

## **Prison; Conception, Status and Norms in Islamic Jurisprudence**

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### **ABSTRACT**

Nations, regardless of creed and religion dream for civilized citizens. Keeping up ethical standards has always been a keen wish of civilized societies. Measures leading to reforms stand necessary for maintaining such standards. Society being a collection of inhabitants caters in it people with different minds and attitudes. Criminals sent to a prison are equally responsible in formation of a calm and cool society. Such people, after getting freed rejoin society. Reforms and standardized brought up of such people becomes more important at this point. This Scenario encompasses the legal aspects of prison in connection to Islamic Jurisprudence and how it differs in letter and spirit from conventional outlook. Deductive method of research is adopted in this article. Prison, its need, types and behavior all been discussed in pure Islamic perspective. The study concludes that imprisonment falls under discretionary punishments at judge's own disposal but one should not take it mere punishment. Reformatory approach leading towards ethical betterment of captives is a significant feature of such punishments in Islam and that is the theme of this article.

**Keywords:** Reform, Criminals, captives, punishment, prison, discretionary.

**Introduction:**

History reveals that Nimrud was the first who introduced imprisonment<sup>1</sup>. Many among the prophets were imprisoned as Qur'ān unveils what happened to Yusuf (A.S): *“And so it occurs to those in charge, despite seeing all the proofs of his innocence, that he should be imprisoned for a while”*<sup>2</sup>.

Similarly the Pharaoh of Egypt in his times warned Moses (A.S) of imprisonment if he denied bowing before him<sup>3</sup>.

The prophet Suleiman (A.S) had a prison for rebellious Jinns, *“And we subjected to him every builder of the jinn, and others bound together in chains”*<sup>4</sup>.

With the passage of time prisons in each society took particular shape and nature. For example Jails in Kildāni Empire were built for prisoners of war<sup>5</sup>.

Jails among Greeks were mark of horror. Prisoner of death sentence were put inside dead animals<sup>6</sup>.

Prisons in Persia were notable in the sense that they involved the prisoners in fights against other nations e-g when Saif bin Zi Yazn was fighting against Ahbash of Yemen, Chosroas-King of Persia helped him with eight hundred prisoners to fight at his side against Yemenis<sup>7</sup>.

So far the Arab peninsula is concerned; Jails were built in different cities e-g Jail of Noumān bin Mundhir in Iraq, Jail of Madinah, Hisn al-Mashqar, Jail of 'Ajam, Jail of Sabat in Madayen, Jail of Madhareb Tey etc.<sup>8</sup>

In Muslim society; Qur'ān, Sunnah and jurisprudence provide a clear description of laws and principles for peace, tranquility and human rights all in the interest of individuals.

There are three kinds of punishments in Islam for people who violate the law. This punishment differs from crime to crime depending the nature of offense. Some are named as ***Hudūd*** - literally meaning “the limits” (crimes against Allah), ***Qisās*** literally meaning: “retaliation in kind of revenge” (crimes against an individual or family), and ***T'azīr*** – literally meaning: “discretionary Punishment” which refers to the penal code that decides punishments for offenses at the discretion of the judge (***Qadhi***).

Criminals are kept in prison for reformation and chastisement under the Sharī'a Penal Code in this last sort of punishment. Muslim Jurists did profound work on this issue and presented their opinions accordingly.

***Imprisonment in Islamic Sharī'a perspective***

In Islam, a criminal is incarcerated in order to curb criminal activities. All this in such a way that criminals get reformed and the offender bemoans his/her offence

and the oppressed is consoled. Imprisonment belongs to discretionary commandments in Islam as compared to “**Hudūd**” (predetermined punishments) because there is no single option for human to bring changes in **Hudūd** or change the punishment from **Hadd** to prison.

Muslim Jurists have various arguments they deduced from Qur’ān and Hadith, regarding the imprisonment of offender or the alleged, e.g Allah said:

“فَإِذَا لَقِيتُمُ الَّذِينَ كَفَرُوا فَضَرْبَ الرِّقَابِ حَتَّىٰ إِذَا أَثْبَثْتُمُوهُمْ فَشُدُّوا الْوَتَأَقِ”<sup>9</sup>.

Hafiz Ibn e Kathir has given significant meaning of this verse:

“Incarcerate your enemies as and when they are defeated and many of their men killed”<sup>10</sup>.

On the occasion of **Badr**, the Prophet Muhammad (May ﷺ) distributed the captives amongst His followers. Subsequently everyone took the captive to his home and incarcerated him.

A burglar was brought before Hazrat Umar-e-Farooq (R.A) whom one hand and leg were lacerated already. In this connection he ordered that another leg be lacerated. Hazrat Ali (R.A) advocated for imprisonment of the burglar referring to the Qur’ānic Verse: “أَوْ يُنْفَوْا مِنَ الْأَرْضِ”<sup>11</sup>

“or (they) be banished from the land”

Hazrat Umar-e-Farooq (May Allah be pleased with him) then consulted with other companions (May Allah be pleased with them) and sent the burglar behind the bar<sup>12</sup>.

Majority of Jurists agree that offender or accused should be locked up. This lock up may be his/her home or Mosque for some time. However opinions differ on whether a particular place i.e. commonly known as jail or lock-up should properly be constructed or not.

### **Jail in Islamic perspective:**

There are two different views of Muslim Jurists upon construction of a particular building for jail.

Firstly, the **Ameer** (commander) or the **Hākem** (judge) have legitimate authority to construct a building for offenders with reformatory purpose<sup>13</sup>.

It is crystal clear from hadith and historical proofs that there were no special arrangements for jail in times of the Prophet Muhammad (May ﷺ) and the first Caliph Hazrat Abu Bakr Al-Sidique (May Allah be pleased with him). However, it does not mean that construction of building for jail is dispensable since it was not as much obligatory that time as it is today.

During the reign of second Caliph-Hazrat Umar (May Allah be please with Him), Muslim state spread to distant areas over the globe and the Muslim Caliphate extended to 52 states. The citizens increased in number gradually; therefore, a house

was purchased from Safwan bin Umayyah for the same purpose as well as for Sharī'a commandments implementation<sup>14</sup>.

Ḥazrat Ali (R.A) made a systematized jail made of bamboo sticks called "*Nafi*"<sup>15</sup> literally meaning "beneficial". Since the bamboo sticks could easily be broken, some inmates successfully broke the jail and fled away. Consequently, the escape of inmates was taken into account; Ḥazrat Ali (R.A) constructed a jail similar to a fortress of mud called *Mukhayas*"<sup>16</sup>.

He mentioned it in his poetry:

أَمَا تَرَانِي كَيْسًا مَكِيَّسًا      بَنَيْتُ بَعْدَ نَافِعٍ مَحْيَسًا  
خَصْنَا خَصِينًا وَ أَمِينًا كَيْسًا<sup>17</sup>

(Don't you see my good plan sane that I erected "*Mukhayas*" jail just after "*Nafi*" jail that is like a fortress having vigilant sentries".

Secondly, there should not be a particular building for jail because no such construction were made during the life of the prophet Ḥazrat Muhammad (May ﷺ) era<sup>18</sup>.

As mentioned earlier, indispensability was not felt that time; Special building was constructed for jail afterwards.

### Meaning and nature of Jail in Islamic Sharī'a:

Ibn-e- Taymiyyah<sup>19</sup> has stated about the **Sharī'a Jail**:

السِّجْنُ الشَّرْعِيُّ هُوَ الْمَكَانُ الَّذِي يُعَوَّقُ فِيهِ الشَّخْصَ وَ يَمْتَنِعُ مِنَ التَّصَرُّفِ بِنَفْسِهِ، سَوَاءً أَكَانَ فِي بَيْتٍ أَوْ فِي مَسْجِدٍ<sup>20</sup>

**Sharī'a Jail** is a place where human being is incarcerated so that he could not do anything on his own well; even though, the place might be a house or mosque i.e. call a jail "*Sijn*".

Sa'eed bin Musfar Al Wādi'<sup>21</sup> wrote about jail that during the period of Muhammad ﷺ there was no proper building for jail however, captives were either tied up with pillar or locked in a tent and sometime Allah's Apostle rendered a captive in charge of his companions for vigilance and care so he might not escape<sup>22</sup>.

Imām Abu Dawūd narrated a Hadith in his book:

"عن هرماس بن حبيب عن أبيه<sup>23</sup> عن جده<sup>24</sup> قال "اتَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِغَرِيمٍ لِي فَقَالَ لِي أَلْزِمُهُ، ثُمَّ قَالَ لِي يَا أَحَا بَنِي تَمِيمٍ مَا تُرِيدُ أَنْ تَفْعَلَ بِأَسِيرِكَ"<sup>25</sup>

*Harmas bin Habīb narrating from his father and he from his grandfather that he brought a debtor before the Prophet ﷺ He said: "keep him from going". After sometime, the Prophet asked: "what are you going to do with your captive"*<sup>26</sup>.

This Hadith has been narrated by *Ibn-e-Māja* as well<sup>27</sup>.

*Ibn-e-Nujaim*<sup>28</sup> defines **Sharī'a Jail** (Jail that is justified in Islamic Legislation) in these words:

*"Jail is a place where no quilt and comfort (luxury goods) available to the captive; no one will go to see him except his relatives and neighbors"*<sup>29</sup>.

*Ibn-e-'Abidīn Shāmi* narrates the opinions of jurists by affirming and explaining the definition of *Ibn-e-Nujaim*:

*"Captive not to be allowed to perform Jumma prayer, praying together, Hajj, funeral and prayers of both Eids."*<sup>30</sup>

According to *Ibn-ul-Qayyim* the meaning of Jail is wider than what *Ibn-e-Nujaim* thinks. He says that there is some convenience for the captives. He says:

*"Imprisoning the captives in darkest and narrow room is not a lawful confinement. Rather they should be placed in wider house and be provided with food clothes along with other requirements from the public treasury (Baitul mal)"*<sup>31</sup>.

*Kasāni* writes about jail that captive should be imprisoned in a place where he cannot do work on his/her sweet will regardless of the fact that it pertains this world or hereafter.

The definition of **Muhammad Bin Abdullah Al-Jarevi** is more concise than other jurists because he incorporates what other Muslim scholars defined in brief or details by:

السَّجْنُ الشَّرْعِيُّ هُوَ الْجَزَاءُ الْمَقْرَّرُ<sup>32</sup> عَلَى الشَّخْصِ<sup>33</sup> لِعِصْيَانِهِ مِنْ أَمْرِ الشَّارِعِ<sup>34</sup> بِتَغْيِيقِهِ وَمَنْعِهِ مِنَ التَّصَرُّفِ<sup>35</sup> بِنَفْسِهِ جَسًا<sup>36</sup> كَانَ أَوْ مَعْنًا<sup>37</sup> لِمَصْلَحَةِ الْجَمَاعَةِ أَوْ الْفَرْدِ إِصْلَاحًا<sup>38</sup> أَوْ تَأْدِيبًا<sup>39</sup>

*Legitimate confinement is a punishment for person transgressing restrictive ordinance of Allah and non-observance thereof. He should be kept in custody, his personal rights (both Sensory and social) which so ever all forfeited depending upon the court discretion. His incarceration is in the best interest of society or his own self with a purpose of reformation or discipline.*

According to **Al-Māwerdī**<sup>40</sup> the jail penalty is one of the discretionary matters with a purpose of reformation<sup>41</sup>.

### Sectioning in Jail:

There should be various sections inside a jail with respect to sex and nature of transgressions committed by the offender as described by Islamic Jurists. The brief description is carried out here:

### Women Captivity:

All Jurists seem agree that there should be isolated lockup for women involved in

crimes and female staff should keep an eye on them<sup>42</sup>.

### **Imprisonment of defaulters and professional criminal:**

The Islamic Sharī'a devises plans and policies for eradicating pugnacity keeping in view the need and severity. Those who have been convicted of embezzlement are locked up separately from professional criminals.

Ḥazrat 'Umar bin Abdul Azīz wrote his Governor about jail:

”وانظر من في السُّجون مِمَّن قام عليه الحقُّ، فلا تحسَّنه حتَّى تقيمه عليه، و من أشكل أمره فاكتب إليَّ فيه، و استوثق من أهل الدِّعارات، و إذا حبست قوماً في دَينٍ فلا تجمع بينهم وبين أهل الدِّعارات”<sup>43</sup>

*“Keep careful eye on those who are prisoned. Never lockup anyone without proven judgment. If you feel hesitance in some matters then write to me about that. The professional criminal must be at your utmost focus because jail is their punishment. However if debt defaulters are convicted, then never keep them altogether with professional criminals in the same jail”.*

Ḥazrat 'Umar bin Abdul Azīz repeatedly wrote in his official letters that the prisoners who are to be incarcerated should not be spoilt by misbehavior and keep great care for their food<sup>44</sup>.

According to the Muslim Jurists there are three types of confinement whereas the convicted trade-dealers are incarcerated alone:

### **The ethical Crook:**

People who are locked up for their misbehavior and ethical delinquencies like defame etc<sup>45</sup>.

### **Criminal Offender:**

People involved in murder or grievous wound or damaging any part of the human body<sup>46</sup>.

### **Burglar:**

People involved in embezzlement encroaching public/private property like stealing, theft, larceny, shoplifting, etc are associated to this type<sup>47</sup>.

There are two types of imprisonment in Islamic Sharī'a:

#### **1. Istehzhar Jail (Remand)**

This captivity is carried out for investigating and reaching the reality. The judge (*Qaḍī*) is authorized to send the accused behind the bar until his/her acquittal or involvement is proven through investigation. *Muhammad Bin Farḥoon*<sup>48</sup> explains of this sort of captivity in detail<sup>49</sup>:

“If something is stolen in a particular street and some people in that street seem

suspected due to their apparent character; the judge (*Qaḍi*) in such case may imprison all of the doubtful for some days in order to find out the actual thief. The Prophet Muhammad (ﷺ) had incarcerated a person in charge of defame in a case like this<sup>50</sup>.

## **2. Aqoobat Jail (Jailing for sentence)**

When a person accused in a particular crime is proven guilty, the imprisonment ruled by judge (*Qaḍi*) is called Aqoobat Jail<sup>51</sup>.

There is proper procedure for women's captivity in Islam. The Prophet Muhammad (ﷺ) incarcerated the sister of 'Adi Bin Ḥathim in a stable assigned for this purpose<sup>52</sup>.

Ḥazrat Amīr Mu'awiyah (R. A) too had established a jail for women. 'Umar bin Al-Ḥamāq Al-Khuzā'iy was one of the fellows of Ḥazrat Ali (R.A). His wife Aamina bint-e-Sharīd bin Sawaid was incarcerated in jail for two years. When Al-Khuzā'iy was executed, his head was sent to his wife<sup>53</sup>.

## **Jail Names in times of Khulafa-e-Rashīdīn and the Umayyads Jail Nāfi:**

This jail was erected by Ḥazrat Ali (R.A) in Kūfa from bamboo sticks. It was named as "*Nafi*" literally means "beneficial"<sup>54</sup>.

## **Jail Mukhayas:**

When some inmates successfully broke the "*Nafi* Jail" and fled away, Ḥazrat Ali (R.A) constructed another jail called "*Mukhayas*" that looked like a fortress of mud walls<sup>55</sup>.

## **Jail 'Aarim:**

Zaid bin 'Aarim erected this jail had in Tā'if known after his name. It was also called as "*Habs Moohish*" or *Habs Muzlim*"<sup>56</sup>.

## **Jail 'Addīmās:**

Ḥajjaj Bin Yousaf built his jail with no roof, no appropriate protection against weather<sup>57</sup>.

## **Jail Al-Khaḍra:**

This jail was constructed in Damascus with sub jails inside. Yazīd bin M'uawiyah had imprisoned Yusuf bin Umar in this jail<sup>58</sup>.

## **Jail Al Sawiyya:**

The Jail was firstly constructed by Numān bin Munder in dark ages near Kūfa. Later on, it became under Islamic regime. Those captives, who had to be executed, were kept in this jail<sup>59</sup>.

## **Jail Dhalak:**

It was an island in Eezīb Ocean used as a jail by 'Umar Bin Abdul Azīz. A

convicted person had to live there in exile<sup>60</sup>.

### **Jail Dawwār:**

This Jail was constructed in Yamāma by Ibrahim bin ‘Arbi; a Governor of Abdul Malik bin Marwan. A dacoit named “*Jahḍar*” was confined in this jail who was a good poet as well<sup>61</sup>.

### **Conclusion**

The statements and declarations of Muslim Jurists reveal that punishment for a convicted person is solely for the sake of his/her reformation so that they become good citizens of state.

Secondly, it is also deduced that the sole purpose of jail in Islam is quite different from the prevailing imprisonment scenario. Sharī‘ jail is not purposely premeditated for revenge but for rectification, reformation and discipline of individuals. Ḥazrat ‘Umar’s (R.A) narration- or instance- demonstrates that He once incarcerated a person and enunciated that I will never make him release till I know his repentance over his crime<sup>62</sup>. Conversely, the conventional jailing is just for retaliation.

Too much attention and care is observed in Islam on reformation of captives during the prison but one should not construe that there is improper concession with them or their punishment might be reduced upon disposal of the judge (*Qaḍī*).

The captives are treated efficiently and those whoever become contrite over their actions are not isolated from society provided they have keen intention of doing good for good. The Prophet of Allah (ﷺ) said:

“Every person may commit sin(s) but the far better is one who repents on his/her misdeed<sup>63</sup>,”

Thirdly, it concluded from the jurists’ quotations that there are two types of captivity; one is Isthezhar (Remand) or Ihteyāt captivity whereas the second is called Aqoobat captivity (Sentence Prison).

The Islamic Sharī‘a, jail is retaliation for an offender in this world because it is generally presumed that Allah does not punish someone twice for his onetime offense. Sharī‘i Jail does not put captives in severe physical exertion to become physically so weak to look like living carcass. Rather such captivity strives to bring the desirable changes inside the offenders. It is also mandatory that there should be separate barracks and rooms for men and women. Besides some jails should be age oriented as well.



**References:**

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- <sup>2</sup> Al-Qur’ān, 12:35
- <sup>3</sup> Al-Qur’ān, 26:29
- <sup>4</sup> Al-Qur’ān, 38:37-38
- <sup>5</sup> Beirt Hart, Al- Tazīb Abar al-Usur, P 7, Dār ul- Hiwār, Syria, 1st ed.
- <sup>6</sup> Ibn Abi ‘Osaiba, ‘Uyun ul-Anbaa, 1:68-71, Dār ul-Saqāfah, Beirut.
- <sup>7</sup> Ibn ul-Asīr-Ali bin Abi al-Karam, Abul Hasan, Al-Kāmil fi Al-Tarīkh, 1:263, Dār ul-Kitāb Al-‘Arabi, Beirut
- <sup>8</sup> Al-Asbahani, Abul Farj, Al-Aghāni, 2:110, Dār ul Qāhera, Al-‘lam, Zirikli, 9:10.
- <sup>9</sup> Al-Qur’ān, 47:4
- <sup>10</sup> Ibn Kathīr Ismail bin ‘Umar- Abul Fida, Tafsīr Ibn Kathīr, PP1717, 2000, Dār Ibn e Ḥazm, Beirut, Lebanon.
- <sup>11</sup> Al-Qur’ān, 5:33
- <sup>12</sup> Ibn Abi Shaiba, Al-Musannaf, 5:490, 1409 A.H, Maktaba Rushd, Riyadh, KSA.
- <sup>13</sup> Ibn Fahūn-Ibrahim, Tabserat ul Hukkām, 2:150, Dār ‘Alam ul Kutub, Riyadh, 2003
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- <sup>15</sup> Tabserat ul Hukkām, 2:316
- <sup>16</sup> Al-Turuq Al-Hukmiyyah, p 103, Al-Sarakhsi-Shams ud Dīn, Al-Mabsūt, 20:90, Dār Al-Marifa, Beirut.
- <sup>17</sup> Ali bin Abi Talib, Dewān Ali (R.A), p 114, Dār ul Kitāb al ‘Arabi, Beirut, 1998. Al-‘Askari-Al-Hasan bin Abdullah-Abu Ḥilal (395 AH), Jamharat ul Amthal, 1:79, Dūrul Fikr, Beirut.
- <sup>18</sup> Ibn Taimiyyah, Ahmad bin Abdul Halīm, Abul ‘Abbas, Majmu‘a Al Fatāwa, 35:236, Dār ul Wafa, Madina Munawwara
- <sup>19</sup> Ibn Taimiyyah, Ahmad bin Abdul Halīm (D 728 A.H), wrote numerous books on Islam, had severe clashes with Muslim religious scholars of his time upon certain issues to the extent that the government put him in jail.(Al-Zirikli, Khair ud Din, Al-A‘lām, 1:144, 2000, Dār ul ‘Ilm lil malayīn, Beirut.
- <sup>20</sup> Ibn Taimiyyah, Majmu‘a Al Fatāwa, 35:233
- <sup>21</sup> Sa‘eed bin Musfir Al-Wādi’, born in kingdom of Saudi Arabia in 1901, brought up in Madina where received early education and later on graduated from Imam Saud University Jeddah and did his master from Ummul Qura university Makkah. ([www.wikipedia.org](http://www.wikipedia.org) ).
- <sup>22</sup> Al-Wādi’, Sa‘eed bin Musfir, Fiqh Al-Sijn wa Sujana’, p 17, 2004, Riyadh, KSA
- <sup>23</sup> Hermas bin Habib, his father's name was Habib bin Tha'lba.
- <sup>24</sup> His Grandfather was Thalha tamimī Anbārī (R.A).
- <sup>25</sup> Al-Sajestāni, Sulemān bin Ashāth, Sunan Abi Dawūd: Hadith No3629.
- <sup>26</sup> Al-Sajastāni-Sulemān bin Ashāth, Sunan Abi Dawūd, Hadith No 3629.
- <sup>27</sup> Ibn Majah, Sunan Ibn e Majah: Hadith No 2428
- <sup>28</sup> Ibn Nuja'im: Son of Zain ul ‘Abidīn bin Ibrahim (D 970 A.H), was one of the well-known scholars of his time. He followed Ḥanafī school of thought. Al-Ashbah wa Naza‘er, Al-Bahr Al- Ra‘iq fi Sharh Kanzu- Daqa‘iq are his famous books.
- <sup>29</sup> Ibn Nuja'im, Zain ud Dīn Ibrahim, Al-Baḥr ur Rai‘q fi Sharh Kanz ud Daqi‘q, 1997, Dār ul Kutub al-‘Ilmiyyah, Beirut, 475/./6
- <sup>30</sup> Ibn ‘Abedīn, Muhammad Amin, Radd ul Mukhtār ‘la al-Dur –e – al Mukhtār, Dār ul Kutub AL-Elmiyyah, Beirut, 8/55.
- <sup>31</sup> Al-Jauzī-Ibn Al-Qayyim, Al-Siyāsah Al-Sharī‘a, p 367.

<sup>32</sup> Absolute punishment: absolute punishment means certain physical punishment e-g whipping, fining, cutting some organ or execution against murder. Muslim Jurisprudence has detailed discourse upon these issues.

<sup>33</sup> (Shakhs) Person stands for one, two or more people. Similarly it stands for both male and female.

<sup>34</sup> Transgressing restrictive ordinance of Allah Violation of Law means one violating Islamic Jurisprudence and become liable to verdict and conviction.

<sup>35</sup> (His personal rights (both physical and ethical) all forfeited )This clause defines that a criminal should be locked up till the judge verdicts and determines his release or captivity. This type of lockup is usually known as remand during which a person cannot participate in religious gatherings such as Jumma or neither Funeral nor he can bear witness against someone.

<sup>36</sup> Sensory forfeiture means the place where an accused is locked up i-e a home, house, Masjid etc.

<sup>37</sup> Forfeit of social rights mean the accused or criminal should be exiled to another territory or locked up in his/her own home so he or she may not turn wander provoking the public for anti-state activities or instigating them to destroy public properties.

<sup>38</sup> Best interest of society/his own self: This line, to explain jailing in jurisprudential perspective, best serves the Islamic approach towards jailing contrary to the prevailing approach. Punishment in Islam aims reformation of the criminal and molding his/her attitude to abide by the set out rules/regulations.

<sup>39</sup> Al-Jarevi; Muhammad bin Abdullah: Al-Sejn wa mojobāt fi al-Sharī'ah al-Islāmiyah, Imam Muhammad bin Sa'ud Islamic University, 1990 AD, p38.

<sup>40</sup> Al-Māwardi- Ali bin Muhammad (D 450 A.H), remained chief justice in his time. Imam Ḍahabi and Zirikli write that he was named in this way because he traded rose water (Mā' ul-Ward). He followed Shāf'i's school of thought and was the unique judge entitled as the best judge by Abbasid Caliph Qayem be-Amrellah. Wrote many books like: Al-Aḥkam Al- Sultāniyah, Adāb ud Dunyā wad Din, Qānūn ul Wizārat etc (see: Al- A'lām, 5:146, Shudhurāt Al-dhahab, 3:285, Al-Kharashi Sulemān bin Saleḥ, Mashāḥir fi Meezān Al-'Ulama, 2009, Dār Al-Samiy' Beirut, p 160)

<sup>41</sup> Al-Māwardi- Ali bin Muhammad, Al-Aḥkām AL-Sultāniyah, p 293, Dār ul Kutub Al-'imiyah, Beirut.

<sup>42</sup> Al-Mabsūt, 20:90, Ibn 'Abedīn, Muhammad Amin, Al-Durr Al-Mukhtār 1994, Dār ul Kutub Al-'Imiyah Beirut, 5:279. 'Ulama e Hind, Al-Fatāwa Al-Hindiyyah, 1310, Al-Maktaba Al-Kubra Al-Amīriyyah, 3:414

<sup>43</sup> Muhammad bin Sād, Tabaqāt ibn Sād, 5:356, Nafīs Academy, Karachi, Pakistan

<sup>44</sup> Ibid, 5:356

<sup>45</sup> Hashia Ibn 'Abedīn, 3:370

<sup>46</sup> Ibn Rushd, Bedāyat ul Mujtahed, P 1128, Dār ul-Tazkīr, 2009, Lahore, Pakistan

<sup>47</sup> Ibid, P 1128

<sup>48</sup> Muhammad bin Farhoon: Ibrahim bin Ali bin Muhammad bin Abi al-Qāsim bin Muhammad bin Farhoon, born in Madinah 1319 AD, and here grew up, followed Mālekī school of thought. On the basis of command in Fiqh, he was appointed as chief judge of Madinah. He had a wide range of knowledge in Usūl Fiqh, Muslim Law of Inheritance, and Islamic Jurisprudence. Wrote many books e-g Tashīl al Muhemmāt fi sharh Jami ul Ummahāt which is explanatory note on Mukhtasar Ibn Ḥajeb, (See Mo'jam ul Mu 'Allefin, 1:68, Shadhrat Al-Dhahab, 6:357)

<sup>49</sup> Muhammad bin Farhoon, Tabsirat ul-Ḥukkām fi Usūl al-Aqdiya wal Aḥkam, 2:236, 2003, Dār 'Alam el Kutub, Riyadh, KSA.

<sup>50</sup> Sunan Abi Dawūd, Kitāb Al-Aqdiyah, Hadith 3630

<sup>51</sup> Taḥavi-Ahmad bin Muhammad, Mukhtasar Al-Taḥavi, p 335, Eḥya ul-M'aref Al-Noumāniyah, Egypt, Al-Marghīnāni-Burhan ud Dīn Abi al-Ḥasan Ali bin Abi Bakr, Al-Hedāyah, 5:368, Edārat ul-

Qur'ān wal-'Ulum Al-Islāmiyah, 1417 A.H, Al-Shaukāni-Muhammad bin Ali bin Muhammad, Nail Al-Autār, P1536, Bait ul Autār Al-Duwaliyah, Lebanon, 2004, Ibn Nujaim, Umar bin Ibrahim Al-Bahr Al-Ra'eq, 3:346, Dār ul Kutub al-'Imiyah, Beirut, 2002, Al-Fatāwa Al-Hindiyah, 3:346.

52 Wadheh Al-Samad, Al-Sujun wa Asaruha fil Adaab al-Arabiyah, P90, Majd Al-Muassasat Al-Jamieyah, Beirut, 1995 A.D

<sup>53</sup> Ibid, P 90

<sup>54</sup> Ibn Manzūr-Muhammad bin Mukram, Lisān Al-Arab, 6:75, Dar Sāder, Beirut

<sup>55</sup> Ibid, 12:397, see also: Yaqūt Al-Ḥamavi, Mo'jam ul-Buldān, 4:66, Dār Al-Gharb Al-Islāmi, Beirut, 1993

<sup>56</sup> Al-Sujun wa Asāruha Fil Adāb Al-Arabiyah, P 85

<sup>57</sup> Lisān Al-Arab, 6:88, Mo'jam ul-Buldān, 2:544

<sup>58</sup> Al-Tabari-Abu J'far bin Jarīr, Tarīkh ul-Tabarī, 7:275, Dār Ibn Kathir, Damascus, 2007.

<sup>59</sup> Mo'jam ul-Buldān, 2:87

<sup>60</sup> Ibid, 2:492

<sup>61</sup> Ibid, 2:478

<sup>62</sup> Al-Qurtubī-Muhammad bin Ahmad bin Abi Bakr, Tafsīr ul-Qurtubī, 6:152, M'assisāt ul-Risālah, Beirut

<sup>63</sup> Tirmidhi-Muhammad bin Esa bin Sawra, Jami ul-Tirmidhi, Hadith 2501, Ibn Māja, Hadith 4251.