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Digital and Scientific Evidence in the Proof of Crimes: A Comparative Analysis of Islamic and Contemporary Legal Principles

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Abstract

The rapid advancement of digital technology and modern scientific techniques has significantly transformed the nature of criminal investigation and evidence in contemporary legal systems. Digital records, electronic communications, forensic analysis, DNA profiling, biometric data, CCTV footage, geolocation data, and other scientific forms of evidence are increasingly being relied upon to establish facts and determine criminal liability. These developments, however, raise important questions regarding the admissibility, reliability, authenticity, probative value, and legal status of such evidence, particularly when examined from the perspective of Islamic law of evidence. This study examines the evidentiary value of digital and scientific circumstantial evidence in criminal proceedings through a comparative and analytical study of Islamic law of evidence and contemporary legal frameworks. It explores the classical Islamic concept of qarīnah (circumstantial evidence) and its relationship with established modes of proof, including testimony, confession, oath, and other evidentiary mechanisms. The study further investigates the extent to which modern digital and scientific evidence can be accommodated within the principles and objectives of Islamic jurisprudence. Particular attention is given

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to issues of authenticity, reliability, preservation, chain of custody, expert opinion, and the possibility of manipulation or fabrication of digital evidence. The research adopts a qualitative, doctrinal, and comparative methodology. Primary sources of Islamic law, including the Qur'an, Sunnah, classical juristic works, and principles of Islamic jurisprudence, are examined alongside contemporary legislation, judicial precedents, evidentiary rules, and relevant legal frameworks concerning digital and scientific evidence. The study seeks to identify areas of convergence and divergence between Islamic evidentiary principles and contemporary legal approaches. The research concludes that circumstantial evidence occupies a significant position within the broader framework of Islamic jurisprudence, although its evidentiary force may vary according to the nature, certainty, corroboration, and circumstances of the evidence. Modern digital and scientific evidence may therefore be examined within the framework of Islamic evidentiary principles, provided that its authenticity, reliability, integrity, and relevance are adequately established. The study recommends the development of clear evidentiary standards and procedural safeguards to ensure that the use of modern scientific and digital evidence promotes justice while preventing wrongful conviction, manipulation, and infringement of individual rights.

Keywords

Digital Evidence, Scientific Evidence, Circumstantial Evidence, Islamic Law, Forensic, Evidence Law, Criminal Justice

Introduction

The rapid advancement of digital technology and modern scientific methods of investigation and inquiry has significantly transformed contemporary approaches to criminal investigation and the establishment of guilt. Digital records, electronic communications, forensic analysis, DNA profiling, biometric information, CCTV footage, geolocation data, and other forms of scientific evidence are increasingly being employed to establish facts and determine criminal liability. However, the use of these modern evidentiary means raises important questions concerning the admissibility, reliability, authenticity, probative value, and legal status of such evidence, particularly when examined in the light of Islamic law of evidence.

The fundamental objective of the mission of the Prophets and Messengers is to guide and reform humanity. For this reason, penalties have been prescribed for those who violate the commands of Allah and His Messenger, so that people may engage in actions that are beneficial to them and refrain from those that lead to corruption and disorder. Nevertheless, when a person becomes involved in a criminal act, Islamic law prescribes appropriate punishments and establishes various procedures for their enforcement. In most cases, specific requirements relating to evidence and testimony have been stipulated before a punishment can be imposed, so that no innocent person is wrongfully

punished and only the actual offender is held accountable. In this way, social disorder and corruption can be eliminated and society can become a place of peace and security. Therefore, Islam also recognizes circumstantial evidence (qarā'in) in certain circumstances for the investigation and detection of crimes. While defining the concept of qarīnah (circumstantial evidence), jurists have stated that it denotes an indication or sign (amārah wa ʿalāmah) through which probable knowledge of the existence of the inferred matter (madlūl) is attained. For example, observing clouds leads to the probable knowledge of rain, while observing smoke leads to the probable knowledge of fire. In other words, clouds and smoke serve as indications of the existence of rain and fire, respectively. [1]

The Majallah al-Ahkam al-'Adliyyah defines qarīnah (circumstantial evidence) as follows:

> "Indeed, decisive circumstantial evidence is an indication that reaches the level of certainty." [2]

Thus, qarīnah refers to an indication or sign that leads to a degree of certainty. Imam Fathullah Zayd, explaining the concept of qarīnah, writes:

> "It is an indication that has either been explicitly established by the Lawgiver or inferred by the leading scholars of Islamic law through their independent reasoning." [3]

Dr. Mustafa al-Zuhayli defines qarīnah according to the terminology of Muslim jurists as follows:

> "Jurists have used the term qarīnah in the sense of an indication, knowledge of which gives rise to probable certainty regarding the existence of the matter indicated." [4]

The essence of these definitions is that qarīnah refers to an indication or sign that leads to the identification of the intended or underlying matter, facilitates access to the reality and authenticity of something, assists in the derivation and determination of legal rulings, and contributes to the investigation and detection of crimes. Just as the presence of smoke is regarded by jurists as an indication of fire, the presence of clouds is likewise an indication of rain.

Through inferential reasoning based on circumstantial indications, it is possible to reach the underlying reality of a matter. Therefore, all those things that serve as a means of arriving at the intended objective may be regarded as circumstantial evidence. For instance, the presence of a distressed person carrying a particular instrument near the victim may constitute an indication of his involvement in the killing. Similarly, the presence of a teacher's car at an institution may serve as an indication that the teacher is present there. At night, seeing a single light on the road may indicate the approach of a motorcycle, whereas two lights moving in the appropriate direction may indicate the approach of a larger vehicle. In other words, numerous situations arise in everyday life in which circumstantial indications are relied upon. Likewise, dense clouds in the sky constitute an indication of impending rainfall.

Importance of Circumstantial Evidence

The Qur'an and Sunnah contain numerous evidences establishing the

permissibility of relying upon circumstantial evidence. Likewise, the Messenger of Allah (PBUH), on various occasions during his blessed lifetime, based his reasoning on circumstantial indications and also employed them as corroborative evidence. However, he did not accord them the status of conclusive and definitive evidence in relation to any incident such that a prescribed *Ḥadd* punishment could be imposed solely on their basis. In Islamic jurisprudence, DNA evidence and modern circumstantial evidence cannot be regarded as conclusive proof; the requisite Shariah standard of direct evidence must be fulfilled. Nevertheless, such evidence may be considered as probabilistic evidence, circumstantial evidence, or corroborative evidence. In the absence of direct evidence, a court may, where it is satisfied by the available circumstances and evidence, impose a *Ta'zīr* punishment.

In the United States and European countries, a positive DNA test report is treated as conclusive and definitive evidence for establishing certain offences punishable by death. According to the views of Muslim jurists, however, it may, at most, be regarded as probabilistic, circumstantial, or corroborative evidence rather than as conclusive proof.

Circumstantial evidence has acquired considerable importance in the contemporary era. Islamic law also accords a significant status to circumstantial evidence. Where no other evidence is available, a judgment may, in certain circumstances, be based upon circumstantial evidence. At times, circumstantial and factual evidence also serves to corroborate and strengthen other forms of evidence.

Detailed Evidences for the Permissibility of Circumstantial Evidence

The permissibility of factual and circumstantial evidence is evident from the following verses of the Holy Qur'an. Allah Almighty states:

> "He said, 'She attempted to seduce me.' And a witness from her household testified: 'If his shirt is torn from the front, then she has spoken the truth and he is among the liars. But if his shirt is torn from the back, then she has lied and he is among those who speak the truth.' So, when he saw that his shirt was torn from the back, he said, 'Indeed, this is part of your women's cunning. Surely, your cunning is great.'" [5]

Since this form of factual evidence has not been rejected in the Qur'an and Sunnah, its evidentiary status remains recognized in Islamic law. Reliance upon circumstantial indications and apparent signs is essential because it enables the oppressed to receive justice, prevents legal rulings from becoming ineffective, and ensures that people receive their rightful entitlements. In this regard, the example provided by the Lawgiver is sufficient: the onset of menstruation is treated as an indication that the womb is free from pregnancy, and it is also considered in determining the end of the waiting period (*ʿiddah*). A husband is prohibited from resuming marital relations during menstruation, while a new marriage contract becomes permissible after the waiting period has ended. This constitutes one of the most significant and fundamental examples of the validity of circumstantial evidence and clearly demonstrates

the legitimacy of acting upon such indications. Other examples may likewise be found in the light of the Prophetic traditions.

A person's regular attendance at the mosque for prayer is regarded as an indication of his faith, as stated in the following Ḥadīth:

> "When you see a man regularly attending the mosque, then testify to his faith." [6]

Commenting on this Ḥadīth, Ibn al-Qayyim writes:

> "The Messenger of Allah (PBUH) regarded a Muslim man's regular attendance at the mosque and his consistent participation in the five daily prayers in congregation, except when prevented by a legitimate excuse, as an indication and strong sign sufficient to testify to his faith. This is evidence for the legitimacy of circumstantial evidence." [7]

Likewise, the Prophet (PBUH) regarded lying, breaking promises, and betrayal of trust as signs of hypocrisy, as stated in the following Ḥadīth:

> "Abu Hurayrah (RA) narrated that the Prophet (PBUH) said: 'There are three signs of a hypocrite: when he speaks, he lies; when he makes a promise, he breaks it; and when he is entrusted with something, he betrays the trust.'" [8]

This Ḥadīth establishes that the presence of these characteristics in a person serves as an indication of hypocrisy, and it therefore provides clear evidence for the evidentiary value of circumstantial indications.

Another well-known Prophetic tradition concerning the establishment of facts through circumstantial evidence is narrated by Imām al-Bukhārī, Imām Muslim, and Imām al-Nasā'ī from Abu Hurayrah (RA) the Messenger of Allah PBUH said:

> 'There were two women, each of whom had a son with her. A wolf came and carried away the son of one of them. One woman said to the other, "The wolf has taken your son," while the other said, "Rather, it has taken your son." They brought the case before Dawud (AS), and he ruled in favor of the elder woman. They then went to Sulayman ibn Dawud (AS) and informed him of the matter. He said, "Bring me a knife so that I may cut the child in half and give half to each of them." The younger woman then said, "Do not do so, may Allah have mercy upon you; he is her son." Thus, Sulayman (AS) ruled in favor of the younger woman.' Abu Hurayrah (RA) said: 'By Allah, I had never heard the word "knife" before that day; we used to call it only al-midyah.'" [9]

Imam al-Nawawī, explaining this Ḥadīth, states:

> "He did not actually intend to cut the child. Rather, he intended to test the compassion of the two women so that the true mother would become distinguishable to him. When she was distinguished by the response mentioned above, he recognized her as the child's mother." [10]

This Ḥadīth demonstrates that the reaction and conduct of a person may serve as an indication for establishing an underlying fact. Accordingly, the younger woman's response to the proposed division of the child served as a circumstantial indication through which her motherhood was established. This constitutes clear evidence for the validity and probative value of circumstantial evidence.

Another narration on the same subject, recorded by Imām al-Bukhārī, also mentions the practical signs and characteristics of hypocrisy.

In Islam, circumstantial and factual evidence is recognized, and legal rulings may be established on their basis. For example, if the smell of alcohol is detected on a person's breath, then even in the absence of testimony by two Muslim male witnesses against him, his consumption of alcohol may be established on the basis of the smell alone, and the prescribed punishment may be imposed upon him. Likewise, if a person is seen vomiting alcohol, his consumption of alcohol may also be established on this basis, and the prescribed punishment for drinking alcohol may be imposed upon him.

The practice of ʿUmar (RA) was likewise to impose the prescribed punishment merely on the basis of the smell of alcohol, as is evident from the following narration. Imām Ibn Abī Shaybah narrates:

> "From al-Sa'ib ibn Yazid: ʿUmar used to administer the prescribed punishment on the basis of the smell [of alcohol]." [11]

The foregoing evidences make it clear that the Companions (RA) would impose prescribed punishments on the basis of factual and circumstantial evidence. This is also the position of Imam Malik, and one view attributed to Imam Ahmad is likewise in accordance with it. According to Imām Abū Ḥanīfah, however, a *Taʿzīr* punishment may be imposed in such a case.

Recommendations of Contemporary Ijtihādi Institutions Regarding Circumstantial Evidence

The recommendations issued by contemporary Islamic juristic institutions concerning circumstantial evidence essentially indicate that such evidence may be accepted in matters other than *Ḥudūd* and *Qiṣāṣ*. However, in cases involving *Ḥudūd* and *Qiṣāṣ*, circumstantial evidence may be considered only as probabilistic and corroborative evidence. This is reflected, for example, in the positions of the Islamic Fiqh Academy in Jeddah and the relevant juristic discussions in India.

1. Position of the Islamic Fiqh Academy in Jeddah on Circumstantial Evidence

A detailed discussion, deliberation, and scholarly examination of circumstantial evidence was held in Makkah al-Mukarramah in 1998 under the auspices of the Islamic Fiqh Council of the Muslim World League. Subsequently, recommendations concerning circumstantial evidence were issued, according to which *Hudud* and *Qisas* cannot be established on the basis of DNA testing; however, DNA evidence may be taken into consideration in other criminal matters. [12]

Since DNA evidence is also a form of modern circumstantial evidence and has become an important requirement of the contemporary era, various scholarly

discussions have been conducted concerning its reliability and evidentiary status. One such juristic seminar was held in India, the details of which are as follows.

2. Position of the Islamic Fiqh Academy of India Regarding Circumstantial Evidence

At the fifteenth Fiqh Seminar of the Islamic Fiqh Academy of India, held in 2006, Muslim jurists and scholars presented research papers on circumstantial evidence. A comprehensive and detailed discussion was held on DNA testing, following which the conclusions and recommendations reached by the seminar are presented below:

- If the lineage of a child has been established in accordance with the principles of Shariah, it is not legally permissible to create doubt concerning that lineage through DNA testing.
- If there are several claimants to the lineage of a child and none of them possesses clear Shariah evidence, the child's lineage may be determined through DNA testing.
- DNA testing cannot replace the specific evidentiary methods prescribed by Shariah for establishing offences that entail *Ḥudūd* or *Qisas*.
- DNA testing may be utilized in the investigation of offences other than *Ḥudūd* and *Qisas*, and if the judge considers it necessary, a person may also be compelled to undergo such testing. [13]

Digital Circumstantial Evidence: Concept and Legal Nature

Digital evidence refers to reliable information or data that has been created, stored, transmitted, or recovered through an electronic device or information system and that assists in establishing a fact relevant to a legal dispute or criminal offence. Examples include:

1. Mobile phone messages;
2. WhatsApp chats;
3. Emails;
4. Call Detail Records (CDRs);
5. CCTV footage;
6. Audio and video recordings;
7. GPS/location data;
8. Browser history;
9. Social media posts;
10. Computer logs;
11. Metadata;
12. Digital photographs;
13. DNA or biometric databases;
14. Cloud records; and
15. Bank transaction logs.

Some of these forms of evidence seek to establish a fact directly, whereas others function as circumstantial evidence by establishing a logical connection between one fact and another.

For example, if the location record of a person's mobile phone shows that it was

present at the scene of a crime, this does not, by itself, necessarily establish that the person committed the offence. However, when considered together with other evidence, it may constitute a significant circumstantial indication.

Legal Evolution of Digital Evidence in Pakistan

The Electronic Transactions Ordinance, 2002 holds fundamental importance in the legal recognition of modern electronic evidence in Pakistan. According to Section 3, a document, record, information, communication, or transaction cannot be denied legal recognition, admissibility, validity, or evidentiary value merely on the ground that it exists in electronic form or lacks authentication by a witness.

Similarly, Section 4 recognizes electronic form as capable, under certain circumstances, of satisfying a legal requirement that information be provided in writing.

Section 5, concerning the requirement of an original document, places particular emphasis on the integrity and reliability of an electronic record. Under the law, the integrity of an electronic record is assessed by determining whether it has remained complete and unaltered. These provisions provide the fundamental legal basis for the principle that electronic form, in itself, does not constitute a ground for inadmissibility in Pakistan.

Law of Evidence: Article 164 of the Qanun-e-Shahadat Order, 1984

Article 164 is one of the most significant provisions of Pakistan's law of evidence concerning evidence obtained through modern technology. Under this provision, a court may, in appropriate cases, allow the production of evidence that has become available through modern devices or techniques.

This provision essentially serves as a technology-neutral gateway. It empowers courts to consider evidence obtained through modern technological means rather than rejecting it merely because it differs from conventional forms of evidence. However, Article 164 does not mean that every form of digital material automatically becomes admissible or reliable.

Selected Judicial Decisions Based on Modern Circumstantial Evidence

Following the Qur'an and Sunnah, the views of Muslim jurists, and the recommendations of contemporary Islamic juristic institutions, several legal and judicial observations concerning circumstantial evidence may be cited to clarify its nature and evidentiary significance.

Modern circumstantial evidence has acquired considerable importance in judicial proceedings. Contemporary cases can hardly be investigated without recourse to such evidence because modern means of communication have become so widespread that people routinely use them for convenience and other purposes. Audio and video recordings, in particular, have assumed exceptional importance. The media, for instance, operates to a significant extent on the basis of recordings, and such recordings sometimes become the basis for judicial proceedings or prompt judicial intervention. In the contemporary era, the judiciary has increasingly relied upon forensic laboratories in the investigation of cases because forensic analysis facilitates and strengthens the

investigative process. Thus, modern forms of circumstantial evidence can serve as highly useful and supportive tools in the investigation of criminal matters.

Evidentiary Status of Audio Recordings

At times, the parties record all proceedings that take place at the time of entering into an agreement. In some cases, a person secretly records another individual's voice. Such recordings may subsequently be presented as corroborative evidence. The observations made by courts in this regard, as reflected in various judicial decisions, may be summarized as follows:

> A conversation recorded on a tape recorder may be relied upon as corroborative evidence of that conversation if one of the parties to the conversation has testified about it. In the absence of testimony concerning such a conversation, the recorded conversation on the tape does not constitute valid evidence and cannot be relied upon. [14]

This judicial decision establishes that a recorded conversation may be admitted as secondary evidence in certain circumstances, rather than as a universally admissible form of evidence. It may be produced before the court, after which the court may determine whether to admit it, accept it for the purpose of corroboration or verification, or treat it as secondary evidence. There is no inherent legal impediment to admitting audio evidence within the judicial system; however, its evidentiary status remains primarily that of corroborative evidence. This position is also reflected in another judicial decision rendered in 1998, in which the court observed:

> "Audio/Video Cassette is admissible in evidence." [15]

At another instance, the position was explained in the following terms:

> "Screening of video cassette is admissible evidence and also conclusive in some cases but not in all." [16]

Thus, a video cassette may be presented as evidence in certain cases, but it cannot be treated as conclusive evidence in every case.

Judicial Decision Regarding CCTV Footage

Similarly, CCTV cameras installed at various locations may provide admissible evidence where they clearly establish the identity of the offender and their authenticity can be verified through reliable means. However, where the footage is unclear and fails to establish an identifiable result, it may not be accepted as reliable evidence. The following judicial observation adequately illustrates its evidentiary status:

> "CCTV footage was produced in the Court and viewed by it; nothing was visible and identifiable in it. It was observed by the Court that unless such footage is proved to be genuine and corroborated by other evidence, it could not be relied upon." [17]

The court examined the CCTV footage, but nothing clear or identifiable could be discerned from the recording. The court therefore observed that such footage could not be relied upon unless its authenticity was established and it was corroborated by other evidence.

Extract from a Judicial Decision Regarding DNA Testing

DNA evidence is recognized in Pakistan as secondary evidence. In other words, rather than being treated as direct evidence, it is generally regarded as supporting or corroborative evidence, as reflected in the following extract from a judicial decision:

> "Utility and evidentiary value of the DNA test was acceptable but not in a case falling under the penal provision of Zina punishable under Hudood Laws having its standard of proof principles." [18]

Are Digital Circumstantial Indicators Primary Evidence?

This question cannot be answered in a single categorical statement. Under the legal framework, certain electronic records may acquire the status of primary evidence if they satisfy the prescribed legal requirements. Explanations 3 and 4 to Article 73 are particularly significant in this regard. However, it would not be correct to assert that: "Every screenshot, every WhatsApp message, or every recording is primary evidence."

The fundamental issue concerns the nature of the evidence, its source, the manner in which it was generated and stored, the security procedures applied to it, and the applicable statutory requirements.

Basic Legal Standards for Digital Evidence

The following fundamental standards may be derived from Pakistani judicial practice:

- **Relevance**: The evidence must have a connection with the fact in issue or the relevant fact.
- **Authenticity**: It must be established that the evidence is genuinely what it is represented to be.
- **Integrity**: It must be demonstrated that the evidence has not been subjected to unauthorized alteration or tampering.
- **Reliability**: The information system and the method through which the evidence was obtained must be reliable.
- **Proper Preservation**: The evidence must have been properly preserved in a manner that safeguards its integrity.
- **Chain of Custody**: There must be a clear and traceable record of the custody and handling of the evidence.
- **Forensic Verification**: Where necessary, the evidence should be corroborated through expert or forensic examination.
- **Legal Procedure**: The evidence must be brought on the court record in accordance with the procedure prescribed by law.

Overall Judicial Approach of Pakistani Courts

The available legal materials and judicial precedents indicate that Pakistani courts generally recognize digital evidence in principle, while exercising caution regarding its reliability and authenticity.

Article 164 provides a legal gateway for technology-based evidence, the Electronic Transactions Ordinance, 2002 grants legal recognition to electronic

records, while Article 73 may accord electronic outputs the status of primary evidence subject to the fulfillment of specified conditions.
At the same time, the *Mian Khalid Pervaiz* case and recent judgments of the Sindh High Court make it clear that electronic format alone is insufficient; the evidence must also be proved and preserved in accordance with the applicable legal procedure.

Recommendations

- Uniform national forensic standards should be developed for digital evidence.
- Digital-forensics training for the police, prosecution, and judiciary should be institutionalized.
- Standardized documentation should be developed for maintaining the chain of custody.
- Hash-based forensic procedures should be adopted for the preservation of digital evidence.
- Detailed judicial guidelines should be formulated for courts regarding the assessment of electronic evidence.
- Specialized authentication protocols should be developed for deepfakes and AI-generated evidence.
- An appropriate legal balance should be established between digital evidence and the right to privacy.
- Clear procedural mechanisms should be developed for cloud-based and cross-border evidence.
- Clear standards should be established for the accreditation and qualifications of forensic experts.
- Evidence-sharing and preservation protocols among the National Cyber Crime Investigation Agency (NCCIA) and other relevant institutions should be strengthened.

Summary of the Discussion

The final position regarding the evidentiary authority of circumstantial evidence may be summarized as follows: factual evidence and circumstantial evidence have acquired considerable importance in the contemporary era. Islamic law has also accorded a significant role to circumstantial evidence. Where no other evidence is available, a judgment may be based on circumstantial evidence in matters other than Ḥudūd and Qiṣāṣ. In certain circumstances, circumstantial and factual evidence may also serve to corroborate and strengthen other forms of evidence. Positive reports issued by forensic laboratories and video recordings, including moving images, are being accepted to a certain extent for establishing the commission of an offence.
However, in the case of serious offences for which the law and Shariah prescribe the death penalty, a positive DNA laboratory report or video recording, regardless of its technical quality, cannot be regarded as the sole, conclusive, and definitive proof upon which a death sentence may be imposed. Likewise, the prescribed Ḥudūd punishment for Zinā cannot be enforced solely

on the basis of a positive forensic report, because the possibility of contamination or the admixture of extraneous material cannot be completely ruled out. Similarly, the possibility of editing or manipulation in video recordings and moving images cannot be categorically excluded. It is a common observation in our society that television channels sometimes portray the gatherings of their preferred political leaders or parties as larger than they actually are, while presenting gatherings of leaders or parties they disfavor as smaller, even when they are of equal or greater size. In ordinary parlance, this is sometimes described as the "art of the camera" or the skill of presentation. In other words, personal preferences and dislikes, inducements and incentives, pressure, and prejudice may result in facts and events being altered, selectively presented, exaggerated, diminished, or portrayed as either more or less significant than they actually are. Likewise, despite complete honesty and good faith, the possibility of human error cannot be entirely excluded. This does not mean that such error occurs in every case; nevertheless, the mere possibility of error is sufficient to negate absolute certainty. In Pakistan, there are numerous instances raising concerns regarding alterations and discrepancies in medico-legal reports and post-mortem examinations.

In view of these factors, a positive DNA report or other forensic evidence may remain probabilistic and subject to doubt; it cannot be regarded as absolutely conclusive. For the enforcement of the prescribed Ḥudūd punishment for Zinā or the imposition of the death penalty for murder, the evidence must be conclusive and beyond reasonable doubt, and such certainty can only be established through the requisite direct evidence. Bloodstains, bullet evidence, and human bite marks may fall within this category of forensic indicators. Nevertheless, where a judge or qadi is satisfied on the basis of such evidence, a Taʿzīr punishment may be imposed, and there is no fundamental objection to this approach.

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