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Comparative study of the positive value of unlawful testimony in civil proceedings

Estudio comparativo del valor positivo del testimonio ilegal en procedimientos civiles

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ABSTRACT

In the Islamic judicial system, testimony is one of the most important arguments to prove a claim. The validity of testimony depends on the credibility and the number of witnesses. If the testimony lacks the requisite terms and conditions, its validity is shaken. In this paper, we examine the "positive value of unqualified testimony" and refer to its jurisprudential background after presenting the contradictions and ambiguities of domestic law regarding the positive value of such testimony. From the nature of the jurisprudence's testimony, it can be concluded that this type of testimony lacks any positive value.

Keywords: Islamic, Jurisprudential, Testimony, Validity.

RESUMEN

En el sistema judicial islámico, el testimonio es uno de los argumentos más importantes para probar un reclamo. La validez del testimonio depende de la credibilidad y el número de testigos. Si el testimonio carece de los términos y condiciones requeridos, su validez se ve sacudida. En este documento, examinamos el "valor positivo de un testimonio no calificado" y nos referimos a sus antecedentes jurisprudenciales después de presentar las contradicciones y ambigüedades de la ley interna con respecto al valor positivo de dicho testimonio. Por la naturaleza del testimonio de la jurisprudencia, se puede concluir que este tipo de testimonio carece de valor positivo.

Palabras clave: Islámica, Jurisprudencial, Testimonio, Validez.

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1. INTRODUCTION

The arguments to prove the lawsuit has an important role to play in the length of proceedings and the more transparent and precise the rules of the case, the higher the efficiency of the judicial system. The present study argues only from the evidence to prove the case to the testimony, which is not elaborate and presented in civil proceedings (Garrett & Neufeld: 2009, pp.1-97).

There is more or less detailed information on the absolute nature of the testimony and its legal effect in the books and articles published, but there is no evidence of inadmissible testimony other than scattered material in support of the evidence.

The same is right in the laws of our country. Materials do not have sufficient transparency and precision (Yarmey: 2001, p.92).

The Positive Circle of Testimony in Civil Law before the Reforms of 1991 and 1991 was limited to some minor claims that were reduced but not eliminated after the reforms and enumerating the requirements required to bear witness. The Civil and Criminal Procedure Rules, while stating the need for unconditional testimony in other cases, make it necessary to "hear more" in other materials, but it is not clear how much "positive information" the affirmative value is the rate.

The explanation and correction of these articles need to be studied in its jurisprudential background and, if necessary, comparative in other countries' jurisdictions (here in France).

1.1. A positive value of unqualified testimony under Iranian law

Law on Civil Procedure:

In the old law of 1318, certain conditions and numbers were not specified for the witness, and the scope of his confession was limited to some minor cases, which were also limited to the court's discovery.

Therefore, there was no requirement for the witness other than the status of the witness, and if the witness did not have the legal status, his testimony could not be heard or given fair value. In other cases, testimony was heard, but the value was ultimately up to the court (Rogers & Allard: 2004, pp.1-5).

The new law also seems at first glance to recognize the value and effect of the testimony as with the old law with the court, but this appearance must be overlooked because enumerating specific and implicit terms in Articles 230 and 233 has independent proof value for testimony and imposition. It comes to the judge's mind. If we accept the value of the testimony depends on the court's opinion, firstly, the value of the evidence of the unqualified witness is equally valuable, and if not, it means imposing a qualified testimony on the court, then this question. To what extent is the value of unqualified testimony raised? Can the judge base his vote on it? Some argue that "unless it is certified by certain statutory requirements (such as productive faith and status) or their number and gender are not in legal order," it is a matter of judging the extent to which it is within the jurisdiction of the court "without distinguishing between The abovementioned claims exist in Article 230 CC and those in Article 1312 BC (Shams: 2015, p.141).

Civil law:

1- Article 424 AH: It is the opinion of the court to determine the degree of value and confirmation.
2- Article 412 AH: A certificate shall not be heard except by persons who, under civil law, have a substantive obligation to testify.
3- Article 241 AH: Determine the value and impact of the certificate with the court.

With frequent and incomplete amendments and omissions added to the complexity of the issue, the situation in civil law is more complicated.

On the one hand, the Guardian Council has considered the invalidity of Article 1309 to be inappropriate in relation to the official document. On the other hand, Parliament has removed Articles 1306 and 1307 and 1308 and 1310 and 1311 and omitted Articles 1309 and 1312 It was a continuation of Article 1309, and the

addition of conditions such as justice to testimony put the affirmative value of testimony in a confusion. It was logical that if the Guardian Council repealed Article 1309 because it "deems the law unworthy of official documents," it would also repeal its related articles, including Articles 1306 to 13012. Repealing some of the materials and leaving others to the legislature is ambiguous. This objection also applies to the approach of the Islamic Consultative Assembly in amending the law and should have removed Article 1312, in addition to Articles 1306 to 13011.

Civil Code 1314 also stipulates that a child's testimony is heard for "additional information" contrary to Article 412 of the old Civil Procedure Code, while failing to define the "positive information" value of a guarantee of non-existence of other conditions, including justice and The multiplicity of witnesses is not mentioned as if only in the absence of witnesses the testimony could be heard, and in other forms there is no license to hear (Martire & Kemp: 2009, pp.225-236).

The ambiguities existing in these cases have not been summarized, and other such ambiguities still exist as to whether we can say that Parliament did not abolish Articles 1309 and 1312 as a definite limitation on the testimony of official documents. Whether testimony, conditions, or not, it has no effect on official documents except in the scope of Article 1312. The debate on the value of testimony against an official document is vital in that it is prohibited to enforce Article 1309 BC. Judicial citation and denial have the power to prove that it is in a dispute contrary to the provisions of the official document, in other words, if we testify only in Article 1309 is valid and has no effect on the official document, then it should be said that the value of unqualified testimony cannot be invoked as a judicial authority, as Article 1324 BC states: "Emirates which were assigned to the judge are: The circumstances of the case may be invoked in the event that the claim is proved by the testimony of a witness or completes other evidence. "Thus, accepting the validity of Article 1309 BC gives rise to a preference for a document to testify also to the validity of the judicial authority. It is a good guarantee for the validity of the official document (Peters: 2005) because although the Guardian Council, contrary to the decision of the Council, Article 1309 of the Civil Code "in the sense that religious martyrdom sees no value in the documents as" contrary to Shariah law and annulled the Parliament with amendments 14 / 8/1370 Article 1309 maintained with the previous text. Some rights hold that the power of suspicion arising out of the evidence of testimony, for various psychological and social reasons, is not as suspicious of viewing and reading the document. Authentic writings can not invalidate it.

Then, the invalidity of the testimony is contrary to the provisions of the entire valid document, and even with the confirmation of the judicial authority, the certificate is not capable of counteracting the valid document (Katouzian: 2008, pp.62-60).

Therefore, whether or not the testimony qualifies as a prima facie case, the principle is to refuse to testify against official documents or documents of official document validity, except within the exceptions provided for in Article 1312 of the Civil Code (Bahrami: 2013, p.155).

It should be noted that the territory of Article 1309 BC is limited to the provisions of the contents of the official document, that is, what is stated in the official document. So it is executed when the validity of the legal action itself is in question. For example, where it is claimed that one party to the transaction, or a third party, has committed wrongdoing at the expense of the other party, he or she has been mistaken or defective in the transaction (Katouzian: 2011, p.308).

In short, the document's formality does not guarantee its validity and has no effect, and only validates the assignment of the document to its signer and the occurrence of the document's content (Nesheiwat: 2004, p.251).

Some other jurists also argue that Article 1309 BC remains in effect and that judicial practice affirms this fact (Shams: 2015, p.155). Does this view hold that if a certificate cannot substantiate the claims against the contents of the official document, then how can one prove the wrongness of the document or the intellectual fabrication? For example, if the seller stated at the time of setting up the document that he had received half of the transaction, but the regulator of the document incorrectly or intentionally stated receiving all of the transaction in the document, what can the seller do to prove this error? To cite?

Others disagree and believe that what is credible in Islamic jurisprudence is, in fact, subject to the terms of the witness. That is to say; the witness is given such difficult circumstances that in practice, the less fortunate will be accepted. However, if the testimony is fulfilled with all its conditions, it can be a definite documentary of the verdict, so that with the testimony of the Comprehensive Testimonies of the Conditions, the official document can be deprived of its validity (Diani: 2015, p.209). Some have complained to Islamic lawmakers why, unlike other law schools, they have given so much credence to the testimony. This objection does not appear to be true because of the harsh conditions for testimony that are otherwise ignored in Islamic law. Testimonials are also very limited and are less common than customary systems (Agric: 2014, pp.334-335).

Other cases of ambiguity in the law are the hearing of minor witnesses. As noted, the legislator only considers non-adult testimony to be "necessary information" and has remained silent about the lack of other conditions. Can "valuable information" be regarded as valuable by some jurists from the channel of judicial science and judicial authority (Shams: 2011), or should the absolute discredit of this kind of testimony be considered given the confidentiality of the evidence?

Penal Code:

Although the subject of the investigation is civil proceedings and is not related to criminal law, since there was no mention of the witnesses in the case and Article 233 of the Act referred to the terms in the law, it is therefore inevitable that Let us also discuss the position of this law. Now, with the repeal of the Code of Criminal Procedure of the Public and Revolutionary Courts and the replacement of the Criminal Procedure Code of 2013 and the new law referring to the Islamic Penal Code of 2013, we have to refer to the recent law.

Article 177 of the Islamic Penal Code mentions the conditions of the witness, which are mostly the same as those outlined in jurisprudence for the witness (Sheikh Ansari: 1994).

Articles 16 and 175 of the Act stipulate that if the testimony is of relevance, the judge must give its opinion (which refers to the relevance of the testimony to the conditions outlined in the law), except where the Judge of Science contradicts it. However, testimony cannot be denied. Of course, one must distinguish between the judge's knowledge and the judge's confidence, unlike the judge's knowledge, the judge's confidence cannot prevent the admission of testimony (Black: 2012, pp.499-532).

The same position can be accepted in civil proceedings in the first place, and Article 241, which considers the judge to be entitled to recognize the value and impact of the certificate. It is interpreted in this context because when in criminal proceedings the criminal judge has too much freedom to Discovery is valid and can, therefore, decide to evaluate and reject or accept their evidence, but testimony is imposed on him in a civil trial that does not include any of these freedoms. In criminal proceedings, the call to conscience is the last question to be answered, and the means of persuading conscience are of the utmost importance (Zaraat & Hajizadeh: 2009, p.288).

In the criminal trial of a judge, unlike a legal judge, he does not intimidate the arguments presented by his companions, and he comes up with a reason to persuade conscientious objectors (Ashouri: 2009, p.16).

Article 162 of the Islamic Penal Code states that if a substantive argument lacks legal and legal conditions, it can "serve as a judicial authority" if combined with other laws and regulations in the United Arab Emirates. This has been prevalent in legal writing, and many jurists have held this view (Goldozian: 2015, p.216; Tadin: 2012, p.343; Zaraat & Hajizadeh: 2009, p.451; Fazaeli: 2015, p.450). In the case-law of the country it is new, and as we have said before in Article 156 of the old Code of Criminal Procedure and Article 1314 of the Civil Code and Article 211 of the New Code of Procedure in Kiev Ray has argued that inadmissible testimony is merely "more information" than knowledge of the judge.

As Hawim said, most jurists who have referred to this issue have termed "further information," the last word of the "judicial authority", and the legislative practice over the past years has been inconsistent with the chart of value-added witnessing, particularly in Article 197. The Islamic Penal Code, contrary to Article 171 of the old Code of Criminal Procedure, states that if a witness does not have the necessary qualifications, the

judge will not consider it a religious testimony, while Article 171 states that the judge must reject it (Ramadan: 2009). Since the jurisprudence of our jurisdiction is based on the opinions of jurists, finding a solution to ending these conflicts is no other than referring to its jurisprudential history.

In the jurisprudence of martyrdom, the most crucial proof is to the extent that the word binah in the famous rule "al-Bina Ali al-Mada'i and al-'min al-i mankar" specifically means martyrdom (Maraghey: 1998, p.650). For this reason, in most jurisprudence books, "judgments and testimonies" are included in one chapter or independent books of the same name.

In spite of this importance, the jurisprudence school does not specifically address this issue, and if there is any, it is sporadic and should be searched through the texts.

Martyrsani states that "Whenever the Judge doubts the testimony of the witnesses," it is desirable that they are heard separately from each other in terms of time and place. The case of the investigator is different from what they are saying. Their testimony is void, and it is advisable to advise them in the event of doubt and to order interruption and certainty in research and practice (Warren: 2010).

As to when the judge subtracts between witnesses, sheikh Ansari says: "If the witnesses are mystics and peacemakers who are unaware of the slander and wrongdoing, they are either tormented or individually questioned for minor issues. However, if they are non-competent, the judge suspects that they are separated and asks the details of the case so that the witness will no longer be informed if they agree that he will vote and Ella rejects their testimony [so far as those who believe that the testimony of witnesses whose jurisdiction is not known, but if they are unanimous But I say that there are drawbacks to this ... because to breathe the separation between intuitions, the reality is not revealed to us either formally or definitively because the same amount of intuition is possible. After the question is unanimous, they are equally likely to be different, though their testimony may be correct.

Then we have to give the verdict of the deceased presented by the claimant and the verdict to swear by the referee, which is again probably and does not give confidence (incorrect witness statements). “That is why it is necessary to cultivate witnesses here” (Sheikh Ansari: 1994).

It seems that the sheikh refuses to accept the testimony of the suspected witnesses if they are unanimous and finds that they need to be cultivated. That is, they basically do not value witness statements and only have binary value if they are cultivated.

The late Mohammad Hassan Ashtiani, where the witness is being cultivated by two other witnesses and two other witnesses, and therefore two reasons for witnessing to a conflict, says: Does the case stop (for lack of evidence) or The appearance of the jurisprudence is a second opinion because their meaning is to stop, to stop the binary from being appropriate to the binary, as there would be no endowment if there was no binary at all (and by oath). (This is correct) (Ashtiani: 1983) It is observed that he does not consider the testimony of the witness to be inadequate at all, and if Bluff's justice is not obtained, the principle leaves the matter to Yemen.

Sayed Kazem Haeri also assumes that the judge's sensory science is untrustworthy, but the judge himself has seen the alleged case, and there is no more comprehensive evidence to answer the question of whether the judge can rely on his knowledge as another witness. Two witnesses (judge and witness) mediate to prove the case after several comments and rejects it: Binet disclaims the judge's statements, so the testimony of the judge as a witness cannot be accepted, and the oath cannot be taken (Haeri: 1994). As he observes, he has no value in witness testimony even to the extent that he wishes to make a judge's conjecture and immediately makes the case.

"Faddah Lemmaat Ordinary Declaration on the Argument of Al-Hujayyah al-Qazayyah Lalbineh Connecting Al-Nubah Alimin"

Also, in discussing the justification of the judge's science, one of the arguments he cites for lacking the justification of the judge's science is the principle of cracking down on them. He defines the principle as follows: It does not cause science, although it is annexed to other proofs, so it cannot be cited as a rule.

Perhaps the most explicit statement is made by Allamah Naraqi in answer to the question of whether "the principle of the obligation to accept the testimony includes the testimony of a just person" after rejecting narratives in the document that may be useful.

Certainly, lacking in the evidence of the fact that the testimony is inaccurate and does not consider it credible and explicitly states that the news of the testimony is summarized, so its unit does not affect.

2. METHODS

In interpreting the vague and contradictory points of law, it should be interpreted according to the intellectual origin and as closely as possible to the wishes of the law-maker (Sobhani: 2006), not according to the reader's intentions, although some consider it justice, (Katoozian: 2004) What Article 3 of the QDM calls "credible Islamic sources".

If we apply the exponential interpretation method to the interpretation of ambiguous legal material, we will find that the "inadvertent witness testimony" even as one of the sources of the judge's knowledge is devoid of any positive value because in jurisprudential texts and consequently There is no mention in the rules of the case that this type of testimony has a positive value. Testimony is one of a kind, in all its circumstances. However, the legislator stated in Article 162 BC:

Ann al-Binah but the meanings of al-laghwi and ho ma in discovering al-lashin and ybin and lashkhn al-lahh-ah al-lahhad her meanings al-maslat fi al-akhbar and ho al-shahd al-tahd al-mahd al-desm against descriptions in the case of mansour al-sadiq al-asam al-salam »

"Whenever substantiated evidence (such as confession and testimony) lacking legal and legal requirements can be invoked as a judicial provision provided that it, together with other laws and Emirates, causes the judge's knowledge," as he observes The legislator may have affirmed the testimony of non-religious witnesses, but the judge has left it up to the judge to decide on its affirmative power (Darvishzadeh Kakhaki: 2014, p.185).

It seems to be influenced by later legal authors if we define testimony as "news of an event" (Katouzian: 2008, p.14). This telling of the truth to the judge must be such as to give rise to knowledge for to be a judge and the Shari'ah for the sake of expressing the verses and narration when he has given this knowledge to the judge in all his terms. In fact, because the judge himself does not sense the alleged claim directly and has no knowledge of the other person's knowledge He can accept it if the narrator has conditions such as plurality and justice, and if the testimony of one or two persons who lack justice causes the judge to have knowledge of why the law-maker has been in vain. Has this situation decreed?

The explanation of what is referred to as "the science of the judge" in jurisprudence is that the judge in the ordinary way, whether intuitive (direct) or conjectural (indirect), becomes aware of what is at stake. The ordinary way of behaving in extraordinary ways, like science, is defined as the unseen, meaning the judge himself has seen or heard the claim. Guess means that he arranges for some sensory things and infers them from things that are not directly sensed and may require the use of an expert to find them (Abualfaraj: 2011, pp.140-165) — for example, knowing that the signature in the event of a court hearing that the judge himself has observed, it is different from the signature of the following contract to determine the non-indebtedness of the claimant. Of course, some have argued that the judge's intuition is scientific, although it is more stable and persistent in terms of jurisdiction than conjecture, but it can be probable that, in judicial authority, intuition means that in court Others can also be proved, not merely the intuitive sense of the judge's knowledge (Mouzen Zadegan: 2000, p.208). That is to say, in court, to become a definite mirror of horror, to become an indisputable science for everyone at the trial (Shahroudi: 1999, p.59). The basis of this view is the rejection of the credibility of the judge's science, but due to the reasons that have been put forward by most Imamite jurists to prove the judge's knowledge, this view cannot be accepted (Khorsandian: 2003, p.34).

In jurisprudence, however, conjecture science is generally accepted only within the context of expert opinion and is of no value except in the form of conjecture. So, when it comes to judging what constitutes a judge's knowledge, it is intuitive or conceivable to be expert, and how else can we call an unqualified testimony none of which is worthy of the judge's knowledge?

The inconsistent testimony with Article 255 of the Code which considers the information obtained from the investigation and examination of the place to be valuable to the judge's science is inaccurate because "Emirates are material and non-subjective by the investigation, examination or examination of the place by a judge, expert or Proving the reason is verifiable "(Goldozian: 2007, p.54) while testimony is not material and non-material.

Judicial bodies are material and objective affairs, which is an example of the judge's knowledge,

> (…) that the judge said was Conditions, indirect and using these material things that he is certain to ascertain, become unknown while the testimony lacks objective and material conditions, and Yzy to judge it because it does not impact adversely that he seeks to win because they are unknown unknowns. In other words, what is proven by the testimony of the judge is not definitive science, and in fact, testimony is one of the traditions of customary science that in jurisprudence equivalent to customary science is a suspicion that the author of legal terminology defines as It is said that it is stronger than the usual suspicion and of the strength and durability, it is often left unanswered, and because it has a certain dominance, it is called the dominant suspicion (Jafari Langroudi: 2013, p.437).

In other words, it cannot be said that it is a matter of testifying to the facts, but in the cases of al-Haddad and al-Fajjad al-Yajd, my rational principle is, however, al-khabil al-khەbَ al-khبطإ al-al-alإm

It is consistent because there is a great deal of doubt about the testimony, which is why, according to Article 241 ADM, which stipulates that "recognition is the value and the influence of a certificate of testimony" there is no need for a specific reason to testify, but instead to persuade conscience. The Judge is the Criterion (Rahni & Kavousi: 2014, pp.8-11). Article 1324 CC defines the jurisprudence: "Emirates that are assigned to a judge are the circumstances of the case ..." and jurists say: "The result is that the mind is based on the natural course of affairs." It takes from signs and circumstances to find a reasonable suspicion of its unknown existence until it reaches the satisfaction of the conscience that is most likely to have actually been attained ", regardless of the phrase" most likely "The above definition does not seem correct, and the judge must be knowledgeable about the verdict, and the mere probability of the verdict is insufficient, careful in this definition and other matters concerning the judiciary. The judiciary is composed of two elements:

1. Material, empirical, and external conditions and signs in the subject in dispute.
2. Judge's inference.

As to the first element, the circumstances of the case must be external, empirical and material in a way that the judge has sensed and learned and wants to draw conclusions from them rather than quoting them (witness lacks). Conditions) that if so, the condition of "external reality and materiality" would not exist.

Examples include failure to provide commercial offices by the merchant in the event that the other party is cited, failure to provide a document acknowledged to have been admitted by the confessor, failure to attend a meeting, and Or refusing to write a judge by drawing on empirical, material and external events (which is non-presentation and non-presentation) can attain the authenticity of the disputed matter rather than the event itself which was not present and He did not feel the need to find out about the science of just one person even though he was justified and to document his vote. As we can see, the UAE mentioned in these articles is a result of the abandonment of the verb, but the question arises whether they are legal or legal UAE? Some argue: Although the title 'can' is used in the conventional language to express authority, it reinforces the notion

that the foreseen material in such articles is 'judicial' and that the court in evaluating The violation that has taken place has full jurisdiction but reflects more on the fact that the cited statute is legal because it is binding on the justices and many judges find it mandatory and that there is no conflict between being able to compete. "They see and refuse to be regarded by the book as lacking in authenticity" (Katouzian: 2011, p.355; Katouzian: 2000, p.666) It seems that the acceptance of this opinion would have the drawback that in this article its application has been left to the discretion of the Judge in the light of the particular circumstances of each case and this respect the judicial authority. Paragraph 3 of Article 21 of the Code of Transnational Civil Procedure may support this view (Ghamami & Mohseni: 2013, p.108)

Dr. Shams considers the UAE to be more judicious about the abandonment of the verb in this material than the UAE judiciary and to prove his point about the word "can" used in these articles. He has gone on to cite all these cases except for the jurisdiction of the court. He maintains: "that the Emirates are imposed on the magistrate and have no authority in invoking them; The text puts the judge in the grasp of these "free" signs " (Darvishzadeh Kakhaki: 2014, p.188). It should be noted that the law firm recognizes the judge's adherence to testimony because it may be subject to fraud and error only under certain conditions (justice and multiplicity). How is it that the lawmaker intended to violate and deny and, in some cases, to render the judge subordinate to an unqualified witness?

Whenever it is found that the reason for the dispute is with one of the parties to the dispute and refuses to give unjustified reasoning, the court may infer that the result is in the negative.

Concerning the term "further information" it is a mere imitation of Article 205 of the Code of Civil Procedure of France without regard to the difference in the principles of testimony in the law of the two countries. How much more. Given the foregoing, it does not appear to be regarded as one of the foundations of the science of the judge, but merely for the purpose of disambiguating and finding the blind spots in other arguments. Perhaps realizing that inadvertent witness statements do not affect jurisprudence has led lawmakers to use the vague phrase "more information", and why has the legislator not explicitly considered it valuable to the judge's science, such as investigations and local examination?

We are aware that in jurisprudence, testimony lacks any positive value and cannot be of the essence of a judge's science. Therefore, legal materials must also be interpreted in this regard. It is also noteworthy that, except for Article 176 of the recently adopted Islamic Penal Code, other laws also do not accept unconditional testimony as to the judge's knowledge. As mentioned in the preceding line, although most writers tend to refer to the term "further information" used in licensed material as the legal and judicial knowledge of the UAE, this does not seem to be accurate, as we have said. That is the judge's understanding of the details of the allegation that have already been substantiated by other evidence, but the details remain vague that the hearing of this type of testimony can now clarify those details. It is not difficult to accept this view as it is similar to Article 1312. For example, the principle of paying for religion and its amount has been substantiated by other evidence (confession), but there is some uncertainty as to who paid or what the money was.

The passage of Article 176 of the Islamic Penal Code, which considers unconstitutional testimony from a judge's science to be valid, appears to have been more influenced by existing doctrine than by jurisprudence. This type of testimony is not only contradictory with jurisprudence, but also contradictory with practical expediency, as it opens the door to proving false claims, especially in a society where there are less morality and virtue, and perhaps for personal reasons. Refuse to testify unjustly. It is inappropriate to value a single witness, especially if there is less supervision of judges. Some authors have referred to these materials, and the Qur'an has repeatedly emphasized the lack of judgment on suspicion.

Following this view, the positive effect of testimony is balanced. If the conditions of the testimony are cumulative, it can be voted on without citing the false testimony (Golpayegani: 1980, p.162; Shams: 2015, p.141), and if the conditions are not available, it may be dismissed without concern and therefore necessary. Not fearing the probability of the testimony being untrue and its effect on the judiciary and despite numerous

legal and jurisprudential interpretations, he generally considered the absolute non-necessity of the testimony (Tavakoli: 2006; Zaraat & Hajizadeh: 2009, p.291).

It may be said that Article 241 A, who leaves the judge's hand in recognizing the value and impact of the certificate itself, implies that the judge has the power to accept or reject a testimony without testimony (Shams: 2011, p.244). But this is unacceptable because, in addition to being an explicit contravention of the well-known jurisprudential text, it is also contrary to the express provision of Article 230 AH. If the legislator had accepted the judge's discretion or acceptance, why did he tighten the terms of the witnesses? It is not accepted that the legislator has strictly adhered to the terms of the testimony and has accepted the assessment of the testimony that is not qualified.

3. RESULTS

It seems, despite the authors' opinion, that Article 241 should be interpreted as referring to the "value discovery" of the existence or non-existence of a testimony which, if the circumstances are right, the testimony has value and does not have the meaning of a "certificate of influence" recognition. Is the testimony content consistent with the allegation, and is it true? The witnesses may be qualified to testify, but the affirmative evidence of the affirmative action may not be the same as the claimant claiming the property and the witnesses testifying to his possession of the property.

1- Or the verbs of the Amennavah Amenneba Ajnebnavas are often the most pronounced of the verses of the 12th verse of Sura al-Hajjar.

It is observed that this interpretation does not leave any disparity between the material that would make it difficult for a witness to exist under Article 241, which leaves the judge with the determination of the value and impact of the testimony.

2. Comparative review:

Articles 1341 to 1348 of the French Civil Code have the word "Oral Reason" and Articles 199 to 221 of the Code of Civil Procedure have a "Third Party Statement," which is one of them. These general headings include any statements made by third parties and compared to our country's rights, including on-site examination and testimony.

The skepticism of the country's martyrdom rights has led to a tiny circle of testimony that is limited to a small number of lawsuits. The hubbub, shouting, humiliation, and rhetoric are perceived by this skepticism.

Article 205 of the Code of Civil Procedure provides that the conditions for having and surviving (child-adoptee) not being a party to a physical or divorced divorce and Article 211 provide for the witness to be sworn in, which is a minimum requirement.

Article 205 provides: "The statements of any person may be heard as witnesses, except for persons who cannot testify in the judiciary ... The statements of survivors of marriage may never be heard as evidence in the light of the claims made by the court. One couple used it for divorce or physical recreation.

Article 211 states: "Persons who are heard as witnesses shall take an oath to declare the truth."

The laws of the country have not provided more conditions for witnesses, but the country's judicial procedure has added a condition of conviction for non-compliance with some penalties such as robbery and fraud. Sufficiency is not enough for the testimony to be inadequate, but the conviction must have been justified; secondly, a conviction for any crime does not invalidate the testimony, but merely some of the major financial crimes given the crimes mentioned above.

Although the definite scope of testimony in national law is limited, it is not limited to review and audit by the judge. Numerous articles give the judge the right to inquire, examine and evaluate testimony, including Article 179 of the Code of Judicial Procedure: "When the parties are present, the judge may rely on his understanding of the facts of the case". 215 also states: "The magistrate may re-examine witnesses and, if necessary, do so in the presence of an expert."

These two limitations on the admission of testimony do not give rise to any particular sensitivity to the requirements of the witness because the testimony is not imposed on the judge and the judge, however, has the right to re-evaluate the testimony.

Article 211 Concerning the Oath of Testimony, "... persons who are heard without an oath shall be informed of their obligation to state the truth."

Article 205 also provides: "... the statements of persons who cannot be heard as witnesses may be heard without an oath."

It is clear from the preceding that this is the only survivor of divorce proceedings whose testimony is not in any way open and the judge cannot summon them for a hearing, which may be due to the protection of family interests and the avoidance of family members from testifying against each other. Of course, this restriction only applies to divorce proceedings (Yuslan & Rosanto: 2019, pp.18-24).

Therefore, given that there are no specific conditions for evidence (precisely the condition of justice) and other conditions do not have a significant effect on keeping the testimony of the deceitful and the shameless in its jurisdiction Is. This can depend on the fate of the dispute on suspicion and probability, and on the other hand, on the probability or tyranny of the judge and on the moderation, we have spoken about in Imamiyah jurisprudence and testimony, so it seems to be of value. There is a better way to prove our country's rights.

4. CONCLUSION

Repeated amendments to testimony rules have led to ambiguity in the value of unqualified testimony, and in some cases, value it as "more information" than the lesser one generally considers "more information" to be one of the instances in the UAE that can result from Judge science. This theory is accepted in the Islamic Penal Code, the latest development in this field, but it seems not to be fair, even though jurisprudential texts emphasize the utter worthlessness of such testimony. This practice can lead to the fate of the lawsuit for obvious reasons. Probably. In French law, too, for being alien to the requirement of justice for the witness, there has been a minimum requirement for a witness to testify, given that such testimony was not reliable and that the judge had the absolute right to testify because of the lack of justice. Therefore, the rights of the two countries are not comparable, and the French law is not recommended.

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