

Women's Testimony in Islamic Law: Legal Philosophy. Context and Contemporary Misconception

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Abstract:

This Article Explores the concept of women's testimony(Shahadah) in Islamic Law, examining its legal philosophy, scriptural foundation, and contemporary misconceptions. Testimony, along with confession and oath, is a primary means of proving crimes in Islamic jurisprudence, and it carries significant moral and social responsibility. The study analyzes Quranic verses, Hadith, and classical jurist opinions to understand the context in which women's testimony is accepted or restricted, particularly in Cases of Hudud, financial matters, non-financial matters, and women-specific issues such as childbirth. The Article also addresses the rationale behind the so-called "half-testimony" of women, highlighting the jurists' reasoning in terms of social roles, memory, and justice, while clarifying that these rulings are not meant to undermine women's credibility. By contextualizing historical interpretations and addressing contemporary misconceptions, the study aims to provide a nuances understanding of the role of women as witnesses in Islamic legal thoughts.

Key words: Women's Testimony, Quranic Verses, Financial Matters, Non-Financial Matters, Social Roles, Memory, And Justice

Introduction:

The preservation of law and order is among the primary responsibilities of any governing authority. Within Islamic jurisprudence, the administration of justice is inseparably linked to the establishment of proof. No punishment or legal

consequence can be imposed unless a claim is substantiated through recognized evidentiary means. Islamic law identifies three principal methods for proving claims: Testimony (Shahadah), Confession (iqrar), and oath (yamin).

Among these, testimony occupies a central position due to its frequent application in judicial proceedings. The issue of women's testimony, however, has generated considerable debate, particularly in modern discourse where Islamic legal principles are often evaluated through contemporary legal standards with regard of their jurist context. This study aims to examine the concept of testimony in Islamic law, focusing specifically on women's testimony, its legal scope, juristic classification, and the reason underlying its varied application across different categories of cases.

Concept of testimony (Shahadah) in Islam

Linguistically, Shahadah denotes presence, observation, and conveyance of certain knowledge. In Islam legal terminology, it refers to a truthful declaration made before a judicial authority for the purpose of establishing or negating a legal right. Classical jurist emphasized that testimony must be based on direct knowledge acquired through sight, hearing, or undeniable perception, and that the witness must possess moral integrity and impartiality.

"روية خبرة باطن الشيء ودخلته، ممن له غنى في امره، فلا شهادة الا بخبرة وغنى في امره، فلا شهادة الا بخبرة وغنى ممن له اعتدال في نفسه، بان لا يحيف على غيره فيكون ميزان عدل وقال بعضهم: الشهادة كالشهود الحضور مع المشاهدة اما بالبصر والبصيرة"¹

“The knowledge of the internal situation to reach the threshold of a case without which there is no case to resolve and as if the full awareness of the matter is a condition for evidence. Some have said that the presence of a human being with vision-based observation is called evidence.”

¹ Al-Aanavi, Zainuddin Muhammad Abd, Ar-Ra'uf, Al-Toqif Ala Mohmat at-taarif, Alam ul kutub Al-Qahirah, 1410AH, 1/208.

Ibn al-Humam defines testimony as a decisive and truthful statement made in a court of law using explicit wording intended to establish a legal claim.

"والشهادة لغة اخبار قاطع وفي عرف اهل الشرع اخبار صدق لاثبات حق
بلفظ الشهادة في مجلس القضاء فتخرج شهادة الزور فليست شهادة"²

All these definitions are like a decision in an assembly that is to prove the right of a party or to oppose the right of a party to present a story that is true and that has seen it with eyes, or heard from ears, or felt through another source. Further he has nothing to do with this fact, he will be called witness. The testimony actually is an assurance from Allāh that when asked about an incident, he will tell exactly what happened. Allāh says:

"وَمَنْ أَظْلَمُ مِمَّنْ كَتَمَ شَهَادَةً عِنْدَهُ مِنَ اللَّهِ وَمَا اللَّهُ بِغَافِلٍ عَمَّا تَعْمَلُونَ"³

“And who is cruel than that who hides the testimony of God, which is with him (in the book)”. And god is not negligent of what you are doing. Allāh says at another place:

"يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ وَلَوْ عَلَى أَنْفُسِكُمْ أَوِ الْوَالِدِينَ
وَالْأَقْرَبِينَ إِنْ يَكُنْ غَنِيًّا أَوْ فَقِيرًا فَاللَّهُ أَوْلَىٰ بِهِمَا فَلَا تَتَّبِعُوا الْهَوَىٰ أَنْ تَعْدِلُوا وَإِنْ تَلَوُّوا أَوْ
تَغْرَضُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا"⁴

"O believer, stand with justice, and give true testimony for Allāh, whether (in this) is the loss of you or your parents and relatives. If one is rich or poor, God is good of them. So do not leave the justice behind the will of the soul. If you give a complicated testimony or you avoid (from testimony), Allāh knows all of your works.

The prophet Muhammad likewise classified false testimony among the gravest of major sins. The strong ethical framework underscore that testimony in Islamic law is not merely a procedural tool, but a moral trust (amanah) that carries spiritual and legal consequences.

² Ibn al-Humām, Kamāl al- Dīn Muhammad, Fath al-Qadīr, Dar Sadr Beirut, 1316h, 3/446.

³ Al-Baqarah 2: 140

⁴ An-Nisā' 4: 135

"عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ، قَالَ: سُئِلَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنِ الْكَبَائِرِ، قَالَ:
«الإِشْرَاكُ بِاللَّهِ، وَعُقُوقُ الْوَالِدَيْنِ، وَقَتْلُ النَّفْسِ، وَشَهَادَةُ الزُّورِ»⁵

When asked about the big sins from the Messenger of Allāh (peace and blessings of Allāh be upon him) he said, “To make a partner with Allāh, to disobey your parents, to take someone's life and to give false testimony.”

The testimony is a great one and a great post. Allāh has declared the just and for the witness.

Because the testimony is the trust of Allāh, it is considered to be a big sin to lie, to give false testimony.

Legal Status and significance of testimony

Islamic Jurists regarded testimony as a position of immense responsibility. Accepting the statement of one individual against another directly affects legal rights, personal honor, and, in certain cases, life itself. For this reason Islamic law imposes strict conditions on witness, including moral uprightness(adalah), sound perception, and freedom from bias.

Because testimony serves as a means of safeguarding justice, any distortion or concealment of evidence is considered a betrayal of divine trust. The quranic explicitly warns against withholding testimony and associates such conduct with moral corruption of the heart. Consequently, the evidentiary system in Islamic law is designed not only to establish facts but also to preserve ethical accountability with society.

Legal requirements of witnesses (Nisab al- Shahadath)

Nisab us Shahadat means the number of witnesses. This means that in different cases, how many witnesses are needed to decide a case. In some cases, the testimony of one man is enough. Some cases the testimony of one man and two

⁵ Al-Bukhārī, Al-Sahih, Book of al-Shahada, Bab Ma qeel Shahada al-Zour, Hadith no:2653.

women, and in some the testimony of two men and in few cases testimony of four men is required for verdict. This way it can be divided into four types.

Four male witnesses in Hudud Crimes

The testimony of the four witnesses will lead to a verdict in the case of fornication. The Qur'an says:

"وَاللَّاتِي يَأْتِيَنَّ الْفَاحِشَةَ مِنْ نِسَائِكُمْ فَاسْتَشْهَدُوا عَلَيْهِنَّ أَرْبَعَةً مِنْكُمْ"

“Take the testimony of four of your men for women who are accused of fornication.”

Similarly, the Messenger of Allāh (peace and blessings of Allāh be upon him) had told a companion, who had come to punish his wife in court for alleged lysing.

"عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ هِلَالَ بْنَ أُمَيَّةٍ قَذَفَ امْرَأَتَهُ عِنْدَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِشَرِيكَ ابْنِ سَحْمَاءَ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «الْبَيِّنَةُ أَوْ حَدٌّ فِي ظَهْرِكَ»، فَقَالَ: يَا رَسُولَ اللَّهِ، إِذَا رَأَى أَحَدُنَا عَلَى امْرَأَتِهِ رَجُلًا، يَنْطَلِقُ يَلْتَمِسُ الْبَيِّنَةَ؟ فَجَعَلَ يَقُولُ: «الْبَيِّنَةُ وَالْأَحَدُ فِي ظَهْرِكَ»⁷

“Hilal bin Umaiya accused his wife before the Prophet of committing illegal sexual intercourse with Sharik bin Sahma.' The Prophet said, "Produce a proof, or else you would get the legal punishment (by being lashed) on your back." Hilal said, "O Allāh's Apostle! If anyone of us saw another man over his wife, would he go to search for a proof." The Prophet went on saying, "Produce a proof or else you would get the legal punishment (by being lashed) on your back." The Prophet then mentioned the narration of Lian”

Bring four witnesses in proof of your charge otherwise you will have to take 80 lashes on your waist. The majority of Scholars (Jamhoor Ulma) agree that women's testimony in the matters of the Hudūd will not be accepted, but according to the Ibn Hazm Zahiri the testimony of women is half testimony in all matters whether they are Hudūd or not, so in his opinion, the act of sexual abuse is also

⁶ An-Nisā' 4: 15

⁷ Al-Bukhārī, Al-Sahih, Kitab ul Shahadat, Hadith 2671.

witnessed by three men and two women, two men and four women, one man and six women, or eight women if they are no men can be proven.⁸

Women's testimony in Hudud and Qisas: Juristic Reasining

The Evidence from The Ahadīth and Asaar also shows the lack of evidence of a woman in the Hudūd, because the Messenger of Allāh (peace and blessings of Allāh be upon him) said:

"ادرأو الحدود بالشبهات"⁹

“Remove the punishments from suspicion”.

And about the testimony of women in the Qur'aan

أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكَّرَ إِحْدَاهُمَا الْأُخْرَى"¹⁰

The words have come to show that if the testimony of women is accepted within the Hudūd, it creates a kind of suspicion, even though the doubt remove Hadod so the testimony of the women in the hadud is not trusted. The Imām Zahri narrates:

"مضت السنة من رسول الله ﷺ والخليفين بعده انه لا تجوز شهادة

النساء في الحدود والدماء"¹¹

Saeed ibn Maseeb narrated from Hazrat 'Umar¹² that the woman's testimony is not valid in divorce, Nikah and Hudūd o Qisaas.¹³

In Al-Muhalla is:

"وصح عن ابراهيم النخعي انه لا تجوز شهادة النساء في الطلاق ولا

في النكاح ولا في الحدود"¹⁴

⁸ Al-Andalusī, Ibn Hazm, 'Alī Ibn Ahmad ibn Sa'īd ibn Ḥazm, Al-Muhalla, Dar al fikr, Baroot, S.N, 8 / 476.

⁹ Al-'Asqalānī, Ibn Ḥajar, Abū 'l-Faḍl Ahmad ibn 'Alī, Fath Al- Bārī, Dar ul marifa Baroot, 1379, 11/85

¹⁰ Al-Baḡarah 2: 282

¹¹ Abdul Razzaq, Abu Bakar, Al-Munsaf, kitab Al-Hudūd, Baab Fi Shadat al-Nasaa, Al-Qutab al-Islami, Beirut, 1390h, 8/330

¹² 'Umar ibn al-Khaṭṭāb (584 CE – 3 November 644 CE), was one of the most powerful and influential Muslim caliphs in history. He

was a senior companion of the prophet Muhammad. He succeeded Abu Bakr (632–634) as the second caliph of the Rashidun Caliphate on 23 August 634. He was an expert Muslim jurist known for his pious and just nature, which earned him the epithet Al-Farooq. Omar was eventually killed by the 'Abū Lu'lu'ah in 644 CE.

¹³ Al-San'ānī, 'Abd al-Razzāq Ibn Hammām, Musannaf Abd alRazzāq, , kitab al Hudūd, bab fi shahadat un nisa fi Hudūd, Al-maktab

al Islami, Beirut, 1403AH, 10 / 58

¹⁴ Ibn Hazam, Al-Muhalla, 9 / 397

Ibrahim has narrated that the woman's testimony is not valid in divorce, Nikah and Hudūd.

The faqa'ah's point:

In Al-Hadiya is:

The testimony means that four witnesses testify to the charges of a man and a woman. Allāh says

Take the testimony of four of your men for women who are accused of fornication.

“Then they did not bring four witnesses”, and the Prophet (peace and blessings of Allāh be upon him) said to the man who had accused his wife of fornication. “Bring four men who testify to the truth of your view, and the purpose of the veil is fulfilled when four men bet on the condition.”¹⁵

Al-Mu'dawana tal-Qubra says:

If four men testify to the evidence of a man's fornication, the judge must ask him if he has raped the woman.¹⁶

In al-Mughni is:

"All Muslims believe that the testimony of less than four witnesses in the zina is not credible, based on this is the evidence of the Prophet (peace and blessings of Allāh be upon him) He said·"Bring four witnesses or you will be crushed on your backs" they also agree that witnesses should be just and free men... the testimony of women and slaves is not correct. That's the opinion of Imām Malik, Shafi and Ashab e Rai.¹⁷

¹⁵ Al-Marghanini, Al-Hadaiya, 2/482

¹⁶ Mālik bin Anas, Al-Mudawwana al-Kubra , Cairo, Egypt 1323, 16/35

¹⁷ Ibn Qudāma , Al-Mughni, Problem No.8331, 10/155.

Similarly, the Four Fuqha agree that the evidence of women in Hudūd and Qisas is not reliable. Ibn Qudāma has copied the Ummah's gathering on it.¹⁸

Two male witness

The testimony of two male witnesses is generally sufficient to establish most non-financial civil matters. All rights can be proved by two male witnesses. Similarly, financial matters, divorce, Rajooḥ, Nikah, Atak, Eela, Zahaar, Nasb, Wiladat and Wakalat etc. may be proven by the testimony of two men. The testimony of two men is valid in financial matters. For Allāh has said:

"وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ"¹⁹

According to classical jurists, this category encompasses rights that directly addict personal status and scholar order, where certainty is required but the evidentiary threshold does not reach the level demanded in hudud cases.

One man and two female witnesses

All matters relating to financial matters or subject to such matters, such as the Bai, the Haba, the Wasiat (will), the Rahan, the Kafala, etc., testimony will be accepted by the one man and two women. This verse is the evidence of this:

"وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ"²⁰

“Then testify two men of your own men, if there are not two men, then there are one man and two women”.

In all these cases, the verdict can be made on the basis of testimony of one man and two women. According to Ahnaf the testimony of one man and two women will be accepted in all the financial and other matters which are related to social matters. Social rights mean Nikah, divorce, Iddat, Breastfeeding (Raza’at),

¹⁸ Ibid, Problem No. 8333, 10/156

¹⁹ Al-Baḡarah 2 : 282

²⁰ Al-Baḡarah2 : 282

Hazanat, etc. So the testimony of two women will be accepted with men in financial matters and with men in matters of right.²¹

Importantly, this rule does not imply a deficiency in women's moral or intellectual capacity. Rather, jurists understood it as a contextual measure rooted in social practice and the probability of accurate recall in specific types of transactions.

Cases where women's Testimony is Exclusively Accepted

A woman's testimony will be accepted in the case of female matters in the according to Ahnaf and Hanbali. For example, the puberty of a woman, childbirth, the woman's internal illnesses and all such matters will only be decided on the testimony of a woman. For the Prophet (peace and blessings of Allāh be upon him) said:

"شهادة النساء جائزة فيما لا يستطيع الرجال التطراليه"²²

A woman's testimony is valid in every case in which men are prevented from seeing.

And Prophet (peace and blessings of Allāh be upon him) said:

"أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَجَّازَ شَهَادَةِ الْقَابِلَةِ"²³

The Messenger of Allāh (peace and blessings of Allāh be upon him) has allowed the only witness of the Daya to be accepted. Similarly there are many occasions in which he (peace and blessing-Such sexual issues which are usually less common and less familiar, such as women's sexual illnesses, evidence of birth, and the evidence of the virginity, only the women's testimony will be accepted. Only there is difference in the numbers that whether on woman is enough or two women's testimony will be accepted. Only one woman's testimony will be accepted

²¹ Ibn Qudāmah, Al-Mughni, masla No. 8333, 10/156

²² Al-Zayla'i, Jamāl al-Dīn, Abū Muhammad 'Abd Allāh ibn Yūsuf Ibn Muhammad, Nasb al Rāyah, Mossasa tu rayyan, Baroot.1418AH, 4/8.

²³ Al-Bahaqī, Al-Sunan, Book of al-Shadat, Baba Ma Jaa Fi Adadhuna, Hadith no: 20542

by the Ahnaf. But according to most Fuqha less than two women will not be accepted in these cases. He said that the Prophet (peace and blessings of Allāh be upon him) justified the evidence of Dai (Midwife) for birth.

” عَنْ عُقْبَةَ بْنِ الْحَارِثِ، قَالَ: وَقَدْ سَمِعْتُهُ مِنْ عُقْبَةَ لِكَيْ لِحَدِيثِ عُبَيْدٍ أَحْفَظُ، قَالَ: ”تَزَوَّجْتُ امْرَأَةً، فَجَاءَتْنَا امْرَأَةٌ سَوْدَاءٌ، فَقَالَتْ: أَرْضَعْتُكُمَا، فَأَتَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَقُلْتُ: تَزَوَّجْتُ فُلَانَةَ بِنْتَ فُلَانٍ، فَجَاءَتْنَا امْرَأَةٌ سَوْدَاءٌ، فَقَالَتْ لِي: إِنِّي قَدْ أَرْضَعْتُكُمَا وَهِيَ كَاذِبَةٌ، فَأَعْرَضَ عَنِّي، فَأَتَيْتُهُ مِنْ قَبْلِ وَجْهِهِ، قُلْتُ: إِنَّهَا كَاذِبَةٌ، قَالَ: كَيْفَ بِهَا وَقَدْ زَعَمْتَ أَنَّهَا قَدْ أَرْضَعْتُكُمَا؟ دَعَهَا عَنْكَ“²⁴

“I married a woman and then a black lady came to us and said, "I have suckled you both (you and your wife)." So I came to the Prophet and said, "I married so-and-so and then a black lady came to us and said to me, 'I have suckled both of you.' But I think she is a liar." The Prophet turned his face away from me and I moved to face his face, and said, "She is a liar." The Prophet said, "How can you keep her as your wife when that lady has said that she has suckled both of you? So abandon means divorce her your wife”

Legal Wisdom behind Different testimony

The differentiation in evidentiary standards between men and women in Islamic law must be understood through its legal philosophy rather than modern assumptions of equality and discrimination. The quranic allowance of two female witnesses in place of one male witness in financial transactions is accompanied by an explicit rationale's that if one of them errs, the other may remind her.

Classical exegetes such as Fakhar al-din-Imām Razi interpreted this verse as a pragmatic measure linked to customary social roles rather than an inherent deficiency. He noted that women, due to their limited involvement in commercial dealing in early Islamic safeguard rather than a judgment of inferiority.

"ان تضل" means that the females are dominated by the forgetfulness because of their coolness and the abundance of affection and the gathering of two women on the forgetfulness is far more remote than a woman's forgetfulness and that is why the

²⁴ Al-Bukhārī, Al-Sahih, kitab un Nikah, Bab Shadad al-Murda'ah, Hadith no:5104

testimony of two women is equal to one man so that if one forgets the other will remind her.²⁵

Muhammad Mustafa al-Maraghi in his interpretation of this verse, explains the ruling:

"إذا قد جرت العادة ان المرأة لا تشتغل بالمعاملات المالية ونحوها من
فيها، بخلاف الامور المنزلية فان ذاكرتها فيها المعاوضات، فتكون ذاكرتها ضعيفة
اقوى من ذاكرة الرجل فقد جبل الانسان على ان يقوى تذكرة لما يهتم به ويعنى
بشانه، واشتغال النساء في هذا العصر بمسائل المالية لا يغير هذا الحكم، لان الاحكام
انها تكون للاعم الاكثر، وعدد هؤلاء قليل في كل امة وجيل"²⁶

"In such cases, women are less likely to face the matters like that is why her memory is weak than a man, and in domestic matters, women are more likely to be involved in financial matters than men, and in this time, many women are not allowed to change this order because the rulings are based on the majority of the women and they are still minor in numbers"

Rashīd Ridā further observed that Islamic law legislates on the basis of general patterns rather than rare exceptions. While women's participation in financial affairs has increased in modern times, Shariah rulings are structured around predominant societal norms to ensure legal stability. "Two women are mentioned because this was not their department,"²⁷

The other thing is that Islam wants to give more and more rest to women. He does not want women to be dragged into the courts if there is a conflict in such cases and they face the interrogation of the courts and lawyers all day long. It is not a matter of honor and pride, but a bitter and unpleasant responsibility. Therefore, such documents should be made primarily witnesses to men to protect women from the burden of doing bad things.

Contemporary Misconception and their Rebuttal

²⁵ Al-Rāzī, Fakhr al-Dīn, Abu Abdullah Muhammad ibn Umar ibn al-Husayn, Al- tafseer al- kabir, Beirut: Dar Al-Ahya Al-Taras Al-Arabi, 1420 AH, 7/113

²⁶ Al-Maraghi, Muhammad Mustafa, Tafseer al-Maraghi, Mustafa al-Albai al-Halbi, 1365-1946, 3/71.

²⁷ Muḥammad Rashīd Riḍā , Tafseer al-Manar t tafseer Quran al-Hakim, Beirut, Lebanon, 1990,3/124,125

Modern critiques often claims that Islamic law devalues women by assigning lesser weight to their testimony. Such arguments, however, result from isolating specific rulings without considering the broader evidentiary framework. Islamic law does not apply a single rule of testimony across all cases; rather, it calibrates evidentiary standards according to the nature and consequences of each claim.

In several domains, women’s testimony is either equal to or superior to than men. In maters exclusive to women-such as childbirth, breastfeeding, menstruation, and female medical conditions-women’s testimony is decisive and sufficient. In these cases, male testimony is irrelevant and legally disregarded.

Furthermore, the exclusion of women’s testimony in hudud does not signify distrust but reflects the Islamic commitment to avoiding irreversible orientation of Shariah, which prioritizes mercy,caution,and the preservation of human dignity.

Evaluating Islamic evidentiary law through modern legal or feminist paradigms without acknowledge its internal coherence leads to misinterpretation. A holistic reading demonstrates that Islamic law assigned evidentiary roles based on reliability, access to knowledge, and social responsibility, not on gender hierarchy.

Conclusion

Women’s testimony in Islamic law represent a nuanced and context-sensitive legal doctrine grounded in justice, ethical responsibility, and social realism. The differentiation in testimonial weight is neither absolute nor universal; it varies according to the type of case, the level of certainty required, and the likelihood of accurate observation.

Rather than marginalizing women, Islamic law integrates their testimony where it is most authoritative and reliable, while imposing stringent safeguards in case involving severe criminal penalties. Contemporary misunderstanding largely stem

from selective readings and the imposition of external legal frameworks upon a system with its own distinct objectives and methodologies.

A comprehensive examination of the Quran, Sunnah, and classical jurists discourse reveals that Islamic evidentiary law upholds fairness, caution, and moral accountability. When assessed within its proper framework, women's testimony emerges not as a symbol of inequality, but as an integral component of a justice system deeply committed to balance and human dignity.