



The Role and Jurisdiction of Qadi in Islamic Law: Authority, Functions, and Contemporary Perspectives

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This research aims to study extensively the duties and role of Qadi (Judge) assigned by Shariah while performing under the organizational framework of the judiciary, whether being litigation in dispute between two private parties or adjudicating matters relating to the state. The legal term "Qadi," is derived from the Arabic word "Qada/Qaza" which refers to a judicial authority responsible for resolving conflicts. It will explore the domain of formal conventional adjudication to alternative dispute resolution with the jurisdiction of different Qadi's i.e., from Qadi Aam to Qadi Madhaalim. It will showcase how the judicial system handled everything from family matters to Hudud punishments and from Hisbah oversight to issuing binding fatwas with its development during Abbasid era.

Keywords: Jurisdiction Of Qadi, Islamic Judicial System, Role Of Judge In Islamic Law, Appeal Against Judgment In Islam, Judicial Authority, Alternative Dispute Resolution (ADR) in Islamic law.

Introduction:

The role of the Qadi, which is a crucial element of the Islamic legal system is much more than merely settling disputes. As a judicial authority, Qadi is tasked with maintaining justice, mediating disagreements, and ensuring societal order in accordance with Islamic teachings. Qadi origins stem from informal tribal mediators who later moved



into a more formalized position under state authority during the development period of the modern Islamic state particularly during the Abbasid period led to the establishment of an advanced judicial framework. This system managed to set different subject matters, limitations, and specific jurisdictions as per the requirement of modern complex governance system in various areas such as family law, property matters, and penal law to the public accountability through both formal adjudication and alternative dispute resolution.

Who is Qadi: The legal term "Qadi" is derived from the Arabic-rooted word "Qada," which has several literal meanings, such as resolving a dispute, fulfilling an obligation, repeating something, completing a task, repayment of a debt, creation, delegation of power, doing an act, and "resolving a dispute". In short, Qadi a judicial authority appointed by the Sultan (State) to adjudicate disputes of both civil and criminal nature to enforce rights and duties in accordance with the principle of Shariah along with providing legally binding opinions commonly known as "fatwas". Different schools offer nuanced definitions such as For *Hanafi School* Qadi is a person who decides disputes and resolves the conflict of people¹, for *Malki School*: The pronouncement of the rules of Shariah in a binding manner², For *Shafi School*: The decision on disputes between two or more persons with the commandments of Allah³, for *Hanbali school*: A person who has the authority to enforce his decisions and implement the rulings of Islamic law⁴ and for *Shai School*: Qadi is mujtahid or a person of knowledge responsible for resolving disputes and upholding justice in accordance with Shariah law⁵. These broad definitions also cover alternative dispute resolution (ADR) under it Qadi's Scope as below:

1. Arbitration (Tahkim): A process where parties in dispute agree to submit their conflict to arbitrators of their own choice, whose decision is binding. Quran says: If you anticipate a split between them, appoint a arbitrator from his family and another from hers. If they desire reconciliation, Allah will restore harmony between them (Quran-4:35)

¹ *Al-Hidayah: The Guidance*, trans. Imran Ahsan Khan Nyazee (Bristol: Amal Press, 2006), 45.

² Abu Muhammad Abdullah ibn Ahmad Ibn Qudamah, *Al-Muwaffaq fi'l Fiqh*, edi.(2000), 85.

³ Imam an-Nawawi, *Al-Majmu' Sharh al-Muhadhdhab*, 25 vols. (Beirut: Dar Ihya al-Turath al-Arabi, 2003).

⁴ Muhammad ibn Ya'qub al-Kulayni, *Kitab Al-Kafi*, trans. Muhammad Sarwar (999), 750–763.

⁵ Abu Ja'far Muhammad ibn 'Ali ibn Babawayh al-Qummi, *Man La Yahduruhu al-Faqih* (Qom: Jami'at al-Mudarrisin, 1413 AH/1992-1993 CE).

2. Mediation (Sulh): Advisory process aimed at an amicable settlement, where a neutral third part assists the disputing parties in reaching a mutually acceptable agreement as advice under shariah: The believers are nothing but brothers, so make peace between your two brothers and beware of Allah that perhaps you may be shown mercy. (Quran-49:10) The Prophet Muhammad (PBUH) said, “Every joint of a person must perform a charity each day that the sun rises: to judge justly between two people is a charity.”⁶

3. Riwan-ul-Mazalim: A public ombudsman system where complaints against public officials are heard and binding decisions are issued by a state-appointed official as a duty imposed under shariah: Let there be a group among you who call ‘others’ to goodness, encourage what is good, and forbid what is evil—it is they who will be successful. (3:104). "The Prophet Muhammad PBUH said: 'Whosoever from you sees an evil, let him change it with his hand, and if he cannot, then with his tongue, and if he cannot, then with his heart, and that is the weakest of faith.'" (Muslim Shareef)

4. Hisbah: The undersign Qadi promotes good and prevents evil under the role of Muhtasib including oversees market activities, moral behavior, and enforcement of public morality, and justice according to the Shariah. If performed by official will have binding effects as court judgment. It is mentioned in Quran as “You are the best community ever raised for humanity—you encourage good, forbid evil, and believe in Allah” (3:110). The Prophet Muhammad PBUH said: Observe the rights of the way." They asked, "What are the rights of the way?" He said, "They are the lowering of your gazes (on seeing what is illegal to look at), refraining from harming people, returning greetings, advocating good and forbidding evil." Narrated by Narrated Abu Said Al-Khudri⁷.

5. Reconciliation (Wasaṭa): Advisory process for a voluntary agreement that involves seeking the assistance of intermediaries/Qadi to reconcile conflicts between parties as appreciated below: “Shall I not tell you of something that is better than fasting, prayer and charity?” They said: Yes. He (PBUH) said: “Reconciling between two people.

6. Negotiation (Mufawada): A direct discussion between parties aiming to reach a settlement relying on mutual binding agreement on represented parties. In 6 AH, Prophet Muhammad PBUH negotiated a reconciliation treaty with Quraish, facilitated by Suhail

⁶ Yahya ibn Sharaf al-Nawawi, *Forty Hadith*, trans. Ezzeddin Ibrahim and Denys Johnson-Davies (Damascus: Holy Koran Publishing House, 1976), hadith 26.

⁷ Muhammad ibn Isma‘il, *Sahih al-Bukhari*, trans. M. Muhsin Khan (Riyadh 1997) vol. 3, book 43, hadith 645

ibn Ummr. Through this negotiation, not only prisoners were exchanged but a 10-year truce was established⁸.

7. Community Consultation (Shura): In Shura community members discuss and deliberate on issues, providing solutions that reflect the collective wisdom of the group mostly advisory in nature supervised by Qadi as Quran teaches us in ayah: It is out of Allah's mercy that you 'O Prophet' have been lenient with them. Had you been cruel or hard-hearted, they would have certainly abandoned you. So pardon them, ask Allah's forgiveness for them, and consult with them in 'conducting' matters. Once you make a decision, put your trust in Allah. Surely Allah loves those who trust in Him. (3:159)

8. Conciliation (Sulh al-Sitna): A form of mediation where Qadi works more actively and directly than of mediator for restoring harmony and resolving disputes amicably under advisory jurisdiction as remarked by Quran: "If two groups of believers get into a fight then make good that which is between them. Then, if one side transgresses against the other, fight the transgressors until they return to the order of Allah. If they so return, then make good that which is between them with justice and be equitable. Surely, Allah loves those who are equitable." (49:9). Similarly, the most beloved of people to Allah are those who bring the most benefit to others.⁹

Subject Matter of Jurisdiction: Here we will stick with the interpretation of Scholars like Joseph Schacht because it is closer to the actual concept regarding the role of Qadi given by Islamic scholars. No doubt, different Qadi have their own authority and jurisdictions but to have a clear image we need to enlighten all the subject matter for Qadi as a whole as below:

1. Family Matter: The Qadi under Islamic law is empowered to resolve any disputes related to family matters in between spouses. Now, let us consider each domain with Muslim personnel law and authorities in Islamic literature:

I. Validity of Marriage: No doubt, marriage "the sacred contract" is an elementary building block of the family system under Islamic law to serve as a means of recognized, acceptable, and appreciated mode for the offspring along with forwarding the traditions, culture, and hierarchy. The Prophet Muhammad PBUH says: "When a man marries he has fulfilled half of the religion; so let him fear Allah (SWT) regarding the re-

⁸ <https://www.alim.org/history/prophet-companions/27/>

⁹ Al-Tabarani, *Al-Mu'jam al-Awsat* (Cairo: Dar al-Haramayn, 1995), hadith 6026.

maining half.”¹⁰ Hence, there is no diverse opinion that is the collective responsibility of the Sultan, Qadi, family, and the person himself to protect his Deen as it is one of the key objectives of *Magasid-Shariah* as highlighted: Ibn Qudamah R.A said “If a judge has ruled that this marriage contract is valid, or if the one who did the marriage contract was a judge, it is not permissible to overturn that”¹¹ Likewise Imam Abu Hanifah (RA) states in "Al-Fiqh al-Akbar" that the Qadi has the authority to validate a marriage contract, even if the guardian is not present.¹²

II. Jurisdiction in Divorce: Marriage is a bond between two individuals having their own personalities, perspectives, and approaches. It’s nearly impossible for every marriage to be perfect and life or understanding between spouses will go smoothly without any disagreements and clashes. A time may come when the spouse does not want a part of this bond due to any reason, does it mean that an Islamic state will leave her on her own to suffer for the rest of her life at the mercy of her husband, the answer is a clear “NO” as evidence in authorities: “But if you (Qadi) fear that they will not keep [within] the limits of Allah, then there is no blame upon either of them concerning that by which she ransoms herself.” (2:229). Ibn 'Abbas report: The wife of Thabit bin Qais came to Allah's Apostle and said, "O Allah's Apostle! I do not blame Thabit for any defects in his character or his religion, but I cannot endure to live with him." On that Allah's Apostle said, "Will you return his garden to him?" She said, "Yes." the Prophet Muhammad (PBUH) accept her request for khula by ordering her to return the garden which she received in Mehr.¹³ Furthermore, Khansa bint Khidam reported: Her father gave her in marriage when she was a divorcee, but she disliked her marriage. She came to the Messenger of Allah, peace and blessings be upon him, and he annulled their marriage.¹⁴

III. Jurisdiction in Custody of Child: The offspring is the peace of heart of Parents and they cannot imagine their life without them but in the case of divorce only one amongst the couple can be blessed with this peace. In such a scenario the Qadi is enti-

¹⁰ Al-Khatib al-Tabrizi, *Mishkat al-Masabih*, trans. James Robson (Lahore: 1963-1965), hadith 3096.

¹¹ Ibn Qudamah, *Al-Mughni*, vol. 9 (Beirut: Dar al-Kutub al-‘Ilmiyya, 1994), 346.

¹² Abu Hanifa, *Al-Fiqh al-Akbar*, trans. Abdur-Rahman ibn Yusuf (London: White Thread Press, 2007).

¹³ Muhammad ibn Isma‘il, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) vol. 7, book 63, hadith 198

¹⁴ Muhammad ibn Isma‘il, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) hadith 5138

bled to award the custody of the child to either parent subject to different circumstances and welfare of the children reported by Al-Qasim ibn Muhammad: Umar ibn al-Khattab had married a woman of the Ansar, and she gave birth to 'Asim ibn Umar, then he divorced her. Umar came to Quba' and he found his son 'Asim playing in the courtyard of the mosque. He took him by the arm and placed him in front of him on his mount. The grandmother of the boy noticed him and argued with him until they were brought before Abu Bakr R.A. Umar said, "He is my son." The mother said, "He is my son." Abu Bakr R.A. said, "Leave him and her together." Umar did not repeat what he had said¹⁵.

IV. Jurisdiction in Inheritances: Inheritance usually becomes the cause of hate among the family members therefore Islamic law not only sets a pre-determined ratio in inheritance but also empowers Qadi to adjudicate upon the matter for the purpose of ensuring that no entitled person is prevented from enjoying his right to deceased's property, and solving disputes in the best possible peaceful environment without making it further cause to enhance the existence dispute as highlighted by Ibn 'Abbas: The Prophet Muhammad PBUH said, "Give the Fara'id (the shares of the inheritance that are prescribed in the Qur'an) to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased."¹⁶ It also reported by 'Aisha: (mother of the believers) After the death of Allah 's Apostle Fatima the daughter of Allah's Apostle asked Abu Bakr As-Siddiq to give her, her share of inheritance from what Allah's Apostle had left of the Fai (i.e. booty gained without fighting) which Allah had given him. Abu Bakr R.A said to her, "Allah's Apostle said, 'Our property will not be inherited, whatever we (i.e. prophets) leave is Sadaqa (to be used for charity).'¹⁷,"

V. Jurisdiction in legitimacy: Islamic societies follow stick protocol to declare a child's legitimacy status, Qadi has to look up every means that can be helpful for awarding the legitimate status to a child because the legitimacy of the child will determine not only the right of inheritance but this is something that is closely related to the child and parent's dignity evidenced during Umar's era, an incident arose where a wom-

¹⁵ Muslim ibn al-Hajjaj, *Sahih Muslim*, book 18, hadith 4271

¹⁶ Muhammad ibn Isma'il, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) vol. 8, book 80, hadith 724.

¹⁷ Muhammad ibn Isma'il, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) book 53, vol. 4, hadith 325

an gave birth six months after her marriage. Hazart-Umar R.A the Qadi initially considered this as potential evidence of adultery, proposing punishment for the woman but Hazart Ali R.A upon reviewing the situation, highlighted that the Quranic guidance specifies a total period of thirty months for conception to weaning, with a two-year duration for weaning post-birth. Hazart Ali R.A concluded that the mere timing of the child's birth wasn't sufficient evidence for convicting the woman. Subsequently, the woman was acquitted of the charge of adultery.¹⁸

VI. Jurisdiction in Maintenances: Maintenance is a critical issue in families because it is the tool that is used to protect the welfare and financial security of dependents. This is especially true and becomes more important when it comes to the vulnerable wife or children, their helplessness will leave them with no other means to protect their present and future with dignity. Thus, children and Divorced women in their waiting period (iddah) are entitled to maintenance. A Qadi can compel a husband to fulfill this obligation, as outlined: Let them live where you live 'during their waiting period', according to your means. And do not harass them to make their stay unbearable. If they are pregnant, then maintain them until they deliver. And if they nurse your child, compensate them, and consult together courteously (65:6). Similarly "Let the man of wealth provide according to his means. As for the one with limited resources, let him provide according to whatever Allah has given him. Allah does not require of any soul beyond what He has given it. After hardship, Allah will bring about ease" (65:7). It has been instructed in Hadith, where Prophet Muhammad PBUH said, "Neglecting one's own dependents is a reason enough for a man to commit a sin"¹⁹. Moreover, Hind bint `Utba said, "O Allah's Messenger (PBUH) (The Qadi)! Abu Sufyan is a miser and he does not give me what is sufficient for me and my children. Can I take of his property without his knowledge?" The Prophet Muhammad PBUH said, "Take what is sufficient for you and your children, and the amount should be just and reasonable."²⁰

2. Criminal Law (Hudud, Qisas, and Tazir): Society is a mix-up of different minds, where few individuals invest their energy, and Intellect to deceive others and harm innocent ones to satisfy their evil and malicious intentions. To protect the innocent one

¹⁸ Jalaluddin al-Suyuti, *Al-Mabsut fi al-Tafsir bil-Ma'thur*, vol. 13 (Markaz Hijr lil-Buhuth wa al-Dirasat al-Arabiyyah wa al-Islamiyyah, 2003)

¹⁹ Imam al-Nawawi, *Riyad as-Salihin*, hadith 294

²⁰ Muhammad ibn Isma'il, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) book 69, hadith 5364.

from such Islam introduces three key categories of punishment i.e., Hudud, Qisas, and Tazir. Each category is attracted by the specific nature and gravity of the offense as discussed in detail below;

I. For Hudud Punishment: It is a strictly fixed punishment prescribed by Almighty Allah and His Messenger, where the Qadi is under mandatory obligation to punish the offender while showing no mercy after meeting of required proof for the specific offenses as indicated in Quran: As for male and female thieves, cut off their hands for what they have done—a deterrent from Allah. And Allah is Almighty, All-Wise (5:38). More expressly in ayah: As for female and male fornicators, give each of them one hundred lashes,¹ and do not let pity for them make you lenient in ‘enforcing’ the law of Allah, if you ‘truly’ believe in Allah and the Last Day. And let a number of believers witness their punishment (24:2). The Qadi has no desertion to award any relaxation in foresaid scenario even the consequences can go beyond the punishment such as: Those who accuse chaste women ‘of adultery’ and fail to produce four witnesses, give them eighty lashes ‘each’. And do not ever accept any testimony from them, for they are indeed the rebellious²¹. It was the practice of Beloved Prophet Muhammad PBUH reported by Aisha R.A that a woman from the tribe of Makhzum used to borrow things (from people) and then denied (having taken them). Prophet Muhammad (PBUH) (who was acting as Qadi) commanded her hand to be cut off. (Sahih Muslim). It was the practice of the Sahaba (Companions) as Abdullah b. ‘Abbas reported that ‘Umar b. Khattab sat on the pulpit of Allah’s Messenger (may peace be upon him) and said: We recited it, retained it in our memory, and understood it. Allah’s Messenger (may peace be upon him) awarded the punishment of stoning to death (to the married adulterer and adulteress) and, after him, we also awarded the punishment of stoning, I am afraid that with the lapse of time, the people (may forget it) and may say: We do not find the punishment of stoning in the Book of Allah, and thus go astray by abandoning this duty prescribed by Allah.²²

II. For Qisas Punishment: As described in the text below, Qisas is a retributive punishment (an eye for eye) applicable in cases of bodily harm, such as murder or injury as proportionate to the harm or injury caused by the offender to deter potential offenders.

²¹ *The Qur’an*, trans. Saheeh International (London: Al-Muntada Al-Islami Trust, 1997), 24:4.

²² Muslim ibn al-Hajjaj, *Sahih Muslim*, trans. Abdul Hamid Siddiqui (Lahore 1971-1975), book 17, hadith 4194.

In cases of Qisas the victim or their family has the right to seek retribution, demand blood money, or forgive the accused. The Qadi is duty-bound to ensure that the punishment is equitable and proportionate to the harm as done as commanded: O believers! 'The law of' retaliation is set for you in cases of murder—a free man for a free man, a slave for a slave, and a female for a female. (2:178) Moreover, "We ordained for them in the Torah, "A life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth—and for wounds equal retaliation." But whoever waives it charitably, it will be atonement for them. And those who do not judge by what Allah has revealed are 'truly' the wrongdoers. (5:45). This jurisdiction is exercised by the Prophet Muhammad PBUH himself as Qadi as reported by Narrated Anas bin Malik: A Jew crushed the head of a girl between two stones, and The Jew was brought to the Prophet Muhammad PBUH and the Prophet Muhammad PBUH kept on questioning him till he confessed, whereupon his head was crushed with stones.²³ This precedent alone is sufficient for Qadi's jurisdiction.

III. Tazir Punishment: This is a discretionary punishment based on the gravity of the crime. That do not fall under the category of Hudud, Qisas or fail to meet the prescribed requirement but it still becomes essential to award punishment for such criminals to maintain the effective operation of society and uphold public order, let draw attention to the following Authorization: An-Nu`man or his son was brought to the Prophet Muhammad PBUH on a charge of drunkenness. So the Prophet Muhammad PBUH ordered all the men present in the house, to beat him. So all of them beat him, and I was also one of them who beat him with shoes²⁴. Additionally, Narrated As-Sa'ib bin Yazid: We used to strike the drunks with our hands, shoes, clothes (by twisting it into the shape of lashes) during the lifetime of the Prophet Muhammad PBUH, Abu Bakr and the early part of 'Umar's caliphate. But during the last period of 'Umar's caliphate, he used to give the drunk forty lashes; and when drunks became mischievous and disobedient, he used to scourge them eighty lashes.²⁵ Furthermore, some people from the tribe of 'Ukl came to the Prophet Muhammad PBUH and embraced Islam. The climate of Medina did not suit them, so the Prophet Muhammad PBUH ordered them to go to the

²³ Muhammad ibn Isma'īl, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) vol. 9, book 83, hadith 15.

²⁴ Muhammad ibn Isma'īl, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997), hadith 6774.

²⁵ Muhammad ibn Isma'īl, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) vol. 8, book 81, hadith 770

(herd of milch) camels of charity and to drink, their milk and urine (as a medicine). They did so, and after they had recovered from their ailment (became healthy) they turned renegades (reverted from Islam) and killed the shepherd of the camels and took the camels away. The Prophet Muhammad PBUH sent (some people) in their pursuit and so they were (caught and) brought, and the Prophets Muhammad PBUH ordered that their hands and legs should be cut off and that their eyes should be branded with heated pieces of iron, and that their cut hands and legs should not be cauterized, till they die²⁶, under Tazir Punishment

3. Contracts and Commercial Disputes: Contracts are super important and can't be ignored at any cost because they promote trust by creating a legal assurance that commitments will be honored. Therefore Islam empowers Qadi with broad authority to enforce and resolve disputes over contracts, including partnerships (Mudarabah, Musharakah), debts, leases, and sales extra as derived from Islamic legal principles and examples from early Islamic rulings: Believers, stand by your contracts (and obligations). (5.1). As well as under another ayah: If a person dies and leaves behind wealth, then his debt must be paid off before the fulfilment of the bequest and the division of the estate among the heirs. (An-Nisa`, 11).and under a hadith stated that: The Prophet Muhammad PBUH Muhammad PBUH said "The Muslims are bound by their conditions, except a condition that forbids what is lawful or permits what is unlawful."²⁷ The jurist used to establish the authority of Qadi in the regard from the general duty of Qadi regarding imposing of morality, and obligation within the scope of reported hadith in sunan ibn majah: give the worker his wages before his sweat dries. Moreover, Abu Dharr who said: I said to the Prophet Muhammad PBUH: Messenger of Allah, will you not appoint me to a public office? He stroked my shoulder with his hand and said: Abu Dharr, thou art weak and authority is a trust. and on the Day of judgment it is a cause of humiliation and repentance except for one who fulfils its obligations and (properly) discharges the duties attendant thereon²⁸. A thorough examination of "Kitab al-Buyu`" (the book concerning business transactions) will demonstrate that the Holy Prophet Muhammad PBUH emphasized conducting business with integrity and fairness. He

²⁶ Muhammad ibn Isma'il, *Sahih al-Bukhari*, trans. M.Muhsin Khan (Riyadh 1997) vol. 8, book 82, hadith 794

²⁷ Muhammad ibn 'Isa al-Tirmidhi, *Jami' al-Tirmidhi*, trans. Abu Khaliyl (Riyadh: Darussalam, 2007), hadith 1352.

²⁸ Muslim ibn al-Hajjaj, *Sahih Muslim*, trans. Abdul Hamid Siddiqui (Lahore: 1971-1975), hadith 1825.

firmly rejected any transactions that inflicted injustice or hardship upon either the buyer or the seller. It is imperative that neither party exploits the naivety or lack of knowledge of the other. Once Abdullah ibn Umar sold one of his slaves for eight hundred dirhams with the stipulation that he was not responsible for defects. The person who bought the slave complained to Abdullah ibn Umar that the slave had a disease which he had not told him about. They argued and went to Uthman ibn Affan for a decision. Abdullah said, "I sold to him with the stipulation that I was not responsible." Uthman ibn Affan decided that Abdullah ibn Umar should take an oath that he had sold the slave without knowing that he had any disease. Abdullah ibn Umar refused to take the oath, so the slave was returned to him and recovered his health in his possession, Abdullah sold him afterwards for 1500 dirhams.²⁹ The quoted authorities clearly establish the Qadi's jurisdiction in this matter.

4. Property and Land Disputes: Land and property are key factors for economic stability of individuals and families by enhancing social well-being along with providing peace of mind. Under Shariah, the Qadi must follow pre-defined procedures for recording evidence, presenting witnesses, and evaluating their probative value to issue obligatory binding judgment as mandated in the Quran. "And do not approach the property of an orphan, except in the way that is best, until he reaches maturity. And fulfill [every] commitment. Indeed, the commitment is ever [that about which one will be] questioned. (17:34). Prophet Muhammad (PBUH) himself served as a Qadi (judge) in such disputes, establishing a precedent for authority-based adjudication. Ibn Abbas reported Allah's Apostle (may peace be upon him) as saying: If the people were given according to their claims, they would claim the lives of persons and their properties, but the oath must be taken by the defendant.³⁰ In another authority Abu Huraira R.A. reported: A person bought from another person a piece of land, and the person who had, bought that land found in it an earthen ware which contained gold. The person who had bought the land said (to the seller of the land): Take your gold from me, for I bought only the land from you and not the gold. The man who had sold the land said: I sold the land to you and whatever was in it. They referred the matter to a person. One who was made as a judge said to them: Have you any issue? One of them said: I have a boy, and the other

²⁹ Malik ibn Anas, *Muwatta Imam Malik*, trans. Aisha Abdurrahman Bewley (London:1989), book 31, hadith 31.4.4.

³⁰ Muslim ibn al-Hajjaj, *Sahih Muslim*, trans. Abdul Hamid Siddiqui (Lahore:1971-1975), book 18, hadith 4244.

said: I have a young daughter He (the judge) said: Marry this young boy with the girl, and spend something on yourselves and also give (some) charity out of it.³¹ It will clearly be regarding movable property based on the given precedent when Ali Ibn Abi Talib (R.A) lost his armor. One day, he saw a Jew in possession of an armor he recognized as his own. Ali (R.A.) approached the Jew and asked him to return his armor. The Jew refused to do so and, instead, demanded that the matter be settled by the reigning Muslim Qadi (judge) although Hazart Ali R.A was himself the great Qadi but he (R.A) accepted this wholeheartedly without any objection.³² Cited authorities affirm the Qadi's jurisdiction.

5. Protection of Animals: Among Muslim jurists even protecting animals is seen not as a moral but a religious obligation for those who are in authority. Islam, a complete code of life consist fine guidelines regarding the welfare of animals. Therefore, Qadi will be issued binding orders and obligatory judgment under Shariah which reflects a broader Islamic commitment to compassion and stewardship responsible for all living beings Guided by divine injunctions: All living beings roaming the earth and winged birds soaring in the sky are communities like yourselves. We have left nothing out of the Record. Then to their Lord they will be gathered all together (6:38) Besides ‘Abdullaah ibn Ja‘far R.A: “The Prophet Muhammad (PBUH) once entered a thicket that belonged to a man from the Ansaar when suddenly a camel came towards him weeping tenderly with its eyes welling with tears. (Bahz and ‘Affaan said:) When it saw the Prophet Muhammad (PBUH) it began to groan and its eyes flowed. Prophet Muhammad PBUH patted it on its hump and the base of its head until it quieted down. Then, Prophet Muhammad PBUH said: ‘Who is the owner of this camel?’ A young man from the Ansaar came and said, ‘It is mine, O Messenger of Allah!’ The Prophet Muhammad PBUH said: “Do you not fear Allah with regard to this beast which He has placed in your possession? It complained to me that you starve it and put it to toil”.³³ Moreover, Imam Ibn Saad narrates in his book of Hadith: “Umar ibn Khattab (May Allah be pleased with him) once caught a camel owner and punished him with whipping. He

³¹ Muslim ibn al-Hajjaj, *Sahih Muslim*, trans. Abdul Hamid Siddiqui (Lahore: 1971-1975), book 18, hadith 4271.

³² Ibn Kathir, *Al-Bidaya wa'l-Nihaya* (Beirut: Dar al-Kutub al-'Ilmiyya, 1988).

³³ Ahmad ibn Hanbal, *Musnad Imam Ahmad* (Cairo: Dar al-Hadith, 1995).

said, "Do you load the poor animal more than it can carry?"³⁴ demonstrating how Islam emphasizes protection for animals.

6. Public Morality (Hisbah): In Arabic, the word Hisbah means what is done for the common good with the idea of receiving a reward from Al-mighty Allah. The role of the Qadi in Hisbah is to monitor the morality of the society and to ensure that the principles of Islam are observed while a given order may be advisory or obligatory as originates from Quran, and Sunnah. Almighty Allah Command us "You are the best community ever raised for humanity—you encourage good, forbid evil, and believe in Allah." (3:110) Furthermore, "Let there be a group among you who call 'others' to goodness, encourage what is good, and forbid what is evil—it is they who will be successful." (3:104). Our beloved Prophet Muhammad PBUH said, "Beware! Avoid sitting on the roads (ways)." The people said, "There is no way out of it as these are our sitting places where we have talks." The Prophet Muhammad PBUH said, "If you must sit there, then observe the rights of the way." They asked, "What are the rights of the way?" He (PBUH) said, "They are the lowering of your gazes (on seeing what is illegal to look at), refraining from harming people, returning greetings, advocating good and forbidding evil." Narrated by Abu Said Al-Khudri. Correspondingly Abu Huraira R.A. reports: Prophet Muhammad PBUH happened to pass by a heap of eatables (corn). He thrust his hand in that (heap) and his fingers were moistened. He said to the owner of that heap of eatables: What is this? He replied: Messenger of Allah, these have been drenched by rainfall. He (PBUH) remarked: Why did you not place this (the drenched part of the heap) over other eatables so that the people could see it? He who deceives is not of me (is not my follower).³⁵ The Righteous Umar ibn al-Khattab (RA) encountered a trader selling milk mixed with water. Umar (RA) rebuked the trader for dishonesty and nullified the transaction, declaring: "Do not mix what is lawful with what is unlawful and deceive Muslims. Such behavior destroys trust and integrity in trade."³⁶

7. Torts and Civil Liability: Islamic Tort law (Fiqh al-Daman) is needed to address any wrongs not covered by statutory law because human mind is limited it can't reach nor imagine every possible scenario. Therefore, Qadi under Islamic law of tort is given

³⁴ https://www.prophetmuhammad.com/prophet-muhammad-akhlaq/legacy-of-kindness-caliphs-continued-prophet-muhammads-teachings_104

³⁵ Muslim ibn al-Hajjaj, *Sahih Muslim*, trans. Abdul Hamid Siddiqui (1971-1975), chap. 43, hadith 102.

³⁶ Abu 'Ubayd al-Qasim ibn Sallam, *Kitab al-Amwal* (Beirut: Dar al-Kutub al-'Ilmiyya, 1986).

discretionary power to impose liability, Prison, discharge obligations, or fines to redress harm caused such as Diyat based on the gravity of the dispute in accordance with the Shariah with mentioned words that "The recompense for an injury is an injury proportionate to it; (42:40), therefore the qadi derived his authority from the ayah saying: "So, whoever has transgressed on you, you are also entitle to reciprocate (such transgression) on him in the same way that he has done to you." (2:194). Moreover, our beloved Prophet Muhammad PBUH is reported to have said: "None of you should take the property of his brother in amusement (jest), nor in earnest."³⁷ Let consider another narration by Haram ibn Sad ibn Muhayyisa that a female camel of al-Bara ibn Azib entered the garden of a man and it did some damage to it. The Messenger of Allah, may Allah bless him and grant him peace, gave a judgement that the people of the garden were responsible for guarding it in the day, and the owner of the animals was liable for what the animals destroyed at night.³⁸ It will be fruitful to quote that Yahya R.A said that he heard Malik R.A speak about a camel who attacked a man and he feared for himself and killed it or hamstrung it. He said, "If he has a clear proof that it was heading for him and had attacked him, there are no damages against him. If there is no clear proof except his word, he is responsible for the camel."³⁹ As result many Islamic jurists, like Imam Muhammad ibn Hasan al-Shaybani, gave a complete concept of tort law and civil liability in his book *Kitab al-`Amal al-Kabir*. Scholars have interpreted this Hadith that anything that can possibly cause fear, shock, sadness, and suffering will be considered as tortious act.⁴⁰ Therefore, When a person causes harm to another person, the Qadi must impose a fine on him, unless the victim forgives him."⁴¹

8. Testimony and Document: One thing, which only exists in humans is to lie, or renege on their promise. Sometimes it may have no effect on someone's life, but in other instances, it can annihilate the life of an individual and his entire family. Irrespective of Shariah every legal system finds two ways to identify the truthiness of an event either through testimony by witnesses or by documents (including circumstantial evidence)

³⁷ http://library.islamweb.net/newlibrary/display_book.php?flag=1&bk_no=56&ID=4111

³⁸ Malik ibn Anas, *Muwatta Imam Malik*, trans. Aisha Abdurrahman Bewley (London 1989), book 36, no. 36.28.37.

³⁹ Malik ibn Anas, *Muwatta Imam Malik*, trans. Aisha Abdurrahman Bewley (London 1989), book 36, no.36.29.38a.

⁴⁰ Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu* (Damascus: Dar al-Fikr, 1984), 83.

⁴¹ *Dispensing Justice in Islam: Qadis and Their Judgements*, ed. Muhammad Khalid Masud, Rudolph Peters, and David S. Powers (Leiden: Brill, 2006).

before a Qadi. Who is responsible for evaluating the validity and reliability of testimony and determining the appropriate course of action based on the evidence presented before the court. That is why Islam insists on the writing of contracts before witnesses to protect its followers from any hardship as refer in many Quranic verses and Hadiths with the given words as “O believers! When you contract a loan for a fixed period of time, commit it to writing. Let the scribe maintain justice between the parties. The scribe should not refuse to write as Allah has taught them to write. They will write what the debtor dictates, bearing Allah in mind and not defrauding the debt. If the debtor is incompetent, weak, or unable to dictate, let their guardian dictate for them with justice. Call upon two of your men to witness. If two men cannot be found, then one man and two women of your choice will witness—so if one of the women forgets the other may remind her. The witnesses must not refuse when they are summoned. You must not be against writing ‘contracts’ for a fixed period—whether the sum is small or great. This is more just ‘for you’ in the sight of Allah, and more convenient to establish evidence and remove doubts. However, if you conduct an immediate transaction among yourselves, then there is no need for you to record it, but call upon witnesses when a deal is finalized. Let no harm come to the scribe or witnesses. If you do, then you have gravely exceeded ‘your limits’. Be mindful of Allah, for Allah ‘is the One Who’ teaches you. And Allah has ‘perfect’ knowledge of all things. (2:282). Prophet Muhammad PBUH said: “If people were given in accordance with their claims, men would claim the wealth and lives of other people. Rather, the burden of proof is on the accuser and an oath is a duty upon the defendant.”⁴² This protocol will be ensured by Qadi. Same was the practice of Salaf as reported by Hisham ibn Urwa that Abdullah ibn az-Zubayr gave judgment based on the testimony of children concerning the injuries between them.⁴³ Indicating that the acceptance of testimony and documents is purely the discretion of Qadi under different circumstance of each case.

9. Guardianship (Wilayah): Al-wilayah or guardianship is the authority responsible for the well-being and decisions of those under their care or to whom they are representative. It generally implies supervising and exercising one’s legal authority for transactions or contracts on behalf of a minor/ward. Now if no natural guardian exists,

⁴² Al-Bayhaqi, *Al-Sunan al-Kubra* (Beirut: Dar al-Kutub al-‘Ilmiyya, 2003), hadith 21201.

⁴³ Malik ibn Anas, *Muwatta Imam Malik*, trans. Aisha Abdurrahman Bewley (London: 1989), book 36.

without any disagreement, Qadi will be titled as the Wali of him according to Islamic jurisprudence as stated in the Holy Quran: The verse emphasizes the responsibility of a guardian, which can be extended to the authority of a qadi. "Only Allah is your Wali and His Messenger and those who believe, those who keep up prayers and pay the poor-rate while they bow." (5:55). Similarly, The Prophet Muhammad (PBUH) was not only a Prophet but also a "The Great Qadi" and he exercised his authority as a Wali (Guardian) several times as indicated in the Hadith. "I am closer to every believer than his own soul."⁴⁴ It is also reported: The Messenger of Allah PBUH is the guardian of the believers and more rightful in every worldly and religious affair of theirs⁴⁵. Moreover, Prophet Muhammad PBUH acted as Wali in the marriage of Hazrat Zaid bin Haris R.A. This responsibility is explained very well in authority w Abu Abdullah R.A. said: 'Amir Al-Momineen' judged regarding a man who found a killed person and it was not known who killed him. He said: 'If it was known and there were guardians who were seeking his wergild, they would be given his wergild from the public treasury of the Muslims, and the blood of a Muslim person would not be invalidated, because his inheritance is for the Imam. Thus, like that, his wergild would happen to be upon the Imam, and he would Pray over him, and bury him'.⁴⁶ Islamic scholars from various schools (Hanafi, Shafi'i, Maliki, and Hanbali) agree that in the absence of a legitimate wali, a judge can act as a wali and has the authority to act as a Wali for those who do not have a Wali, such as orphans, minors, and the insane⁴⁷.

10. Jurisdiction to issue Fatwa: A fatwa is an answer to the query in the light of shariah, asked by an individual, official, or government. A Qadi not only has the authority with an obligation to issue binding fatwas (unlike the fatwa of an advisory nature by mufti) based on shariah under the following authorities: O believers! Obey Allah and obey the Messenger and those in authority among you. Should you disagree on anything, then refer it to Allah and His Messenger, if you 'truly' believe in Allah and the Last Day. This is the best and fairest resolution. (4:59). Umar ibn al-Khattab R.A as qadi used to issue innovative fatwas for the welfare of the people, including the aboli-

⁴⁴ Muslim ibn al-Hajjaj, *Sahih Muslim*, trans. Abdul Hamid Siddiqui (Lahore 1971-1975), 335, hadith 2005.

⁴⁵ Abu al-Hasan al-Nasafi, *Tafsir al-Nasafi* (Beirut 2005), Surah Al-Ahzab, ayat 6, 932.

⁴⁶ Muhammad ibn Ya'qub al-Kulayni, *Kitab Al-Kafi*, (1999), vol. 7, chap. 42, hadith 1.

⁴⁷ *Al-Mawsu'ah al-Fiqhiyyah* (Kuwait: Wizarat al-Awqaf wa al-Shu'un al-Islamiyyah, 2006).

tion of punishment for theft during famine (Istihasan).⁴⁸ Al-Mawardi discusses the responsibilities of a Qadi, including adjudicating disputes and issuing legal opinions in areas where there is ambiguity⁴⁹. It is also stress upon the Qadi to issue fatwas that address new situations, as long as they do not contradict established principles.⁵⁰

The Types of Judges based on their Jurisdiction: There are different types of Qadi's depending on their areas of jurisdiction, which have been developed to meet the challenges of the complex modern governance system. Interestingly, it disliked to appoint more than one judge to render a binding judgment in a single case because the Prophet Muhammad PBUH never appointed more than one Qadi for a single dispute. However, other judges may be present to offer counsel or opinions of a non-binding. Also, there is no concept of Jury because in Islamic law sovereignty belongs solely to Almighty Allah. Qadi's authority may be general consisting of a wide range of matters, or specific and limited to a particular subject. *Al-Mawardi*, in his book *Al-Ahkam al-Sultaniyya*, cites Abu 'Abdullah al-Zubayr: For a while, the Amirs here in Basra used to appoint a judge at the central mosque (al-Masjid al-Jami). They called him the judge of the mosque. He used to adjudicate disputes having pecuniary jurisdiction not exceeding twenty dinars or two hundred dirhams and was responsible for imposing maintenance within his pre-determined territorial jurisdiction. However, our focus here will be on the fundamental functions and the primary types of the Qadi's as outlined below.

I. Qadi 'Aam: He is the qadi that settles the disputes of both civil and criminal between the people as derived from the act of the Prophet Muhammad PBUH where he appointed Mu'adh ibn Jabal over an area of Yemen. The Qadi 'Aam has jurisdiction over a wide range of legal matters, including property disputes, rights adjudication, guardianship, public trusts, wills and inheritance, marriage, enforcement of Islamic punishments, public interest disputes, witness verification, ensuring justice between the powerful and the weak, resolving domestic disputes, and many more as discussed in detailed in this research paper.

II. Qadi Muhtasib: Qadi al-Muhtasib, which is also known Hisbah is one the key and essential institutions consisting upon a unique blend of ombudsman, auditor, and arbiter with the primary duty as the "Market Inspector" to ensure the ethical conduct of trade,

⁴⁸ Ibn Kathir, *Al-Bidaya wa'l-Nihaya*, vol. 7 (Beirut: Dar al-Kutub al-'Ilmiyya, 1988).

⁴⁹ Abu al-Hasan al-Mawardi, *Al-Ahkam al-Sultaniyya* (Beirut: Dar al-Kutub al-'Ilmiyya, 1996).

⁵⁰ Ibn Rushd, *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*, vol. 2 (Beirut: Dar al-Fikr, n.d.), 125.

fair pricing, and the prevention of fraudulent practices in bustling marketplaces. Beyond commerce, this office extended its influence to uphold reflecting the Qur'anic injunction to enjoin good and forbid evil. The Prophet Muhammad PBUH himself performed the duties of Qadi Muhtasib on certain times let us consider the hadith narrated by Abu Hurayrah R.A as authority "The Messenger of Allah (saw) passed by a heap of food, as he put his hand inside it his fingers got wet, so he said to the vendor: What is this? He said: It was dampened by the rain O Messenger of Allah. He (saw) said: Why don't you put it on the top so that people can see it? He who cheats us is not one of us." it was a public right on which the Messenger of Allah PBUH looked into, and judged that the wet food should be displayed at the top to make sure that buyers have a clear idea about what he is going to buy. Similarly, Umar (RA) entrusted Shifa bint Abdullah (RA) with overseeing market transactions as the market inspector or controller (*Muhtasib*) to ensure that merchants adhered to Islamic principles of honesty and integrity.⁵¹ The Muhtasib holds significant authority to act on offenses as soon as they come to his knowledge and pronounce judgments on the spot, or to issue directions without needing to be in a formal judicial court. it is because his powers and responsibilities are attached to his duty allow him to act on the spot irrespective of location, place, and time. The Islamic principle relating to judiciary does not apply to the Muhtasib, as there is no formal dispute in the cases he addresses; instead, he acts upon public offenses or Shariah violations that require immediate attention. As quoted twice when the Prophet Muhammad PBUH encountered a vendor selling dampened food he took immediate action. The Muhtasib is empowered to appoint deputies Muhtasib to act on his behalf to meet the needs at short possible time with specific or general jurisdiction of Muhtasib.

III. Qadi Madhaalim: The Qadi Madhaalim is the supreme judicial authority under Diwan al-Mazalim appointed directly by the sultan. His primary duty is to deal with and resolve grievances against state officials or public injustices, financial misconduct, and breaches of public trust without any limitation of jurisdiction closely like Muhtasib without waiting for formal complaints. He was empowered to question any public officials even the sultan.⁵² Qadi Madhaalim acted as an extension of the sultan's responsibility to ensure justice assigned under shariah. The madhaalim (unjust acts) were men-

⁵¹ Muhammad Ibn Sa'd, *Tabaqat al-Kubra*, vol. 8, ed. H. S. Jafri (Beirut: 2001),

⁵² <https://www.nusr.net/1/en/constitution-best-nation/constitution-best-nation-judiciary/999-dstr-qd-en-88>

tioned in the hadith of the Messenger of Allah (saw) where he said: "If I took money from someone, here is my money, let him take from it, and if I whipped the back of someone, here is my back, let him retaliate." This indicates that complaints against the ruler, or the wali, or the civil servant should be submitted to the judge of madhaalim⁵³. When Hazrat Abu Bakr (RA) became the first Khalifah of the Muslims, he addressed the people with these words: "Obey me as long as I obey Allah and His Messenger. If I disobey Allah and His Messenger, you owe me no obedience."⁵⁴ *Al-Mawardi* writes: "If the leader of the Muslims shows evident wrongdoing (fisq) or becomes incapacitated to perform the duties of the leadership, then his position is invalidated. The Qadi and qualified individuals may intervene to remove him."

III. Qadi al-Qudat/Chief Justice: Throughout the Abbasid era, due to the varied social dynamics especially in Baghdad, where notable progress was made in social, cultural, intellectual, and economic spheres and the main or all Islamic schools of thought were fully established. Each of which approaches various issues in its own unique way. To address these developments, the sultan reorganized the judicial framework and introduced new categories of judges such as the Qadi al-Qudat (Chief Justice), Qadi al-Madhaalim (Judge of Grievances), Qadi al-Nikah (Marriage Judge), Qadi al-Jund (Military Judge), and Qadi al-Ihtisab (Accountability Judge) other the traditional concept as discussed above. To guarantee their grasp of jurisprudence, judges were given with the option to appoint knowledgeable advisors or postpone their decisions until they received a well-reasoned perspective from a scholar or an experienced judge. This gave birth to the concept of Qadi al-Qudat, forming the foundation for this newly established position according to the interpretation of different schools of thought. Harun al-Rashid appointed Abu Yusuf the Great Qadi to deal with all matters relating to the judiciary.⁵⁵

Concept of Appeal: Under Islamic law, there is no articulate concept of appeal because the judicial officer can't be supervised by higher authority regarding the finding in cases unless it was a fall-out from the court of original jurisdiction. The authority regarding preference of appeal has been laid down in a long hadith in which Hazrat Ali (R) is reported to have said to the disputants whose case was decided by him: "Hold

⁵³ <https://mmavsa.yolasite.com/judicial-system.php>

⁵⁴ Ibn Kathir, *Al-Bidaya wa'l-Nihaya*, vol. 6 (Beirut: Dar al-Kutub al-'Ilmiyya, 1988).

⁵⁵ Al-Tanoukhi, *Nashwar al-Muhadhira and Akhbar al-Madhikra*, part VI, (Beirut: 1973), 196.

fast to my judgment ad interim till you appear before the Messenger of Allah PBUH and he decide your case⁵⁶. Once Hazrat Ali R.A disagreed with the ijtiḥad of both Abu Bakr and Umar but never reversed their judgments, when the people of Najran approached 'Ali to reverse a judgment of 'Umar, he replied, “Woe to you! 'Umar was rightly guided, and I will not reverse a judgment pronounced by him.” The only exception is if the original judge himself reverses or alters his decision as Hazrat Umar's R.A advice given to Abu Musa al Ashari quoted earlier. The relevant portion may again be reproduced: "If you gave judgment yesterday and today, upon reconsideration, come to the correct opinion, you should not feel prevented by your first judgment from retracting: for justice is primeval, and it is better to retract than to persist in worthlessness⁵⁷. This clearly establishes that there are no appellate courts under Islamic law as judicial rulings are final. This is based on the Shariah principle “The ijtiḥad does not reverse another ijtiḥad”⁵⁸.

When Qadi temporarily loses his discretion: There are some situations in which the Qadi temporarily loses his sanity and authority, Although some jurists may not agree with all of the given cases regarding its obligatory nature.

I. Lack of knowledge: Qadi is strictly prohibited from passing a judgment or issuing a fatwa where he has no or insufficient knowledge, as The Prophet Muhammad PBUH said: a man who gives judgment for people when he is ignorant will go to Hell⁵⁹.

II. Anger: Anger is a powerful emotion that can cloud judgment and distort reasoning, which can lead to unjust decisions as highlighted in the teaching of Prophet Muhammad PBUH: “The judge should not issue a ruling between two people while he is angry”⁶⁰

III. Past or bias relationship: A judge is a human being like us, he may have a past relationship with one of the parties, which may influence his emotion or judgment. In Islamic law, Qadi is required to distance oneself when bias may arise due to past relationships between as given: O believers! Stand firm for justice as witnesses for Allah even if it is against yourselves, your parents, or close relatives. (Surah An-Nisa 4:135).

⁵⁶ Waki, *Akhbar al-Qudat*, vol. 1, 97, cited in Azad, supra note 12, at 84.

⁵⁷ Md. Anwar Zahid, *Administration of Justice under the Islamic Legal System: VI(1): 101*, 1995

⁵⁸ Jalal Al-Ansari, *Introduction to the Systems of Islam* (1996).

⁵⁹ Abu Dawud Sulayman ibn al-Ash'ath al-Sijistani, *Sunan Abu Dawud*, Book 18, Hadith 3566

⁶⁰ Muhammad ibn 'Isa al-Tirmidhi, *Sunan al-Tirmidhi*, Hadith 1334.

IV. Conflict of Interest: Conflict of interest arises when a qadi has personal, financial, or relationship ties that could impair the ability to make impartial decisions. It is a settled principle of Islamic law that judges should refrain from matters where personal biases, affiliations, or interests may affect their ability to reach correct decisions⁶¹.

V. Personal Knowledge: The majority of jurists have no diverse opinion that it is not valid for a judge to decide on the basis of personal knowledge in matters related to criminal law, especially ḥudud punishments.⁶²

Conclusion: The judicial institute is the key sector in Islamic Procedural law where the entire system revolves around the Judge Known as Qadi, acting under the formal adjudication system and the Alternative dispute resolution mechanisms. Islamic law not only assigns the Qadi with the role of merely a dispute resolver but also a pivotal figure in maintaining justice and societal order according to Shariah under the state supervision of Qadi al-Qudat. We can say that the concept of a Qadi's jurisdiction is closely linked to the role he assumes while dealing with a matter. Let us consider the Qadi's role of Hisbah, where he has the advisory jurisdiction in nature but when he puts the shoes of Qadi Muhtasib, his authority becomes binding and obligatory on the parties when on the state and Sultan or Ameer.

⁶¹ Mohammad Hashim Kamali, *The Principles of Islamic Jurisprudence* (Cambridge: 2013).

⁶² <https://www.proquest.com/docview/925788722?sourcetype=Scholarly%20Journals>.