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The Position of Chief Justice (Ghazi-al-Ghozzat) in the Seljuk Era

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Abstract

Chief justice (Ghazi-al-Ghozzat) is a rank in the hierarchy of the Islamic Justice System which was the highest rank after the king. The history of shaping this position in Islamic world refers to Abbasid Era. A chief judge, as the chief of Islamic Justice Organization, supervised the justice system as well as dismissing and appointing Judges. In the justice system of the Seljuk Era, as previous eras, the chief justice was at the top of the hierarchy of the justice system after the king. However, in the Seljuk Era, this position encountered some changes and its authority reduced to some extent. The present article is to explain the place of this position in the structure of justice system and the upheavals which this position had been encountered by investigating the historical materials of the Seljuk Era.

Key words: chief Justice, the Seljuk, Supreme Justice, Islamic Justice System.

Introduction

The invasion of the Arab Muslims to Iran was the introduction of major changes in the Iranians' lives in such a way that the traces of these upheavals and changes can be seen in all political, social, economic and religious domains. The domain of justice and legal system as other domains, was influenced by this invasion. The right of Iranian Muslims was defined based on Islamic Laws and changed utterly and the structure of Iran's justice system was perished after a while. At last, after the passage a century and a half, Iranian agents and bureaucrats could revive their authority and power due to the presence of the Abbasid on the throne. Because of the presence of such Iranian judges in Caliphate, some of the justice systems of the Sassanid Government was used as models in the administrative system of the Abbasid Government.

Among the organizations extracted from the Sassanid Era to be adapted in the administrative system of the Abbasid was the position of Chief Justice which undoubtedly, before the Abbasid, there was no trace of it in the Islamic Legal System. The position of chief justice was the position of judge of judges (Dadvar-e-Dadvaran) in the Sassanid Era. This position, since the Abbasid Era, was at the top of the hierarchy of justice system and supervised the justice system and dismissing and appointing Judges.

The etymology and history of the position of Chief Justice (Ghazi-al-Ghozzat): Ghazi-al-Ghozzat or chief judge means judge of judges. This expression is Arabic and firstly was not common in the Islamic Laws, but later, the Abbasid borrowed this expression from Iranian civilization and the legal system of the Sassanid. In the Sassanid Era, the person who supervised all judges (Dazvaran) was called "the judge of the government," the chief of judges (Shahr Dazvar)" or "judge of judges (Dazvar-e- Dazvaran)". The history of shaping this position in the Islamic world is not truly clear; some believe that this position was shaped in the time of Harun-al-Rashid (170-193 AH, 786-809 AD) and some others believe that this position was created in the time of Mahdi Al-Abbasi (158-169 AH, 775-785 AD). All by all, it can be claimed that Abu Yusuf was the first person in the Islamic world that was appointed as chief judge. He was in this position in 170- 182 AH (Ibn Athir, 1932: 271; Saket, 1986: 96).

The duties and Jurisdiction of the position of chief justice: chief justice refers to the most important judge of the capital who dealt with legal affairs on the behalf of the Caliph. The establishment of the position of chief justice helped the Caliph to on the one hand, supervise the deeds and actions of judges of all over the Caliphate and on the other hand pave the path of his influence on the legal court. In other words, the chief judge was the Judiciary hand of the Caliph. In the beginnings of the establishment of this position in the Islamic world, it was common in Baghdad and the capital of the Caliphate, but after a while, by the establishment of independent and semi-independent governments in the Caliphate territory, some people were appointed to this position in main cities.

The philosophy of the advent of chief justice position in the Islamic world was supervising the performance of the legal system and dismissing and appointing judges. In fact, the position of chief of justice (Ghazi-al- Ghozzat) was the highest legal position in the government which like other bureaus in different lands and cities, had representatives from whom the judges were appointed or dismissed. Accordingly, the chief judge conducted his duty of supervision. In the beginning of the advent of this position, the chief judge lived in the capital (Baghdad) and sent some judges on his behalf to other cities and lands. Therefore, appointing and dismissing judges in all the Islamic lands was assigned by the Caliph. In addition to appointing and dismissing the judges of the lands, supervising the performance of them was under chief judges' jurisdiction in the capital. However, this position and its supervision duty, the caliph was considered as the central power and had the authority of dismissing chief judges or appointing the judges of other lands and this mode that chief judges appointed and dismissed the judges of other regions without the intervention of the caliph, was not always common. This principle was common in

independent governments was in this way that in many cases, the king selected the judges of other cities without the intervention of the chief judge (Farahmandpoor, 2011: 87-88). In the Seljuk Era, as previous eras, chief judges had the duty of dismissing and appointing judges of the regions which were under their jurisdictions, in such a way that in the book *Mansha'at of Baghdadi*, titled as *Tavassol and Tarassol*, in a sentence issued for Mohammad Ibn Khalaf Maleki, as the chief judge, it is referred to the authority of chief judges in appointing and dismissing judges: "hereby, I command from now that all judges and governors of all lands be his representatives and appointees and his decree in writing and changing his position has influence. Everyone he considers to be righteous and knowledgeable and takes him as the right one to be appointed to this position [judge], should be appointed as the judge" (Baghdadi, 1897: 71).

In the beginning of the advent of this position in the Islamic world, individuals were appointed for this position, that in the society, they enjoyed outstanding religious and political statuses and mostly they had important political missions. This issue indicated the link of legal system with political affairs of the government.

The position of chief justice (Ghazi-al-Ghozzat) in the Justice System of the Seljuk and its upheavals In historical resources of the Seljuk Era, the name of many chief judges with different epithets such as "the judge of all lands" (Ghazzi-e-Jomleh-e-Mamalek), or "the absolute judge of all judges in all lands" (Aghza- al-Ghozzat Motlagh dar Kol Mamalek) are mentioned. Although the highest position in the Seljuk justice system was equal to the position of chief justice (Ghazi-al-Ghozzat), this position encountered some changes during Seljuk Era in such a way that it can be claimed that this position and its status and functions in the Seljuk Era were different from those of the previous eras. In the Seljuk Era, in frequent resources, we encounter a position as the Supreme Judge of all Judges (Aghza- al-Ghozzat) unavailable in the pre-Seljuk Era. According to some of the researchers, the title the Supreme Judge of all Judges (Aghza-al-Ghozzat) was a position and status and this position was equal as the chief justice in both function and sense (Saket, 1986: 123). Although because of the lack of resources, it is not clear that Aghza-al-Ghozzat was an epithet or a supreme position and of it as a judicial position, which one (Aghza-al-Ghozzat or Ghazi-al-Ghozzat) was superior? The ideas of Hendusahh Nakhjavani, the author of the book *Tajarib-ol-Salaf*, to some extent can remove our doubt regarding this issue. He states about the personality of Ali Ibn Ali Al-Bukhari that he was a righteous and knowledgeable man and in the year 592 AH, he was appointed as a judge and his epithet was reported as Aghza –al-Ghozzat (supreme judge) and after that, his position promoted and turned into Ghzai-al-Ghozzat (chief judge) and the representation of the ministration was assigned for him. He was the chief of both position. After that, he was dismissed from the position of ministration and remained in the position of Ghzai-al-Ghozzat (chief judge). He died in 573 AH (Nakhjavani, 1936: 329).

In fact, it can be said that the expression "Aghza-al-Ghozzat" is not a position but is an epithet and expression for indicating the superiority of the position and officially and scientifically, it was not the superiority of a judge compared to other judges, but Ghzai-al-Ghozzat (chief justice)

was a position which was responsible for the affairs of other judges and their appointing and dismissing (Tafazolli, 2006: 205- 206).

The deletion of the position of central Ghzali-al-Ghozzat and the transference of power and its duties to the Ghzali-al-Ghozzat of the cities and states

The position of central Ghazai-al-Ghozzat as the deputy of the Caliph with its supervisory functions were removed in the Seljuk Era and there was no position as central Ghzali-al-Ghozzat in the Seljuk Era, but this title was applied for the judges of different great states and regions who in fact were the chief of the judges of a region. It seems that the decentralization policy of the Seljuk government in the beginning of taking the power was influenced by the ideas of Khajeh Nizam-al-Mulk, the theorist of the Seljuk government in removing this position from the justice system of the Seljuk Era. Although Khajeh has a brief mention of the position of Ghzai-al-Ghozzat in his Siasat Nama and considers this position as equivalent of the position of Zoroastrian priest of priests in the Sassanid Era and Khajeh in theory, accepts the position of Ghzai-al-Ghozzat as the chief of the justice system, in practice, he assigns the duties of Ghazi-al-Ghozzat to other parts and under the control of the government.

In fact, Khajeh was to take judges and the domain of justice system under the court of kings and the deputies of the king and in general, to link the religious institution of which the judges were at the top to the central government. Although he has some mentions of the Caliph and writes that judges are the deputies of the Caliph in terms of issuing judicial decisions, he was to bring the institution of justice under the supervision of the king (Toosi, 2006: 81). Therefore, the position of Ghazi-al-Ghozzat, the deputy of the caliph was removed and the duty of supervising the performance of the judicial system was defined in the domain of Vizier and the other part of the duty of Ghazi-al-Ghozzat, i.e. dismissing and appointing judges, came under the authority of the king based on the writings remained from the time of Sultan Sanjar. Accordingly, there was no need of a position such as Ghzai-al-Ghozzat any longer. However, in the late of the Seljuk Era, and due to the reduction of the power of the position of Vizier, one can observe the revival of the position of Ghazi-al-Ghozzat, this time with the name of the Judge of the Government and Army. Abulreja Qomi, in the book *Tarikh-al-Vozara* (the History of Viziers) reports two judges called Emad-al-Din and Zein-al-Din who both were brothers and attained the position of the Judge of the Government and Army (Qomi, 1984: 217- 237). In fact, in the late of the Seljuk Era and with the establishment of Atabakan in different parts of the empire, the idea of centralization was put aside to some extent and on the other hand, as mentioned, in the second half of the Seljuk government, the power of the Viziers was reduced and in the Viziers of the second half of the Seljuk government each of which were as Vizier for few years, had not the power of Khajeh Nizam-al-Mulk any longer to take the institution of justice and supervision more and more.

According to the available evidence in historical resources, the Seljuk Era was divided into a set of Seljuk territories with different states each of which except the region of Arabian Iraq, had a supreme judicial authority called Ghazi-al-Ghozzat. This authority was selected and appointed

through the central court and by the decree of the Sultan or the decree of Grand Vizier among outstanding religious scholars (Lambton, 2006: 259-260; Clones, 1984: 37). The resources of this era frequently mention the chief judges of different cities and states. Abulraja Qomi in *Tarikh-al-Vozara* mentions chief judges of different cities. Somewhere in his book, he mentions a chief judge called *Nabiyat-al-Din Abu Huraiyreh Hamedani* who was the chief judge of Hamedan and for sometimes the chief judge of Azerbaijan (Qomi, 1984: 169). In other place, he writes that in the time of the ministration of *Kamal- al-Din Abu Shuja* the judge of Ray was assigned to *Ghazi-al- Ghozzat Rukn-al-Din* and the judge of Isfahan was assigned to *Ghazi-al-Ghozzat Zahr-al-Din* the son of *Ghazi Hussein Astarabadi* of the family of *Imam Abu Hunaifa* (Qomi, 1984: 249). Furthermore, *Ibn Zarkub Shirazi* refers to the name of somebody called *Mulana Ghazi-al-Ghozzat Al-Saeed Jamal Al-Mala va Al-Din Al-Mesri* and writes that he was the chief judge of Fars and he was among the famous people of Fars in the time of *Aabak Abubakr Ibn Sa'ad* (*Ibn Zarkub Shirazi*, 1932: 80). Furthermore, *Ibn Zarkub* mentions the name of a chief judge called *Ghazi-al-Ghozzat Majd-al-Din Esmail Nikrouz* who was the chief judge of Fars and continues that it was for 150 years that the position of dealing with religious affairs and the government of Fars belonged to this family and his son *Yahya Ibn Esamaeil* was the chief judge of Fars (*Ibn Zarkub Shirazi*, 1932: 172-173). *Ata Malek Joweini* in *Jahangusha's History* names the chief judge *Fakhruddin Abdul Aziz Kufi* who was the chief judge of *Khurasan* and was very respected there (*Joweini*, 2008: 134).

Supervising the office of Sharia courts and the performance of the judges of cities and states as well as their appointing and dismissing were under the authority of chief judges (Lambton, 1993: 83; Qomi, 1984: 169). However, chief judges of the regions, in addition to the duty of supervising, appointing and dismissing the judges of states and regions of their dominations, had other responsibilities. In one of the commands of *Sultan Alb Arslan* for appointing the judges of all lands, the duties of *Aghza-al-Ghozzat* were mentioned to be maintaining mosques and dedication affairs, legal and religious proceedings, considering the wills and deeds and other documents which are deposited near them and advised the governors and heads of the branches of income tax and deputy governors as well as the public to give more importance to the position of *Aghza-al- Ghozzat* and execute his commands (*Halmai*, 2008: 182) (*Ahmad Ma'uz* as cited in *Ivaghli Haidar*, *Mansha'at*, vol. 4). As mentioned, in the late Seljuk Era, there was a position called the *Judge of the Government and Army* which is the central *Ghazi-al-Ghozzat* and *Ghazi Askar* (the judge of Army) was under the supervision of *Ghazi-al-Ghozzat*. In the center of the states, regardless that there were different religions, there was only one chief judge. In Isfahan, the splendiferous capital of the Seljuk, in spite that two religions of Hanafi and Shafei constructed the majority and were in a religious completion, there was only one chief judge and the scholars of each of these religions tried to persuade the Sultan and other government authorities to appoint the chief judge from their own religion (*Kajbaf*, 2007: 131-136). *Ibn Fandugh*, In the *History of Beihagh*, reminds that in 486 AH in *Neishabur*, a battle occurred between the followers of Hanafi and Shafi'i religions with *Karamian* of *Neishabur*. The chief of Hanafis in this battle was *Ghazi-al-Ghozzat Abu Saeed Mohammad Ibn Mohammad Saed* and

Shafi'is were followers of Ghazi-al-Ghozzat Saedi and under his command (Ibn Fandugh, n.d.: 269).

The social place of Ghazi-al-Ghozzat (chief judge) in the Seljuk Era

In the age of the Seljuk, as previous ages, individuals who attained the position of Ghazi-al-Ghozzat had outstanding social and political places and mostly were responsible for doing important political missions. This issue indicated the link of judicial and political system of the government. As Ibn Kathir reports, during the events of the year 436 AH, Tughril, welcomed eagerly Maverdi, the chief judge of Baghdad who had been sent by the Caliph (Ibn Kathir, vol. 16, 1932: 228).

Ata Malek Joweini in the book *Jahangosha's History*, reports about Ghazi-al-Ghozzat Fakhr-ul-Din Abdul Aziz Kufi who was very respected in Khurasan and writes about him that "he was among the great scholars and was close to Sultans and he was appointed as the judge and the Chief of Shari'a in Khurasan". When Alb Arslan started a battle with Muayyed Aye Abeh in Neishabur, Ghazi Fakhr-ul-Din came to Alb Arslan on the beakf of Muayyed Aye Abeh. Alb Arslan welcomed him and gave him gifts and returned him to Neishabur (Joweini, 2008: 23; Vatvat's Letters, 1932: 225).

Sometimes, a chief judge had a significant influence on the king. According to Ravandi's report in *Rahat-al- Sodur*, Abu Esmaeil Abullah Ibn Ali Khatibi, the chief judge of Isfahan, who in fact held the position of the head of Isfahan feared Sa'ad Al-Malek Abi who was the conquer of the castle of Lenjan, one of Ismailis' castles; therefore, he, regarding the outstanding influence and close relations with the king, accused Sa'ad Malek to Sufism before Sultan Mohammad and Sultan Muhammad put Sa'ad into prison and then hanged him due to the public rebellion (Eghbal Ashtiani, 1959: 158-159; Ravandi, 1984: 159-160). Chief Judges, in addition of enjoying status and influences on the king, had particular status and respect among the public. According to Samarghndi's report in *Tazkarat-al-Shuara*, Anvari who due to mistake in his own astronomical calculations fled from Sanjar's court to Balkh and for sometimes he ridiculed the people of Balkh and they were to throw him out of the city, but Ghazi-al-Ghozzat Hamid-al-Din Vabvaloji who were one of the righteous of the day, supported Anvari and saved him (Samarghandi, 1987: 69).

Conclusion

The findings of the present study indicate that the centralizing policies of the Seljuk government and efforts to attract religious system in political one caused the decline in the place of the position of Ghazi-al-Ghozzat (chief justice) in the judicial system of the Seljuk court, in such a way that the judicial system came out of the direct supervision of Ghazi-al-Ghozzat position and most of these duties came under the control of Viziers. The obvious example of this authority was the gradual elimination of the position of chief justice from the judicial system of the Seljuk Era. The evidence for this claim are historical resources because they have had no mention of the

position of Ghazi-al-Ghozzat (chief justice) in the whole government. Another issue that indicates the reduction of authority and power of chief judges in the Seljuk Era indicates that appointing and dismissing the Ghzai-al-Ghozzat of other cities was done by the Seljuk kings, a duty which had been under the authority of Ghazi-al-Ghozzat (chief judges). Therefore, in most of the Seljuk Era the position of chief justice, as expected of the authority of this position, was not at the top of judicial system, or if it was so, its authority was very weak.

Resources

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