power took hold there. Babur, who also served as the Mughal Empire's first emperor, established Mughal control in India. He was succeeded by his son Humayun, who ruled over numerous other regions of India. The Mughal kings are said to have loved justice and were known as the "fountain of justice." To oversee and oversee the correct administration of justice within the empire, the monarch established a distinct department of justice called Mahakuma-e Adalat. The Quran, the holy book of Islam, served as the primary source for the laws. This was comparable to the Delhi Sultanate, whose regulations were similarly founded on the Quran. Allah (God) is the sole legitimate ruler, and in accordance with the The King is the devoted servant of the Prophet of Islam in carrying out his purpose on earth. The monarch was viewed as the judge, the designated agent of the Almighty sent to administer justice to the people living in his domain.

## **II. CLASSIFICATION AND GRADATION OF THE COURTS DURING THE MUGHAL EMPIRE<sup>2</sup>**

There was a systematic grading and classification of the courts at the capital seat in the provinces, districts, praganahs, and villages. During this time, the following notable courts were in operation:

The Imperial Court. a court presided over by the chief justice. Principal Revenue Court.

- The Provincial Courts. The Provincial Chief Appeal Court, also known as Qazi-i-court, Subah's is the Provincial Governor's Court (Adaalat-e-Nasim-e-Subah). Court of Chief Revenue for the province.
- The District Court Qazi Court District. It's Faujdaar Adalat. Trial of Kotwali.

A formal assembly where the king conducted all of the state's business is known as a darbar. The word darbar is Persian in origin and comes from the word darbr, which refers to the regal

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<sup>2</sup> Classification of the courts- <https://blog.iplayers.in/judicial-system-time-mughals-india> [online] visited on 8/10/22

court of kings or rulers. In India, it was applied to a ruler's court or a feudal levy since the latter was eventually dominated and afterwards managed by foreigners.

The ruler of the empire himself oversaw the Emperor's Court, which was the highest court in the realm. It was possible to bring civil and criminal cases before this court. The Daroga-e-Adalat, Mufti, and Mir Adil offered support when the Emperor heard the cases as a court of first instance.

The Chief Justice Qazi-ul-Quzat and additional Qazis from the Chief Justice's court were on the bench where the Emperor presided over the appeal's hearing. The Emperor requested the Chief Justice's advice on a specific matter impacting how the law is officially interpreted.

**The Court of Chief Justice:** This was the second important court at the capital. This court presided over by Chief Justice assisted by two Qazies of great importance who were attached to this court as puisne judges. This court had jurisdiction to try original, civil, and criminal cases and also to hear appeals from the Provincial courts. It had also supervisory power over the working of the Provincial courts.

**The Chief Revenue Court:** This was the third significant court of appeal to rule on revenue cases. Additionally, the four officials who aided this court were Muhtasib, Mufti, and Daroga-e-Adalat and Mir. Adil

Two further courts existed in Delhi in addition to these three significant courts. The tribunal of Qazi-e-Askar was a unique tribunal established to rule on military issues. As troops moved around, this court did as well. The Delhi Qazi court, which met in the absence of the other courts, was one Qazi-ul-Quzat-to resolve civil and criminal cases in the area.

### **Provincial Courts**

Subahs were the name given to the regions during the Mughal era. In India during Mughal rule, provincial courts were also functional. Every Subah had a court. Three categories of provincial courts existed. The three sorts of courts were as follows:

#### **The Governor's Court**

This was the third significant court of appeals to examine disputes affecting tax. Chief Revenue Court Mufti, Daroga-e-Adalat, Muhtasib, and Adil Mir were the four authorities who provided assistance to this court.

Delhi has two other courts in addition to these three important ones. In this court's Qazi-e-Askar was a special court established to deal with military cases. This court had soldiers accompany it as it moved from place to place.

Another court that convened without the presence of the Qazi-ul-Quzat to localize the resolution of civil and criminal cases.

### **Provincial Chief Revenue Court**

Original and appellate jurisdiction for this court, presided over by Diwan-e-Subah, was located at the imperial capital. Peshker, Daroga, Treasurer, and Cashier were the four officers who served in this court.

Sarkars were the districts during the Mughal era. There were four courts made up of these Sarkars. These were the courts:

### **District Qazi Courts**

The main civil and criminal courts in the district were presided over by Qazi-e-Sarkar. The ability to hear both civil and criminal cases was granted to this court. The district's top judge handled the Qazi-e-appeal Sarkar's from this court. The six officers of this court were Daroga-e-Adalat, Mufti, Mir Adil, Muhtasib, Pandit, and vakil-e-saravat.

### **Faujdar Adalat**

The Faujdar who presided over this particular court typically had the power to bring charges related to state security and riots. An appeal from this court's decisions was pending before the governor's court.

### **Kotwali Trial**

This court, which was presided over by a Kotwal-e-Shahar, heard all minor criminal cases. The Qazi-e-Sarkar was the appeals court for that tribunal.

### **Amalguzari Kachari**

An Amalguzar presided over this court, which made rulings on financial matters. The Adalat of Diwan-e-Subah was the proper forum for this court's appeal.

## **IMPORTANT OFFICERS IN THE MUGHAL EMPIRE FOR THE ADMINISTRATION OF JUSTICE**

A small number of authorities were in charge of administering justice, being held accountable for any injustices, and helping all the people living in the empire.

### **Vakil**

The Vakil's office appears to have gained notoriety while Akbar was a minor and Bairam Khan acted as his deputy. After then, the office was no longer important. None were chosen to serve the emperor, despite the title's continued existence. During Shah Jahan's rule, it gradually lost

significance and eventually vanished.

### **Muhtasib**

He served as the moral policeman. He had a responsibility to obediently carry out the Prophet's directives and to put an end to all prohibited behavior. The punishment of heretical ideas, particularly those that are offensive to the Prophet, as well as Muslims' failure to observe Ramadan and the five daily prayers are under the purview of the censor. During the reign of Aurangzeb, they were given the assignment to destroy freshly built temples. They were also instructed to make sure that precise weights and measures were used.

### **Chief Qazi**

Chief Qazi was in charge of administering justice in an effective and timely manner as the chief judicial officer. The task of providing justice to the populace fell on the Emperor as the khalifa of the period, but as he was busy, it was delegated to the Qazi head. In cases involving religion, he served as the sole judge and administered Muslim law. He gave the names of the Qazis in the Provinces, Districts, and Cities. Some Qazis had the backing of the muftis. The vast majority of Qazis had been dishonest. With a few honorable exceptions, Sir Jadunath Sarkar claims that "all the Mughal era Qazis were infamous for collecting bribes."

### **Kotwal**

In the book *Ain-i-Akbari*, Kotwal's responsibilities are outlined. Although he effectively served as a city police officer, he occasionally had the authority to enforce the law and keep the city safe. At night, he patrolled the city and kept watch. He frequented buildings and maintained a housing register. Robbers were visible when he examined weight and measurements. He compiled a list of those without a successor as well as those who were both deceased and unaccounted for. In accordance with sati pratha, he was to ensure that no woman was burned against her consent.

## **CRIME AND PUNISHMENT IN MUGHAL EMPIRE**

The judicial process was ruled by two Muslim codes, notably *Fiqh-e-Firoz Shahi* and *Fatwai-i-Alamgiri*. Three categories have been created for proof.

- i. Direct confirmation
- ii. Individual testimony
- iii. Admittance, which includes confession.

Over other types of evidence, the court has always valued complete support. Crimes against God (crimes against Allah), Shahenshah (crimes against the King), and persons (crimes against

humans) are essentially categorized into three categories in Muslim criminal law.

During the Muslim Era, it was prohibited to conduct trials one at a time like the Hindu Period. For offences that fall within the following three categories, the courts have then carried out three types of punishment under Muslim law:

### **Hadd**

It is the kind of penalty imposed by the cannon law that cannot be altered or mitigated by human agency. Hadd intended for particular offenses to have a specific punishment. For offenses like robbery, rape, whoredom (zinah), apostasy (ijtidad), defamation, and drunkenness, it thus offered a predetermined punishment according to Sharia law. Muslims and non-Muslims were equally affected. All Hadd offenders must have faced legal action, according to the State. Nothing has been paid out in accordance with it.

### **Tazir**

It was a different kind of penalty that implied prohibition and was used for any crimes not included in the Hadd classification. Tazir was set in place as punishment for all offenses committed against the King or the Shahenshah. It included offenses like gambling, causing harm, minor theft, etc. Tazir left the type and amount of punishment entirely up to the judge's discretion, giving judges the freedom to invent new forms of punishment.

### **Qisas and Diya**

Qisas actually meant to fight life for life and limb for limb. Qisas has been used in situations of intentional homicide and specific sorts of grave injury or mutilation considered to constitute crimes against the human body. Qisas was thought to be the victim's or his next of kin's personal right to cause the perpetrator the same harm that he had caused to his victim.

<b>Territory</b>	<b>Trial Court</b>	<b>Powers</b>	<b>Presiding Officer</b>
<b>The Villages (De'hat)</b>	Panchayat	Petty Criminal cases	The Headman usually the Chaudhri
<b>Towns</b>	Original Civil and Criminal Court (Adalat-e- Pargana)	All common and civil law cases	Qazi-e-Pargana

<b>(Pargana)</b>	Kotwali	Modern Police act cases	Kotwal-ePargana
	Kachehri, Amin Karkuns.	Revenue cases.	Amin
<b>Districts (Sarkar)</b>	District's Chief Civil and Criminal Court	All civil, canon and criminal law cases	Qazi-e-Sarkar
	Faujdari Adalat	Riots and Security Cases	The Faujdar
	Kotwali	Modern Police Act cases	Kotwal-eShaheer
	Amalguzari Kachehri	Revenue cases. Appeals from Town Karoris	Amalguzar
<b>The Provinces (Subahs)</b>	The Governor's Bench	Original, Appellate and Revisional	Nazim-eSubah
	The Governor's Own Court	Original	Nazim-eSubah
	The Chief Appellate Court	Original Appellate Canon Law	Qazi-e-Subah
	The Chief Revenue Court	Appellate Original	The Diwan
<b>The Imperial Capital</b>	Emperor's Court	Original with Muftis	Emperor
	The Supreme Court (Diwan-eMazlim)	Original, Appellate and Revision	Emperor
	The Chief court of the Emperor	Original, Appellate, Canon law	Qazi-ul-Quzat
	The Chief Revenue Court	Appellate	Diwan-e-Ala

### III. ADMINISTRATION OF JUSTICE DURING THE MUGHAL EMPIRE

Both civil and criminal cases have been heard by Hindus and Muslims at the Qazis. They were

expected to take into account the Hindus' practices and customs when trying their cases. They had to "just truthfully, impartially perform trials in the face of witnesses and at the courthouse and government headquarters, not accept presents from the people they served, nor to attend any and everyone's entertainment, and they were requested to know poverty as their glory." However, the Qazis general exercised their authority improperly, and as a result, "in Mughal times the Qazis departments became a word of contempt."

Most of the Qazis were judges. However, he also played a variety of other parts. He was required to carry out his ecclesiastical, religious, and political duties. In addition to serving as the advertising treasury administrator and collecting jizya, he also served as an official revenue. The magistrate's office is also affected by the registrar's role in the registry of sale deeds, mortgage deeds, conveyances, gift deeds, and similar papers, as well as the registrar's recognition of bail bonds, sure bonds, certificate farmers, and other documents. Additionally, he had been asked to carry out several, diverse natural religious duties. His ability to perform his judicial duties must have been significantly hampered by the vast variety of roles

### **JUDICIAL SYSTEM DURING THE REIGN OF AKBAR <sup>3</sup>**

Akbar was a very judicious ruler who reformed the judicial system according to the Hindu laws. He was a true democrat who valued the feelings and ethical values of his people. He had separate laws for Muslim or Islamic laws.

During Akbar's reign there were many courts, the highest in rank being the King himself. The King had the authority to pronounce capital punishment.

Akbar's infallible administrative system proves his very wise acumen for bringing about greater changes in the political chaos of a country which was an amalgamation of a bouquet of religions; the major ones being the Hindus and the Muslims.

But Akbar's approach to see this geo-political situation in a systematic approach was what gave birth to the Federal Administration.

### **JUDICIAL SYSTEM DURING THE REIGN OF JAHANGIR- CHAIN OF JUSTICE<sup>4</sup>**

The fourth Mughal Emperor, Jahangir, reigned from 1605 until his demise in 1627. His "golden chain of justice" is well known. Agra's Shahburj fort and a pillar made of stone that was erected on the banks of the Jamuna River were connected by a golden chain with 60 bells that weighed several "maunds." To present their grievances or petitions to the King, anyone in need of justice

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<sup>3</sup> Judicial system during the reign of Akbar <https://www.researchgate.net/publication>

<sup>4</sup> <https://www.thehindubusinessline.com/>

had to pull this chain. This deed is a powerful testament to the value of justice under his rule.

#### **JUDICIAL SYSTEM DURING THE REIGN OF AURANGZEB <sup>5</sup>**

Courts were incredibly independent under Aurangzeb's reign, without parallel in the entire Empire. The courts were so impartial that they even turned down Aurangzeb's personal request to execute a defendant who had already received a death sentence.

#### **IV. CONCLUSION**

Even though the Mughal dynasty lasted until 1857, it has been degenerating ever since Aurangzeb passed away in 1118/1707. Because the empire is thought to have reached its zenith during Akbar (1556-1605) and Aurangzeb (1658-1707), we shall focus on their judicial systems for the purposes of this essay. But in order to obtain a complete picture, Jahangir's (d. 1037/1627) contribution between the reigns of these two must be considered. In terms of their respective religions, Akbar and Aurangzeb had extremely different political philosophies. In his new order, which was thought to be a synthesis with Hinduism, Akbar attempted to construct a hybrid between Islam and Hinduism, offering some type of accommodation on the cultural and religious levels. The latter categorically rejected this model. The Muslim people hailed the former, while his Hindu subjects praised the latter. As will be demonstrated later, the judicial systems of Akbar and Aurangzeb were quite similar. The Mughal governments in India, with the exception of Aurangzeb, were wholly secular. The Emperors were intensely religious people, but they did not see themselves as kings who had to look out for the interests of just one group of people. In terms of governance, they kept the weights evenly distributed across all the communities they controlled.

The Mughals implemented the Qazi system for criminal cases in the areas under their rule, while maintaining the existing panchayat system to handle civil problems. Which made a number of adjustments.

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<sup>5</sup>[online] available at <https://www.researchgate.net/publication>