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**Islamic Law of Evidence and the application of technology
 in Islamic criminal justice system**

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Islamic Law of Evidence and the application of technology in Islamic criminal justice system

¹ Hazrat Bilal

Abstract:

The subject of search and investigating facts of a dispute remains a substantive concern of the human mind throughout the history. One of the most important aspects of probing facts regarding a particular case, is searching for the perpetrator of that crime; a phenomenon that is widely exercised by different cultures and civilization from ancient times to the present day. Hence, the reaction towards crime as a social phenomenon has varied from one historical period to another. Human efforts varied in different ages about the search for means to prove crime and its attribution to the perpetrator. Based on these differences, the means of evidence and the procedure to access them differed from one community to another. Accordingly, diverse legal proof systems or evidence laws emerged in different ages and societies. The modern science give rise into many developments including those used by the investigating agencies and judges to identify illegal acts in technical manner leading to the emergence of new evidentiary system, the system of scientific evidences that had overcome the element of ambiguity associated to many crimes and has become much more sophisticated beyond the traditional method. From this point of view, it is necessary to clarify their legitimacy in Islamic perspective, especially at times of increased criminal instances where, no society is free of criminal conducts and where, complete prevention of the crimes is impossible.

Key words: Crime, Evidence, dispute, Modern Science, Islamic Perspective.

Definition

Evidence, in Arabic *Ithbāt*, verbal noun of the fourth form of the root *thābit*, has the general meaning of to witness, to show, to point to, to demonstrate, to prove, to establish, to verify and to establish the truth, to establish (the existence of something).¹

Technically, evidence in civil matters is defined as: “to establish proof before the courts by all legal means determined by the legislation regarding the existence of a legal fact that has given rise the dispute”.²

In Criminal cases evidence is defined as: “to establish proof before the courts or jury by all legal means to identify the validity of a legal right claimed by one side of the dispute and denied by the other side”.³

“Hence, the evidence in a broad sense is anything that proves or disproves the fact disputed in a court. The main aim of the evidence in Islam is that an innocent must not be punished and a guilty must not escape from punishment. The evidence is a restrainer to false, weak and un-substantiated claims and complaints”.

Importance:

The Islamic Law or Sharī‘ah has established the judicial process to safeguard rights, administer justice, apply judgments and ensure fairness in resolving disputes of people.

The judge enjoys this power and authority, but he cannot establish facts and causes of all disputes and incidents by his own especially when he is deciding between two opponent parties each claim the right and attribute it to himself. The judge is unable to pass ruling without evidence; here comes the role of evidence to end the dispute and to adjudicate the case. The evidence here, is the point of reference for a judge to support and base his ruling upon with as well as the plaintiff's means of upholding his claim and demonstrating the right.

Hence, evidence is the criterion in distinguishing truth from falsehood and a barrier to false claims. This point is further endorsed from the tradition of the Holy Prophet (SAW): “لَوْ يُعْطَى النَّاسُ بِدَعْوَاهُمْ، لَادَّعَى نَاسٌ دِمَاءَ رِجَالٍ، وَأَمْوَالَهُمْ، وَلَكِنْ الْيَمِينُ عَلَى الْمُدَّعَى عَلَيْهِ.” “If people were given whatever they claimed (in disputes), some people would claim the lives and wealth of others; but the oath (of denial) must be taken by the defendant.”⁴ In another tradition the Holy Prophet is reported to have said that: “الْبَيِّنَةُ عَلَى الْمُدَّعِي.” “But the proof (Bayyinah) lies on the one who is making the claim, and the other (Yamin) must be taken by the one who rejects the claim”⁵. This indicates the significance of the evidence in a dispute where the claim is not admissible without evidence; otherwise people would have been overly initiating claims, demanding others property or attacking others' lives and wealth.

Consequently, every claim need proof, and every statement is admitted only by argument and clear evidence. Moreover, justice is not prevailed and at risk of being lost if it is not supported by proof. Therefore, some scholars say that evidence is the ransom of truth or the acknowledgement of truth, and without the evidence, rights would have been lost as stated in the above mentioned Ḥadīth.⁶

Hence, on the basis of evidences, the golden Islamic rulings were laid, attribution of rights to their actual owners previously in the hands of illegal keepers and oppressors, implementing the orders of Almighty Allah in this world, the realization of pure servitude for him according to his will, and the administration of balanced justice system are established.

Accordingly, evidence as means of demonstrating the right to its actual owner is the fundamental element of justice that Allah has commanded to adhere to and implement it.⁷

Requirements for Admissibility of Evidence in Sharī‘ah

The Muslim Jurists have mentioned several requirements for the admissibility of evidence. Some of these requirements are given below.

The evidence must be tied to any particular legal issue raised by the petition:

Evidence in the court is presented for the purpose of authorizing right of one individual over the other. Therefore, evidence must not be produced unless the petitioner in a dispute requires so. This requirement for the admissibility of evidence is based on the tradition of the Holy Prophet (SAW) in which he says, “خَيْرُ أُمَّتِي الْقَرْنُ الَّذِيْنَ بُعِثْتُ فِيْهِمْ ثُمَّ الَّذِيْنَ” “The best age of my Umma is one in which I was sent (by Allah as an Apostle), then the one next to that. (The narrator said): And Allah knows best whether he stated this third

(time) or not. Then there would come people who would love (to look) bulky and they would hasten to the witness box before they are asked to bear witness.”⁸ And “أَحْضَرُونِي فِي أَصْحَابِي ثُمَّ الَّذِينَ يَلُونَهُمْ ثُمَّ الَّذِينَ يَلُونَهُمْ ثُمَّ يَفْشُو الْكَذِبُ حَتَّى يَشْهَدَ الرَّجُلُ وَمَا يُسْتَشْهَدُ وَيَحْلِفُ وَمَا يُسْتَحْلَفُ” “Honor my Companions for my sake, then those who come after them, then those who come after them. Then lying will prevail until a man will give testimony without being asked to do so, and he will swear an oath without being asked to do so”⁹ Hence words of the Prophet (SAW), “they would hasten to the witness box before they are asked to bear witness” and “Then lying will prevail until a man will give testimony without being asked to do so, and he will swear an oath without being asked to do so” clearly indicates that the principle requirement in producing evidence and swear is when asked by the judge or the petitioner.

However, the Muslim Jurists are agreed that the cases related to the rights of Allah (Huqūqullah), can be filed by any one and thereby producing evidence without being asked by the Judge, as it is the duty of every believer to protect the rights of Allah.¹⁰

Evidence must be relevant to a fact in issue:

“Basically, if evidence is to be admitted at court, it must be relevant, material, and appropriate. To be considered relevant, it must have some reasonable tendency to help prove or disprove some fact. It need not make the fact certain, but at least it must tend to increase or decrease the likelihood of some fact. Once admitted as relevant evidence, the finder of fact judge or jury will determine the appropriate weight to give a particular piece of evidence. A given piece of evidence is considered material if it is offered to prove a fact that is in dispute in a case. For example, if a case is filed with regard to illegal occupation of a land by someone and the evidence produced defines robbery of a house; the evidence is irrelevant and not admissible at court”.¹¹

The evidence must have effect on the outcome of the case:

Only those evidence are admissible at court that would likely have effect on the outcome of the case. For instance, if someone claimed the ownership of a house and he proved that it was in his possession yesterday; this is not admissible evidence due to the possibility of his possession on someone else property, unless otherwise prove his ownership.¹²

Evidence produced must be in front of the Jury:

The evidence produced must be at court or in front of the jury hearing the case so that the judge is authorized to pass order in the litigation, since any order passed by a judge other than a legal forum is not acceptable.¹³ If the petitioner swears or produces evidences out of the court proceedings or in front of people other than the jury hearing the case, then the evidence is neither admissible nor authorize a judge to pass order in a case presented before him as any witness or evidence produced other than the court proceeding is not admissible evidence.¹⁴

Evidence produced must be certain, definite or provides sense of dominant knowledge

If the evidence produced is based on suspicion or hesitation, it is not acceptable. Evidence produced must be certain, definite or at least provide the dominant

knowledge and understanding of a fact in dispute.¹⁵ This principle is laid by the Holy Qur'ān, “وَلَا يَمْلِكُ الَّذِينَ يَدْعُونَ مِنْ دُونِهِ الشَّفَاعَةَ إِلَّا مَنْ شَهِدَ بِالْحَقِّ وَهُمْ يَعْلَمُونَ” “And those whom they call upon besides Him have no authority for intercession, but he who bears witness of the truth and they know (him).”¹⁶ And tradition of the Prophet (SAW), “The Prophet (SAW) said to a man, "Do you see the sun?" He replied, "Yes." He said, "Give witness in a similar case [which is as clear as the sun], or leave it.”¹⁷ Hence, the key requirement here is that the evidence shall be clear and certain. The addition of dominant knowledge is based on the opinion of muslim jurists authorizing dominant knowledge or understanding (*ghalabat al-Zann*) in many legal and other matters where access to the definite knowledge is not possible.¹⁸

Evidence produced must conform to the legal acts, logical common sense and creates link to the situation

Evidence produced shall not be against the directives and basic principles of law or *Sharī'ah*. Evidence should be sound and must be in accordance with the logical common sense of mass of the people. If evidence produced were far away from the common sense of mass of the people or against the legal doctrines, then the evidence are certainly false and fails to establish.¹⁹ For instance if someone provided evidence regarding right of an individual in inheritance more than his legal right established by law, the evidence shall not be admitted.²⁰ Similarly, a person declare himself eye-witness of a murder case actually occurred before his birth date.²¹ Example of evidence which does not create link to the situation, a person well known in a situation of deep poverty claim property from a well-known richest person; the evidence produced in such case is not admissible.²²

Means of Proof must be valid and in accordance with *Sharī'ah*

Evidence produced through any means of proof which is prohibited by *Sharī'ah*, is not admissible; e.g. evidence through black magic, witchcraft, sorcery or fortune-tellers.²³ Therefore, means of evidence shall conform to the means established by Islamic law which includes, confession, witness, swear, documentary and circumstantial evidence etc.²⁴ briefly explained in the coming lines.

Modes of Evidence in *Sharī'ah*

The Muslim Jurists have difference of opinion regarding means and methods of proof. The Majority Jurists have restricted means of evidence to a particular number; however, few other prominent Jurists have made it open to every means of evidence having the tendency of making a fact probable or certain. These two approaches are given below.

The First Approach:

The First Approach adopted by the majority of Jurists (*Jamhūr Fuqaha*), restricts the modes of proof to three methods only; they are Confession (*Iqrār*), Testimony (*Shahādah*), Oath (*Yamīn*) some relates Refusal to take Oath (*Al-Nukūl*) to Oath, Others restricts them to seven²⁵ listed below:

1. Confession (*Iqrār*)

“Confession or *-iqrār* - is considered as the strongest mode of proof to some. It is in fact, labelled as *sayyidul hujaj* -the king of all sources of proof”.²⁶ “Iqrār is one of the strongest methods of proof in Islam. There is no disagreement among the jurists on this issue. Iqrār which derives from the root word *qarra, yuqarru, qirāran* literally means admission or recognition.”²⁷ “Technically it is defined as, an admission by the maker of the admission regarding the right of another person against himself”²⁸, also defined as, “a testimony of the maker of the admission through the use of particular wordings, pertaining to a right or interest *-ithabāt al-ḥaq-* in favour of another person, and disadvantageous to the right or interest of the maker himself.”²⁹

2. Testimony (*Shahādah*)

‘Testimony, the Arabic word *Shahādah* is derived from the Arabic verbal root *Shahādah*, which means to see, to witness, to testify, to become a model and a paradigm. *Shahādah* therefore, literally means to see, to witness and to become a model. A Shahid is the person who sees and witnesses”.³⁰

Technically testimony (*shahāda*) is defined as “attestation with regard to a right of a second party against a third.”³¹ It is also defined as, “to give true information before a court of what one has seen or known for the purpose of proving or disproving a right or crime pronouncing the word testimony *Shahādah*”³². In *Sharh al- Majallah* it is defined as: “Testimony is the passing of information by pronouncing the word *Shahādah* in front of a *ḥakam* Judge/Jury and in the presence of parties in dispute for establishing right of someone due on the other one”.³³

3. Oath (*Yamīn*)

Oath is normally used to affirm reality and reliability of information. Similarly, it is used in another occasion to show the seriousness and authenticity of what the speakers talking about. In the same vein, oath may refer to a vow to carry out or not to carry out a particular act. In Islam, before an oath becomes binding, the speaker must make pronouncement of Allah’s Name or His Attribute. If he does so, the oath becomes binding and if it is broken, expiation must be carried out.³⁴ Oath is defined as a sentence that confirms a statement through emphasis.³⁵ In a nutshell, an oath is a verbal statement conjoined with a phrase of swearing, such as “By Allah” or “I swear by Allah.” The above definition show that oath taking connotes a kind of commitment on the part of those involved to do or not to do something. Uttering the name of the Almighty give’s credence to the matter at hand and makes Him a witness to the matter especially when testimony or witnesses are not obtainable.³⁶

4. Refusal to take Oath (*Al-Nukūl*)

Al-Nukūl means refusal of Defendant to take an oath when he is ordered to do so. The principle of refusal of Defendant to take the oath (*Al-Nukūl ‘An Al-Yamin*) and the returned oath (*Yamīn Al-Mardūdah*) has three legal effects.³⁷

a) According to the Ḥanafī School of thought judgment will be passed against the Defendant and oath will not be returned to the Plaintiff.

b) According to the Majority Jurists judgment cannot be passed against the Defendant and the oath must be returned to the Plaintiff.

c) According to Ibn-e-Hāzm judgment cannot be passed and oath cannot be returned to the plaintiff but the defendant will be detained until he admits.³⁸

5. Compurgation “*al-Qasāmah*”

Compurgation “*al-Qasāmah*” is derived from “*al-iqsām*” or “taking of an oath” and the verb “*Yaqsimu*” means to “take an oath”.³⁹ “In the light of Islamic Jurisprudence the term *al-Qasāma* means an Oath taken by 50 members of a tribe or a locality to refute accusations of homicide”.⁴⁰ Imām Mālik bin Anas ruled to this effect: “So fifty on the men of his people swear fifty oaths. If there are not fifty men, more oaths can be made by those of them who already swore. If there is only the defendant, he swears fifty oaths and is acquitted”.⁴¹

6. Judgment based on the personal knowledge of Judge (Qaḍā ‘al-qāḍī bi ‘ilmihī al-shakhṣī)

“The jurists differed in opinion about whether a judge can rule in favor of someone according to his knowledge without evidence or testimony, or whether he is not to judge except with the evidence that is presented to him and the testimony of the disputing parties? *Mālik* and most of the scholars of his School said: the judge is not to judge except with either evidence or testimony. This is also the view of *Ahmad* and *Shurayh Al-Shāf‘ī*, *Al-Kūfī*, *Abu Thawr* and a group of scholars said: the judge may pass a judgment based on his knowledge. On the other hand, *Abū Hanīfah* and his companions particularized the matters in which a judge may make a decision based on his knowledge, saying that a judge is not to make a judgment based on his knowledge in matters of *Hudūd* -crimes with prescribed punishments-, i.e., in Zina, theft, wine consumption and slander, but he can judge in other matters. *Abū Hanīfah* and his companions also particularized the type of knowledge which a judge can base a decision on, saying he may judge with knowledge he acquired after taking the position of judge but not with knowledge he acquired before taking the position of judge.”⁴²

7. Conclusive Circumstantial Evidence (*Qarīnah al-Qaṭ‘īyah*)

Qarīnah (Circumstantial Evidence) in its literal meaning means “connection, conjunction, relation, union, affiliation, linkage or association”.⁴³ “Technically, it is defined, “*Qarīnah* are signs leading to a conviction”⁴⁴ or “*Qarīnah* are clear signs - proof- related to something vague to which the signs point.”⁴⁵ And “*Qarīnah* are clues or signs indicating the presence or absence of something”⁴⁶. “Majority of ‘*ulamā*’ from the four scholars have accepted and recognized *Al-Qarīnah* as one of means of proof. Nevertheless, there are also several scholars who rejected the applicability of *Qarīnah* as one type of proof. The crux of their argument rest on the issue that however strong the circumstantial is, it still contains slight element of doubt.”⁴⁷ “In general, majority of Islamic scholars recognized *Qarīnah* as means of proof under Islamic law. However, the only question remain is to what extent this type of evidence should be applied and whether it can also be used to prove *Hudūd* offences? Technically,

Islamic scholars are divided in this issue although they unanimously agreed that there is no objection with regard to use *Qarīnah* in proving *Ta'zīr* offences".⁴⁸

The Second Approach:

The most prominent followers of the second approach among the Jurists are *Ibn Taymīyya's* famous disciple, *Ibn Qayyim al-Jawzīyyah*. According to this approach the means of proof are not restricted to a particular number and any means of proof that a defendant may present at court to prove his innocence is acceptable. Similarly, the judge is not bound to admit limited means of proof, rather to accept all kind of evidences having the tendency of making a fact probable or certain.⁴⁹

"In fact, *Ibn Qayyim* had stressed that the final purpose of the law of God is to establish justice among all people and as such, whatever means used to achieve such purpose must be taken as legitimate. What more when there is a situation where definite evidence cannot be procured, we have to look to the nearest available evidence in order to uphold the justice. The meaning of *bayyinah* is not exhaustive but comprehensive in the sense that it refers to anything which clarifies, explains or proves a particular thing."⁵⁰

The Preferred Approach:

After examining opinion of the Muslim Jurists in above two approaches, the view adopted by the followers of second approach who accept all kind of evidences having the tendency of making a fact probable or certain look more favorable. The concept of justice in Islamic law is to protect the rights of the people and ensure justice through legislation identifying the means of proof so that all people retain their rights securely and protect them against all such meddling or attacks by the dominant or tricky hands, so that the criminal mindset find no space to commit a crime. Moreover, ruling is not passed in favor of every claimant by simply claiming, nor against each accused by simple charge.

Islamic law had clarified the means and methods of evidence as well as outlined the extensive rules of proof, nonetheless, it has not precluded other methods of proof that results in the acquisition of reliable knowledge and belief of the judge hearing the petition; or at least evidence that has a high probability of being true, for its veracity has been justified by a reliable method (Justified true belief).

Islamic Law does not diminish the importance of new scientific means that our classical great jurists did not know, and which have emerged due to advances in inventions and discoveries related to scientific progress and technological development. Islam conducts a Muslim's life in all its aspects, that's why it is not only a religion but also a way of life and a complete code regulating the whole Muslim society, every department of life in all times and ages. Unlike acts of ritual worships (*ibādāt*), means of proof provided by Islamic law are not confined only to those stated in the classical texts of Muslim jurists, but rather closer to *Mu'āmalāt* which addresses the social affairs and other practicalities of Muslim's daily life. Therefore, Islam recognizes all public interest means and standards including the modern standards which reasonably ensures the overall community needs and interest to accomplish security, tranquility, justice, crime control and protect rights of every individual.⁵¹

Application of technology in Islamic criminal justice system

“Technology offers an ever-expanding array of benefits to criminal justice system. It makes investigations and prosecutions more efficient and effective; it also eases crime detection and enables offenders to be brought into justice. In general term the benefits of technology in criminal justice system includes determining if a crime has been committed, how it was committed, when it was committed and the sequence of events that occurred at its commission; It helps in identifying the victim of the crime, exonerating the innocent, identifying the guilty, complementing less reliable evidence and absolving the wrongly convicted; It link the guilty to previously unsolved crimes, resolve cases that took place long ago and save investigators time and effort.”⁵²

“The criminal justice system is not infallible and sometimes a search for truth may take a tortuous path. Thus, technology such as forensic technology greatly helps in exonerating the innocent and ensuring that the guilty were brought to justice. Clearly, technology has given the police and the court a means of identifying the perpetrators of crimes with a high degree of confidence.

From an Islamic Perspective we may say that Technology is series of objects and networks that flows from knowledge; something the prophet SAW have stressed its importance on numerous occasions. In a Ḥadīth the prophet SAW was reported to have said” “Allah makes the way to Jannah easy for him who treads the path in search of knowledge.”⁵³ In addition to that, “the holy Qur’ān contains numerous references to knowledge and its importance. The first verse revealed to the holy prophet focus on the importance of acquisition of knowledge. It asks the prophet to read. Says it”; “Read in the name of your Lord Who created. He created man from a clot. Read and your Lord is Most Honorable, who taught (to write) with the pen. Taught man what he knew not.”⁵⁴

This explains that “Islam is in support of application of technologies even if they were from foreign lands so long their application did not go contrary to the values of Islamic principles. For instance, in the early period of Islam when cultivation and husbandry methods were embraced by Muslims from the imperial dynasties of Sham regions”.⁵⁵ Still in that early time, after the “Battle of Badr”⁵⁶ “some pagan captives were allowed by the prophet SAW to redeem themselves by teaching the Muslims some aspects of their knowledge. What was learnt from the captives was later put into practice by the Muslim populace”.⁵⁷

“Still during the early period of the emergence of Islam, the practical purposes for determining the accuracy of the lunar calendar, direction of Qibla and the time of prayer led to the development and practical use of astronomical instruments; also, the need by the prophet’s companions to write down revelation in the form of book led them to apply the paper-making techniques from foreign lands. So were the problems of trade over long distance, it led to the development of navigational techniques”.⁵⁸

Coming back to the core issue of using technology in the Islamic criminal Justice system, “Technology, as the central drive for a modern world, presents new challenges on Islamic criminal justice system. Whatever being the challenges, however, faith is

not a key problem in its application. This is because the application of the science of forensic criminology can be found in the Qur'ānic verses and practices of early Muslim adjudicators. In a dramatic encounter between prophet Yūsuf AS and his Master's wife who tried to seduce him, as he rushes to the door to escape, she ran after him and caught hold of his shirt, like a drowning person clinging to the boat. In her tugging, she tore his shirt from behind. At the door they suddenly met her husband. So, she immediately changed her tone to anger and accused Yūsuf AS of molesting her -to give the impression that she was innocent. Though bewildered, Yūsuf AS denied this twist of events and so the issue was open for adjudication. A wise witness proffers a way out by explaining that the basic principles of forensic criminology in a sexual assault case is that, if the shirt of the accused is torn from the back, then it is most likely caused by the female who is in pursuit of her desire. Thus, in this case the female is most likely at fault. And if the shirt of the accused is from the front, it is likely caused by the victim trying to prevent the assault of the accused person. Thus, in this case the male is most likely at fault.” The holy Qur'ān says it all; Qur'ān speaks, “قَالَ هِيَ رَاوَدَتْنِي عَنْ نَفْسِيَّ وَشَهِدَ شَاهِدٌ مِنْ أَهْلِهَا إِنْ كَانَ قَمِيصُهُ مِنْ أَمَامٍ فَكَذَبَتْ وَهُوَ مِنَ الْكَاذِبِينَ. وَإِنْ كَانَ قَمِيصُهُ مِنْ دُبُرٍ فَكَذَبْتَ وَهُوَ مِنَ الصَّادِقِينَ. فَلَمَّا رَأَى قَمِيصَهُ مِنْ دُبُرٍ قَالَ إِنَّهُ مِنْ كَيْدِكِنَّ إِنَّ كَيْدَكِنَّ عَظِيمٌ” “He said: She sought to make me yield (to her); and a witness of her own family bore witness: If his shirt is rent from front, she speaks the truth and he is one of the liars: And if his shirt is rent from behind, she tells a lie and he is one of the truthful. So, when he saw his shirt rent from behind, he said: Surely it is a guile of you women; surely your guile is great”.⁵⁹ “In addition, in the highlighted story of the tragedy of the same prophet Yūsuf, when he was thrown into a well his siblings brought back to their father Yusuf's shirt that was stained with blood.” It is as mentioned in Surah Yusuf, “وَجَاءُوا عَلَى قَمِيصِهِ بِدَمٍ كَذِبٍ” قَالَ بَلْ سَوَّلَتْ لَكُمْ أَنْفُسُكُمْ أَمْراً فَصَبْرٌ جَمِيلٌ وَاللَّهُ الْمُسْتَعَانُ عَلَى مَا تَصِفُونَ “And they brought his shirt with false blood upon it. He said: Nay, your souls have made the matter light for you, but patience is good and Allah is He Whose help is sought for against what you describe.”⁶⁰ “This is interpreted by exegesis scholars that the siblings of Prophet Yūsuf used the blood of a lamb instead of the blood of Prophet Yūsuf as evidence for the latter's death”⁶¹. As a construct of the crime their father has recognized that the blood was not from a human based on his earlier experience as a shepherd.

“Today, Blood is one of the most important biological traces that are often found on the crime scene. Due to valuable information, it contains, it is considered to be a very important forensic tool. Analysis of different aspects of bloodstains can contribute to clarify the circumstances under which some violent crimes have been committed. Such crucial information can point criminal investigation in the right direction and help solve the crime. In some cases, it can also help with legal determination of criminal offense which can lead to more accurate and more appropriate punishment for the perpetrator. It is very important to determine the sequence of events during the commitment of a violent crime involving blood”.⁶²

“Similarly, in the early Islamic History Two men once came to plead before *Iyas ibn Mu'awiyah al-Muzanī*. One of them said: I went down to the river to bathe. I had a brand new green *djellaba* -A loose hooded cloak, typically woolen, of a kind traditionally worn by Arabs⁶³- that I took off and placed by the bank of the river. This other man came wearing an old red *djellaba*. He took it off and went into the water. When he came out, he ran ahead of me and took my green *djellaba*.’ Iyas asked them: ‘Do either of you have any proof?’ They said no. So, he ordered a comb to be brought into the court and had them combed. Some green woolen threads were found in the hair of the owner of the green *djellaba* so Iyas ordered it restored to him.”⁶⁴

Conclusion:

To summarize, “there is no conflict between Islam and technology in so far as it helps the Muslims gain increased understanding of how the world works; also, in so far as it is within the framework of values derived from Qur’ān and Ḥadīth. Qur’ānic verses encourage study and contemplation of the universe that surround us. Therefore, any appliance or system that enables Muslims to know the scheme of creation and development cannot be rejected by the Islamic law of Criminal Justice”.

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