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AFKĀR

ISSN 2616-8588 (Online)

ISSN 2616-9223 (Print)

afkar.com.pk; iri.aiou.edu.pk

Testimony as a Method of Proof in Islamic Law & Legal System of Pakistan

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ABSTRACT

There are several methods of proof in Islamic Law to prove or disapprove the disputes and controversies such as confession, testimony, circumstantial and documentary evidences. After admission, testimony is considered the authentic mode of proving or disproving the facts in matters for administration of justice in the controversies arising amongst the people and brought before the courts of law. The judge has to rely on the testimony in deciding the cases of every nature; civil, criminal, family and financial matters. The general rule of Islamic Law is that the plaintiff is to prove the facts in the case because he alleges, and the defendant has to take an oath because he denies the facts and claims made by the plaintiff. Testimony is an absolute proof and its basic objective is to prove what is contrary to the apparent fact. The testimony of witnesses has a pivotal and paramount importance in Islamic Law as well as in the legal system of Pakistan to resolve the disputes and controversies for administration of justice and peace in the society. The current paper denotes the definition of testimony as discussed by the Muslim Jurists and describes its importance in the light of Islamic Law. It also manifests the legitimacy of testimony from the primary sources of Islamic Law such as Qur'ān, Sunnah, Consensus and Rational. The main focus of the present paper is on the testimony as an authentic proof of Islamic Law and the legal system of Pakistan.

Keywords: Testimony, Method of Proof, Shahādah, Sharī'ah, Evidence.



Introduction

Man is a social being. Though, he is a free to spend his life according to his desires but he has to be in some certain communal limitations, wherein he lives his everyday life in a particular organized framework. The objective of live is to be that he has to do good stuff for himself and others too; nonetheless, he is to be restricted from ill practices either to others or himself. He must live according to societal norms and set standards of goodness and freedom without disturbing others. Man is a social human being naturally and loves to live collectively and it's impossible to spend his life lonely. When a man lives with others in a social organizational framework, naturally all the issues are not handled unanimously without any diverse opinions. Sometimes such different views results a big controversy and dispute not only with friends even with close relatives. Such disputes sometimes are not serious in nature and sometimes are extremely severe. For the administration of a justice and maintaining peace, laws has been enacted and implemented by the law enforcement agencies.

Testimony is regarded as primary collection of evidence for particular case of any nature. In judicial system testimony is significantly important to investigate litigations. When the case comes before the court of law, one claims and other denies; the person who files a suite and claims his right, he has to come with evidences to prove such claims, called plaintiff. The person, who do not confess about the claim of plaintiff but he refutes, called defendant. When plaintiff cannot prove with evidences his claim then defendant has to take an oath as Messenger of Allah ﷺ has stated:

الْبَيِّنَةُ عَلَى الْمُدَّعِي وَالْيَمِينُ عَلَى الْمُدَّعَى عَلَيْهِ¹

"The responsibility of the plaintiff is to provide the evidence and the person who denies, has to swear an oath."

To maintain peace and order in the society and for administration a justice in the state or a country; law enforcements authorities have to play the role. In the judicial system a culprit must be punished after the commission of a crime otherwise law and legal system becomes ineffective. For justice, peace and harmony in the country, laws have to be made for protection of citizen's rights and must be implemented in the strong judicial system. In our judicial system, courts have to decide the cases on the basis of modes of proof as mentioned in law and Islamic law and such evidences be presented before the court to resolve the matter in dispute.

After confession, testimony is one of the authentic modes of proof in Islamic law and the legal system of Islamic republic of Pakistan. Many verses of the Holy

Qur'ān and *Aḥādīth* of the Holy Prophet ﷺ endorse the magnitude of testimony. In our judicial system, courts heavily rely on testimony of witnesses in all matters. If we observe, all types of contracts and business transaction such as buying selling, leasing and even the marriage contract could not be validated without witnesses in Islamic law as well as the legal system of Pakistan.

Definition of Testimony

The term *Shahādah* is from root word *Shuhūd*, its mean presence (*Huḍūr*) and *Shāhid* (witness) is that person who was present on the sight of happening an event or incident and he prescribes what he knows.²

Al-Jawharī denotes the literal meaning of *Shahādah* as irrefutable, definite and decisive proof.³

Testimony also indicates that a witness is to be present at a certain incident or event and such specific sense of witnessing and being present is also manifested in the Holy Qur'ān as Almighty Allah sates:

فَمَنْ شَهِدَ مِنْكُمُ الشَّهْرَ فَلْيَصُمْهُ

“So whoever of you sights (the crescent on the first night of) the month (of Ramadan i.e. is present at his home), he must observe Saum (fasts) that month.”⁴

Thus, Testimony means in literal sense any information that has witnessed by someone or seen by someone or observed by someone with his own eyes and he declares decisive information on the basis of his observation.

There are several literal meanings prescribed in *Encyclopedia of Islam* as under:

- a. To be present somewhere as opposed to be absent;
- b. See with one's own eyes, be witness of an event;
- c. Bear witness to what one has seen.⁵

Technically the meaning of testimony is to provide or pronounce the true and correct information of what someone has seen or observed to prove or disapprove the claim, right or any matter in dispute before the judge in the court. The *Encyclopedia of Islam* states the meaning of testimony as:

“Testimony is a statement in courts based on observation, introduced by the words, I testify (Ashhadū), concerning the right of others.”⁶

The term *Shahādah* has been defined by the Muslim Jurists in several ways. All the schools have manifested according to their schools but there is a slight difference in the definitions of classical Jurists that some of them have made condition by using the word *Shahādah* and other not. All the Muslim Jurists unanimously agreed that testimony is giving true information for proving someone's right before the court of law in front of a judge. *Shahādah* is defined by Imām Ibn-e-'Abdīn as:

*"Testimony is telling the truth to prove the right in the court of judge with the word of Shahādah (testimony)."*⁷

Al-Dusūqī states that:

*"Testimony of witnesses is an official statement pertaining to the core of litigation for the purpose of a legal adjudication and the termination of dispute."*⁸

Ḥanbalī Jurists generally states that:

*"Testimony of witnesses is legal evidence that denotes the due right, but it does not decide it. However, the judge should rule and adjudicate this manifested right when the required legal conditions are fulfilled."*⁹

In *Majallah Al-Aḥkām Al-'Adliyyah* the definition of *Shahādah* is as:

*"Giving an information by anyone in the court of law, when the parties are present by using the word "Shahādah" or "Ashhadū" (I bear testimony)", for proving a right of someone who seeks to be established against someone else."*¹⁰

Thus, it is concluded that the above mentioned definitions of Jurists regarding testimony of witnesses are very similar, for they expressly manifested that giving true information with the phrase "*Ashhadū*" to a certain incident or fact before the court of law with the explicit purpose of attaining a judicial decision.

On the other hand, there are diverse opinions regarding the term "*Bayyinah*" that equal to testimony and frequently used for *Shahādah* interchangeably and they often use the term *Bayyinah* as synonymous with "testimony of witnesses" as stated in one of the *Ḥadīth*:

الْبَيِّنَةُ وَالْأَحَدُ فِي ظَهْرِكَ

*"Produce a proof or else you would get the legal punishment (by being lashed) on your back."*¹¹

Some of the Muslim Jurists maintain that *Bayyinah* is broader than the testimony of witnesses because it semantically and technically comprehends whatever reveals, manifests and indicates the truth, whether this means is the testimony of witnesses or something else.¹²

Thus, *Bayyinah* is considered a mode of proof and used for testimony and documentary proofs because it is not restricted the testimony of witnesses but extends the realms of testimony of witnesses over a wide arena of rights and it has widest possible dimensions. The similarities between *Bayyinah* and *Shahādah* are that both of them involve a great number of different litigations and disputes whether criminal, civil or family matters. Technical definition of *Bayyinah* is also prescribed in *Encyclopedia of Islam* as under:

“Bayyinah is a singular and its plural is Bayyināt, etymologically the feminine adjective “clear evident”, was already in use as a substantive with the meaning of “manifest proof”. In legal terminology the word denotes the proof per excellentiam – that is established by oral testimony, although from the classical era the term came to be applied not only to the fact of giving testimony at law but also to the witnesses themselves.”¹³

In *Majallah*, *Bayyinah* consists of any reliable and authentic testimony.¹⁴

Imām Ibn-e-Qayyim explains what *Bayyinah* means as:

“The word “Bayyinah” in the language of the Qur’ān, of the Prophet ﷺ and of his Companions is the name of everything by which the truth becomes evident. Hence contrary to its connotations in the terminology of the jurists, it has a wider meaning because they only use it for two witnesses or an oath and a witness.”¹⁵

Imām Ibn-e-Qayyim further denotes that *Bayyinah* includes all type of evidences and modes of proof such as confession, oath, testimony of eye witnesses, all type of documentary evidences as well as circumstantial evidences. He further elaborated that one from all such evidences is equal to one witness generally and in any case witnesses are not available or quantum is less than any type of reliable *Bayyinah* should be provided and decision has to be made by the court on the basis of such evidence.¹⁶

Thus, the term *Bayyinah* is a broader than testimony that consists of all type of oral and written documentary evidences. In the legal system of Pakistan, definition of the term testimony or *Bayyinah* is not properly mentioned in *Qānūn-e-Shahādat* Order, 1984, however, the term evidence is defined that is equal to *Bayyinah* of Islamic Law.

Testimony in Pakistani Law

In Pakistani Law of Evidence, there is no explicit provision for the definition of testimony; however, the term evidence includes the statements of the witnesses as testimony. Article 2 (c) of *Qānūn-e-Shahādat* Order, 1984 defines evidence as:

“Evidence includes; i) All statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry; such statements are called oral evidence; and ii) All documents produced for the inspection of the Court; such documents are called documentary evidence.”¹⁷

The term *evidence* is defined in Pakistani Law of evidence as stated in article 2 (1) (c) of the *Qānūn-e-Shahādat* Order, 1984 that:

“All statements that a court may permit or require to be made before it by

*witnesses in relation to matters of fact under inquiry and the documents produced for inspection of court”.*¹⁸

In a case, the court of law has interpreted and explained that evidence connotes all oral or written statements made before the court or submitted, demanded by the court or the parties have provided on their own in any matters of fact.¹⁹

In another case, the court observed that evidence is broader and comprehensive term that consists of testimony of witnesses, parties’ statements and other relevant documents produced to the court of law for proving or disapproving facts of the case.²⁰

Thus, the definition mentioned in *Qānūn-e-Shahādat* Order, 1981 is not comprehensive. It denotes any statement plain or apparent and consists of oral and documentary evidences. The statements made by the witnesses or parties in front of a judge is considered an evidence unless such person is dead or cannot be presented before the court for statements regarding the case as mentioned in Article.46 of *Qanūn-e-Shahādat* Order,1984.²¹

The term evidence in legal system is deemed for all methods of proof such as oath, confession, testimony and all other documentary evidences provided and recorded in the court for proving or disapproving facts of the dispute.²²

The definition covers the evidence of witnesses and documentary evidence, evidence can be both oral and documentary and also the electronic record can be produced as evidence. In one of the case, the court interpreted the word evidence signifies electronic records including audio and video evidences.²³

The word “evidence” is defined in Black’s Law dictionary as:

*“any species of proof or probative matter, legally presented at the trial of an issue by the act of the parties and through the medium of witnesses, records, documents, concrete objects etc., for the purpose of including belief in the minds of the court or jury as to their contention.”*²⁴

Encyclopedia of Britannica defines “evidence” as “a term which may be defined briefly as denoted the facts presented to the mind of a person for the purpose of enabling him to decide a disputed question. Evidence in the widest sense includes all such facts. In the narrower sense employed in English law, however, it includes only such facts, testimony and documents as may be received in legal proceedings in proof or disproof of the fact under inquiry.”²⁵

Legitimacy of Testimony in Islamic Law

Testimony is one of the modes of proof and legitimised from the authentic sources of Islamic Law from the Holy Qur’ān, *Sunnah*, *Ijma’* and *Qiyās*.

Glimpses from the Holy Qur’ān and Sunnah

Various verses of the Holy Qur’ān denote the legitimacy of the testimony; some

of them are: 2:282, 4:15, 24:4, 2:282, 2:283, 65:2.

The Holy Qur'ān signifies the importance of testimony as Allah Almighty states:

وَأَشْهِدُوا إِذَا تَبَايَعْتُمْ وَلَا يُضَارَّ كَاتِبٌ وَلَا شَهِيدٌ

*"But take witnesses whenever you make a commercial contract and let neither scribe nor witness suffer harm."*²⁶

Significance and magnitude of the testimony has denoted by Imām Al-Nawavī as:

*"The testimony would be with knowledge based on the verse of the Holy Qur'ān, "And pursue not that of which thou hast no knowledge; for every act of hearing, or of seeing or of (feeling in) will be enquired into (on the Day of Reckoning without knowledge giving testimony is inadmissible). He also quoted a narration which has been narrated by Ibn-e-Abbas that when the Holy Prophet ﷺ was asked about Shahādah, he replied, are you seeing the sun? The questioner said yes then the Holy Prophet ﷺ said to him, when you have seen something like this then give testimony otherwise leave it."*²⁷

He further states that:

*"Bearing out the testimony is a right, if that is not the right of Allah almighty but it is the right of man, and is an individual's duty. If someone gives testimony, done by others too, but if no one does the same, then the person available is liable to give testimony."*²⁸

In this regard, Allah Almighty states in the Holy Qur'ān:

وَلَا يَأْبَ الشُّهَدَاءُ إِذَا مَا دُعُوا²⁹

"The witnesses should not refuse when they are called on (for evidence)."

Also there are several *Aḥādīth* of the Holy Prophet ﷺ that manifest the legitimacy of testimony.³⁰

The Opinion of the Companions

Muslim Jurists have discussed the very famous letter of Caliph 'Umar to Abū Mūsā Al-Ash'arī, in which he instructed about the fundamental infrastructure and principles of the judicial proceedings. One of the essential principles that *Bayyinah* (evidence or testimony) is to be provided by the Plaintiff and oath from the defendant as explicitly quoted in the letter of Caliph 'Umar.³¹

Ijma' (Consensus)

All the Muslim Jurists unanimously agreed on the legality of testimony of witnesses. Their testimony is admissible in all nature of disputes and unanimously accepted by the Muslim Jurists from the era of the Holy Prophet ﷺ till today. There is no disagreement on the issue in the era of the companions as well as Muslim jurists from all schools. This is a fact that testimony was the universally admitted by the Prophet's companions and those who came later on.³²

Qiyās (Legal Reasoning)

Imām Al-Sarakhsī and Imām Ibn Qudāmah argue that testimony of witnesses is rationally necessary in law due to the frequent and occurrence of disputes (and crimes) where witnesses are the only available means of proof, besides, witnesses are indispensable in attesting and documenting the rights of others in numerous transactions.³³

Importance of Testimony

Testimony is authentic and accurate information that is recorded by a witness before the court to prove or disapprove the facts of the case.³⁴

Bearing a testimony is a collective duty of a witness generally and he should not deny when called for it. Concealing the testimony is an enormous sin and giving it becomes individual duty when there is no witness except he. As Almighty Allah states in the Holy Qur'ān as:

وَمَنْ أَظْلَمُ مِمَّنْ كَتَمَ شَهَادَةً عِنْدَهُ مِنَ اللَّهِ وَمَا اللَّهُ بِغَافِلٍ عَمَّا تَعْمَلُونَ³⁵

"Ah! Who is more unjust than those who conceal the testimony they have from Allah? But Allah is not unmindful of what ye do!"

In another *ayah* concealing testimony is considered a big sin as Allah Almighty states in the Holy Qur'ān:

وَلَا تَكْنُفُوا الشَّهَادَةَ وَمَنْ يَكْنُفْهَا فَإِنَّهُ آثِمٌ قَلْبُهُ³⁶

"Conceal not evidence; for whoever conceals it his heart is tainted with sin."

Imām Ibn-e-Qudāmah has interpreted this verse in a way that:

"Almighty Allah has mentioned the heart with sin in this ayah. Heart is a place of knowledge from that we give testimony and testimony is considered as amānah (trust) trustfully. So, it is mandatory to be delivered like other trusts."³⁷

In Islamic Law, concealing the testimony is prohibited and giving testimony becomes the responsibility of a witness. Witness is to be ready for giving the testimony before the court when called. Testimony has become an evident part of judicial system and a considered a collective duty as explained by Imām Ibn Qudāmah:

"Bearing out the testimony and giving it before a court is Fard e kifāyah based on these two verses as Allah has said "The witness should not refuse when they are called on for evidence" and "Conceal not evidence; for whoever conceals it his heart is tainted with sin" and sin has specified to the heart because that is a place of knowledge. Bearing out the testimony is a right, and to protect is like other rights. When someone has testimony in marriage or debt or in other matters and called to bear it, it is necessary to

give it. If someone gives testimony, done by others too, but if they all denied then all of them are sinful.”³⁸

In this regard, Dr. S.M. Haider states as:

“Generally a witness cannot refuse to give evidence when he is called upon to do so, but he should go to the court when he is called by the party that wants to produce him as a witness. If it is apprehended due to the absence of a witness, right of party will be destroyed. Then it is obligatory for him to go to the court voluntarily and to give evidence to indicate the right of aggrieved party.”³⁹

Witnesses have to bear the testimony before the court when plaintiff calls them, because plaintiff has a right to call witnesses and this right is like other rights of plaintiff.⁴⁰

Giving incorrect information by the witness before the court or concealing it destroys the right of the parties and it also be the cause of injustice.⁴¹

Testimony should be for the sake of Almighty alone as the Holy Qur’ān states:

وَأَقِيمُوا الشَّهَادَةَ لِلَّهِ⁴²

“And keep your testimony upright for Allah”

Allah Almighty commands that testimony is to be given for the sake of Allah only even if it could be against him, his parents or all other his close relatives.

The general ruling as prescribed in the Holy Qur’ān that testimony must be according to the accurate and correct knowledge of the witness and certainty of the evidence must also be checked and investigated.

Islām is the only religion that guides about all aspects of life of a human being. Directions of *Islām* are comprehensive and perfect for all. It also provides tremendous moral contemplation and any act that disgraces to such ethical deliberation is considered as extremely obnoxious and strictly condemned. Therefore, false testimony is condemned and forbidden according to Qur’ān.⁴³

Thus, *Shari’ah* has not restricted to some specific modes of proof. Muslim jurists have to identify and adopt methods of proof for proving or disapproving the disputes. All the methods universally accepted and endorsed by legal reasoning including confession, testimony, oaths, finger prints, circumstantial evidences, medical check-ups, post mortem reports, documentary evidences, videos, and other modes and means of proof would be accepted by Islamic Law.

Testimony as a Method of Proof

Testimony (*Shahādah*) is bearing information before the court of law on what one has witnessed or seen or beheld with his eyes and such information is to be regarded as definite and decisive because it is perceived by eyesight.⁴⁴

Any authentic and true information bearded or submitted in the judicial proceedings establishing someone's right by using the word *Shahādah* is considered testimony in Islamic Law.⁴⁵

All the Muslim Jurists agreed that testimony is one of the methods and means of proof in Islamic law. The basis of this method is explicitly expressed in the Holy Qur'ān and *Aḥādīth* of the Holy Prophet Muhammad ﷺ. As Almighty Allah states in the Holy Qur'ān:

وَأَسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَيْنِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكِّرَ إِحْدَاهُمَا الْأُخْرَى⁴⁶

"And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her."

In another verse the Holy Qur'ān states as:

وَأَشْهِدُوا ذَوْىَ عَدْلٍ مِّنكُمْ وَأَقِيمُوا الشَّهَادَةَ لِلَّهِ⁴⁷

"And take as witness two just persons from among you (Muslims). And establish the testimony for Allah."

The above mentioned two verses of the Holy Qur'ān indicate that the term *Shahādah* implies testimony and the *shāhid* is a person who observes something by his eyes and bears testimony before the court of law.

There are also some *Aḥādīth* of the Holy Prophet ﷺ that clearly express the testimony is one of the basic modes of proof as narrated by Ibn Abbās:

عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ النَّبِيَّ قَالَ لِرَجُلٍ: تَرَى الشَّمْسَ قَالَ: نَعَمْ. قَالَ: عَلَى مِثْلِهَا فَاشْهَدْ، أَوْ دَعْ.

*"This Ḥadīth is narrated by Ibn-e-'Abbās that the Holy Prophet ﷺ said to a man: Do you see the sun? He replied: Yes. Then the Holy Prophet said: If you see like that (the sun) be witnessed of it, if not, leave it, (don't give testimony if you are not decisive)."*⁴⁸

Another Ḥadīth on another occasion is narrated by Zaid ibn Khālīd Al-Juhānī that the Holy Prophet ﷺ said:

عَنْ زَيْدِ بْنِ خَالِدٍ الْجُهَنِيِّ، أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ أَلَا أُخْبِرُكُمْ بِخَيْرِ الشُّهَدَاءِ الَّذِي يَأْتِي بِالشَّهَادَةِ قَبْلَ أَنْ يُسْأَلَ

*"This ḥadīth is narrated by Zaid bin Khalid Al-Juhanī that the Holy Prophet ﷺ said: Shall I not inform you of the best of witnesses? The one who comes with his testimony before being asked for it."*⁴⁹

The above mentioned verse and *ḥadīth* expressly denoted that testimony is

regarded as an authentic mode of proof. Beside the above mentioned verses of the Holy Qur'ān and *Ahadith* of the Holy Prophet ﷺ there are numerous places in which it is considered that *Shahādah* is sanctioned as a method and source of proof.

Conclusion

This study has concluded that testimony is a true statement of a witness before a court of law. It is one of the methods of proof that easily directs the judge to decide the matter of controversy. It has been argued that testimony is to be given on the basis of correct information and decisive knowledge. In practice, the courts heavily rely on the testimony of witnesses because this is a best method that leads the judges to establish a case in favour or against anyone. Without testimony matter in dispute cannot approve or disapprove the facts and Allah Almighty has stated in the Holy Qur'ān that concealment of the testimony is a sin so we have to be ready to testify in the courts of law and to encourage others as well to record their testimonies for the protection of rights to aggrieved parties. It can be concluded that without testimony no offence can be established and no fact can be approved or disapproved in all disputed matters. Thus, testimony is considered as prerequisite to maintain order in the society and plays important role in judicial system of *Islām* as well as the legal system of Pakistan.



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³⁰ For details see also: Muslim ibn Hajjaj, *Ṣaḥīḥ Muslim*, Kitāb Al-Li'ān, Ḥadīth No. 1498. Al-Tirmadhī, *Sunan Al-Tirmadhī*, Kitāb Al-Shahādat, Ḥadīth No. 2466. Muhammad Ibn Yazīd Ibn Mājah, *Sunan Ibn Mājah*, Kitaāb Al-Aḥkām, Ḥadīth No. 2364.

³¹ Ibn Qayyim, *I'lām al-Muawaqe'in*, Vol. 1, p.291.

³² Al-Sharbinī, Muhammad Al-Khatīb, *Mughni al-Muḥtāj ila Ma'rifat Ma'ani Alfāz Al-Minhāj*. (Cairo: Matba'ah Al- Muṣṭafā Al-Bābī, 1985), Vol. 4, p. 426.

³³ Muhammad Ibn Aḥmad Al-Sarakhsī, *Al-Mabsut*, (Cairo: Matba'at Al-Sa'adah, 1324), Vol. 16, pp. 111-12, See also: Ibn-e-Qudāmah, *Al- Mughnī*, Vol. 9, p. 121.

³⁴ Dr. Anwarullah, *Islamic Law of Evidence*, (Islamabad: Shari'ah Academy, International Islamic University Islamabad, 2007), p. 4.

³⁵ Al-Qur'ān, 2: 140.

³⁶ Al-Qur'ān, 2: 283.

³⁷ Ibn-e-Qudāmah, *Al-Mughnī*, Vol. 9, p. 146.

³⁸ Ibid. Vol. 10, pp. 154-155.

³⁹ Dr. S. M. Haider, ed., *Shari'ah and Legal Profession*, "Islamic Law of Evidence by Qazi Muhammad Hussain Siddiqui", (Lahore: Feroz Sons, 1985), p. 349.

⁴⁰ Imām Muhammad Ibn 'Abdul Wāḥid, *Sharh Fath ul Qadīr*, (Beirut: Dār Aḥyā' Al Turāth Al 'Arabī), Vol. 2, p. 447.

⁴¹ Dr. S. M. Haider, ed., *Shari'ah and Legal Profession*, "Islamic Law of Evidence by Raja Bashir Ahmad Khan", p. 337.

⁴² Al-Qur'ān, 65: 2. For details see also Al-Qur'ān 5: 8, 4: 135, 49:6, 5: 108.

⁴³ Al-Qur'ān, 25: 72.

⁴⁴ Muhammad Al-Khatīb Al-Sharbinī, *Mughnī Al-Muḥtāj ila Ma'rifāt Ma'anī Alfāz Al-Minhāj*, Vol. 4, p. 426.

⁴⁵ 'Abdul Karīm Zaidān, *Nizām Al-Qaḍa' fī Al-Shari'ah Al-Islāmiyyah*, (Beirut:

Mu'assasah Al-Risālah, 1989), p. 165. See also: Dr. Muhammad Ibrāhīm Sa'd Al-Nādī, *Al-Qaḍa' fī Daw' Al-Fiqh Al-Islamī*, (Egypt: Maktabah al-Wafā, 2016), p. 241.

⁴⁶ Al-Qur'ān, 2:282.

⁴⁷ Al-Qur'ān, 65:2.

⁴⁸ Al-'Asqalānī, *Bulūgh al-Marām*, Kitāb Al-Qada', Bāb Al-Shahādāt.

⁴⁹ Al-Timadhī, *Sunan Al-Tirmadhī*, Kitāb Al-Shahādāt, Ḥadīth No. 2464.