

Chapter – 45

Witness / Evidence

(گواہی)

❖ وَلَا تَكْتُمُوا الشَّهَادَةَ وَمَنْ يَكْتُمْهَا فَإِنَّهُ آثِمٌ قَلْبُهُ -

And do not hide testimony; and if one conceals it, he has sinful heart. (02:283)

❖ يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةٌ ----- شَهَادَةَ اللَّهِ إِنَّا إِذَا لَمِنَ الْإِثْمِينَ -

❖ فَإِنْ عَثِرَ عَلَىٰ أَنَّهُمَا ----- وَمَا اعْتَدَيْنَا إِنَّا إِذَا لَمِنَ الظَّالِمِينَ -

❖ ذَلِكَ أَدْنَىٰ أَنْ يَأْتُوا ----- وَاللَّهُ لَا يَهْدِي الْقَوْمَ الْفَاسِقِينَ -

O believers! When death approaches you, let two honest men among you be witness when you dictate your last will; In case you are travelling and the time of death approaches you, then after prayers, engage two of those other than yourselves as witness: if any doubt occurs (for them) you shall detain both of them who should swear by Allah that “we shall not swap over our oaths for any price even if he is a near relative: nor we will hide the testimony of Allah; if we do so then surely we are the sinners”. (05:106)

If later it is known that both of them (the witnesses) committed sin, then two others may take their place and swear by God: “our testimony is truer than these two, and we will not exceed the limits; if we do then surely we shall be of the unjust”. (05:107)

This is more likely that they will either bear the right testimony or else they will at least fear that their oaths may be invalidated by other oaths; Have fear of Allah and listen to it. Allah does not direct the disobedient to the right way. (05:108)

Witnessing is an important matter. Certainty or suspicion is obtained through an eyewitness. Coming to the certainty or feeling a sort of suspicion is not man’s action but it is a reaction of heart.

Importance of ‘an eyewitness’ depends on the importance of the ‘matter’. Before presenting the witnesses in front of the court, secret enquiries regarding the character and activities of these witnesses are very much essential.

In Islam, allegation of raping is a very delicate substance. Therefore it needs 4 witnesses. Due to the natural ignorance of women their participation for witnessing in rape cases is not allowed.

- ❖ What are the criteria of witnessing? How many witnesses are required? And how the witnesses should be?
 - In fact, importance of the criteria of eyewitness depends on the importance of the matter.
 - Those matters which occur quite openly, or those are already open to all, few witnesses would be enough because when they describe something it may bring certainty. For example, all know that for the obligatory prayer, in Asr there are 4 ركعة (an individual unit of salaah) and in Maghrib there are 3 ركعة to offer. But if three or four persons come and mention that in Asr there are 3 ركعة and in Maghrib there are 4 ركعة to offer, then these witnesses will not be accepted.
 - If an allegation is made on a woman that she is involved in rape, it is a very important case in Islam. For this, 4 witnesses are essentially required. If only 3 persons give their statements in this regard then it will not be accepted and that woman will not be considered as guilty. Rather, it will still be treated as allegation, and those 3 persons will be punished.
 - In the matter of حدود (Punishment according to Islamic laws), two eyewitnesses are essentially needed. But they should be men. In financial matters, 2 men, or 1 man and 2 women are required as eyewitness.
 - In those matters in which men are not mainly in the reach (for example child delivery), for this only one women as witness would be enough.

This must be remembered that for eye-witnessing, the situation and the context are very important. For example, at the time of changing the direction of Qiblah (قبلة) one person described that “Today our Prophet has offered prayer in the direction of Kaabah (كعبة),

instead of Baitul Maqdis.” This statement was given by a dependable gentleman. A case of prayer was there, which was an important matter. The presence of Prophet Muhammad صلى الله عليه وسلم in Madinah was well-known. Therefore, persons offering prayers in Qiblatain Mosque had no doubts at all so immediately after hearing this call, they turned themselves in the direction of Kaabah.

Dear People! On 29th Shaaban if one single dependable person comes forward as witness and says that I have seen the crescent, the new moon, then everybody will start fasting the next day. But if On 29th Ramazan if one person comes forward as witness and says that I have seen the crescent, it will not be accepted until some more sincere witnesses give their verdicts in its favor.

- ❖ Thus! Importance of ‘witness’ entirely depends on the importance of the ‘matter’.
