

## POSSESSION; ITS MEANING, IMPORTANCE AND SHARIAH RULING IN THE CONTRACT OF SALE

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### **Abstract:**

*The words 'possession' (القبض) and 'sale' (البيع) are not the strange terms in the sayings of the Holy Prophet (Peace and Mercy be upon him) and Islamic Jurisprudence. Allah the Almighty has used six times the word Qabz in His Holy Book Quran, but that is used in its literary meanings. Moreover, in the sayings of the Holy Prophet (Peace and Mercy be upon him) and the writings of jurists it is used about the contract of sale and some other contracts where ownership or benefit of something is transferred from one party to the other. In this article meaning of Qabz and Bai has been discussed. Furthermore, importance of Qabz, its shariah ruling in the sale contract of movable and immovable things and ways of Qabz have been looked into. In movable commodities exchange of gold and silver was given consideration. Later on disadvantages of absence of shariah possession are pointed out.*

### **Keywords**

*Possession, Qabz, Bai, Shariah, Jurisprudence, Hadis, Quran, Bai Surf*

### **Introduction**

Islam is a complete code of life. It guides us in every walk of life. Since it is complete, Allah the Supreme power declared it His last and final message to the whole mankind till the day of Judgement. He announced it loud and clear in the holy Quran and said: 'Indeed the acceptable *Deen* in Allah's sight is only Islam.'<sup>(1)</sup> He further added: 'Whoever seeks a faith other than Islam, it will never be accepted from him, and he, in the Hereafter, will be among the losers.'<sup>(2)</sup> As Islam discusses about beliefs, worships, social contracts and manners, similarly it provides guidance in financial transactions and contracts. The basic purpose of Islamic guidelines is to lead Muslims to the salvation of this life as well as the Hereafter. Whoever follows Islamic teachings Allah will definitely reward him as He mentioned: Surely, this Quran guides to something that is most straightforward, and gives glad tidings to the believers who do good deeds that ready for them there is a great reward.'<sup>(3)</sup> In this article one of the financial contracts will be discussed that is 'Contract of Sale'. Further in the contract of sale when someone buys something or sells something, on which point it is said that the liability of profit and loss has been transferred from a buyer to the seller and vice versa, and now they can utilize that object (i.e money or commodity) freely. And if that is destroyed who will suffer the loss. This is the point which will be given high consideration in this topic. This point is named as 'Possession' (القبض) in Islamic law.

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### Contract of Sale

The word 'Bai' is used in Arabic language for the contract of sale. Linguistically it means to exchange one thing with another as this is stated by *Al Jurjani*<sup>(4)</sup> in his book 'Al Tareefaat'.<sup>(5)</sup> *Ibn e Manzoor*<sup>(6)</sup> wrote in his dictionary named 'Lisan ul Arab',<sup>(7)</sup> that this word was antonym of 'shira' (buy) and it is 'shira' itself too. That means it is having both opposite meanings. In the holy Quran this word is used several times. Allah says:

الذين يأكلون الربا لا يقومون إلا كما يقوم الذي يتخبطه الشيطان من المس ذلك بأنهم قالوا إنما البيع مثل الربا وأحل الله البيع وحرم الربا-

**Those who take Riba (usury or interest) will not stand but as stands the one whom the demon has driven crazy by his touch. That is because they have said: 'Sale is but like riba', while Allah has permitted sale and prohibited riba.**<sup>(8)</sup>

The same is mentioned in *Al Baqarah*, surah no 2, verse no 254, Ibrahim, surah no 14, verse no 31, *An Noor*, surah no 24, verse no 37 and so on.

In the same way this word is used in many sayings of the holy Prophet (Peace and Mercy be upon him) like the one that *Hazrat Abdullah*<sup>(9)</sup> bin Umar (May Allah be pleased with them) narrated and said: The messenger of Allah (Peace be upon him) said: 'Whoever bought sustenance he should not sell it (بيعه) unless he takes it in his custody.'<sup>(10)</sup>

Jurisprudentially jurists have defined it as under:

*Al Jurjani* said: It is exchange of a valuable asset with another valuable asset making the second party its owner and becoming oneself owner of the second asset.<sup>(11)</sup>

In *Al Qamoos Al Fiqhi*: It is a contract of financial exchange that results to ownership of an asset forever.<sup>(12)</sup>

These are two general definitions of *Bai*. In fact there are differences in the definition of *Bai* in the all four schools of thoughts. The point of difference, after reviewing their definitions, is that scholars of every school of thought defined it in accordance to their view about including or excluding some sub contracts in the definition of *Bai*. For example, in *Hanafi* School the contract of Lease is not a contract of *Bai*, therefore it is tried in that school to exclude this contract from the definition of *Bai*. On the contrary the contract of lease is one of the sub contracts of *Bai* in *Hanbali* School. Similarly, in *Shafai* School Marriage is included in the contract of *Bai* whereas it is not a part of *Bai* in the other schools. But the all school of thoughts are unanimous on three points:

- a. In *Bai* ownership is transferred.
- b. *Bai* is finalized through mutual consent
- c. On one hand there should be valuable asset

### Possession

Possession is translation of Arabic word 'القبض' (*Qabz*). Allah the Greatest made use of this word in six places of His book. Allah says:

'Allah withholds and extends, and to Him you are to be returned.'<sup>(13)</sup>

In one another place He says:

'Then we pulled it toward Us in a gradual manner.'<sup>(14)</sup>

In *Surah Ta-Ha* Allah said:

'He (Samiriyy) said: I perceived something they did not perceive. So I picked up a handful from under the footstep of the messenger.'<sup>(15)</sup>

Allah says in *Surah At Taubah*:

*'The hypocrites, males and females, are all alike. They bid vice and forbid virtue and withhold their hands (from spending in Allah's way).'*<sup>(16)</sup>

Allah said in *Surah Az Zumar*:

*'They did not hold Allah in His true esteem. The whole earth will be in a single grip of His hand on the Day of Doom.'*<sup>(17)</sup>

In surah *Al Mulk*:

*'Have they not looked to the birds above them spreading their wings, and (at times) they fold (them) in? No one holds them up except the Rahman (the All-Merciful Allah).'*<sup>(18)</sup>

All of the above-mentioned verses contain the word 'Qabz' and in all of them this word is used in its literary meanings and that is to hold, withhold, pick, and pull something. But in sayings of the holy Prophet (Peace and Mercy be upon him) it is used in its jurisprudential meaning and that is to take something in custody and have free hand to use it.<sup>(19)</sup> The holy Prophet (Peace be upon him) said: 'Whoever purchased food he should not sell it until he takes it to his custody.'<sup>(20)</sup> Many sayings of the prophet (Peace and mercy be upon him) are there that contain the same theme but the different words.

Six words are used in all of those Ahadis:

1. Al Istifa (To take it all the way)
2. Al Qabz (Possession)
3. Al Kail (Measure)
4. An Naqal (Transfer)
5. At Tahweel (To remove or change)
6. Al Iiwa (To mix)

All of the above mentioned six words are directing to the diverse ways of possession. It can be seen by reviewing their lexical meaning.

1. Al Istifa: It means to take your right from someone completely with leaving anything. The same is stated by Ibn e Manzoor and Zabidi<sup>(21)</sup> in their respective books<sup>(22)</sup>. So it manifests that this word encompasses all of those ways of having possession where nothing remain on the part of second party.
2. Al Qabz: This word is too clear in its meaning of taking something physically in custody.
3. Al Kail: Although this word indicates to one way of measurement but here it is guiding Muslims towards all those ways of possession that need weighing, gauging, and calculating commodities and separate them from other items.
4. An Naqal: Means to transfer. It devotes to the prevailing way of possession at that time and now. If a person transfers the object from its transaction place to some other place that is considered his possession and complete freedom to use.
5. At Tahweel: This word says that when someone removes his newly owned thing from its place or makes some changes in that thing. That will be considered his legal possession.
6. Al Iiwa: This word means to mix. Therefore, when a person takes over his property and mixes it with his already owned belongings so it is thought that he took legal custody of his purchased thing.

It is obvious from the aforesaid detail that different words are used for legal custody or possession to indicate to different ways of it.

### **Commodity**

Commodity is an item that is bought and sold or something that people value or find useful. <sup>(23)</sup> The same is the definition of commodity in Islam, but Islam has specified those items to be commodities that are forbidden in it like Pork, Blood, and Wine etc. Allah says: Prohibited for you are: carrion, blood, the flesh of swine, and those upon which (a name) other than that of Allah has been invoked (at the time of slaughter), animal killed by strangulation, or killed by a blow, or by a fall, or by goring, or that which is eaten by a beast unless you have properly slaughtered it. <sup>(24)</sup>

Than commodity is divided into two types:

- a. Moveable
- b. Immoveable

It is clear from their names that those commodities, which can be moved easily and their benefits do not reduce from place to place are called moveable commodities like currencies, animals and measureable things etc and on the contrary those items that cannot be moved at all or can be moved but they do not remain useful after that are named as immoveable commodities for example land, and trees. <sup>(25)</sup>

Jurists are different in their opinions about the possession of Moveable and Immoveable commodities.

### **Possession of Moveable and Immovable Commodities**

*Imam Muhammad bin Hasan Al Shaibani*<sup>(26)</sup> and *Imam Shafai*<sup>(27)</sup> (May they are blessed) are of the view that selling everything is forbidden until its possession is secured. Firstly this view is derived from the general meaning of the saying of the Prophet (PBUH) mentioned above (under the heading 'Contract of Sale'). The same is the saying of *Hazrat Abdullah bin Abbas*<sup>(28)</sup> (May Allah be pleased with him)<sup>(29)</sup>. Secondly they present another saying of the holy Prophet (PBUH) narrated by *Abdullah bin Umr*<sup>(30)</sup> (May Allah be pleased with him). He said: The Messenger of Allah said: Debt and sale (together) are not valid, and two conditions in sale (are impermissible), and benefit of what you have not taken risk of (is forbidden), and to sell what you do not have (is not legal)<sup>(31)</sup>.

*Imam Ahmed bin Hanbal*<sup>(32)</sup> (May Allah bless him) opined that this restriction of having possession before selling the goods ahead was confined to the grains, as all the Ahadees mentioned in respect of possession carries the word 'Grain'.<sup>(33)</sup> One another Hadees which he presented is Hadees of *Hazrat Abdullah bin Umer*. (May Allah be pleased with him.) He said: I would sell camels at Baqi and used to sell them with Dinars (Golden Coins) and take Wariq (Silver Coins) instead and vice versa. I came to the Messenger of Allah (PBUH) and found him coming out from the apartment of *Hazrat Hafsa*<sup>(34)</sup> (May Allah be pleased with her.) I asked him about this issue. He said: It makes no difference if it is with the price (of that day).<sup>(35)</sup> He reasons through the above mentioned Hadees that what *Hazrat Abdullah bin Umer* (May Allah be pleased with him) had been doing was changing in price before taking custody and that is one of the considerations. If selling of price before possession is legal, automatically selling of commodity will be legal too except in grains, because prohibition is specified in the text of Hadees.<sup>(36)</sup>

Third evidence of Hanbali School of thought is report of *Hazrat Abdullah bin Umer*. (May Allah be pleased with him) He said: I was riding a headstrong camel (of *Hazrat*

Umer). The messenger of Allah said to Umer: Sell me the camel. He said: That is yours, O Prophet of Allah! The holy Messenger said: That is yours, O Abdullah bin Umer. Use it as it pleases you<sup>(37)</sup>.

It is obvious that it was changing in the commodity with gifting it before taking its possession. The holy Prophet (PBUH) purchased a she-chamel from Hazrat Jabir and gave him the price and presented that to him as gift before having its possession<sup>(38)</sup>.

Imam Malik (May Allah bless him) said: Indeed selling goods before having their custody is prohibited in measurable things in eatable items. He reason from the word ‘*Istifaa*’ (taking something completely without leaving anything.) He says: *Istifaa* is not imaginable without measuring. So those eatable things which are subjects of Riba cannot be sold before their possession<sup>(39)</sup>.

Imam Abu Hanifa and Imam Abu Yousaf (May Allah bless them) think that selling all movable goods are prohibited prior to its legal possession<sup>(40)</sup>. Their view is based on the generalizing of all Ahadis narrated about the possession. But they are different from Imam Muhammad and Imam Shafai (May Allah bless them) in immovable things. To them immovable things can be sold without having their legal possession, because prohibition of selling things before the possession is based on a reason that is its likeliness of perishing and uncertainty of cancellation of the first contract. This reason is unperceivable in immovable items, like land, building and trees<sup>(41)</sup>.

#### Preponderant Opinion

Keeping all the above mentioned discussion in view the preponderant opinion seems to be of Imam Shafai and Imam Muhammad. (MABT) Its preponderance is due to the following five points:

1. General meaning of saying of the holy Prophet (PBUH) narrated by Hazrat Hakeem bin Hizam<sup>(42)</sup> (May Allah be pleased with him.) He said: I said: O Messenger of Allah! I buy things, so which one of them is permissible for me and which is impermissible? (The Messenger of Allah) said: If you buy something, do not sell it until you take that into your custody<sup>(43)</sup>.
2. Imam Muslim bin Al-Hajaj Al-Qushairi supported this view saying: ‘I guess all things are like this.’ It means according to him nothing can be resold without its possession.
3. The holy Prophet (PBUH) forbade profit of those things which did not enter to one’s risk<sup>(44)</sup>.
4. Selling goods before its possession leads to several disadvantages due to which the holy Prophet (PBUH) prevented this kind of sale.
5. This opinion is cautious one.

#### **Bai Surf**

The most important kind of all the sale contracts of the movable commodities is the sale of gold and silver. This transaction is called “Bai Surf”. It is a kind of the legal sale where gold or silver is exchanged with itself or with the other gold (if it was silver) or with the other silver (if the first one was gold.<sup>45)</sup>

According to the jurists these two things have intrinsic value of being price or money.

These are the only two mediums of exchange which were created to be price or money<sup>46</sup>. Furthermore, these are among those items which are prohibited by the holy Prophet (PBUH) to be sold or purchased with their own selves if they are not equal or one of them is differed and not paid together at once<sup>47</sup>.

### **Definition of Bilateral Possession (التقاضي) in the Sale of Surf**

Ibn-e- Nujaim<sup>48</sup> view about the possession is to take something in your custody before you (contractors) part physically in the way that one goes this way and the other goes that way. If they went together to one side a mile or more and no one left his fellow this will not be considered parting<sup>49</sup>. The same opinion is seconded by Wahba Az-Zuhaili<sup>50</sup>. He added: The main point is to separate physically. If they fell asleep or got unconscious or started walking to one same direction, all this will not be considered change of meeting or separation physically<sup>51</sup>.

The aforesaid two opinions as they defined the bilateral possession the same way they proved that the possession was an essential condition for the validity of the contract. Ibn-e-Rushd<sup>52</sup> quoted consensus of the scholars on this point<sup>53</sup>.

### **Importance of Bilateral Possession in the Sale of Surf**

Unilateral possession is necessary in the all sale contracts as it is discussed earlier in this article, but in the sale of Surf bilateral possession is inevitable, otherwise the contract will be invalid. Hazrat Umar<sup>54</sup> (MABPWH) said: Do not sell gold with gold unless they are equal and do not sell silver with gold when one of them is absent and the other one is present. If your fellow contractor wants to enter his home without you do not let him do so. This transaction would be valid when it would be hand to hand. I am afraid you may fall into the interest (Al-Riba<sup>55</sup>.) His son Hazrat Abdullah bin Umar (MABPWT) emphasized on the bilateral possession and said: If your fellow contractor jumped from a roof you jump with him (in order to prevent separation of the meeting physically<sup>56</sup>.)

### **Reason behind Bilateral Possession**

The main and basic reason behind the restriction of bilateral possession is to close all the doors of Riba<sup>57</sup>. Equality is must in all transaction of the sale of Surf. The same is manifest from the Ahadis of the holy Prophet (PBUH) reported about Riba.

### **Disadvantages of the Absence of the Possession**

Selling ahead without having commodity's legal possession leads to several demerits. Those are mentioned here:

#### **1. Inflation**

When a person sells what he did not possess, it will result in the form of inflation. Supposed: he purchased fifty sacks of wheat from a person who lives in Lahore. The second person after selling the first person his wheat loads all the sacks and the truck sets up to the first person's city, say Karachi. The price of this contract was one hundred thousand rupees. Before the arrival of the truck in Karachi, the first buyer sells the same fifty sacks of wheat to the second buyer with one hundred and fifty thousand rupees. This second buyer sells it to the third buyer without having its possession and the ball keeps rolling and when the same truck reaches its destiny i.e. Karachi. The price of one sack of wheat which was two thousand rupees only would have been increased many folds. A common man suffers with these artificial contracts and the middle contractors bear no risk at all<sup>58</sup>.

To halt inflation the holy Prophet (PBUH) did not allow the villager to sell his goods to the town resident<sup>59</sup>. Because this is a one of the root causes of the inflation in any society.

#### **2. Interest (Riba)**

If a person resells his owned commodity without having its custody it will ends on Riba transaction as Abdullah bin Abbas (MABPWT) narrated saying of the holy

Prophet (PBUH) about Riba before Muslims then some of them asked him: Why should a buyer measure his newly bought goods before selling them ahead. He replied: Do you not see people selling gold with gold and the wheat is differed?

To simplify his words it is to say that when the first buyer sells his wheat without having its possession it is as if he is adding profit to his paid money to the first seller and then selling it to the second buyer. So here money is the only object that is moving. Hence there is doubt of interest and Muslims have to avoid from doubtful interest based transactions as they avoid interest contracts.

### 3. Uncertainty

A transaction lacking legal possession leads to uncertainty and insecurity. The holy Prophet (PBUH) prevented from the sale of stone and the sale that contains uncertainty<sup>60</sup>. Abu Bakar Al-Kasani clarified this hadis saying: In the first contract of sale there is possibility of cancellation because it may be destroyed. When this first transaction is cancelled the second and third contracts will be abrogated automatically<sup>61</sup>. It goes this way because the second and third contracts are dependent on the validity of the first one.

### 4. Sale of Unsupplied Commodity

Ibn-e-Tamiyyah<sup>62</sup> stated: One of the disadvantages of sale without possession is selling unsupplied commodity. Furthermore, he added: ‘There is still possibility that the first seller may find a better offer for the commodity and cancel contract with the first buyer and sell it to the second one<sup>63</sup>.’ Therefore, it is not accepted to sell goods before having their proper and legal control.

### 5. Unemployment

Sheikh Muhammad Amin Az-Zarir<sup>64</sup> is of the opinion that selling goods before attaining their possession results in the shape of unemployment as well. He adds that when the first buyer takes custody of his commodity he will definitely transfer it from one place to another, where he needs laborers and will be bound to pay their wages. On the contrary if he sells it without having its possession, he will not need to transfer his commodity and will neither hire any laborer. Similarly those people who provide services of weighing, measuring or counting will be deprived of their expected jobs<sup>65</sup>.

Briefly selling commodities before acquiring their possession sometimes leads to the demerits which are prohibited by Islamic Shariah like: Interest, Uncertainty and unsupplied commodities ethical harms to the society like: Inflation and unemployment.

## **Conclusion**

Islam is complete code of life. It directs us in every field of life. Certainly it guided us about the legal and illegal possession in the contract of sale. The holy Prophet (PBUH) enlightened us about the importance of the possession and its ways in the sale. It is mentioned above that when liability of profit and loss is transferred from buyer to seller and from seller to buyer in their new owned items, that very point is called possession.

Moreover, all the jurists are unanimous on the three points in the definition of the sale i.e. Bai.

- a. Ownership is transferred in this contract.
- b. It is completed through mutual consent.
- c. On one side presence of valuable asset is must.

Furthermore, the holy Prophet (PBUH) used six words to define possession. All of those six words indicate to six ways of possession. They are: . *Al Istifa* (To take it all the way),

*Al Qabz* (Possession), *Al Kail* (Measure), *An Naqal* (Transfer), *At Tahweel* (To remove or change), *Al Iiwa* (To mix).

Commodities are of two types; movable and immovable. Imam Muhammad and Shafai (MTB) say further sale of all movables and immovables is prohibited unless its legal possession is secured. Imam Ahmed bin Hanbal (MHB) confined it to the grains only. Imam Malik (MHB) limited it in measurable eatable items alone. Imam Abu Hanifa and Imam Abu Yousaf (MTB) differentiated between movable and immovable commodities and forbade sale of all movable items before their legal possession and allowed immovable things to be sold without legal possession. In the end of this discussion the preponderant view is stated that is view of Imam Muhammad and Shafai (MTB), as that is cautious one to avoid the aforesaid disadvantages of lacking the possession.

Bai Surf is kind of sale where gold is exchange with gold or silver and vice versa. In this contract of sale bilateral possession is inevitable to avoid Riba.

All of the discussion above comes to the conclusion that the legal possession is really very important and necessary by one way or the other before the second sale of the commodity.

### References

1. *Aal e Imran, surah* no 3, verse no 19
2. *Ibid* verse no 85
3. *Bani Israel, surah* no 17, verse no 9
4. His complete name is Ali bin Muhammad bin Ali but he is famous will the name of *Al Jurjani*. He was born in 'Taku' in 752 H. He got his early education in Shirraaz and spent most of his life there and died in 813 H there. (*Az Zurkali, Al Aalaam*, v. 5, p. 7)
5. Word '**Bai**', published by: *Darul Kitab Al Arabi* Beirut in 1405 H, p. 68
6. His full name is Muhammad bin *Mukkarum bin* Ali. His surname is Abu *Al Fazal* and His title is *Jamal ud din*. He was born in Egypt or West (based on different narrations) but he was died in Egypt. (*Az Zurkali, Al Aalaam*, v. 7, p. 108)
7. Published by *Darus Sadir Beirut*, v. 8, p. 23
8. *Al Baqarah, surah* no 2, verse no 275
9. He was son of *Hazrat Umer bin Khattab* (May Allah be pleased with him) second caliph of Muslim world. He himself is companion of the holy Prophet (Peace be upon him). He accepted Islam while he was too young. He participated first in the battle of ditch as he was under age in the previous battles. Narrations are different about his birth. He was died in 73 or 74 H. *Hajjaj bin Yousaf* offered funeral prayer on him. (*Ibn ul Aseer, Asad ul Ghaba*, v. 2, p. 327-328 )
10. *Al Qushairi, Sahih Muslim*, Chapter: *Al Buyu*, published by *Darus Salam Makkah*, p. 941, *Hadith* no 3326
11. At Tareefaat, p. 68
12. Sadi Abul Jaib, **Al Qamoos Al Fiqhi**, published by: Darul Fikr Damascus Syria in 1408 H, v.1, p. 44
13. *Al Baqarah, surah* no 2, verse no 245
14. *Al Furqan, surah* no 25, verse no 46
15. *Al Ta-Ha, surah* no 20, verse no 96
16. *Al Taubah, surah* no 9, verse no 67
17. *Az Zumar, surah* no 39, verse no 67
18. *Al Mulk, surah* no 67, verse no 19
19. *Al Musoatul Fiqhiyyah Al Koyitiyyah* حيازة الشيء والتمكن منه
20. *Muslim Al Qushairi, Al jama As Sahih*, Chapter: *Albou*, Published by *Darus Salam Makkah*, p.941, *Hadis* no 3836 and 3837
21. His real name is Muhammad bin Muhammad bin Muhammad bin Abur Ruzzaq. Abul Faiz is his surname and Murtaza is his title. His inceser was from Iraq but he was born in Hindustan and



- grew up in Zabeed (Yemen). He was born in 1145 H and died in 1205 H (*Az Zurkali, Al Aalaam*, v. 7, p. 70)
22. *Ibn e Manzoor, Lisanul Arab*, v. 15, p.398 and Zabidi, *Tajul Uroos*, published by Darul Hidayah, v. 40, p. 221
  23. **Encarta Dictionary**, ® 2009. © 1993-2008, Microsoft Corporation. Microsoft Corporation
  24. Al Maidah, Surah no 5, verse no 3
  25. Sadi Abul Jaib, *Al Qamoos Al Fihi*, published by: Darul Fikr Damascus Syria in 1408 H, p. 360
  26. Real name of Imam Muhamamd bin Hasan Al Shaibani is Muhammad bin Al Hasan bin Al Farqad. His surname is 'Abu Abdullah' and he is called 'Shaibani' because he belongs to the tribe 'Shaiban'. He was born in 'Wasit' but his birth year is unknown. He spent his life in 'Kufa'. He is a one of the famous pupils of Imam Abu Hanifa. He is teacher of Imam Shafai and he learned with Imam Malik bin Al Anus. He died in 'Rai' in 187 Hijri. (Salim Ullah Khan, Molana, Muhaddiseen or un ki kitabon ka taaruf, pp. 242-243)
  27. Complete name of Imam Shafai is Muhammad bin Idrees bin Abbas bin Usman ibn Shafa. His surname was 'Abu Abdullah'. He is founder of Shafai School of thought. He was born in 'Ghaza' in 150 of Hijra and brought to Makkah when he was two. He came to Egypt in 199 of Hijra and remained there till his death. His famous book is 'Al Umm'. Imam Ahmad bin Hanbal said: Whoever has a pen and ink in his hand he is indebted of Imam Shafai. (*Az Zurkali, Al Aalaam*, v. 6, p. 26)
  28. Hazrat Abdullah bin Abbas (May Allah be pleased with him) is cousin of the holy Prophet (Peace be upon him). He was born in tenth of prophet hood in the valley of Abi Talib. The holy Prophet (PBUH) prayed to Allah for him to be blessed with knowledge and wisdom. Hence he scored titles of 'Hibrul Ummah and Bahr' (Scholar of the nation and Sea of knowledge). He was thirteen when the holy Prophet (PBUH) passed away. He died in 68 Hijri in Taif. (*Ibn e Al Aseer, Asad ul Ghaba*, v. 5, p. 289)
  29. Usmani, Muhammad Taqi, Mufti, *Takmila Fethul Mulhim*, Book of Contracts of Sale, Chapter: Invalidity of Sale before Possession, Published by Muktaba Darul Uloom Karachi, v.1, p.350.  
Ibn e Qudama, Al Mughni fi fiqh e Imam Ahmed bin Hanbal, Book of Contracts of Sale, Chapter: Sale of the Commodity and loan before their possession, Published by: Darul Fikr Beirut in 1405 H, v. 4, p.239
  30. Abdullah bin Umr (MABPWT): He was son of Hazrat Umer bin Al-Khattab the second caliph of Islam (MABPWH). He is companion of the holy Prophet (PBUH). He embraced Islam when he was young. He participated in the battle of Ditch first because before that he was underage. There is a big difference among historians in his birthday. Some say: He was born before the Prophet Hood. Others say: He was born one or two years after the Prophet Hood. He was died in 73 or 74 of Hijra. Hajjaj bin Yousaf led his funeral prayer. (*Ibn-e-Aseer, Asad ul Ghaba*, V.2, P.327-328)
  31. At Tirmizi, Abu Esa, Muhammad bin Esa, *Sunan At Tirmizi*, Chapters of Sales, Chapter of detestation of Sale of what he does not have, Published by Darus Salam, Hadis no: 1234, p.1774
  32. His complete name is Ahmed bin Muhammad bin Hanbal. Abu Abdullah is his surname. He was born in 164 Hijir in Baghdad. He is the founder of one of the four famous schools of thoughts. His renowned book is 'Al Musnad'. He collected thirty thousand Ahadis in that book. He died in 241 Hijri. (*Az-Zarkali, Al-Alaam*, V.1, P. 203)
  33. Usmani, Muhammad Taqi Loc.cit V.1, P.353
  34. Hazrat Hafsa bint e Umar (May Allah be pleased with her) is companion of the holy Prophet (PBUH) and His holy wife. She was born in Makkah before Hijra. She was 18 years old when the migration took place. She was wife of Khanees bin Huzafa before her wedding to the Prophet (PBUH). When he died she got married to the holy Prophet (PBUH). She died in 45 Hijri. (*Az-Zurkali, Al-Ilaam*, v.2, p. 264)
  35. At. *Tirmizi*, Abu Isa Muhammad bin Isa, Chapter: As-Surf, Darus Salam, Makkah, Hadees no: 1242
  36. Usmani, *Takmila*, V.1, P.351  
Ibn-e-Qudama, *Al-Mughni*, chapter of Bou, V.4, P.239
  37. Ibid
  38. Ibid
  39. Usmani, Loc.cit V.1, P351
  40. Ibid.

- Ibn-ul-Humam, Kamal-ud-din Muhammad bin Abdul Wahid As-Suwasi, *Fathul Qadeer*, Beirut: Darul Fikr, V.6, P.513.
41. Ibid
  42. Hazrat Hakeem bin Hizam bin Khuwailid is renowned companion of the holy Prophet (PBUH). He is nephew of Hazrat Khadija (MABPWH). He was born in Makkah. He was present in the time of battle of 'Fujjar'. It is said that he lived long. He was 120 years when died. He accepted Islam on the conquest of Makkah. He died in 54 Hijri in Madina. (Az-Zurkali, Loc.cit, v.2, p.269)
  43. Ahmed bin Hanbal, Al-Musnad, *Mussasat-ur-Risalah*, 1999, Hadees no: 15316, V.24, P.32.
  44. An-Nasai, As-Sunan, *Hulb*: Al-Matboaat-ul-Islamia, 1986, V.7, P.295, Hadees no: 4629.
  45. Ibn-e-Nujaim, *Al-Bahrur-Raiq*, Chapter: Surf, V.6, P.209
  46. Al-Hasani, Ahmed Hasan Ahmed, *Tatwwur-n-Nuqood* Fi Zao-e-Shariah Al-Islamia, Darul Madni, Jeddah, 1410 H. P.141.
  47. Tirmizi, As-Sunan, *Darus- Salam*, P.1775, Hadees no:1230
  48. Ibn-e-Nujaim is his surname. His full name is Zain ud Din bin Ibrahim bin Muhammad. He is one of the famous jurists of the Hanafi School. He belonged to Egypt. His birthday is unknown and he was died in 970 Hijri. (AZ-Zurkali, Loc.cit. v.3, p.64)
  49. Ibn-e-Nujaim, *Al-Bahrur-Raiq*, Chapter: Surf, V.6, P.209
  50. Wahba bin Mustafa Az-Zuhaili was born in 1932 CE in Basra Syria. He is an outstanding Islamic scholar of the present times. He studied in Damascus. (<http://www.goodreads.com>, Retrieved on 18.01.2015)
  51. Wahba Az-Zuhaili, *Al-Fighul Islami wa Adillatuho*, Darul Fikar Syria, Chapter: The contract of Surf, V.5, P.318
  52. Muhammad bin Ahmed bin Rushd was his complete name and his surname was Abu Al-Waleed. He is one of the important jurists of Malki School of thought. He was born in Qartaba and died in Moroco. He was born in 520 Hijri and died in 595 Hijri. (Az-Zurkali, Loc.cit, v.5, p.318)
  53. Ibn-e-Rushd, Abu Al-Waleed Muhammad bin Ahmed bin Muhammad Al-Qurtabi, *Bidayatul Mujtahid wa Nihayatul Muqtasid*, Published by: Mustafa Al-Babi Al-Hulbi and Sons, Cairo, Egypt. 1975. V.6, P.195
  54. Hazrat Umar bin Al-Khattab (MABPWH) is second caliph of Islam, a famous and great companion of the holy Prophet (PBUH). He was born 40 years before Hijra and embraced Islam in eighth year of the Prophet hood. He was one of those two for whom the holy Prophet (PBUH) prayed to Allah to guide them to Islam and increase in the dignity of Islam through them. Allah accepted his prayer in the favour of Hazrat Umar and he accepted Islam. He introduced many new departments in the political system of Islam. He was martyred in 23 Hijri. The holy Prophet (PBUH) said: If there was a prophet after me that would be Umar. (Az-Zurkali, Loc.cot, v.5, p.45)
  55. Al-Zailae, Jamaluddin, Abu Muhammad Abdullah bin Yousaf bin Muhammad, *Nasbur Raya Fi Takhreej-e- Ahadisil Hidaya*, Mosowwah-tu- Rayan for publication and distribution, Beirut, 1997. V.4, P.56
  56. Ibid
  57. Wahba Az-Zuhaili, *Al-Fighul Islami wa Adillatuho*, Darul Fikar Syria, Chapter: The contract of Surf, V.5, P.318
  58. Usmani, Muhammad Taqi, *Takmila Fathul Mulhim*, V.1, P.354
  59. Al-Qushairi, *Sahih Muslim*, Hadees no.1520, V.1, P.1157
  60. Muslim, *As-Sahih*, Hadis no: 1513, V.3, P.1153
  61. Al-Kasani, *Badai-us-Sanai*, Beirut: Darul Kitab Al-Arabi, 1982, V.5, P.180
  62. His complete name was Ahmed bin Abul Haleem bin Abus Salam bin Abdullah. His surname was Abu Abbas and he was famous name was 'Ibn Taimiyah'. His title is 'Shaikh ul Islam'. He was born in 661 of Hijra in Haran and died in Damascus in 728 Hijri. He was author of around four thousand books. (Az-Zurkali, Loc.cit. v.1, p.143)
  63. Az-Zarir, As-Siddigie Muhammad Amin, *AlpGarar wa Asaroho Fil Uqood Al-Maliah*, Al-Muallif, 1415 H, 1995, P.359
  64. Sheikh Zarir was born in 1918 CE in Umma-e-Darman, Sudan. He was awarded PhD degree by University of Cairo with first position. He is famous due to his outstanding book on uncertainty named 'Al-Garar Wa Asaroho Fil Uqood Al-Maliah. (Retrieved on: 24.01.2015, <http://www.irtipms.org/siddiq520A1%20> Dareer\_A.asp)
  65. Az-Zarir, Ibid.