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Qarā'in and Digital Evidence in Islamic Law:

Photographs, Video Recordings, Deepfakes, and Artificial Intelligence

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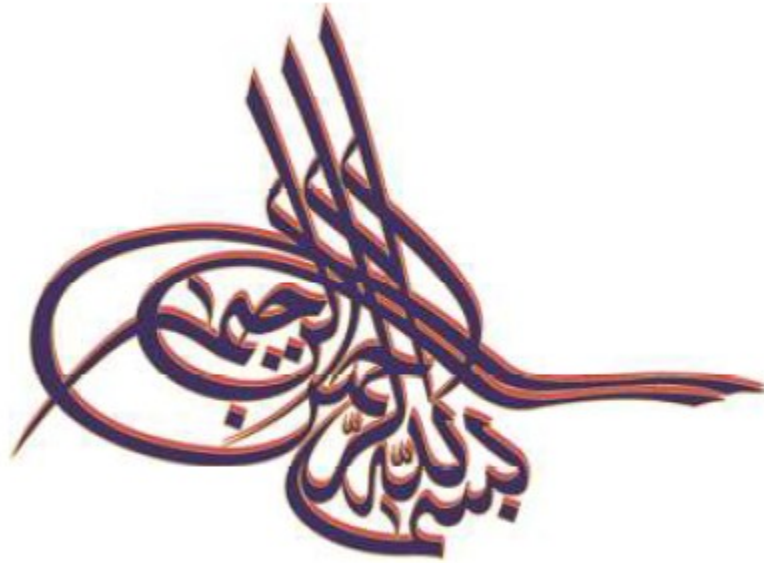


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Abstract

The unprecedented growth of digital technologies has transformed the nature of evidence presented before courts and legal authorities. Photographs, video recordings, audio files, digital metadata, biometric information, forensic analyses, and other forms of electronic evidence have become central means of establishing facts in contemporary disputes. More recently, advances in artificial intelligence have further complicated this landscape through the development of highly sophisticated deepfakes and AI-generated media capable of fabricating realistic images, videos, and voices. These developments raise important questions regarding the admissibility, reliability, and evidentiary value of such materials within Islamic law.

This paper examines the legal status of photographs, video recordings, audio recordings, and AI-generated media through the lens of the classical doctrine of qarā'in (circumstantial and corroborative evidence). It begins by examining the concept of qarā'in within Islamic legal theory, the relationship between qarā'in and bayyinah, and the juristic disagreement concerning judicial reliance upon circumstantial evidence. Particular attention is given to the evidentiary theories of Ibn al-Qayyim, who advanced an expansive conception of bayyinah that encompasses every means through which the truth becomes manifest. The paper further examines the classifications of qarā'in developed by the jurists and the conditions governing their use in judicial proceedings.

Building upon these theoretical foundations, the study argues that photographs, video recordings, audio recordings, digital forensic evidence, metadata, and similar technologies should be understood as contemporary manifestations of qarā'in. Their admissibility does not depend upon their technological form but upon their ability to reveal the truth and establish facts with an acceptable degree of certainty. At the same time, the existence of deepfakes and AI-generated fabrications necessitates rigorous authentication procedures, expert verification, and careful judicial scrutiny. Drawing upon the classical classifications of qarā'in and the evidentiary theory of Ibn al-Qayyim, the paper proposes a framework for evaluating digital evidence in contemporary Islamic courts and fatwa institutions. It concludes that artificial intelligence does not undermine the legitimacy of digital evidence in principle; rather, it reinforces the classical juristic emphasis upon authentication, corroboration, expert evaluation, and the careful assessment of evidentiary weight. The challenge posed by artificial intelligence is therefore not a challenge to the admissibility of digital evidence itself, but to accurately determining its place within the hierarchy of qarā'in recognized by Islamic law.

Keywords: Qarā'in, Bayyinah, Islamic Law of Evidence, Ibn al-Qayyim, Deepfakes, Artificial Intelligence, Digital Evidence, Islamic Judiciary.

Introduction

The administration of justice has always depended upon the ability of judges to distinguish truth from falsehood and establish disputed facts with a sufficient degree of certainty. Every legal system therefore develops rules governing evidence and proof, for without reliable methods of determining facts, legal rights and obligations cannot be meaningfully protected. The objective of evidentiary rules is not merely procedural regularity, but the realization of justice through the accurate determination of disputed claims and the prevention of wrongful judgments.

Historically, the principal forms of evidence available to courts consisted of witness testimony, confession, documentary evidence, and various forms of circumstantial proof. Technological developments over the last century, however, have dramatically expanded the evidentiary landscape. Photography, audio recording, video surveillance, biometric identification, DNA analysis, digital communications, metadata, electronic records, and other forensic technologies have become commonplace tools in both criminal and civil investigations. Contemporary courts increasingly rely upon such evidence to reconstruct events, identify individuals, establish liability, and verify competing claims. More recently, advances in artificial intelligence have introduced new opportunities and new challenges. Modern AI systems are capable of generating realistic images, videos, and voices that are increasingly difficult to distinguish from authentic recordings. Deepfake technologies can fabricate visual and audio evidence depicting events that never occurred, statements that were never made, and actions that were never performed. As a result, questions concerning the reliability, admissibility, and evidentiary weight of digital media have become among the most pressing issues facing contemporary legal systems.

These developments have prompted some observers to question whether photographs and videos can continue to serve as reliable evidence. Others have argued that the existence of deepfakes fundamentally undermines confidence in visual and audio media altogether. Such concerns naturally raise important questions within Islamic law. Can photographs, video recordings, and audio files be used as evidence before a judge? Do AI-generated images and synthetic media affect their admissibility? To what extent may courts rely upon digital evidence in establishing rights, obligations, and criminal liability? More fundamentally, does Islamic legal theory possess conceptual tools capable of addressing technological forms of evidence that were unknown to the classical jurists?

This paper argues that the classical Islamic law of evidence contains principles capable of addressing these questions without requiring any fundamental revision of the legal tradition. In particular, the doctrine of qarā'in (circumstantial and corroborative evidence) provides a comprehensive framework through which modern forms of digital evidence may be analyzed. Far from limiting proof to witness testimony and confession, numerous jurists recognized a broad category of evidentiary indicators capable of revealing the truth through physical traces, contextual circumstances, expert assessments, resemblance, possession, and other objective signs. The writings of Ibn al-Qayyim are especially significant in this regard. Although discussions of circumstantial evidence appear throughout the Sunni legal tradition, this scholar developed some of the most extensive and theoretically sophisticated treatments of evidentiary indicators in Islamic jurisprudence. He rejected a restrictive understanding of evidentiary proof and argued that the purpose of judicial procedure is the discovery of truth and the realization of justice rather than adherence to rigid procedural formalities. Ibn al-Qayyim developed one of the most comprehensive discussions of qarā'in in the Islamic legal tradition, arguing that reliable circumstantial evidence may in many instances establish facts with a degree of certainty equal to or greater than direct testimony. His discussions of physical traces, forensic indicators, resemblance, possession, expert analysis, and contextual evidence provide a

valuable theoretical foundation for evaluating contemporary forms of digital proof.¹

Ibn al-Qayyim said:

Indeed, Allah, Glorified and Exalted, sent His messengers and revealed His scriptures so that people may uphold justice (*qist*), which is the justice upon which the heavens and the earth are established. Therefore, whenever the signs of justice become manifest and its face is revealed by whatever means, there lies the Law of Allah and His religion. Allah, Glorified and Exalted, is too knowing, too wise, and too just to confine the means by which justice is established, or its indicators and proofs, to one particular form, while excluding other means that are clearer, stronger in evidentiary value, and more conclusive in indicating the truth. He would not recognize the former as

¹ Much of the arguments presented in this paper is based upon Ibn al-Qayyim's *Al-Turuq al-Hukmiyyah fi al-Siyasah al-Shar'iyyah*. This is due to it being one of the best, if not the best, classical work on the topic. *Al-Turuq al-Hukmiyyah fi al-Siyasah al-Shar'iyyah* by Ibn al-Qayyim is widely regarded as one of the most influential works in the field of Islamic judicial theory and legal procedure. The book reflects Ibn al-Qayyim's distinctive scholarly methodology, characterized by rigorous investigation, extensive engagement with legal opinions, strong evidentiary reasoning, and adherence to the Qur'an and Sunnah as the primary sources of legal authority. Throughout the work, Ibn al-Qayyim demonstrates a commitment to objective legal analysis, avoiding sectarian bias and blind adherence to established legal schools in favor of conclusions grounded in textual and rational evidence. The book primarily addresses two interconnected themes: Islamic governance and judicial policy (*siyasah shar'iyyah*), and the methods of establishing proof in legal disputes. Ibn al-Qayyim provides a comprehensive examination of the evidentiary mechanisms recognized in Islamic law, discussing both their legitimacy and practical application in judicial proceedings. His treatment of these issues is notable for its systematic organization and detailed engagement with Qur'anic principles. One of the most significant contributions of the work is its extensive discussion of *qarā'in* (circumstantial evidence). Ibn al-Qayyim argues that judges should not restrict themselves to direct testimony alone but should also consider contextual indicators and surrounding circumstances that may reveal the truth of a case. He maintains that reliance on such evidence is essential for achieving justice, preventing oppression, and ensuring that legal judgments correspond to reality rather than merely to outward appearances. The book also stands out for the strength of its argumentation. Ibn al-Qayyim presents competing legal opinions, evaluates their evidentiary foundations, and responds to opposing views through both textual and rational proofs. His discussion reflects a deep understanding of legal principles and demonstrates an effort to reconcile dispersed juristic discussions into a coherent and practical framework. As a result, the work became an important reference for later scholars and jurists, many of whom relied on its analyses in subsequent writings on judicial procedure and legal evidence, this most famously is seen with Ibn Farhun's "*Tabsirat al-Hukkam*." Furthermore, Ibn al-Qayyim's extensive use of scholarly sources highlights the breadth of his legal scholarship. Drawing upon a wide range of juristic, theological, and judicial literature, he offers a comprehensive treatment of issues related to evidence and adjudication. His emphasis on independent reasoning and evidence-based legal analysis further distinguishes the work from more strictly traditional approaches dependent on *madhhab* precedent alone. In summary, *Al-Turuq al-Hukmiyyah* occupies a central position in Islamic legal thought due to its sophisticated treatment of judicial evidence, its advocacy of contextual and circumstantial reasoning in legal decision-making, and its enduring influence on the development of Islamic judicial practice. The work remains a valuable resource for understanding the principles of justice, proof, and governance within the Islamic legal tradition.

evidence while refusing to treat the latter as such, nor would He refrain from judging according to them when they are present and firmly established. Rather, through the methods of proof that He has legislated, Allah has demonstrated that His objective is the establishment of justice among His servants and the realization of equity among mankind. Accordingly, whatever method leads to the discovery and establishment of justice and equity forms part of the religion and is not in conflict with it. Thus, it should not be said that a just policy (*al-siyāsah al-ādilah*) contradicts what has been prescribed by the Shari'ah. Rather, it accords fully with what the Shari'ah has brought; indeed, it is one of its integral components. We describe it as "policy" only in accordance with conventional terminology. In reality, it is nothing other than the justice of Allah and His Messenger, manifested through these evidentiary indicators and signs.²

He also said:

Here, therefore, are two forms of legal understanding (*fiqh*) that every judge must possess. The first is an understanding of the universal legal rulings governing cases. The second is an understanding of the actual circumstances of the case and the conditions of people, through which he distinguishes the truthful from the liar and the rightful claimant from the false claimant. He must then correlate these two forms of understanding, applying the appropriate legal ruling to the actual facts, without allowing the legal obligation to be divorced from reality. Whoever has a true appreciation of the Shari'ah, an understanding of its perfection, and an awareness that it encompasses the highest interests of humanity in this life and the next, and that it establishes the most complete form of justice—a justice that embraces all creation, beyond which there is no greater justice, and no greater public interest than those it secures—will realize that just governance (*al-siyāsah al-ādilah*) is an integral part of the Shari'ah and one of its branches. Indeed, one who understands the objectives, foundations, and purposes of the Shari'ah properly has no need whatsoever for any political system or policy outside of it.³

² فَإِنَّ اللَّهَ سُبْحَانَهُ أَرْسَلَ رَسُولَهُ، وَأَنْزَلَ كُتُبَهُ، لِيُقِيمَ النَّاسَ بِالْقِسْطِ، وَهُوَ الْعَدْلُ الَّذِي قَامَتْ بِهِ الْأَرْضُ وَالسَّمَوَاتُ. فَإِذَا ظَهَرَتْ أَمَارَاتُ الْعَدْلِ وَأَسْفَرَ وَجْهُهُ بِأَيِّ طَرِيقٍ كَانَ، فَتَمَّ شَرْعُ اللَّهِ وَدِينُهُ، وَاللَّهُ سُبْحَانَهُ أَعْلَمُ وَأَحْكَمُ، وَأَعَدُّ أَنْ يُخَصَّ طُرُقَ الْعَدْلِ وَأَمَارَاتِهِ وَأَعْلَامَهُ بِشَيْءٍ، ثُمَّ يَنْفِي مَا هُوَ أَظْهَرُ مِنْهَا وَأَقْوَى دَلَالَةً، وَأَبِينُ أَمَارَةً. فَلَا يَجْعَلُهُ مِنْهَا، وَلَا يَحْكُمُ عِنْدَ وَجُودِهَا وَفِيَامِهَا بِمُوجِبِهَا، بَلْ قَدْ بَيَّنَّ سُبْحَانَهُ بِمَا شَرَعَهُ مِنَ الطَّرِيقِ، أَنَّ مَقْصُودَهُ إِقَامَةُ الْعَدْلِ بَيْنَ عِبَادِهِ، وَفِيَامِ النَّاسِ بِالْقِسْطِ، فَأَيُّ طَرِيقٍ أُسْتُخْرِجَ بِهَا الْعَدْلُ وَالْقِسْطُ فَهِيَ مِنَ الدِّينِ، وَلَيْسَتْ مُخَالَفَةً لَهُ. فَلَا يَقَالُ: إِنَّ السِّيَاسَةَ الْعَادِلَةَ مُخَالَفَةٌ لِمَا نَطَقَ بِهِ الشَّرْعُ، بَلْ هِيَ مُوَافِقَةٌ لِمَا جَاءَ بِهِ، بَلْ هِيَ جُزْءٌ مِنْ أَجْزَائِهِ، وَنَحْنُ نُسَمِّيْهَا سِيَاسَةً تَبَعًا لِمُصْطَلَحِهِمْ، وَإِنَّمَا هِيَ عَدْلُ اللَّهِ وَرَسُولِهِ، ظَهَرَ بِهِذِهِ الْأَمَارَاتِ وَالْعَلَامَاتِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 13-14.

³ فَهَاهُنَا نَوْعَانِ مِنَ الْفِقْهِ، لَا بَدَّ لِلْحَاكِمِ مِنْهُمَا: فِقْهُ فِي أَحْكَامِ الْخَوَادِثِ الْكُلِّيَّةِ، وَفِقْهُ فِي نَفْسِ الْوَاقِعِ وَأَحْوَالِ النَّاسِ، يُمَيِّزُ بِهِ بَيْنَ الصَّادِقِ وَالكَاذِبِ، وَالْحَقِّ وَالْمَبْطُلِ. ثُمَّ يَطَابِقُ بَيْنَ هَذَا وَهَذَا فَيُعْطِي الْوَاقِعَ حُكْمَهُ مِنَ الْوَاجِبِ، وَلَا يَجْعَلُ الْوَاجِبَ مُخَالَفًا لِلْوَاقِعِ. وَمَنْ لَهُ ذَوْقُ

And Ibn al-Qayyim stated: "The Lawgiver has not disregarded circumstantial evidence (*qarā'in*), evidentiary indicators (*amārāt*), or the implications of surrounding circumstances. Rather, whoever carefully examines the Sharī'ah throughout its sources and applications will find that it consistently recognizes them as legally significant and bases legal rulings upon them."⁴

And he said:

If a judge is not deeply knowledgeable regarding evidentiary indicators (*amārāt*), the signs revealed by circumstances (*dalā'il al-hāl*), the means by which those signs are recognized, and the contextual indicators arising both from circumstances and from speech (*al-qarā'in al-hāliyyah wa-l-maqāliyyah*), to the same degree that he is knowledgeable regarding the detailed and general rules of law, then he will cause many people to lose their rights. He will also render judgments whose falsity people know with certainty and about which they have no doubt, because he relied solely upon an outward form while failing to consider its underlying reality and the circumstantial indicators surrounding it.⁵

Again, Ibn al-Qayyim stated: "Whoever completely disregards evidentiary indicators (*amārāt*) and signs (*alāmāt*) recognized by the Sharī'ah has rendered many of its rulings inoperative and allowed many rights to be lost. In this matter, people fall into two extremes, while the correct approach lies in the middle."⁶

He also mentioned regarding this topic:

This is a great and immensely beneficial issue, one of tremendous importance. If a judge or ruler neglects it, he will cause many rights to be lost and will uphold much falsehood. But if he goes to the other extreme and

فِي الشَّرِيعَةِ، وَاطَّلَاعٌ عَلَى كَمَا لَا يَتِمُّهَا لِغَايَةِ مَصَالِحِ الْعِبَادِ فِي الْمَعَاشِ وَالْمَعَادِ، وَمَجِيئُهَا بِغَايَةِ الْعَدْلِ، الَّذِي يَسَعُ الْخَلَائِقَ، وَأَنَّهُ لَا عَدْلَ فَوْقَ عَدْلِهَا، وَلَا مَصْلَحَةَ فَوْقَ مَا تَضَمَّنَتْهُ مِنَ الْمَصَالِحِ: تَبَيَّنَ لَهُ أَنَّ السِّيَاسَةَ الْعَادِلَةَ جُزْءٌ مِنْ أَجْزَائِهَا، وَفَرْعٌ مِنْ فُرُوعِهَا، وَأَنَّ مَنْ لَهُ مَعْرِفَةٌ بِمَقَاصِدِهَا وَوَضْعُهَا وَحُسْنُ فَهْمُهُ فِيهَا: لَمْ يَحْتَاجْ مَعَهَا إِلَى سِيَاسَةٍ غَيْرِهَا أَلْبَتَّةَ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 4.

⁴ فَالشَّارِعُ لَمْ يُلْغِ الْقَرَائِنَ وَالْأَمَارَاتِ وَدَلَالَاتِ الْأَحْوَالِ، بَلْ مَنْ اسْتَقَرَّ الشَّرْعُ فِي مَصَادِرِهِ وَمَوَارِدِهِ وَجَدَهُ شَاهِدًا لَهَا بِالْإِعْتِبَارِ، مُرْتَبًّا عَلَيْهَا الْأَحْكَامَ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 12.

⁵ فَالْحَاكِمُ إِذَا لَمْ يَكُنْ فَقِيهَ النَّفْسِ فِي الْأَمَارَاتِ، وَدَلَائِلِ الْحَالِ، وَمَعْرِفَةَ شَوَاهِدِهِ، وَفِي الْقَرَائِنِ الْحَالِيَّةِ وَالْمَقَالِيَّةِ، كَفَقْهُهُ فِي جُزْئِيَّاتٍ وَكُلِّيَّاتٍ الْأَحْكَامِ: أَضَاعَ حُقُوقًا كَثِيرَةً عَلَى أَصْحَابِهَا. وَحَكَمَ بِمَا يَعْلَمُ النَّاسُ بُطْلَانَهُ لَا يَشْكُونَ فِيهِ، اعْتِمَادًا مِنْهُ عَلَى نَوْعٍ ظَاهِرٍ لَمْ يَلْتَفِتْ إِلَى بَاطِنِهِ وَقَرَائِنِ أَحْوَالِهِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 4.

⁶ فَمَنْ أَهْدَرَ الْأَمَارَاتِ وَالْعَلَامَاتِ فِي الشَّرْعِ بِالْكُلِّيَّةِ فَقَدْ عَطَّلَ كَثِيرًا مِنَ الْأَحْكَامِ، وَصَيَّغَ كَثِيرًا مِنَ الْحُقُوقِ، وَالنَّاسُ فِي هَذَا الْبَابِ طَرَفَانِ وَوَسْطٌ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 87.

expands its use, making it the sole basis of his judgments while disregarding the established legal procedures of the Shari'ah, he will fall into various forms of injustice and corruption.⁷

Therefore, it is evident that Ibn al-Qayyim is among those who have authored the most comprehensive and precise works on evidentiary indicators, deeply exploring the philosophy of law in this area, thereby making his writings a valuable resource for study.

⁷ فَهَذِهِ مَسْأَلَةٌ كَبِيرَةٌ عَظِيمَةُ النَّفْعِ، جَلِيلَةُ الْقَدْرِ، إِنَّ أَهْمَلَهَا الْحَاكِمُ أَوْ الْوَالِي أَضَاعَ حَقًّا كَثِيرًا، وَأَقَامَ بَاطِلًا كَثِيرًا، وَإِنْ تَوَسَّعَ فِيهَا وَجَعَلَ مُعَوَّلَةً عَلَيْهَا، دُونَ الْأَوْضَاعِ الشَّرْعِيَّةِ، وَقَعَ فِي أَنْوَاعٍ مِنَ الظُّلْمِ وَالْفَسَادِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 3.

The Concept of Qarā'in in Islamic Legal Theory

The determination of truth in judicial proceedings constitutes one of the central objectives of Islamic adjudication. The judge is tasked with resolving disputes, protecting rights, preventing injustice, and ensuring that legal rulings correspond as closely as possible to reality. Because legal rights and obligations depend upon the accurate establishment of facts, Muslim jurists devoted considerable attention to the law of evidence and the methods through which claims may be proven or disproven. Most scholars of Islamic law did not specifically address the concept of qarā'in. Prior to Ibn al-Qayyim, some scholars briefly considered the issue within broader jurisprudential discussions. Ibn al-Qayyim thoroughly explored the concept of qarā'in, analyzing its significance in judicial evidence, examining various viewpoints, and presenting supporting proofs. Subsequent scholars on the subject frequently referenced his comprehensive analyses.

Legal scholars discuss the rulings concerning bayyinat, their various types, and the methods and number of ways to establish proofs. The majority of scholars argue that qarā'in do not fall under the concept of bayyinah, as Islamic law restricts bayyinah to testimony. Consequently, they maintain that the methods of proof and bayyinah constitute a limited set of evidentiary proofs that cannot be expanded. Ibn Taymiyyah, Ibn al-Qayyim, and other scholars posited that al-bayyinah encompasses more than mere testimony. It includes all forms of evidence that elucidate and establish the truth. Consequently, bayyinat is not limited to specific types or quantities of proofs; it also incorporates qarā'in and other evidences that serve to clarify and reveal the truth.

Classical jurists generally recognized a hierarchy of evidentiary methods.⁸ Foremost among these is confession (*iqrār*), which has traditionally been described as the strongest form of proof because it emanates directly from the party against whom the claim is asserted and is therefore least susceptible to doubt. Following confession is witness testimony (*shahādah*), which occupies a central position within the Islamic law of evidence and whose conditions and requirements are discussed extensively throughout the legal literature. Judges also frequently resort to other means of establishing facts. It is within this broader evidentiary framework that the doctrine of *qarā'in* emerged and developed.⁹

Although contemporary studies often treat circumstantial evidence as a distinct legal doctrine, classical jurists rarely devoted independent chapters specifically entitled "qarā'in." Instead, discussions concerning circumstantial evidence were generally incorporated into broader treatments of judicial procedure, claims and counterclaims, testimony, ownership disputes, criminal investigations, lineage, marriage, and commercial transactions. Consequently, the absence of a separate chapter on qarā'in should not be interpreted as evidence that jurists neglected the subject. On the contrary, reliance upon surrounding circumstances, physical traces, expert assessments, and contextual indicators appears

⁸ Ibrāhīm b. 'Alī b. Muḥammad Ibn Farḥūn al-Ya'murī, *Tabṣirat al-Ḥukkām fī Uṣūl al-Aqḍiyah wa Manāhij al-Aḥkām* (Cairo: Maktabat al-Kulliyāt al-Azhariyyah, 1st ed., 1406 AH/1986 CE), vol. 1:319-2:136.

⁹ وَالْمَقْصُودُ أَنَّ الْبَيِّنَةَ فِي الشَّرْعِ: اسْمٌ لِمَا يَبَيِّنُ الْحَقَّ وَيُظْهِرُهُ، وَهِيَ تَارَةٌ تَكُونُ أَرْبَعَةَ شُهُودٍ، وَتَارَةٌ ثَلَاثَةٌ بِالنِّصِّ فِي بَيِّنَةِ الْمَفْلِسِ وَتَارَةٌ شَاهِدَيْنِ، وَشَاهِدًا وَاحِدًا، وَامْرَأَةً وَاحِدَةً، وَتَكُونُ نَكُولًا وَيَمِينًا، أَوْ خَمْسِينَ يَمِينًا، أَوْ أَرْبَعَةَ أَتْيَانٍ وَتَكُونُ شَاهِدَ الْحَالِ فِي الصُّورِ الَّتِي ذَكَرْنَاهَا وَغَيْرَهَا، فَقَوْلُهُ

صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْبَيِّنَةُ عَلَى الْمُدَّعِي أَيْ عَلَيْهِ أَنْ يُظْهِرَ مَا يَبَيِّنُ صِحَّةَ دَعْوَاهُ، فَإِذَا ظَهَرَ صِدْقُهُ بِطَرِيقٍ مِنَ الطَّرِيقِ حُكِمَ لَهُ

Muḥammad b. Abī Bakr b. Ayyūb b. Sa'd Shams al-Dīn Ibn Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (n.p.: Maktabat Dār al-Bayān, n.d.), 24.

throughout the legal literature of all four Sunni schools.

This reality may be observed in numerous legal discussions. For example, al-Zayla'ī, while discussing disputes concerning found property and ownership claims, states that if one claimant is able to describe distinguishing signs and characteristics associated with the item, such indicators strengthen his claim and may justify preferring his assertion over that of another claimant. Such discussions reveal that jurists frequently relied upon evidentiary indicators even when they did not discuss them under a distinct theoretical heading. He stated:

"If one of the two claimants describes a distinguishing mark on the child, then he has the stronger claim to him." This is because mentioning such a distinguishing mark indicates that the child had previously been in his possession or under his care. The apparent inference (*ẓāhir*) is therefore that the child belongs to him, and the distinguishing mark gives his claim greater weight. This differs from the case of lost property (*luqatah*), where the claimant who describes a distinguishing mark is not necessarily preferred over another claimant in the event of a dispute. The reason is that preference (*tarjih*) is only considered after the existence of a basis for entitlement (*sabab al-istiḥqāq*). Such a basis exists in the case of a found child (*laqīṭ*), namely the claim itself, whereas it does not exist in the same manner with lost property. Do you not see that if only one person claimed the found child, the child would be handed over to him? Moreover, giving consideration to distinguishing marks has a foundation in the Shari'ah.¹⁰

The discussion of qarā'in cannot be separated from the broader juristic discussion concerning the meaning of *bayyinah*. The relationship between these two concepts lies at the heart of Islamic evidentiary theory. A number of jurists employed the term bayyinah in a relatively narrow sense and associated it primarily with witness testimony.¹¹

Ibn Taymiyyah and his student Ibn al-Qayyim, however, advanced a significantly broader conception. Both scholars rejected the view that bayyinah is synonymous with testimony alone. They argued instead that the term encompasses every means through which the truth becomes manifest. Ibn al-Qayyim famously states:

In summary, *bayyinah* is a term that encompasses everything that clarifies, establishes, and reveals the truth. Whoever restricts it to the testimony of two witnesses, four witnesses, or a single witness has not given the term its full and proper meaning. The term *bayyinah* never occurs in the Qur'an with the meaning of two witnesses; rather, it is consistently used to denote proof,

¹⁰ وَإِنْ وَصَفَ أَحَدُهُمَا عَلَامَةً بِهِ أَيْ بِالْوَلَدِ (فَهُوَ أَحَقُّ بِهِ) لِأَنَّ ذِكْرَ الْعَلَامَةِ يَدُلُّ عَلَى أَنَّهُ كَانَ فِي يَدِهِ فَالظَّاهِرُ أَنَّهُ لَهُ فَيَرْجَحُ بِهَا بِخِلَافِ اللَّقْطَةِ حَيْثُ لَا يَرْجَحُ صَاحِبُ الْعَلَامَةِ عِنْدَ التَّنَازُعِ فِيهَا لِأَنَّ التَّرْجِيحَ لَا يُعْتَبَرُ إِلَّا بَعْدَ وُجُودِ سَبَبِ الْإِسْتِحْقَاقِ وَقَدْ وَجَدَ ذَلِكَ فِي اللَّقِيطِ وَهُوَ الدَّعْوَى دُونَ اللَّقْطَةِ أَلَا تَرَى أَنَّ أَحَدَهُمَا لَوْ أَنْفَرَدَ بِهَا يُؤْمَرُ بِالتَّسْلِيمِ فِي اللَّقِيطِ وَاعْتِبَارُ الْعَلَامَةِ لَهُ أَصْلٌ فِي الشَّرْعِ

¹¹ Uthmān b. 'Alī al-Zayla'ī, Tabyīn al-ḥaqā'iq Sharḥ Kanz al-Daqā'iq, with the marginalia (ḥāshiyah) of Aḥmad al-Shilbī (Cairo: al-Maṭba'ah al-Kubrā al-Amīriyyah, Būlāq, 1st ed., 1314 AH), 3:299.

¹¹ Ibrāhīm b. 'Alī b. Muḥammad Ibn Farḥūn al-Ya'murī, Tabṣirat al-ḥukkām fī Uṣūl al-Aqḍiyah wa Manāḥij al-Aḥkām (Cairo: Maktabat al-Kulliyāt al-Azhariyyah, 1st ed., 1406 AH/1986 CE), vol. 1:240.

evidence, and conclusive argument, whether in the singular or plural form.¹²

If bayyinah encompasses all that reveals the truth, then testimony is merely one form of bayyinah, not its exclusive type. Documents, physical traces, expert analyses, possession, resemblance, forensic evidence, and other indicators can also constitute bayyinah when they reliably establish facts. The previous definition illustrates that bayyinah is not limited to any specific type of evidence; rather, it includes any sign, circumstance, physical trace, expert assessment, observable condition, or contextual indicator that can aid in uncovering the truth.

Similarly, early jurists did not provide explicit definitions for al-Qareenah, but they alluded to the concept in their writings, likely because it was evident to them. Some later scholars proposed formal definitions; however, none explored the scope in the detail that Ibn al-Qayyim did. According to him, the legal importance of an indicator depends not on its form but on its capacity to reveal reality. This broad conception was crucial in enabling Islamic evidentiary theory to adapt to new forms of evidence that emerged in later centuries. Furthermore, Ibn al-Qayyim demonstrates flexibility in terminology, suggesting that terms such as amarah, 'alamah, and firasah are analogous to bayyinah, all denoting the same concept. He says: "The terms *bayyinah* (evidence), *dalālah* (indication), *hujjah* (proof), *burhān* (demonstrative proof), *āyah* (sign), *tabṣirah* (insight-giving evidence), *'alāmah* (mark), and *amārah* (indicator) are closely related in meaning."¹³ And he said:

Skilled judges and governors have always extracted and established rights through discernment (*firāsah*) and evidentiary indicators (*amārāt*). When such indicators become apparent, they do not give precedence to testimony that contradicts them, nor to a confession that conflicts with them. All jurists have explicitly stated that when a judge harbors doubts about witnesses, he should separate them and question them: How did you acquire this testimony? Where did you witness it? This is an obligation upon him. If he neglects to do so, he is blameworthy and acts unjustly in his judgment. Likewise, when he doubts a claim, he should ask the claimant about the basis of the right being claimed, where it arose, and examine the surrounding circumstances to determine whether they support the validity of the claim.

¹² وَبِالْجُمْلَةِ: فَالْبَيِّنَةُ اسْمٌ لِكُلِّ مَا يَبَيِّنُ الْحَقَّ وَيُظْهِرُهُ وَمَنْ خَصَّهَا بِالشَّاهِدَيْنِ، أَوْ الْأَرْبَعَةِ، أَوْ الشَّاهِدِ لَمْ يُؤَفِّ مَسْأَلَهَا حَقَّهُ. وَلَمْ تَأْتِ الْبَيِّنَةُ قَطُّ فِي الْقُرْآنِ مُرَادًا بِهَا الشَّاهِدَانِ وَإِنَّمَا أَتَتْ مُرَادًا بِهَا الْحُجَّةُ وَالْدَّلِيلُ وَالْبُرْهَانُ، مُفْرَدَةً جَمْعَةً

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), p. 11.

وَالْمَقْصُودُ أَنَّ «الْبَيِّنَةَ» فِي الشَّرْعِ: اسْمٌ لِمَا يَبَيِّنُ الْحَقَّ وَيُظْهِرُهُ، وَهِيَ تَارَةٌ تَكُونُ أَرْبَعَةً شُهُودٍ، وَتَارَةٌ ثَلَاثَةٌ بِالنِّصِّ فِي بَيِّنَةِ الْمُفْلِسِ وَتَارَةٌ شَاهِدَيْنِ، وَشَاهِدًا وَاحِدًا، وَامْرَأَةً وَاحِدَةً، وَتَكُونُ نُكُولًا وَيَمِينًا، أَوْ خَمْسِينَ يَمِينًا، أَوْ أَرْبَعَةَ أَتْيَانٍ. وَتَكُونُ شَاهِدَ الْحَالِ فِي الصُّورِ الَّتِي ذَكَرْنَاهَا وَغَيْرَهَا، فَقَوْلُهُ - ﷺ - «الْبَيِّنَةُ عَلَى الْمُدَّعِي» أَيُّ عَلَيْهِ أَنْ يُظْهِرَ مَا يَبَيِّنُ صِحَّةَ دَعْوَاهُ، فَإِذَا ظَهَرَ صِدْقُهُ بِطَرِيقٍ مِنَ الطَّرِيقِ حُكِمَ لَهُ.

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 24. See also Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, I'lām al-Muwaqqi'īn 'an Rabb al-'Ālamīn, ed. Muhammad 'Abd al-Salām Ibrāhīm (Beirut: Dār al-Kutub al-'Ilmiyyah, 1st ed., 1411 AH/1991 CE), 1:71.

¹³ وَالْبَيِّنَةُ وَالْدَّلَالَةُ وَالْحُجَّةُ وَالْبُرْهَانُ وَالْآيَةُ وَالتَّبَصُّرَةُ وَالْعَلَامَةُ وَالْأَمَارَةُ: مُتَقَارِبَةٌ فِي الْمَعْنَى.

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), p. 11.

Similarly, when he has doubts regarding the statement of a person whose word is ordinarily accepted, such as a trustee (*amīn*) or a defendant, he must investigate the circumstances and inquire into the indicators that reveal the true nature of the case. Rarely does a judge or ruler devote himself to this practice and develop proficiency in it without becoming able to distinguish the rightful claimant from the false claimant and to restore rights to their rightful owners.¹⁴

Some scholars distinguished between *qara'in* and *firasah*. Since *firasah* is an intangible matter that occurs within the self and cannot be detected externally, manifesting in the heart without apparent evidence, many scholars did not permit the use of *firasah* as a basis for rulings, unlike *qara'in*. Among these scholars are Ibn al-Arabi and Ibn Farhun. Ibn Farhun stated:

Judging on the basis of *firāsah* (discernment) is akin to judging on the basis of mere suspicion, conjecture, and estimation. Such judgment constitutes injustice and oppression on the part of the judge, for conjecture may be correct or mistaken. The only instance in which testimony based on discernment (*tawassum*) has been permitted is in a specific context due to necessity.¹⁵

Similarly, Ibn Aqil distinguished between rulings based on 'amarat and those derived from *firasah*.¹⁶

Ibn al-Qayyim, however, contended that genuine *firasah* are analogous to 'amarat and *qara'in*. He stated: "Skilled judges and rulers have continually succeeded in establishing rights through judicial discernment (*firāsah*) and evidentiary indicators (*amārāt*). Whenever such indicators became manifest, they did not give precedence to testimony or confession that contradicted them."¹⁷ And Ibn al-Qayyim said:

The Lawgiver has not disregarded circumstantial evidence (*qarā'in*), evidentiary indicators (*amārāt*), or the implications of surrounding

¹⁴ وَلَمْ يَزَلْ خُذَاقُ الْحُكَّامِ وَالْوَلَاةِ يَسْتَخْرِجُونَ الْحُقُوقَ بِالْفِرَاسَةِ وَالْأَمَارَاتِ، فَإِذَا ظَهَرَتْ لَمْ يُقَدِّمُوا عَلَيْهَا شَهَادَةً تُخَالِفُهَا وَلَا إِقْرَارًا. وَقَدْ صَرَّحَ الْفُقَهَاءُ كُلُّهُمْ بِأَنَّ الْحَاكِمَ إِذَا ارْتَابَ بِالشُّهُودِ فَرَفَقَهُمْ وَسَاءَهُمْ: كَيْفَ تَحْمَلُوا الشَّهَادَةَ؟ وَأَيْنَ تَحْمَلُوهَا؟ وَذَلِكَ وَاجِبٌ عَلَيْهِ، مَتَى عَدَلَ عَنْهُ أَثِمَ، وَجَارَى فِي الْحُكْمِ. وَكَذَلِكَ إِذَا ارْتَابَ بِالِدَّعْوَى سَأَلَ الْمُدَّعِيَ عَنْ سَبَبِ الْحَقِّ، وَأَيْنَ كَانَ، وَنَظَرَ فِي الْحَالِ: هَلْ يَقْتَضِي صِحَّةَ ذَلِكَ؟ وَكَذَلِكَ إِذَا ارْتَابَ بِمَنْ الْقَوْلُ قَوْلُهُ كَالْأَمِينِ وَالْمُدَّعَى عَلَيْهِ. وَجَبَ عَلَيْهِ أَنْ يَسْتَكْشِفَ الْحَالِ، وَيَسْأَلَ عَنِ الْقَرَائِنِ الَّتِي تَدُلُّ عَلَى صُورَةِ الْحَالِ. وَقَالَ حَاكِمٌ أَوْ وَالٍ اعْتَنَى بِذَلِكَ، وَصَارَ لَهُ فِيهِ مَلَكَةٌ إِلَّا وَعَرَفَ الْمُحَقِّقَ مِنَ الْمُبْطِلِ، وَأَوْصَلَ الْحُقُوقَ إِلَى أَهْلِهَا.

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), p. 24.

¹⁵ وَالْحُكْمُ بِالْفِرَاسَةِ مِثْلُ الْحُكْمِ بِالظَّنِّ وَالْحَزَرِ وَالتَّخْمِينِ، وَذَلِكَ فِسْقٌ وَجَوْرٌ مِنَ الْحَاكِمِ، وَالظَّنُّ يُخْطِئُ وَيُصِيبُ، وَإِنَّمَا أُجِيزَتْ شَهَادَةُ التَّوَسُّمِ فِي حُلِّ مَخْصُوصٍ لِلضَّرُورَةِ

Ibrāhīm b. 'Alī b. Muḥammad Ibn Farḥūn al-Ya'murī, Tabṣirat al-Ḥukkām fī Uṣūl al-Aqdiyah wa Manāhij al-Aḥkām (Cairo: Maktabat al-Kulliyāt al-Azhariyyah, 1st ed., 1406 AH/1986 CE), vol. 2:136.

¹⁶ Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 3, 12.

¹⁷ وَلَمْ يَزَلْ خُذَاقُ الْحُكَّامِ وَالْوَلَاةِ يَسْتَخْرِجُونَ الْحُقُوقَ بِالْفِرَاسَةِ وَالْأَمَارَاتِ، فَإِذَا ظَهَرَتْ لَمْ يُقَدِّمُوا عَلَيْهَا شَهَادَةً تُخَالِفُهَا وَلَا إِقْرَارًا

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 24.

circumstances. Rather, whoever inductively examines the Sharī'ah throughout its sources and applications will find that it consistently recognizes them as legally significant and bases legal rulings upon them. As for the statement of Abū al-Wafā' Ibn 'Aqīl, 'This is not *firāsah*,' it may be replied: there is no objection to calling it *firāsah*, for it is indeed truthful and sound *firāsah*. Allah, Glorified and Exalted, has praised *firāsah* and those who possess it in several places in His Book. He says: "Indeed, in that are signs for those who discern" (Q. 15:75), referring to those who exercise discernment (*mutafarrisūn*), who infer from outward marks (*sīmā*), that is, from observable signs. It is said, 'I discerned such-and-such about you,' or, 'I perceived it through careful observation.' Likewise, Allah says: "Had We willed, We could have shown them to you, and you would have recognized them by their marks" (Q. 47:30). He also says: "The ignorant think them to be self-sufficient because of their restraint, but you recognize them by their marks" (Q. 2:273). In Jāmi' al-Tirmidhī, it is narrated from the Prophet ﷺ: 'Beware of the discernment of the believer, for he sees with the light of Allah,' after which he recited: 'Indeed, in that are signs for those who discern' (Q. 15:75).¹⁸

The *firasah* utilized by Ibn al-Qayyim corresponds to the concept of the *qarinah*, which functions as an indicator for something. He said: "The terms *bayyinah* (evidence), *dalālah* (indication), *hujjah* (proof), *burhān* (demonstrative proof), *āyah* (sign), *tabṣirah* (illuminating evidence), *alāmah* (mark), and *amārah* (indicator) are closely related in meaning."¹⁹ Therefore, it appears that his interpretation of *firāsah* aligns with Ibn al-Qayyim's conceptualization, which should not be regarded as authorizing judgments founded solely on subjective intuition or personal impressions. Instead, *firāsah* signifies judicial discernment, perceptiveness, meticulous observation, and rational judgment that enable a judge to ascertain the truth through objective evidentiary indicators. It encompasses intellectual insight, sound judgment, and prudence in evaluating case facts, thereby facilitating the revelation of truth, safeguarding the rights of the oppressed, and preventing injustice. Ibn al-Qayyim occasionally describes such methodologies as permissible legal stratagems (*ḥiyal mubāḥah*), allowing either a judge or individual to employ lawful means to discover the truth or prevent injustice. Nonetheless, these techniques are always tethered to objective reality. His aim is not to endorse judgments

¹⁸ فَالْشَّارِعُ لَمْ يُلْغِ الْقُرَائِنَ وَالْأَمَارَاتِ وَدَلَالَاتِ الْأَحْوَالِ، بَلْ مَنْ اسْتَقَرَّ الشَّرْعُ فِي مَصَادِرِهِ وَمَوَارِدِهِ وَجَدَهُ شَاهِدًا لَهَا بِالْإِغْتِبَارِ، مُرْتَبًا عَلَيْهَا الْأَحْكَامَ وَقَوْلُ أَبِي الْوَفَاءِ ابْنِ عَقِيلٍ: «لَيْسَ هَذَا فِرَاسَةً»، فَيُقَالُ: وَلَا مُحَذَّرٌ فِي تَسْمِيَّتِهِ فِرَاسَةً، فَهِيَ فِرَاسَةٌ صَادِقَةٌ. وَقَدْ مَدَحَ اللَّهُ سُبْحَانَهُ الْفِرَاسَةَ وَأَهْلَهَا فِي مَوَاضِعَ مِنْ كِتَابِهِ، فَقَالَ تَعَالَى: ﴿إِنَّ فِي ذَلِكَ لَآيَاتٍ لِلْمُتَوَسِّمِينَ﴾ [الحجر: ٧٥] وَهُمْ الْمُتَفَرِّسُونَ الْأَحْذُونَ بِالسِّيَا، وَهِيَ الْعَلَامَةُ، يُقَالُ: تَفَرَّسْتُ فِيكَ كَيْتَ وَكَيْتَ وَتَوَسَّمْتَهُ وَقَالَ تَعَالَى: ﴿وَلَوْ نَشَاءُ لَأَرَيْنَاكُمْ فَلَعَرَفْتَهُمْ بِسِيَائِهِمْ﴾ [محمد: ٣٠] وَقَالَ تَعَالَى: ﴿يَحْسَبُهُمُ الْجَاهِلُ أَغْنِيَاءَ مِنَ التَّعَفُّفِ تَعْرِفُهُمْ بِسَيِّئَاتِهِمْ﴾ [البقرة: ٢٧٣] وَفِي «جَامِعِ التِّرْمِذِيِّ» مَرْفُوعًا: «اتَّقُوا فِرَاسَةَ الْمُؤْمِنِ، فَإِنَّهُ يَنْظُرُ بِنُورِ اللَّهِ، ثُمَّ قَرَأَ ﴿إِنَّ فِي ذَلِكَ لَآيَاتٍ لِلْمُتَوَسِّمِينَ﴾ [الحجر: ٧٥]

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 12.

¹⁹ وَالْبَيِّنَةُ وَالْدَّلَالَةُ وَالْحُجَّةُ وَالْبُرْهَانُ وَالْآيَةُ وَالنَّبْصَرَةُ وَالْعَلَامَةُ وَالْأَمَارَةُ: مُتَقَارِبَةٌ فِي الْمَعْنَى

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 11.

based solely on impressions that arise in the judge's mind without external corroboration. Instead, *firāsah* must be substantiated by observable facts, circumstantial evidence (*qarā'in*), and reliable indicators (*amārāt*) that objectively support the inferred conclusion. This perspective is further confirmed by Ibn al-Qayyim's broader judicial approach. In *Al-Ṭuruq al-Hukmiyyah*, he consistently emphasizes that legal rulings should be grounded in manifest evidentiary indicators (*al-amārāt al-zāhirah*), contextual circumstances (*shawāhid al-hāl*), and other dependable forms of proof. Moreover, he explicitly rejects the notion that a judge may decide based solely on personal knowledge (*'ilm al-qāḍī*), maintaining that such judgments risk bias and threaten the safeguarding of legal rights. If Ibn al-Qayyim does not endorse rulings based on the judge's certain knowledge, then it follows that he would also disallow judgments based purely on unsubstantiated intuition or psychological impressions.

Accordingly, *firāsah* in Ibn al-Qayyim's jurisprudence is best understood as evidence-based judicial discernment rather than subjective intuition. It is the disciplined ability to interpret objective signs correctly and to infer factual reality from reliable circumstantial evidence. The judge's discernment therefore functions as an epistemological tool for evaluating evidence, not as an independent source of proof. This distinction is essential to Ibn al-Qayyim's theory of evidence and explains why his discussion of *firāsah* consistently appears alongside his treatment of *qarā'in*, *amārāt*, and *dalālāt al-aḥwāl*. He said:

Among the forms of *firāsah* is that to which the Prophetic Sunnah directs, namely, freeing oneself from an undesirable situation through a very simple means, whether by an indirect statement or an indirect action. An example of this is the report narrated by Imām Aḥmad in his *Musnad* from Abū Hurayrah, who related that a man said: 'O Messenger of Allah, I have a neighbor who harms me.' The Prophet ﷺ replied, 'Go and place your belongings in the street.' So he went and placed his belongings outside. People gathered around him and asked, 'What has happened?' He replied, 'I have a neighbor who harms me.' The people then began saying, 'O Allah, curse him! O Allah, disgrace him!' When news of this reached the neighbor, he came to him and said, 'Return to your home. By Allah, I will never harm you again.' These and similar examples are among the lawful stratagems (*al-ḥiyal*) that the Sharī'ah has permitted.²⁰

The implications of this conception are profound. It shifts the focus of evidentiary theory away from rigid procedural forms and toward the underlying objective of discovering the truth. Under Ibn al-Qayyim's approach, the admissibility of evidence is not determined by whether it resembles the evidentiary methods known during the formative period of Islamic law. Rather, it is determined by its capacity to reveal reality with an acceptable degree of certainty.

Legal Basis

The validity of relying on circumstantial evidence is well-established within the principal texts of Islamic jurisprudence. Ibn al-Qayyim supported his stance with various

²⁰ وَمِنْ أَنْوَاعِ الْفِرَاسَةِ: مَا أَرَشَدَتْ إِلَيْهِ السُّنَّةُ النَّبَوِيَّةُ مِنَ التَّخَلُّصِ مِنَ الْمَكْرُوهِ بِأَمْرِ سَهْلٍ جَدًّا، مِنْ تَعْرِضٍ بِقَوْلٍ أَوْ فِعْلٍ. فَمِنْ ذَلِكَ: مَا رَوَاهُ الْإِمَامُ أَحْمَدُ فِي مُسْنَدِهِ «عَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: «قَالَ رَجُلٌ: يَا رَسُولَ اللَّهِ، إِنَّ لِي جَارًا يُؤْذِينِي، قَالَ: انْطَلِقْ، فَأَخْرِجْ مَتَاعَكَ إِلَى الطَّرِيقِ، فَانْطَلِقْ، فَأَخْرِجْ مَتَاعَهُ. فَاجْتَمَعَ النَّاسُ إِلَيْهِ. فَقَالُوا: مَا شَأْنُكَ؟ فَقَالَ: إِنَّ لِي جَارًا يُؤْذِينِي. فَجَعَلُوا يَقُولُونَ: اللَّهُمَّ ائْتِنَاهُ، اللَّهُمَّ أَخْرِجْهُ. فَبَلَغَهُ ذَلِكَ، فَأَتَاهُ فَقَالَ: ارْجِعْ إِلَى مَنْزِلِكَ، فَوَاللَّهِ لَا أُوْذِيكَ أَبَدًا» فَهَذِهِ وَأَمْثَالُهَا هِيَ الْحِيلُ الَّتِي أَبَاحَتْهَا الشَّرِيعَةُ.

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Hukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 33.

sources, including the Qur'an, Sunnah, reports from the companions, and rational reasoning.

Among the most frequently cited examples is the account of Yūsuf. When Yūsuf was accused by the wife of al-'Azīz, the dispute was resolved through an examination of the location of the tear in his shirt: "Joseph responded, 'It was she who tried to seduce me.' And a witness from her own family testified: 'If his shirt is torn from the front, then she has told the truth and he is a liar. But if it is torn from the back, then she has lied and he is truthful.' So when her husband saw that Joseph's shirt was torn from the back, he said 'to her', 'This must be 'an example' of the cunning of you 'women'! Indeed, your cunning is so shrewd!'"²¹ No witness testified regarding the incident itself. Instead, the truth was inferred from physical evidence. The location of the tear functioned as a circumstantial indicator demonstrating what had occurred. For this reason, jurists repeatedly cited this verse as one of the clearest textual proofs for the legitimacy of qarā'in. Ibn al-Qayyim said: "The statement of the witness whose testimony Allah mentioned, did not condemn, did not criticize, but rather related approvingly and affirmatively."²²

The same narrative contains another important evidentiary lesson. Earlier in the story, Yūsuf's brothers presented his shirt stained with blood and claimed that a wolf had devoured him: "And they brought his shirt, stained with false blood. He responded, 'No! Your souls must have tempted you to do something (evil). So (I can only endure with) beautiful patience! It is Allah's help that I seek to bear your claims.'"²³ Although the blood appeared to support their account, Ya'qūb rejected their narrative because the surrounding circumstances suggested otherwise. This incident demonstrates not only the legitimacy of circumstantial evidence but also the necessity of evaluating competing indicators and assigning greater weight to stronger evidence. Al-Qurtubi said:

The jurists have relied upon this verse as evidence for the legal validity of circumstantial indicators (*amārāt*) in a number of legal issues, including *qasāmah* and others. They unanimously agree that Ya'qūb inferred the falsehood of his sons from the fact that the shirt was intact. Likewise, an adjudicator must pay attention to evidentiary indicators and signs when they point in different directions. Whichever side is supported by the stronger indicator should be preferred in judgment. This is what is meant by the strength of suspicion or inference (*quwwat al-tuhmah*). There is no disagreement regarding the permissibility of ruling on the basis of such indicators. This was stated by Ibn al-'Arabī.²⁴

²¹ (Qur'ān 12:26–28)

²² قَوْلُ الشَّاهِدِ الَّذِي ذَكَرَ اللَّهُ شَهَادَتَهُ، وَلَمْ يُنْكِرْ عَلَيْهِ، وَلَمْ يَعْبُهِ بَلْ حَكَاهَا مُقَرَّرًا لَهَا

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 5.

²³ (Qur'ān 12:18)

²⁴ اسْتَدَلَّ الْفُقَهَاءُ بِهَذِهِ الْآيَةِ فِي إِعْمَالِ الْأَمَارَاتِ فِي مَسَائِلَ مِنَ الْفَقْهِ كَالْقَسَامَةِ وَغَيْرِهَا، وَأَجْمَعُوا عَلَى أَنَّ يَعْقُوبَ عَلَيْهِ السَّلَامُ اسْتَدَلَّ عَلَى كَذِبِهِمْ بِصَحَّةِ الْقَمِيصِ، وَهَكَذَا يَجِبُ عَلَى النَّاطِرِ أَنْ يَلْحَظَ الْأَمَارَاتِ وَالْعَلَامَاتِ إِذَا تَعَارَضَتْ، فَمَا تَرَجَّحَ مِنْهَا فَضَى بِجَانِبِ التَّرَجُّحِ، وَهِيَ قُوَّةُ التُّهْمَةِ، وَلَا خِلَافَ بِالْحُكْمِ بِهَا، قَالَهُ بْنُ الْعَرَبِيِّ

Abū 'Abd Allāh Muḥammad b. Aḥmad al-Anṣārī al-Qurṭubī, *al-Jāmi' li-Aḥkām al-Qur'ān*, ed. Aḥmad al-Bardūnī and Ibrāhīm Aṭṭaysh (Cairo: Dār al-Kutub al-Miṣriyyah, 2nd ed., 1384 AH/1964 CE), 9:150.

Additionally, other verses were cited as supporting evidence.²⁵

The Sunnah likewise contains numerous examples of reliance upon evidentiary indicators. Among the most famous is the judgment of Prophet Sulaymān concerning the child claimed by two women. Sulaymān identified the true mother through her reaction and willingness to relinquish her claim in order to preserve the life of the child. Her compassion functioned as a powerful circumstantial indicator revealing the truth.²⁶ Ibn al-Qayyim said: What could be better than taking account of such a clear and manifest circumstantial indicator? Solomon inferred from the elder woman's willingness to accept the child being divided that she sought consolation in seeing the younger woman suffer the same loss that she herself had suffered. He inferred from the younger woman's compassion for the child and her refusal to consent to such an act that she was in fact his mother. The motive that led her to refuse was the mercy and tenderness that Allah has placed in the heart of a mother. This circumstantial indicator became so strong in Solomon's judgment that he gave it precedence over her own admission, for he awarded the child to her despite her statement, "He is her son." And this is the correct view. For when a confession or admission is made due to a reason that is apparent to the judge, he should not rely upon that admission at all.²⁷

Similarly, the Prophet approved the use of *qiyāfah*, the identification of lineage through physical resemblance. When Mujazziz al-Mudliji observed physical similarities between Usamah ibn Zayd and his father Zayd ibn Hārithah, the Prophet expressed approval.²⁸ Jurists cited this report as evidence that physical indicators and expert

²⁵ Such as Qur'an 2:273, 47:30, 48:29, 15:75. See Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 12.

²⁶ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ "كَانَتْ امْرَأَتَانِ مَعَهُمَا ابْنَاهُمَا، جَاءَ الذَّنْبُ فَذَهَبَ بِأَبْنٍ إِحْدَاهُمَا فَقَالَتْ لِصَاحِبَتِهَا إِنَّمَا ذَهَبَ بِأَبْنِكَ. وَقَالَتِ الْآخَرَى إِنَّمَا ذَهَبَ بِأَبْنِكَ. فَتَحَاكَمَتَا إِلَى دَاوُدَ - عَلَيْهِ السَّلَامُ - فَقَضَى بِهِ لِلْكُبْرَى، فَخَرَجَتَا عَلَى سُلَيْمَانَ بْنِ دَاوُدَ - عَلَيْهِ السَّلَامُ - فَأَخْبَرَتْهُ فَقَالَ أَتُونِي بِالسَّكِينِ أَشُقُّهُ بَيْنَهُمَا. فَقَالَتِ الصَّغْرَى لَا تَفْعَلْ يَرْحَمَكَ اللَّهُ. هُوَ ابْنُهَا. فَقَضَى بِهِ لِلصَّغْرَى "

<https://sunnah.com/bukhari:6769>; <https://sunnah.com/bukhari:3426>;
<https://sunnah.com/muslim:1720a>.

²⁷ فَأَيُّ شَيْءٍ أَحْسَنُ مِنْ اعْتِبَارِ هَذِهِ الْقَرِينَةِ الظَّاهِرَةِ، فَاسْتَدَلَّ بِرِضَا الْكُبْرَى بِذَلِكَ، وَأَنَّهَا قَصَدَتْ الْإِسْتِرَاحَ إِلَى النَّاسِ بِمُسَاوَاةِ الصَّغْرَى فِي فَقْدِ وَلَدِهَا، وَشَفَقَةِ الصَّغْرَى عَلَيْهِ، وَامْتِنَاعِهَا مِنَ الرِّضَا بِذَلِكَ: عَلَى أَنَّهَا هِيَ أُمُّهُ، وَأَنَّ الْحَامِلَ لَهَا عَلَى الْإِمْتِنَاعِ هُوَ مَا قَامَ بِقَلْبِهَا مِنَ الرَّحْمَةِ وَالشَّفَقَةِ الَّتِي وَضَعَهَا اللَّهُ تَعَالَى فِي قَلْبِ الْأُمِّ، وَقَوِيَتْ هَذِهِ الْقَرِينَةُ عِنْدَهُ، حَتَّى قَدَّمَهَا عَلَى إِقْرَارِهَا، فَإِنَّهُ حَكَمَ بِهَا مَعَ قَوْلِهَا «هُوَ ابْنُهَا». وَهَذَا هُوَ الْحَقُّ، فَإِنَّ الْإِقْرَارَ إِذَا كَانَ لِعِلَّةٍ اطَّلَعَ عَلَيْهَا الْحَاكِمُ لَمْ يَلْتَمِثْ إِلَيْهِ أَبَدًا

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 5.

²⁸ يَا عَائِشَةُ أَلَمْ تَرَى أَنَّ مُجَزَّاءَ الْمُدَلِّجِي دَخَلَ فَرَأَى أَسَامَةَ وَزَيْدًا وَعَلَيْهَا قَطِيفَةٌ، فَذَعْطَا رُءُوسَهُمَا وَبَدَتْ أَقْدَامُهُمَا، فَقَالَ إِنَّ هَذِهِ الْأَقْدَامَ بَعْضُهَا مِنْ بَعْضٍ

<https://sunnah.com/bukhari:6771>

Ibn al-Qayyim said:

assessments may be relied upon in establishing disputed facts. Also, looking at blood on swords to determine who deserved war booty.²⁹ Additional examples appear throughout the sources and legal literature. These include the identification of lost property through distinguishing characteristics,³⁰ the determination of legal adulthood among the captives of

حُكْمُ رَسُولِ اللَّهِ - ﷺ - وَخُلَفَائِهِ مِنْ بَعْدِهِ - رَضِيَ اللَّهُ عَنْهُمْ - بِالْقَافَةِ، وَجَعَلَهَا دَلِيلًا مِنْ أَدْلَةِ ثُبُوتِ النَّسَبِ، وَلَيْسَ هَاهُنَا إِلَّا مُجَرَّدُ الْأُمَارَاتِ وَالْعَلَامَاتِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 10.

²⁹ بَيْنَمَا أَنَا وَاقِفٌ، فِي الصَّفِّ يَوْمَ بَدْرٍ فَتَنَظَرْتُ عَنْ يَمِينِي، وَشِمَالِي، فَإِذَا أَنَا بِغُلَامَيْنِ، مِنَ الْأَنْصَارِ حَدِيثُهُ أُسْنَاهُمَا، تَمَنَيْتُ أَنْ أَكُونَ بَيْنَ أَضْلَعِ مِنْهُمَا، فَغَمَزَنِي أَحَدُهُمَا فَقَالَ يَا عَمُّ، هَلْ تَعْرِفُ أَبَا جَهْلٍ قُلْتُ نَعَمْ، مَا حَاجَتُكَ إِلَيْهِ يَا ابْنَ أَخِي قَالَ أُخْبِرْتُ أَنَّهُ يُسَبُّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَالَّذِي نَفْسِي بِيَدِهِ لَئِنْ رَأَيْتُهُ لَا يُفَارِقُ سَوَادِي سَوَادَهُ حَتَّى يَمُوتَ الْأَعْجَلُ مِنَّا. فَتَعَجَّبْتُ لِذَلِكَ، فَغَمَزَنِي الْآخَرُ فَقَالَ لِي مِثْلَهَا، فَلَمْ أَنْشَبْ أَنْ نَظَرْتُ إِلَى أَبِي جَهْلٍ يَجُولُ فِي النَّاسِ، قُلْتُ أَلَا إِنَّ هَذَا صَاحِبُكُمَا الَّذِي سَأَلْتُمَانِي. فَأَبْتَدَرَاهُ بِسَيْفَيْهِمَا فَضَرَبَاهُ حَتَّى قَتَلَاهُ، ثُمَّ أَنْصَرَفَا إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَخْبَرَاهُ فَقَالَ "أَيْكُمَا قَتَلَهُ". قَالَ كُلُّ وَاحِدٍ مِنْهُمَا أَنَا قَتَلْتُهُ. فَقَالَ "هَلْ مَسَحْتُمَا سَيْفَيْكُمَا". قَالَ لَا. فَتَنَظَرُ فِي السَّيْفَيْنِ فَقَالَ "كِلَاكُمَا قَتَلَهُ". سَلَبَهُ لِعَازِ بْنِ عَمْرٍو بْنِ الْجُمُوحِ. وَكَانَا مُعَاذَ ابْنِ عَفْرَاءَ وَمُعَاذَ بْنِ عَمْرٍو بْنِ الْجُمُوحِ.

<https://sunnah.com/bukhari:3141>; <https://sunnah.com/muslim:1752>.

Ibn al-Qayyim said:

وَهَذَا مِنْ أَحْسَنِ الْأَحْكَامِ، وَأَحَقُّهَا بِالِاتِّبَاعِ، فَالِدَّمُ فِي النَّصْلِ شَاهِدٌ عَجِيبٌ. وَبِالْجُمْلَةِ: فَالْبَيِّنَةُ اسْمٌ لِكُلِّ مَا يَبَيِّنُ الْحَقَّ وَيُظْهِرُهُ وَمَنْ خَصَّهَا بِالشَّاهِدَيْنِ، أَوْ الْأَرْبَعَةِ، أَوْ الشَّاهِدِ لَمْ يُؤَفِّ مَسْأَلَهَا حَقَّهَ

"This is among the finest of judgments and among those most deserving of being followed.

The blood upon the blade was a remarkable witness. In summary, bayyinah is a term that encompasses everything that clarifies the truth and makes it manifest. Whoever restricts it to two witnesses, four witnesses, or a single witness has not given the term its full and proper meaning."

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 11.

³⁰ قَالَ جَاءَ رَجُلٌ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَسَأَلَهُ عَنِ اللَّقْطَةِ، فَقَالَ "اعْرِفْ عِفَاصَهَا وَوِكَاءَهَا، ثُمَّ عَرِّفْهَا سَنَةً، فَإِنْ جَاءَ صَاحِبُهَا وَإِلَّا فَشَأْنُكَ بِهَا

<https://sunnah.com/bukhari:2372>; <https://sunnah.com/bukhari:2429>;

<https://sunnah.com/muslim:1722a>

Ibn al-Qayyim said:

فَجَعَلَ وَصْفَهُ لَهَا قَائِمًا مَقَامَ الْبَيِّنَةِ، بَلْ رَبَّمَا يَكُونُ وَصْفُهُ لَهَا أَظْهَرَ وَأَصْدَقَ مِنَ الْبَيِّنَةِ

"Thus, the Prophet peace be upon him treated the claimant's description of the lost property as taking the place of al-bayyinah. Indeed, in some cases, a person's accurate description of the property may be clearer and more truthful than witness testimony itself."

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 9.

Banū Qurayzah through physical signs,³¹ the use of *qasamah* in homicide investigations,³² and wealth being excessive and recently acquired suggesting that it had not all been

³¹ عُرِضْنَا عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ قُرَيْظَةَ فَكَانَ مَنْ أَتَتْ قِتْلَ وَمَنْ لَمْ يُنْبِتْ خُلِيَ سَبِيلُهُ فَكُنْتُ مِمَّنْ لَمْ يُنْبِتْ فَخُلِيَ سَبِيلِي

<https://sunnah.com/tirmidhi:1584>

Ibn al-Qayyim said:

واعتبر نبات الشعر حول القبل في البلوغ، وجعله آيةً وعلامةً له، فكان يقتل من الأسرى يوم قُرَيْظَةَ مَنْ وَجَدَهُ فِي تِلْكَ الْعَلَامَةِ، وَيَسْتَبْقَى مَنْ لَمْ تَكُنْ فِيهِ، وَهَذَا جَعَلَهُ طَائِفَةٌ مِنَ الْفُقَهَاءِ - كَالشَّافِعِيِّ - عَلَامَةً فِي حَقِّ الْكُفَّارِ خَاصَّةً

"The Prophet ﷺ regarded the growth of pubic hair as an indication and sign of attaining

puberty. Accordingly, on the Day of Qurayzah, he ordered that those captives in whom this sign was found be executed, while those in whom it was absent were spared. For this reason, a group of jurists, including al-Shāfi'ī, regarded it as a legal indicator of puberty, particularly with respect to non-Muslims."

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 9.

³² فَذَكَّرُوا لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَقْتَلَ عَبْدِ اللَّهِ بْنِ سَهْلٍ فَقَالَ هُمْ "أَتَحْلِفُونَ خَمْسِينَ يَمِينًا فَتَسْتَحِقُّونَ صَاحِبَكُمْ". أَوْ "قَاتِلَكُمْ" . قَالُوا وَكَيْفَ نَحْلِفُ وَلَمْ نَشْهَدْ قَالَ "فَتَبْرئُكُمْ يَهُودُ بِخَمْسِينَ يَمِينًا" . قَالُوا وَكَيْفَ نَقْبَلُ آيْمَانَ قَوْمٍ كُفَّارٍ فَلَمَّا رَأَى ذَلِكَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَعْطَى عَقْلَهُ

<https://sunnah.com/muslim:1669a>

Ibn al-Qayyim said:

فَإِنَّهُ اعْتِيَادٌ عَلَى ظَاهِرِ الْأَمَارَاتِ الْمُغَلَّبَةِ عَلَى الظَّنِّ صِدْقِ الْمُدَّعِي، فَيَجُوزُ لَهُ أَنْ يَخْلِفَ بِنَاءً عَلَى ذَلِكَ، وَيَجُوزُ لِلْحَاكِمِ - بَلْ يَجِبُ عَلَيْهِ - أَنْ يُثَبِّتَ لَهُ حَقَّ الْقِصَاصِ أَوْ الدِّيَةِ، مَعَ عِلْمِهِ أَنَّهُ لَمْ يَرِ وَلَمْ يَشْهَدْ، فَإِذَا كَانَ هَذَا فِي الدَّمَاءِ الْمُبْنِيِّ أَمْرَهَا عَلَى الْحُظَرِ وَالْإِخْتِيَاظِ، فَكَيْفَ بغيرها؟

"For this constitutes reliance upon outward evidentiary indicators (amārāt) that create a predominant belief (ghalabat al-zann) in the truthfulness of the claimant. Therefore, it is permissible for him to swear an oath on the basis of such evidence. Likewise, it is permissible for the judge—and indeed obligatory upon him—to establish for the claimant the right of retaliation (qisās) or blood-money (diyah), despite knowing that the claimant neither saw the event nor personally witnessed it. If this is accepted in matters involving bloodshed, whose rulings are founded upon caution and strict scrutiny, then what of other matters?"

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 10.

expended,³³ and using physical signs to indicate truthfulness.³⁴ Collectively, these examples demonstrate that Islamic law has never confined proof exclusively to direct testimony and confession. Ibn al-Qayyim also used various reports from the companions.³⁵

Similarly, he advanced rational arguments. The cumulative effect of these discussions is the emergence of a broad and flexible theory of evidence. Qarā'in are not exceptional departures from the ordinary law of proof; rather, they constitute an integral

³³ وَكَثِيرٌ مِنَ الْقَرَائِنِ وَالْأَمَارَاتِ أَقْوَى مِنَ النُّكُولِ، وَالْحَسُّ شَاهِدٌ بِذَلِكَ، فَكَيْفَ يَسُوغُ تَعْطِيلُ شَهَادَتِهَا؟ وَمِنْ ذَلِكَ: أَنَّ النَّبِيَّ - ﷺ - أَمَرَ الزُّبَيْرَ أَنْ يُعَرِّرَ عَمَّ حُبَيْبٍ بْنِ أَخْطَبٍ بِالْعَذَابِ عَلَى إِخْرَاجِ الْمَالِ الَّذِي غَنِيَهُ، وَادَّعَى نَفَادَهُ فَقَالَ لَهُ: الْعَهْدُ قَرِيبٌ، وَالْمَالُ أَكْبَرُ مِنْ ذَلِكَ فَهَاتَانِ قَرِيبَتَانِ فِي غَايَةِ الْقُوَّةِ: كَثْرَةُ الْمَالِ، وَقِصَرُ الْمُدَّةِ الَّتِي يُنْفَقُ كُلُّهُ فِيهَا

"Many circumstantial indicators (qarā'in) and evidentiary signs (amārāt) are stronger than a defendant's refusal to take the oath (nukūl), and common experience testifies to this. How, then, can it be permissible to disregard their evidentiary value? Among the examples of this is that the Prophet ﷺ instructed al-Zubayr to interrogate the uncle of Ḥuyayy ibn Akhṭab under coercion in order to recover the wealth that he had concealed after claiming that it had all been exhausted. The Prophet ﷺ said to him: 'The covenant was only recently concluded, and the wealth was far greater than that.' These are two exceedingly strong circumstantial indicators: the large amount of wealth and the short period of time during which it was allegedly spent."

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 7.

³⁴ وَقَدْ رَوَى ابْنُ مَاجَهَ وَعِيزَةُ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: «أَرَدْتُ السَّفَرَ إِلَى خَيْبَرَ، فَأَتَيْتُ النَّبِيَّ - ﷺ - فَقُلْتُ لَهُ: إِنِّي أُرِيدُ الْخُرُوجَ إِلَى خَيْبَرَ، فَقَالَ: إِذَا أَتَيْتَ وَكَيْلِي فَخُذْ مِنْهُ خَمْسَةَ عَشَرَ وَسَقًا، فَإِذَا طَلَبَ مِنْكَ آيَةً، فَضَعْ يَدَكَ عَلَى تَرْفُوتِهِ» فَهَذَا اعْتِمَادٌ فِي الدَّفْعِ إِلَى الطَّالِبِ عَلَى مُجَرَّدِ الْعَلَامَةِ، وَإِقَامَةِ لَهَا مَقَامَ الشَّاهِدِ

"Ibn Mājah and others narrated from Jābir ibn 'Abd Allāh that he said: 'I intended to travel to Khaybar, so I came to the Prophet ﷺ and informed him of my intention. He said:

"When you reach my agent, take from him fifteen wasqs. If he asks you for a sign (āyah), then place your hand upon his collarbone.'" This demonstrates reliance, in delivering property to the claimant, upon a mere identifying sign, treating it as equivalent to the testimony of a witness."

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 11-12.

³⁵ In fact, the most impressive aspect of this text is the extensive knowledge of the reports by the companions and early scholars of the formative Islamic period, and the ability to utilize this knowledge to support his position.

For example, Ibn al-Qayyim said:

وَأَنْتَ تَعْلَمُ فِي مَسْأَلَةِ الْهَارِبِ - وَفِي يَدِهِ عِمَامَةٌ وَعَلَى رَأْسِهِ أُخْرَى، وَآخِرُ حَاسِرِ الرَّأْسِ خَلْفُهُ - عِلْمًا ضَرُورِيًّا أَنَّ الْعِمَامَةَ لَهُ، وَأَنَّهُ لَا نِسْبَةَ لظُهُورِ صَدَقِ صَاحِبِ الْيَدِ إِلَى هَذَا الْعِلْمِ بِوَجْهِهِ مِنَ الْوُجُوهِ. فَكَيْفَ تَقْدَمُ الْيَدُ - الَّتِي غَايَتُهَا أَنْ تُفِيدَ ظَنًّا مَا، عِنْدَ عَدَمِ الْعَارِضِ - عَلَى هَذَا الْعِلْمِ الضَّرُورِيِّ الْيَقِينِيِّ، وَيُنْسَبُ ذَلِكَ إِلَى الشَّرِيعَةِ

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 9.

component of the Islamic evidentiary system. Their legitimacy is rooted in revelation, their application is demonstrated by the Prophets and Companions, and their theoretical foundations were articulated by generations of jurists. This doctrine therefore provides the conceptual framework through which contemporary forms of evidence, including photographs, video recordings, digital records, forensic analyses, and AI-generated media, must be analyzed. Before examining those modern applications, however, it is necessary to consider the juristic disagreement concerning the scope of judicial reliance upon qarā'in and the conditions governing their use.

The Juristic Disagreement Regarding Judicial Reliance upon Qarā'in

Although the legitimacy of circumstantial evidence finds support in the Qur'ān, the Sunnah, and the judicial practice of the Companions, jurists differed concerning the extent to which judges may rely upon qarā'in in adjudicating disputes and establishing legal liability.

Jurists held differing views regarding the use of qarā'in in legal rulings, particularly whether it constitutes a valid method of affirmation and evidence for judicial decisions. These perspectives can be categorized into two primary opinions. The first asserts that ruling via qarā'in is legislated and that it serves as an authoritative means of affirmation and proof, which can be employed to adjudicate disputes between parties. Many jurists have applied this principle in legal and jurisprudential contexts, even if they did not explicitly state that qarā'in functions as a method of judgment and confirmation. Some scholars, however, explicitly addressed this issue.

The First Position: Permissibility of Judicial Reliance upon Qarā'in

The majority of jurists who addressed the issue accepted the legitimacy of ruling on the basis of strong qarā'in. Although the doctrine is often associated with Ibn Taymiyyah and Ibn al-Qayyim, support for judicial reliance upon circumstantial evidence may be found among scholars from all four Sunni legal schools.

Among the Ḥanafī scholars, this position appears in the writings of Ibn 'Ābidīn,³⁶ Ibn

³⁶ وذكر العلامة المحقق أبو اليسر محمد بن الغرس في الفواكه البدرية في الفصل السادس في طريق القاضي إلى الحكم أن من جملة طرق القضاء القرائن الدالة على ما يطلب الحكم به دلالة واضحة بحيث تصيره في حيز المقطوع به فقد قالوا لو ظهر إنسان من دار ومعه سكين في يده وهو متلوث بالدماء سريع الحركة عليه اثر الخوف فدخلوا الدار في ذلك الوقت على الفور فوجدوا بها انسانا مذبوحا بذلك الحين وهو ملطخ بدمائه ولم يكن في الدار غير ذلك الرجل الذي وجد بتلك الصفة وهو خارج من الدار يؤخذ به وهو ظاهر إذ لا يمتري أحد في انه قاتله والقول بأنه ذبح نفسه أو ان غير ذلك الرجل قتله ثم تسور الحائط فذهب احتمال بعيد لا يلتفت إليه إذ لم ينشأ عن دليل انتهى (فإن قلت) العرف يتغير ويختلف باختلاف الازمان فلو طرأ عرف جديد هل للمفتي في زماننا ان يفتي على وفقه ويخالف المنصوص في كتب المذهب وكذا هل للحاكم الآن العمل بالقران (قلت) مبنى هذه الرسالة على هذه المسألة فاعلم ان المتأخرين الذين خالفوا المنصوص في كتب المذهب في المسائل السابقة لم يخالفوه إلا لتغير الزمان والعرف وعلمهم ان صاحب المذهب لو كان في زمنهم لقال بما قالوه (١) مما يستخرج به الحق من ظالم أو يدفع دعوى متعنت ونحوه بعدم سماع دعواه أو بحبسه أو نحوه ولكن لا بد لكل من المفتي والحاكم من نظر سديد* واشتغال مديد ومعرفة بالاحكام الشرعية والشروط المرعية* فإن تحكيم القرائن غير مطرد

Muhammad Amīn Ibn 'Ābidīn, Majmū'at Rasā'il Ibn 'Ābidīn, 2 vols. (Istanbul: Dār al-Sa'ādah, 1325 AH/1907 CE), 2:128.

طَرِيقُ الْقَاضِي إِلَى الْحُكْمِ يَخْتَلِفُ بِحَسَبِ اخْتِلَافِ الْمُحْكُومِ بِهِ وَالطَّرِيقُ فِيمَا يَرْجَعُ إِلَى حُقُوقِ الْعِبَادِ الْمُحْضَةِ عِبَارَةٌ عَنْ الدَّعْوَى وَالْحُجَّةِ:

Nujaym,³⁷ and al-Ṭarābulsī,³⁸ al-Zayla'ī,³⁹ al-Kasani,⁴⁰ and others. Similar views are found among the Mālikīs, including Ibn Farḥūn⁴¹ and others, as well as the Shāfi'īs, such as al-Māwardī⁴² and al-'Izz ibn 'Abd al-Salām.⁴³ The Ḥanbalī tradition contains perhaps the most

وَهِيَ إِمَّا الْبَيِّنَةُ أَوْ الْإِقْرَارُ أَوْ الْيَمِينُ أَوْ النُّكُولُ عَنْهُ أَوْ الْقَسَامَةُ أَوْ عِلْمُ الْقَاضِي بِمَا يُرِيدُ أَنْ يَحْكُمَ بِهِ أَوْ الْقَرَأَتُ الْوَاضِحَةُ الَّتِي تُصِيرُ الْأَمْرَ فِي حَبْرِ الْمُقْطُوعِ بِهِ فَقَدْ قَالُوا لَوْ ظَهَرَ إِنْسَانٌ مِنْ دَارٍ بِيَدِهِ سِكِّينٌ وَهُوَ مُتْلَوْتُ بِالْذِّمِّ سَرِيعَ الْحَرَكَةِ عَلَيْهِ أَثَرُ الْخَوْفِ فَدَخَلُوا الدَّارَ عَلَى الْقَوْرِ فَوَجَدُوا فِيهَا إِنْسَانًا مَذْبُوحًا بِذَلِكَ الْوَقْتِ وَلَمْ يَوْجَدْ أَحَدٌ غَيْرَ ذَلِكَ الْخَارِجِ، فَإِنَّهُ يُؤْخَذُ بِهِ وَهُوَ ظَاهِرٌ إِذَا لَا يَمْتَرِي أَحَدٌ فِي أَنَّهُ قَاتِلُهُ، وَالْقَوْلُ بِأَنَّهُ ذَبَحَهُ آخَرٌ ثُمَّ تَسَوَّرَ الْحَائِطَ أَوْ أَنَّهُ ذَبَحَ نَفْسَهُ احْتِمَالًا بَعِيدٌ لَا يُلْتَمِزُ إِلَيْهِ إِذَا لَمْ يَنْشَأْ عَنْ دَلِيلٍ، اهـ مِنْ الْفَوَاكِهِ لِابْنِ الْغَرَسِ

Muḥammad Amīn Ibn 'Abidīn, Ḥāshiyat Radd al-Muḥtār 'alā al-Durr al-Mukhtār: Sharḥ Tanwīr al-Abṣār, 6 vols. (Cairo: Sharikat Maktabat wa Maṭba'at Muṣṭafā al-Bābī al-Ḥalabī wa-Awlādih, 2nd ed., 1386 AH/1966 CE), 5:354.

³⁷ الْحُجَّةُ بَيِّنَةٌ عَادِلَةٌ أَوْ إِقْرَارٌ أَوْ نُكُولٌ عَنْ يَمِينٍ أَوْ يَمِينٌ أَوْ قَسَامَةٌ أَوْ عِلْمُ الْقَاضِي بَعْدَ تَوَلِّيَّتِهِ أَوْ قَرِينَةٌ قَاطِعَةٌ

Zayn al-Dīn b. Ibrāhīm b. Muḥammad Ibn Nujaym, al-Ashbāh wa al-Naẓā'ir 'alā Madhhab Abī Ḥanīfah al-Nu'mān, ed. and annotated by Zakariyyā 'Umayrāt (Beirut: Dār al-Kutub al-'Ilmiyyah, 1st ed., 1419 AH/1999 CE), p. 210.

³⁸ وَالْأَمَارَاتِ وَحُكْمِ الْفِرَاسَةِ، وَالِدَّلِيلُ عَلَى ذَلِكَ مِنَ الْكِتَابِ وَالسُّنَنِ وَعَمَلِ سَلَفِ الْأُمَّةِ قَالَ بَعْضُ الْعُلَمَاءِ: عَلَى النَّازِرِ أَنْ يَلْحَظَ الْأَمَارَاتِ وَالْعَلَامَاتِ إِذَا تَعَارَضَتْ، فَمَا تَرَجَّحَ مِنْهَا فَصَى بِجَانِبِ التَّرَجُّحِ، وَهُوَ قُوَّةُ التَّهْمَةِ، وَلَا خِلَافَ فِي الْحُكْمِ بِهَا، وَقَدْ جَاءَ الْعَمَلُ بِهَا فِي مَسَائِلِ اتَّفَقَ عَلَيْهَا الطَّوَائِفُ الْأَرْبَعُ مِنَ الْفُقَهَاءِ

'Alā' al-Dīn 'Alī b. Khalīl al-Ṭarābulusī, Mu'īn al-Ḥukkām fīmā Yataraddadu Bayna al-Khaṣmayn min al-Aḥkām (Beirut: Dār al-Fikr, n.d.), p. 166.

³⁹ وَإِنْ اخْتَلَفَ الرَّوْجَانِ فِي مَتَاعِ الْبَيِّنَةِ فَالْقَوْلُ لِكُلِّ وَاحِدٍ مِنْهُمَا فِيمَا يَصْلُحُ لَهُ لِأَنَّ الظَّاهِرَ يَشْهَدُ لَهُ

'Uthmān b. 'Alī al-Zayla'ī, Tabyīn al-Ḥaqā'iq Sharḥ Kanz al-Daqā'iq, with the marginalia of Aḥmad al-Shilbī (Cairo: al-Maṭba'ah al-Kubrā al-Amīriyyah, Būlāq, 1st ed., 1314 AH), 4:312.

⁴⁰ 'Alā' al-Dīn Abū Bakr b. Mas'ūd al-Kāsānī, Badā'ī' al-ṣanā'ī' fī Tartīb al-Sharā'ī', 1st ed. (1327–1328 AH), 6:202.

⁴¹ [فَصُلِّ فِي بَيَانِ عَمَلِ فُقَهَاءِ الطَّوَائِفِ الْأَرْبَعَةِ بِالْحُكْمِ وَالْقَرَأَتِ وَالْأَمَارَاتِ]

قَالَ ابْنُ الْعَرَبِيِّ عَلَى النَّازِرِ أَنْ يَلْحَظَ الْأَمَارَاتِ وَالْعَلَامَاتِ إِذَا تَعَارَضَتْ فَمَا تَرَجَّحَ مِنْهَا فَصَى بِجَانِبِ التَّرَجُّحِ وَهُوَ قُوَّةُ التَّهْمَةِ وَلَا خِلَافَ فِي الْحُكْمِ بِهَا وَقَدْ جَاءَ الْعَمَلُ فِي مَسَائِلِ اتَّفَقَتْ عَلَيْهَا الطَّوَائِفُ الْأَرْبَعَةُ، وَبَعْضُهَا قَالَ بِهَا الْمَالِكِيَّةُ خَاصَّةً

Ibrāhīm b. 'Alī b. Muḥammad Ibn Farḥūn al-Ya'murī, Tabṣirat al-Ḥukkām fī Uṣūl al-Aqḍiyah wa Manāhij al-Aḥkām (Cairo: Maktabat al-Kulliyyāt al-Azhariyyah, 1st ed., 1406 AH/1986 CE), 2:121.

⁴² لَا حَقَّ لَهُ فِي هَذِهِ الصَّبِيْعَةِ؛ لِأَنِّي ابْتِغَيْتُهَا مِنْهُ وَدَفَعْتُ ثَمَنَهَا إِلَيْهِ، وَهَذَا كِتَابُ عَهْدِي بِالْإِشْهَادِ عَلَيْهِ، فَيَصِيرُ الْمُدَّعِي مُدَّعِيًا بِكِتَابٍ قَدْ

غَابَ شُهُودُهُ، فَيَكُونُ عَلَى مَا مَضَى، وَلَهُ زِيَادَةٌ يَدٍ وَتَصَرُّفٍ، فَتَكُونُ الْأَمَارَةُ أَقْوَى، وَشَاهِدُ الْحَالِ أَظْهَرُ

Abū al-Ḥasan 'Alī b. Muḥammad al-Māwardī, al-Aḥkām al-Sultāniyyah (Cairo: Dār al-Ḥadīth, n.d.), 145.

⁴³ 'Izz al-Dīn 'Abd al-'Azīz b. 'Abd al-Salām, Qawā'id al-Aḥkām fī Maṣāliḥ al-Anām, rev. and annotated by Ṭāhā 'Abd al-Ra'ūf Sa'd (Cairo: Maktabat al-Kulliyyāt al-Azhariyyah, 1414 AH/1991 CE), vol. 2:56–57.

extensive treatment of the subject, particularly in the writings of Ibn Qudāmah,⁴⁴ Ibn Taymiyyah,⁴⁵ Ibn Rajab,⁴⁶ and of course, Ibn al-Qayyim.

The Second Position: Restricting Judicial Reliance upon Qarā'in

The second perspective among Islamic scholars maintains that judging by qarā'in is not legislated. However, in practice, the use of qarā'in as evidence and their recognition as proof for establishing rights is prevalent among the majority of scholars. Many qarā'in are universally acknowledged as rational and must be acted upon. Examination of juristic works

⁴⁴ أَنَّ الرُّوَجَيْنِ إِذَا اِخْتَلَفَا فِي مَتَاعِ الْبَيْتِ، أَوْ فِي بَعْضِهِ، فَقَالَ كُلُّ وَاحِدٍ مِنْهُمَا: جَمِيعُهُ لِي. أَوْ قَالَ كُلُّ وَاحِدٍ مِنْهُمَا: هَذِهِ الْعَيْنُ لِي، وَكَانَتْ لِأَحَدِهِمَا بَيِّنَةٌ، ثَبَتَ لَهُ، بِلَا خِلَافٍ، وَإِنْ لَمْ يَكُنْ لَوَاحِدٍ مِنْهُمَا بَيِّنَةٌ فَالْمُنْصُوصُ عَنْ أَحَدٍ، أَنَّ مَا يَصْلُحُ لِلرَّجَالِ، مِنَ الْعَمَائِمِ، وَقُمُصَانِهِمْ، وَجَبَابِهِمْ، وَالْأَقْبِيَّةِ، وَالطَّيَالِسَةِ، وَالسَّلَاحِ، وَأَشْبَاهَ ذَلِكَ، الْقَوْلُ فِيهِ قَوْلُ الرَّجُلِ مَعَ يَمِينِهِ، وَمَا يَصْلُحُ لِلنِّسَاءِ؛ كَحُلِيِّهِنَّ، وَقُمُصِهِنَّ، وَمَقَانِعِهِنَّ، وَمَغَازِهِنَّ فَالْقَوْلُ قَوْلُ الْمَرْأَةِ مَعَ يَمِينِهَا. وَمَا يَصْلُحُ لَهَا؛ كَالْمَفَارِشِ، وَالْأَوَانِي، فَهُوَ بَيِّنَةٌ

Abū Muḥammad 'Abd Allāh b. Aḥmad b. Muḥammad Ibn Qudāmah, al-Mughnī, on the Mukhtaṣar of Abū al-Qāsim 'Umar b. al-Ḥusayn al-Khiraqī, ed. Ṭāhā al-Zaynī, Maḥmūd 'Abd al-Wahhāb Fāyid, 'Abd al-Qādir 'Aṭā, and Maḥmūd Ghānim Ghayth (Cairo: Maktabat al-Qāhirah, n.d.), 10:283.

⁴⁵ وَاجْتَلَفُوا فِي الْمَرْأَةِ إِذَا وَجِدَتْ حُبْلًا، وَلَمْ يَكُنْ لَهَا زَوْجٌ وَلَا سَيِّدٌ، وَلَمْ تَدْعُ شُبْهَةً فِي الْحُبْلِ، فَفِيهَا قَوْلَانِ فِي مَذْهَبِ أَحْمَدَ وَغَيْرِهِ. قِيلَ: لَا حَدَّ عَلَيْهَا؛ لِأَنَّهُ يَجُوزُ أَنْ تَكُونَ حَبْلَتْ مُكْرَهَةً، أَوْ بِتَحْمَلٍ، أَوْ بِوُطْءٍ شَبْهَةٍ. قِيلَ: بَلْ تُحَدُّ، وَهَذَا هُوَ الْمَأْثُورُ عَنْ الْخُلَفَاءِ الرَّاشِدِينَ، وَهُوَ الْأَشْبَهُ بِأُصُولِ الشَّرِيعَةِ، وَهُوَ مَذْهَبُ أَهْلِ الْمَدِينَةِ؛ فَإِنَّ الْإِحْتِيََالَاتِ النَّادِرَةَ لَا يُلْتَفَتُ إِلَيْهَا، كَاِخْتِمَالِ كَذِبِهَا، وَكَذِبِ الشُّهُودِ

Aḥmad b. 'Abd al-Ḥalīm Ibn Taymiyyah, al-Siyāsah al-Shar'iyyah fī Iṣlāḥ al-Rā'i wa al-Ra'iyyah (Riyadh: Ministry of Islamic Affairs, Endowments, Da'wah and Guidance, Kingdom of Saudi Arabia, 1st ed., 1418 AH), p. 83-84, 87.

إِذَا كَانَ الْبَيِّنَةُ مَنْ يَكْتُبُ مَا عَلَيْهِ لِلنَّاسِ فِي دَفْتَرٍ وَنَحْوِهِ وَلَهُ كَاتِبٌ يَكْتُبُ بِإِذْنِهِ مَا عَلَيْهِ وَنَحْوُهُ فَإِنَّهُ يَرْجِعُ فِي ذَلِكَ إِلَى الْكِتَابِ الَّذِي يَخْطُهُ أَوْ خَطَّ وَكَيْلِهِ؛ فَمَا كَانَ مَكْتُوبًا وَلَيْسَ عَلَيْهِ عِلَامَةُ الْوَفَاءِ كَانَ بِمَنْزِلَةِ إِقْرَارِ الْبَيِّنَةِ بِهِ فَالْخَطُّ فِي مِثْلِ ذَلِكَ كَاللَّفْظِ وَإِقْرَارِ الْوَكِيلِ فِيهَا وَكَلَّ فِيهِ بِلَفْظِهِ أَوْ خَطِّهِ الْمُعْتَبَرِ مَقْبُولٌ

Aḥmad b. 'Abd al-Ḥalīm Ibn Taymiyyah, Majmū' al-Fatāwā, collected and arranged by 'Abd al-Raḥmān b. Muḥammad b. Qāsim, with the assistance of Muḥammad b. 'Abd al-Raḥmān b. Qāsim (Medina: King Fahd Complex for the Printing of the Holy Qur'ān, 1425 AH/2004 CE), 28: 334, 339, 31:326.

⁴⁶ من ادعى شيئاً وصفه من دفع إليه بالصفة إذا جهل ربه، ولم يثبت عليه يد من جهة مالكة، وإلا؛ فلا

ويتخرج على ذلك مسائل

منها اللقطة يجب دفعها إلى واصفها، نص عليه، وإن وصفها اثنان؛ فهي لهما، وقيل: يقرع بينهما، وإن استقصى أحدهما الصفات، واقتصر

الآخر على القدر الذي يجزئ [في] الدفع؛ فوجهان مخرجان من الترجيح بالنساج والنتاج، ذكره ابن عقيل في مفرداته

Zayn al-Dīn 'Abd al-Raḥmān b. Aḥmad Ibn Rajab al-Ḥanbalī, Taqrīr al-Qawā'id wa Taḥrīr al-Fawā'id (commonly known as Qawā'id Ibn Rajab), ed. Mashhūr b. Ḥasan Āl Salmān (Saudi Arabia: Dār Ibn 'Affān, 1st ed., 1419 AH), 2:386.

across various legal schools reveals extensive usage of qarā'in, even if some dispute their classification as bayyinah. Practically, scholars often rely on them, sometimes referring to them using different terms.⁴⁷

The Extent of Usage

Ibn al-Qayyim asserts that the application of qarā'in is not restricted to specific types of cases but is broadly applicable across all rights and various categories of punishments, including retribution (qisas), fixed penalties (hudud), and discretionary sanctions (ta'zeer). He posits that qisas and hudud can be corroborated through qarā'in, a view not widely supported by the majority of scholars. Instead, Ibn al-Qayyim maintains that qisas, ta'zeerat, and hudud can all be substantiated using qarā'in. He said, for example: "This authentic Sunnah demonstrates the legitimacy of relying upon the surrounding circumstances (*shawāhid al-hāl*) and manifest evidentiary indicators (*al-amārāt al-zāhirah*), the permissibility of disciplining those against whom strong suspicion exists, and the permissibility of concluding a settlement subject to stipulated conditions."⁴⁸ Ibn al-Qayyim also noted:

The Messenger of Allah ﷺ detained a person on the basis of suspicion and imposed a discretionary punishment on the basis of suspicion when the indicators of suspicion (*amārāt al-rībah*) became manifest with respect to the accused. Accordingly, whoever releases every accused person after merely requiring him to swear an oath and then lets him go free, despite knowing that he is notorious for spreading corruption in the land and for repeatedly committing theft, and says, 'I will take no action against him unless two upright witnesses testify against him,' has adopted a position that is contrary to *siyāsah shar'iyyah*.⁴⁹

And he said:

The leading jurists and caliphs have consistently ruled that the prescribed punishment of amputation is to be carried out when stolen property is found in the possession of the accused. This circumstantial evidence (*qarīnah*) is stronger than witness testimony and confession, for both testimony and confession are merely reports that may admit of truth or falsehood, whereas the discovery of the stolen property in the accused's possession constitutes explicit and direct evidence that admits of no comparable doubt. Likewise, would anyone who sees a slain man lying in his own blood, with another person standing over him holding a knife, especially if that person is known to

⁴⁷ For examples of those who prevented the use of Qara'in see: al-Khayr al-Ramli, Muhammad Ala' al-Din al-Dimashqi, and al-Qarafi.

⁴⁸ فَفِي هَذِهِ السُّنَّةِ الصَّحِيحَةِ الْإِعْتِدَادُ عَلَى شَوَاهِدِ الْحَالِ وَالْأَمَارَاتِ الظَّاهِرَةِ وَعُقُوبَةُ أَهْلِ التُّهْمِ، وَجَوَازُ الصُّلْحِ عَلَى الشَّرْطِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 8.

⁴⁹ فَقَدْ حَبَسَ رَسُولُ اللَّهِ - ﷺ - فِي تُّهْمَةٍ، وَعَاقَبَ فِي تُّهْمَةٍ، لَمَّا ظَهَرَتْ أَمَارَاتُ الرَّبِيَّةِ عَلَى الْمُتَّهَمِ، فَمَنْ أَطْلَقَ كُلَّ مُتَّهَمٍ وَحَلَفَهُ وَحَلَّى سَبِيلَهُ - مَعَ عِلْمِهِ بِاشْتِهَارِهِ بِالْفَسَادِ فِي الْأَرْضِ، وَكَثْرَةِ سَرِقَاتِهِ، وَقَالَ: لَا أَخْذُهُ إِلَّا بِشَاهِدَيَّ عَدْلٍ - فَقَوْلُهُ مُخَالِفٌ لِلْسِّيَاسَةِ الشَّرْعِيَّةِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 14.

have been his enemy, harbor any doubt that he killed him?⁵⁰

And Ibn al-Qayyim stated:

Previously, we cited Ibn 'Aqīl's reliance upon *al-lawth* in the doctrine of *qasāmah*, and this is among the finest examples that can be adduced. It rests upon apparent evidentiary indicators that give rise to a predominant belief (*ghalabat al-zann*) in the truthfulness of the claimant. On this basis, the claimant is permitted to swear the required oaths, and the judge is permitted, indeed, obligated, to establish his right to retaliation (*qisās*) or blood money (*diyah*), despite knowing that the claimant neither witnessed the incident nor possesses direct testimony. If this is accepted in cases involving bloodshed, where the law is founded upon the utmost caution and restraint, then how much more readily should it be accepted in matters of lesser gravity?⁵¹

50 وَلَمْ تَزَلْ الْأَئِمَّةُ وَالْخُلَفَاءُ يَحْكُمُونَ بِالْقَطْعِ إِذَا وَجَدَ الْمَالُ الْمُسْرُوقَ مَعَ الْمُتَّهَمِ، وَهَذِهِ الْقَرِينَةُ أَقْوَى مِنَ الْبَيِّنَةِ وَالْإِفْرَارِ، فَإِنَّهُمَا خَبَرَانِ يَتَطَرَّقُ إِلَيْهِمَا الصَّدَقُ وَالْكَذِبُ، وَوُجُودُ الْمَالِ مَعَهُ نَصٌّ صَرِيحٌ لَا يَتَطَرَّقُ إِلَيْهِ شُبْهَةٌ، وَهَلْ يَشْكُ أَحَدٌ رَأَى قَتِيلًا يَتَشَحَّطُ فِي دَمِهِ، وَآخَرُ قَائِمًا عَلَى رَأْسِهِ بِالسَّكِينِ: أَنَّهُ قَتَلَهُ؟ وَلَا سِيَّيَا إِذَا عُرِفَ بَعْدَاوَتُهُ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 6.

51 وَقَدْ تَقَدَّمَ اسْتِشْهَادُ ابْنِ عَقِيلٍ بِاللُّوثِ فِي الْفَسَادَةِ، وَهُوَ مِنْ أَحْسَنِ الْإِسْتِشْهَادِ فَإِنَّهُ اعْتِمَادٌ عَلَى ظَاهِرِ الْأَمَارَاتِ الْمُغْلِبَةِ عَلَى الظَّنِّ صَدَقَ الْمُدَّعِي، فَيَجُوزُ لَهُ أَنْ يَخْلِفَ بِنَاءً عَلَى ذَلِكَ، وَيَجُوزُ لِلْحَاكِمِ - بَلْ يَجِبُ عَلَيْهِ - أَنْ يُثَبِّتَ لَهُ حَقَّ الْقِصَاصِ أَوْ الدِّيَّةَ، مَعَ عِلْمِهِ أَنَّهُ لَمْ يَرِ وَلَمْ يَشْهَدْ، فَإِذَا كَانَ هَذَا فِي الدِّمَاءِ الْمُبْنِيِّ أَمْرُهَا عَلَى الْحُظَرِ وَالِاحْتِيَاظِ، فَكَيْفَ بغيرها؟

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 10.

Classification of Qarā'in and Conditions Governing Judicial Reliance upon Them

The juristic acceptance of qarā'in as a legitimate means of establishing facts did not lead scholars to treat all evidentiary indicators as possessing equal probative value. Rather, the classical legal tradition developed a sophisticated methodology for evaluating circumstantial evidence, distinguishing between different categories of qarā'in and establishing conditions governing the circumstances under which judges may rely upon them. The discussion of qarā'in in the legal literature is therefore not limited to the question of admissibility. It extends to the more nuanced questions of evidentiary strength, reliability, authenticity, and the degree of certainty generated by a particular indicator. This aspect of the juristic discourse is especially important for contemporary discussions of photographs, video recordings, forensic analyses, digital metadata, and artificial intelligence, since these forms of evidence vary considerably in their reliability and susceptibility to manipulation. One of the classifications employed by jurists distinguishes between qarā'in according to the source from which their evidentiary authority is derived. The first category consists of indicators explicitly recognized by revelation. These derive their authority directly from the Qur'ān and Sunnah.

Among the most important examples are the torn shirt of Yūsuf,⁵² the evidentiary significance of physical resemblance (*qiyāfah*) in lineage affirmation,⁵³ the signs of puberty recognized in legal rulings,⁵⁴ descriptions of lost property used to establish ownership,⁵⁵ the silence of the virgin indicating her consent,⁵⁶ and other examples. In these cases, revelation itself recognizes the evidentiary value of the indicator. Their authority therefore does not depend upon independent juristic reasoning.

In addition to the indicators explicitly delineated through textual analysis, jurists acknowledged a secondary category comprising evidentiary indicators that were derived by jurists and employed by various legal schools to ascertain rulings. For instance, Ibn al-Qayyim states:

Another example is that when the owner of a house presents food to a guest and places it before him, the guest is permitted to begin eating even if the host has not expressly granted verbal permission. This is because the

⁵² Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 5.

⁵³ Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 10, 181.

⁵⁴ «وَقَدْ كَانَ الْأَسْرَى مِنْ قُرَيْظَةَ يَدْعُونَ عَدَمَ الْبُلُوغِ فَكَانَ الصَّحَابَةُ يَكْشِفُونَ عَنْ مَآزِرِهِمْ بِأَمْرِ رَسُولِ اللَّهِ ﷺ - فَيَعْلَمُونَ بِذَلِكَ الْبَالِغَ مِنْ غَيْرِهِ»

"The captives of Banū Qurayzah used to claim that they had not yet reached puberty.

Therefore, by order of the Messenger of Allah ﷺ, the Companions would examine beneath their waistcloths, and by doing so they would distinguish those who had reached puberty from those who had not."

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 9.

⁵⁵ Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 9, 86.

⁵⁶ Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 108-109.

surrounding circumstances (*dalālat al-hāl*) constitute an indication that is tantamount to certainty. Similarly, the Prophet ﷺ permitted a passerby to eat from another person's fruit, provided that he did not carry any away, relying upon the contextual circumstances, since the owner had neither enclosed the orchard with a fence nor appointed a guard over it.⁵⁷

Similarly, Ibn al-Qayyim gave the example of: "Among the examples of this is that people, both in earlier times and in later times, have continuously relied upon the statements of children sent with gifts, when they say that such gifts have been sent to them. They accept their statements, eat the food delivered through them, and wear the clothing they bring."⁵⁸ There are numerous examples of varying degrees of strength.

Among the various forms of circumstantial evidence discussed by Ibn al-Qayyim, the highest evidentiary status is accorded to conclusive circumstantial evidence (*al-qarā'in al-qat'iyyah*), which he also describes as manifest circumstantial evidence (*al-qarīnah al-zāhirah*). These are evidentiary indicators that establish the factual reality of a case with such clarity that they enable the judge to distinguish the truthful from the false claimant and the rightful party from the wrongdoer. Their probative force arises from the strength of the surrounding circumstances themselves rather than from testimonial assertions. According to Ibn al-Qayyim, when such conclusive indicators are present, the judge is not merely permitted to rely upon them but is obligated to do so. Because these indicators establish the factual reality of the dispute with a high degree of certainty, they are prioritized, according to Ibn al-Qayyim, over all other forms of evidence (*bayyinat*).⁵⁹ In this context, Ibn al-Qayyim classifies *qarā'in* into three distinct categories, each assigned its specific ruling. Ibn al-Qayyim gave many examples of this first type. For example, he said: "Among the examples of this is that when the owner of a house presents food to a guest and places it before him, it is permissible for the guest to begin eating even if the host has not verbally given him permission. This is because of reliance upon the indication provided by the circumstances (*dalālat al-hāl*), which, in such a case, approaches the level of certainty."⁶⁰ And he also stated:

57 وَمِنْ ذَلِكَ: أَنَّ صَاحِبَ الْمَنْزِلِ إِذَا قَدَّمَ الطَّعَامَ إِلَى الضَّيْفِ وَوَضَعَهُ بَيْنَ يَدَيْهِ، جَازَ لَهُ الْإِقْدَامُ عَلَى الْأَكْلِ، وَإِنْ لَمْ يَأْذَنْ لَهُ لَفْظًا، اغْتِبَارًا بِدَلَالَةِ الْحَالِ الْجَارِيَةِ مَجْرَى الْقَطْعِ وَمِنْ ذَلِكَ: «إِذْنُ النَّبِيِّ ﷺ - لِلْمَارِّ بِشَمْرِ الْغَيْرِ. أَنْ يَأْكُلَ مِنْ ثَمَرِهِ وَلَا يَحْمِلَ» اِكْتِفَاءً بِشَاهِدِ الْحَالِ، حَيْثُ لَمْ يَجْعَلْ عَلَيْهِ حَاطِطًا وَلَا نَاطُورًا

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Turuq al-Hukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 21.

58 وَمِنْ ذَلِكَ: أَنَّ النَّاسَ - قَدِيمًا وَحَدِيثًا - لَمْ يَزَالُوا يَتَعَمَّدُونَ عَلَى قَوْلِ الصَّبِيَّانِ الْمُرْسَلِ مَعَهُمُ الْهَدَايَا، وَأَتَتْهَا مَبْعُوثَةٌ إِلَيْهِمْ، فَيَقْبَلُونَ أَقْوَاهُمْ، وَيَأْكُلُونَ الطَّعَامَ الْمُرْسَلِ بِهِ، وَيَلْبَسُونَ الثِّيَابَ، وَلَوْ كَانَتْ أُمَّةٌ لَمْ يَمْتَنِعُوا مِنْ وَطَنِهَا، وَلَمْ يَسْأَلُوا إِقَامَةَ الْبَيْتَةِ عَلَى ذَلِكَ؛ اِكْتِفَاءً بِالْقَرَائِنِ الظَّاهِرَةِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Turuq al-Hukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 20.

⁵⁹ Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Turuq al-Hukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 5, 6, 7, 20, 21.

60 وَمِنْ ذَلِكَ: أَنَّ صَاحِبَ الْمَنْزِلِ إِذَا قَدَّمَ الطَّعَامَ إِلَى الضَّيْفِ وَوَضَعَهُ بَيْنَ يَدَيْهِ، جَازَ لَهُ الْإِقْدَامُ عَلَى الْأَكْلِ، وَإِنْ لَمْ يَأْذَنْ لَهُ لَفْظًا، اغْتِبَارًا بِدَلَالَةِ الْحَالِ الْجَارِيَةِ مَجْرَى الْقَطْعِ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Turuq al-Hukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 21.

All of the jurists hold that it is permissible for a man to consummate marriage with a woman who is brought to him on the wedding night, even though two upright male witnesses have not testified before him that 'this is so-and-so, the daughter of so-and-so, whom you married.' Nor is he required to question women to verify that she is indeed his wife. Rather, they rely upon the strong and manifest circumstantial indicator (*al-qarā'ih al-zāhirah al-qawīyyah*), and they treat this powerful circumstantial evidence as occupying the position of formal testimony.⁶¹

1) Unlike conclusive circumstantial evidence, Ibn al-Qayyim identifies a category of probabilistic circumstantial evidence (*al-qarā'in al-zānnīyyah*), which consists of indicators that suggest a high probability of a claim's truth without establishing certainty. These favor a dominant likelihood but do not guarantee certainty. A judge is advised to consider these carefully and not ignore them; in some instances, acting upon them may be necessary. Ibn al-Qayyim cautioned against dismissing these indicators outright, while also warning against excessive reliance on them. He said:

For Allah revealed the Book with the truth so that people might uphold justice. He did not permit the rejection of a truthful person, nor the disregard of an evidentiary indicator or sign that bears witness to the truth. Rather, He commanded verification regarding the report of a corrupt person (*fāsiq*), but He did not command its unconditional rejection. Instead, the report is to be accepted if an indicator establishes its truthfulness, and rejected if an indicator establishes its falsehood. Thus, His judgment revolves around the truth, and the truth revolves around His judgment—wherever it is found, with whomever it is found, and through whatever sound evidence establishes it. Consequently, many people went to one extreme by expanding reliance upon matters they merely assumed to be indicators and signs, and on that basis established legal rulings. Others went to the opposite extreme by failing to recognize valid proofs and manifest indicators, wrongly assuming that they were unsuitable for establishing legal rulings.⁶²

This type of *qarā'in* may, at times, be strengthened and consequently be regarded as definitive *qarā'in*, thereby necessitating action upon them. Conversely, they may sometimes be weakened, rendering them invalid for guiding action. At other times, these *qarā'in* occupy an intermediate state, requiring the judge to consider additional factors for support. Ibn al-Qayyim stated:

This matter varies according to the surrounding circumstances and evidentiary indicators (*qarā'in al-aḥwāl*). If we find books preserved in a

⁶¹ فَكُلُّهُمْ يَقُولُ بِجَوَازِ وَطْءِ الرَّجُلِ الْمَرْأَةَ إِذَا أُهْدِيَتْ إِلَيْهِ لَيْلَةَ الزَّفَافِ، وَإِنْ لَمْ يَشْهَدْ عِنْدَهُ عَدْلَانِ مِنَ الرِّجَالِ بِأَنْ هَذِهِ فَلَانَتْ بِنْتُ فُلَانٍ الَّتِي عَقَدَتْ عَلَيْهَا، وَإِنْ لَمْ يَسْتَطِيقِ النِّسَاءُ أَنَّ هَذِهِ امْرَأَتُهُ اعْتِمَادًا عَلَى الْقَرِينَةِ الظَّاهِرَةِ الْقَوِيَّةِ فَتَزَلُّوا هَذِهِ الْقَرِينَةُ الْقَوِيَّةُ مَنَزَلَةَ الشَّهَادَةِ

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 20.

⁶² فَإِنَّهُ أَنْزَلَ الْكِتَابَ بِالْحَقِّ لِيَقُومَ النَّاسُ بِالْقِسْطِ، وَلَمْ يُسَوِّغْ تَكْذِيبَ صَادِقٍ وَلَا إِبْطَالَ أَمَارَةٍ وَعَلَامَةٍ شَاهِدَةٍ بِالْحَقِّ، بَلْ أَمَرَ بِالتَّشَبُّهِ فِي خَبَرِ الْفَاسِقِ، وَلَمْ يَأْمُرْ بِرَدِّهِ مُطْلَقًا، حَتَّى يَقُومَ أَمَارَةٌ عَلَى صِدْقِهِ فَيُقْبَلَ، أَوْ كَذِبِهِ فَيُرَدَّ، فَحُكْمُهُ دَائِرٌ مَعَ الْحَقِّ، وَالْحَقُّ دَائِرٌ مَعَ حُكْمِهِ أَيْنَ كَانَ، وَمَعَ مَنْ كَانَ، وَبِأَيِّ دَلِيلٍ صَحِيحٍ كَانَ، فَتَوَسَّعَ كَثِيرٌ مِنْ هَؤُلَاءِ فِي أُمُورٍ ظَنُّوْهَا عِلَامَاتٍ وَأَمَارَاتٍ أَنْتَبَهُوا بِهَا أَحْكَامًا، وَقَصَرَ كَثِيرٌ مِنْ أُولَئِكَ عَنْ أدِلَّةٍ وَعِلَامَاتٍ ظَاهِرَةٍ ظَنُّوْهَا غَيْرَ صَالِحَةٍ لِإثْبَاتِ الْأَحْكَامِ

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 91.

library or repository bearing the inscription "Waqf" (endowment), and they have remained in that condition for a long period of time, and have become widely known as such, then we have no reason to doubt that they are indeed endowed property. Their ruling is like that of a school known to have been established as a waqf, even if the original waqf deed has been lost or is no longer available. So long as people have commonly and continuously recognized over a long period that these books are waqf property, such widespread recognition (*istifādah*) is sufficient. For a waqf may be established through widespread public knowledge, and the designated beneficiaries of the waqf may likewise be established in this manner. On the other hand, if we find a book whose provenance is unknown, and it is not known who wrote the word "waqf" upon it, then this requires suspension of judgment until its status becomes clear. The determining factor in all such matters is the strength of the circumstantial evidence (*qarā'in*). If the indicators are strong, judgment is rendered according to their implications. If they are weak, they are disregarded. If they occupy a middle position, then further investigation should be sought and a path of caution followed. And Allah grants success.⁶³

Ibn al-Qayyim provided several examples from this category. He mentioned, for example: The inscription or writing found upon a stone, an animal, or books of knowledge is far stronger than these other evidentiary indicators. Therefore, it is even more deserving of having the legal consequences indicated by that writing recognized and established, especially when there is no opposing evidence. However, if there is opposing evidence in the form of trustworthy testimony (*bayyinah*) that is free from suspicion and does not merely rest upon a claim of ownership through alteration or fabrication, but instead establishes a valid basis of ownership and its continuity, then such testimony is given precedence over these evidentiary indicators. On the other hand, if the only thing opposing these indicators is mere possession (*yad*), then no attention should be paid to it. For these indicators stand in the position of testimony and proof (*bayyinah*), and mere possession is overcome by such evidence.⁶⁴

Therefore, Ibn al-Qayyim based his judgments on such indications as long as they are not

⁶³ هَذَا يَخْتَلِفُ بِاخْتِلَافِ قَرَائِنِ الْأَحْوَالِ، فَإِذَا رَأَيْنَا كُتُبًا مُودَعَةً فِي خِزَانَةٍ، وَعَلَيْهَا كِتَابَةُ «الْوَقْفِ» وَهِيَ كَذَلِكَ مُدَّةً مُطَوَّلَةً، وَقَدْ أَشْتَهَرَتْ بِذَلِكَ: لَمْ نَسْتَرْبِ فِي كَوْنِهَا وَقْفًا؛ وَحُكْمُهَا حُكْمُ الْمُدْرَسَةِ الَّتِي عَاهَدَتْ لِدَلِكِ؛ وَانْقَطَعَتْ كُتُبُ وَفَقِهَا أَوْ فُقِدَتْ، وَلَكِنْ تَعَالَمَ النَّاسُ عَلَى تَطَاوُلِ الْمُدَّةِ كَوْنَهَا وَقْفًا، فَتَكْفِي فِي ذَلِكَ الْإِسْتِفَاضَةُ، فَإِنَّ الْوَقْفَ يَثْبُتُ بِالْإِسْتِفَاضَةِ، وَكَذَلِكَ مَصْرُفُهُ، وَأَمَّا إِذَا رَأَيْنَا كِتَابًا لَا نَعْلَمُ مُقَرَّهُ وَلَا عُرْفَ مَنْ كَتَبَ عَلَيْهِ الْوَقْفَ، فَهَذَا يُوجِبُ التَّوَقُّفَ فِي أَمْرِهِ، حَتَّى يَتَبَيَّنَ حَالُهُ. وَالْمَعُولُ فِي ذَلِكَ عَلَى الْقَرَائِنِ، فَإِنْ قَوِيَ حُكْمُ بِمُوجِبِهَا، وَإِنْ ضَعُفَتْ لَمْ يَلْتَفِتْ إِلَيْهَا، وَإِنْ تَوَسَّطَتْ: طَلَبَ الْإِسْتِظْهَارَ، وَسَلَكَ طَرِيقَ الْإِحْتِيَاظِ، وَبِاللَّهِ التَّوْفِيقُ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 178.

⁶⁴ أَنَّ الْكِتَابَةَ عَلَى الْحِجَارَةِ وَالْحَيَوَانِ وَكُتُبِ الْعِلْمِ أَقْوَى مِنْ هَذِهِ الْأَمَارَاتِ بِكَثِيرٍ؛ فَهِيَ أَوْلَى أَنْ يَثْبُتَ بِهَا حُكْمُ تِلْكَ الْكِتَابَةِ؛ وَلَا سِيَّاهُ عِنْدَ عَدَمِ الْمُعَارِضِ؛ وَأَمَّا إِذَا عَارَضَ ذَلِكَ بَيِّنَةٌ لَا تَتَّهَمُ، وَلَا تَسْتَعِدُّ إِلَى مُجَرَّدِ التَّجْدِيدِ بِذِكْرِ سَبَبِ الْمَلِكِ وَاسْتِمْرَارِهِ، فَإِنَّهَا تُقَدَّمُ عَلَى هَذِهِ الْأَمَارَاتِ. وَأَمَّا إِنْ عَارَضَهَا مُجَرَّدُ الْيَدِ: لَمْ يَلْتَفِتْ إِلَيْهَا؛ فَإِنَّ هَذِهِ الْأَمَارَاتِ بِمَنْزِلَةِ الْبَيِّنَةِ وَالشَّاهِدِ، وَالْيَدُ تُرْفَعُ بِذَلِكَ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 179.

contradicted by stronger evidence. For weaker indications that maintain the default ruling, the default is not upheld since diversion from the default takes precedence. Ibn al-Qayyim said:

It is unquestionably obligatory to act upon these circumstantial indicators (*qarā'in*), for the knowledge derived from them is far stronger than the presumption obtained from mere possession (*yad*). Indeed, in this situation possession does not produce any meaningful presumption whatsoever. So how can possession be given precedence over that which is established with certainty, or with a degree of certainty approaching it?⁶⁵

He illustrated this with an example:

The position of the scholars of Madīnah, and it is the correct view, is that a wife's claim that her husband did not provide her maintenance or clothing during a past period of time is not accepted, because the apparent circumstantial indicators (*al-qarā'in al-zāhirah*) contradict her claim. This view is the truth to which we hold and by which we worship Allah; we do not believe otherwise. The knowledge obtained regarding the husband's maintenance and provision of clothing in the past, based upon the apparent circumstances, is far stronger than the presumption derived from maintaining the original state (*istishāb*) and assuming that the obligation remained unpaid in his liability. How can this weak presumption be given precedence over knowledge that approaches certainty? This wife was not receiving her sustenance from heaven as Maryam bint Imran did, nor was she seen regularly leaving her home to obtain food and drink for herself. Rather, the husband was continually observed entering upon her with food and drink. So how can it be said that "the woman's statement is accepted," and how can the presumption of continuity (*istishāb*) be preferred over this near-certain knowledge? And Allah knows best.⁶⁶

And likewise, he said:

The majority of the jurists hold, in disputes between spouses and in disputes between artisans concerning the contents of a house or shop, that the accepted claim is the claim of the person whose truthfulness is supported by the surrounding circumstances. The correct view in this issue is that mere

⁶⁵ وَيَجِبُ الْعَمَلُ قَطْعًا بِهَذِهِ الْقَرَائِنِ، فَإِنَّ الْعِلْمَ الْمُسْتَفَادَ مِنْهَا أَقْوَى بِكَثِيرٍ مِنَ الظَّنِّ الْمُسْتَفَادِ مِنْ مُجَرَّدِ الْيَدِ، بَلْ الْيَدُ هُنَا لَا تُفِيدُ ظَنًّا أَلْبَتَةً، فَكَيْفَ تَقْدَمُ عَلَى مَا هُوَ مَقْطُوعٌ بِهِ، أَوْ كَالْمَقْطُوعِ بِهِ؟

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 99.

⁶⁶ قَوْلُ أَهْلِ الْمَدِينَةِ - وَهُوَ الصَّوَابُ - أَنَّهُ لَا يَقْبَلُ قَوْلُ الْمَرْأَةِ: إِنَّ زَوْجَهَا لَمْ يَكُنْ يَتَّقُ عَلَيْهَا وَلَا يَكْسُوها فِيهَا مَضَى مِنَ الزَّمَانِ؛ لِتَكْذِيبِ الْقَرَائِنِ الظَّاهِرَةِ لَهَا. وَقَوْلُهَا فِي ذَلِكَ هُوَ الْحَقُّ الَّذِي تُدِينُ اللَّهُ بِهِ، وَلَا نَعْتَقِدُ سِوَاهُ، وَالْعِلْمُ الْحَاصِلُ بِإِنْفَاقِ الزَّوْجِ وَكِسْوَتِهِ فِي الزَّمَنِ الْمَاضِي اعْتِبَادًا عَلَى الْأَمَارَاتِ الظَّاهِرَةِ أَقْوَى مِنَ الظَّنِّ الْحَاصِلِ بِاسْتِصْحَابِ الْأَصْلِ وَبَقَاءِ ذَلِكَ فِي ذِمَّتِهِ بِأَضْعَافٍ مُضَاعَفَةٍ. فَكَيْفَ يُقَدَّمُ هَذَا الظَّنُّ الضَّعِيفُ عَلَى ذَلِكَ الْعِلْمِ الَّذِي يَكَادُ يَبْلُغُ الْقَطْعَ؟ فَإِنَّ هَذِهِ الزَّوْجَةَ لَمْ يَكُنْ يَنْزِلُ عَلَيْهَا رِزْقُهَا مِنَ السَّمَاءِ، كَمَا كَانَ يَنْزِلُ عَلَى مَرْيَمَ بِنْتِ عِمْرَانَ، وَلَمْ تَكُنْ تُشَاهَدُ تَخْرُجُ مِنْ مَنْزِلِهَا تَأْتِي بِطَعَامٍ وَشَرَابٍ، وَالزَّوْجُ يُشَاهَدُ فِي كُلِّ وَقْتٍ دَاخِلًا عَلَيْهَا بِالطَّعَامِ وَالشَّرَابِ، فَكَيْفَ يُقَالُ: «الْقَوْلُ قَوْلُهَا» وَيُقَدَّمُ ظَنُّ الْإِسْتِصْحَابِ عَلَى هَذَا الْعِلْمِ الْيَقِينِيِّ؟ وَاللَّهُ أَعْلَمُ

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 21.

physical possession (*al-yad al-hissiyyah*) carries no weight; indeed, its existence is treated as though it were non-existent.⁶⁷

2) The third category recognized within Ibn al-Qayyim's evidentiary framework consists of weak circumstantial evidence (*al-qarā'in al-da'ifah*). These are indicators that suggest the existence of a particular fact only weakly and are outweighed by stronger contrary evidence. Because their probative value is insufficient to establish legal rights or liabilities, they cannot serve as an independent basis for judicial decision-making. According to Ibn al-Qayyim, reliance upon such weak indicators is impermissible; Nevertheless, Ibn al-Qayyim does not regard weak circumstantial evidence as entirely devoid of legal significance. Such an indicator may subsequently acquire greater evidentiary weight if corroborated by additional *qarā'in* or other independent forms of proof. Conversely, if no supporting evidence emerges, it remains legally ineffective and cannot be relied upon in adjudication. Such indicators may warrant additional inquiry and can enhance the overall evidentiary framework when supported by more substantial proof, but they typically cannot independently form the basis for a judicial decision. This includes weak *qarā'in* that do not supersede proof standards established by divine law, such as the testimony of two witnesses or similar evidentiary principles. Other examples consist of simply owning an item, since this is a *qareenah* that a person possesses that item. However, this *qareenah* is weak if contrasted with a more compelling opposing evidence. Being able to differentiate between the levels of *qarā'in* is not always clear, and at times it is subject, up to the judge to perform his *ijtihad*.

The indicator must demonstrate sufficient evidentiary strength to justify reliance. Not every circumstance, suspicion, or seemingly suggestive sign can serve as the foundation for a legal decision. Instead, the indicator must either establish certainty or generate a dominant probability adequate to support judicial action. Indicators that are weak or speculative are inadequate, as they do not provide a sufficient basis for the protection of rights or the administration of justice. A weak indicator cannot be relied upon independently, nor can a speculative indicator outweigh stronger evidence. Closely tied to evidentiary strength is the imperative to authenticate the evidence's integrity. It is incumbent upon judges to verify the reliability of the indicators and the robustness of the procedures employed to interpret them.

A *qarā'nah*'s evidentiary value is nullified when contradicted by stronger proof. It should not lead to nullifying established legal rulings, even if it is a definitive or predominant *qareenah*, such as dismissing medical testing to negate evidence from Islamic legal procedures or invalidating *li'an* through DNA testing. Similarly, a circumstantial indicator cannot override an explicit textual ruling. Physical resemblance, for example, cannot invalidate the Prophetic principle: "The boy is for (the owner of) the bed and the stone is for the person who commits illegal sexual intercourse."⁶⁸ Thus a *qarā'nah* cannot supersede a stronger textual proof. A circumstantial indicator may be displaced by valid testimony when the testimony possesses greater evidentiary force. For example, possession of a debt document by a debtor may suggest repayment. However, if the creditor produces reliable witnesses establishing that the debt remains unpaid, the testimony prevails. Even among *qarā'in* themselves, stronger indicators prevail over weaker ones. The narrative of Yūsuf provides a clear illustration of this principle. Although the blood-stained shirt presented by his brothers appeared to support their claim, the intact condition of the shirt and the

⁶⁷ أَنَّ جُمْهُورَ الْفُقَهَاءِ يَقُولُونَ فِي تَدَاْعِي الزَّوْجَيْنِ، وَالصَّانِعِينَ لِمَتَاعِ الْبَيْتِ وَالذُّكَّانِ: أَنَّ الْقَوْلَ قَوْلٌ مِّنْ يُّدُلُّ الْحَالُ عَلَى صِدْقِهِ، وَالصَّحِيحُ فِي هَذِهِ الْمَسْأَلَةِ: أَنَّهُ لَا عِبْرَةَ بِالْيَدِ الْحَسَنَةِ، بَلْ وَجُودُهَا كَعَدَمِهَا

Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, *al-Ṭuruq al-Ḥukmiyyah* (Beirut: Maktabat Dār al-Bayān, n.d.), 22.

⁶⁸ <https://sunnah.com/bukhari:6818>; <https://sunnah.com/muslim:1458a>.

surrounding circumstances constituted stronger evidence demonstrating the falsity of their account. The stronger qarīnah therefore prevailed.⁶⁹

Judges must also exercise caution before issuing rulings based on apparent indicators, as there may be hidden factors or justifications that oppose or mitigate the punishment. For example, Ibn al-Qayyim recounts cases like a person found lying in his own blood with another individual over him holding a knife; one might conclude the latter was the murderer, especially if there is known hostility toward the victim. However, Ibn al-Qayyim references a report from Ali, who, in such a scenario, ruled that the man was the murderer and should be executed. Before execution, it was revealed that this was not the case. Ibn al-Qayyim says:

Among the judgments of Ali ibn Abi Talib is that a man was brought before him after being found in a ruined building holding a knife stained with blood, while in front of him lay a slain man writhing in his blood. 'Alī questioned him, and the man replied: "I killed him." 'Alī said: "Take him and execute him." "As he was being led away, another man came running and cried: "People! Do not hurry. Take him back to 'Alī." They returned him, whereupon the newcomer said: "Commander of the Faithful, this man is not the killer. I killed him." 'Alī then asked the first man: "What caused you to confess to a killing that you did not commit?" He replied: "Commander of the Faithful, what else could I do? The guards found me standing over the victim as he lay in his blood. I was holding a knife stained with blood, and I was discovered in an abandoned ruin. I feared that no one would believe me and that *qasāmah* would be invoked against me, so I confessed to something I did not do and resigned myself to Allah's judgment." 'Alī said: "You acted badly. Tell us what happened." The man explained: "I am a butcher. Early that morning I slaughtered a cow and was skinning it. While working, I felt the need to relieve myself. I entered a nearby ruin, attended to my need, and as I was returning, I found this murdered man writhing in his blood. The sight shocked me, and I stopped to look at him while still holding the knife. Suddenly your guards arrived, seized me, and said: 'This man killed him; there is no other possible killer.' Realizing that you would not accept my word against theirs, I confessed to a crime I had not committed." 'Alī then turned to the second confessor and asked: "What is your story?" He replied: "Satan tempted me. I killed the man for his money. Then I heard the guards approaching. I left the ruin and saw this butcher approaching exactly as he described. I hid until the guards came and arrested him. When I later heard that you had ordered his execution, I realized that I would be responsible for his blood as well, so I came and confessed the truth." 'Alī then asked Al-Hasan ibn Ali: "What do you think should be done?" Al-Hasan replied: "Commander of the Faithful, if this man has killed one soul, he has also saved another. Allah, Most High, says: 'Whoever saves a life, it is as though he has saved all mankind.' (Qur'ān 5:32)." Thereupon 'Alī released both men and paid the blood-money of the victim from the public treasury (*Bayt al-Māl*).

Ibn al-Qayyim then comments:

If this resolution occurred as a settlement with the consent of the victim's heirs, then there is no difficulty. However, if it occurred without their consent, then the well-known position of the jurists is that the right of retaliation (*qisās*) is not extinguished by such circumstances. This is because the killer

⁶⁹ Ibrāhīm b. 'Alī b. Muḥammad Ibn Farḥūn al-Ya'murī, *Tabṣirat al-ḥukkām fī Uṣūl al-Aqḍiyah wa Manāhij al-Aḥkām* (Cairo: Maktabat al-Kulliyāt al-Azhariyyah, 1st ed., 1406 AH/1986 CE), vol. 2:117.

confessed to an act that legally requires retaliation, and no legally recognized factor arose to remove that obligation. Therefore, *qisās* would ordinarily remain due. Nevertheless, the judgment of the Commander of the Faithful possesses a strong legal basis.⁷⁰

Therefore, statements pertaining to *qarā'in* that necessitate action should be interpreted in accordance with the previously stated considerations. Consequently, when she states:

The imams and caliphs have continually ruled that the punishment of amputation is to be imposed when stolen property is found in the possession of the accused. This circumstantial indicator (*qarīnah*) is stronger than witness testimony (*bayyinah*) and confession (*iqrār*), for testimony and confession are both reports that may be truthful or false, whereas the presence of the stolen property in his possession is explicit and direct evidence that admits of no comparable doubt. And does anyone who sees a murdered person lying in his blood, while another man stands over him holding a knife, doubt that he killed him? Especially when it is known that there was enmity between them?⁷¹

⁷⁰ وَمِنْ قَصَايَا عَلِيٍّ - رضي الله عنه - : أَنَّهُ أَتَى بِرَجُلٍ وَجَدَ فِي خَرَبَةٍ بِيَدِهِ سَكِينٌ مُتَلَطِّخَةٌ بِدَمٍ، وَبَيْنَ يَدَيْهِ قَتِيلٌ يَتَسَحَّطُ فِي دَمِهِ. فَسَأَلَهُ؟ فَقَالَ: أَنَا قَتَلْتُهُ، قَالَ: اذْهَبُوا بِهِ فَاقْتُلُوهُ. فَلَمَّا ذَهَبَ بِهِ أَقْبَلَ رَجُلٌ مُسْرِعًا، فَقَالَ: يَا قَوْمُ، لَا تَعْجَلُوا. رُدُّوهُ إِلَى عَلِيٍّ، فَرَدُّوهُ، فَقَالَ الرَّجُلُ: يَا أَمِيرَ الْمُؤْمِنِينَ، مَا هَذَا صَاحِبُهُ، أَنَا قَتَلْتُهُ. فَقَالَ عَلِيٌّ لِلْأَوَّلِ: مَا حَمَلَكَ عَلَى أَنْ قُلْتَ: أَنَا قَاتِلُهُ، وَلَمْ تَقْتُلْهُ؟ قَالَ: يَا أَمِيرَ الْمُؤْمِنِينَ، وَمَا أَسْتَطِيعُ أَنْ أَصْنَعَ؟ وَقَدْ وَقَفَ الْعَسَسُ عَلَى الرَّجُلِ يَتَسَحَّطُ فِي دَمِهِ، وَأَنَا وَاقِفٌ، وَفِي يَدَيْ سَكِينٍ، وَفِيهَا أَثَرُ الدَّمِ، وَقَدْ أُخِذْتُ فِي خَرَبَةٍ؟ فَخِفْتُ أَلَّا يُقْبَلَ مِنِّي، وَأَنْ يَكُونَ قَسَامَةً، فَأَعْتَرَفْتُ بِمَا لَمْ أَصْنَعْ، وَاحْتَسَبْتُ نَفْسِي عِنْدَ اللَّهِ. فَقَالَ عَلِيٌّ: بِشَسْمَا صَنَعْتَ. فَكَيْفَ كَانَ حَدِيثُكَ؟ قَالَ: إِنِّي رَجُلٌ قَصَابٌ، خَرَجْتُ إِلَى حَانُوتِي فِي الْغَلَسِ، فَذَبَحْتُ بَقَرَةً وَسَلَخْتُهَا. فَبَيْنَمَا أَنَا أَسْلُخُهَا وَالسَّكِينُ فِي يَدِي أَخَذَنِي الْبُؤْلُ. فَأَتَيْتُ خَرَبَةً كَانَتْ بِقُرْبِي فَدَخَلْتُهَا، فَفَضَيْتُ حَاجَتِي، وَعُدْتُ أُرِيدُ حَانُوتِي، فَإِذَا أَنَا بِهَذَا الْمَقْتُولِ يَتَسَحَّطُ فِي دَمِهِ فَرَاعَنِي أَمْرُهُ، فَوَقَفْتُ أَنْظُرُ إِلَيْهِ وَالسَّكِينُ فِي يَدِي، فَلَمْ أَشْعُرْ إِلَّا بِأَصْحَابِكَ قَدْ وَقَفُوا عَلَيَّ فَأَخَذُونِي، فَقَالَ النَّاسُ: هَذَا قَتَلَ هَذَا، مَا لَهُ قَاتِلٌ سِوَاهُ. فَأَيَقَنْتُ أَنَّكَ لَا تَتْرُكُ قَوْلَهُمْ لِقَوْلِي، فَأَعْتَرَفْتُ بِمَا لَمْ أَجِبْهُ، فَقَالَ عَلِيٌّ لِلْمُقَرَّرِ الثَّانِي: فَأَنْتَ كَيْفَ كَانَتْ قِصَّتُكَ؟ فَقَالَ أَعْوَانِي إِبْلِيسُ، فَتَلَّتْ الرَّجُلُ طَمَعًا فِي مَالِهِ، ثُمَّ سَمِعْتُ حَسَّ الْعَسَسِ، فَخَرَجْتُ مِنَ الْخَرَبَةِ، وَاسْتَقْبَلْتُ هَذَا الْقَصَابَ عَلَى الْحَالِ الَّتِي وَصَفَ، فَاسْتَرْتُ مِنْهُ بَعْضَ الْخَرَبَةِ حَتَّى أَتَى الْعَسَسُ، فَأَخَذُوهُ وَأَتَوْكَ بِهِ. فَلَمَّا أَمَرْتَ بِقَتْلِهِ عَلِمْتُ أَنِّي سَابَوُ بِدَمِهِ أَيْضًا، فَأَعْتَرَفْتُ بِالْحَقِّ. فَقَالَ لِلْحَسَنِ: مَا الْحُكْمُ فِي، هَذَا؟ قَالَ: يَا أَمِيرَ الْمُؤْمِنِينَ، إِنْ كَانَ قَدْ قَتَلَ نَفْسًا فَقَدْ أَحْيَا نَفْسًا، وَقَدْ قَالَ اللَّهُ تَعَالَى: ﴿وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا﴾ [المائدة: ٣٢]، فَخَلَّى عَلِيٌّ عَنْهَا، وَأَخْرَجَ دِيَّةَ الْقَتِيلِ مِنْ بَيْتِ الْمَالِ. وَهَذَا - إِنْ وَقَعَ صَلَاحًا بِرِضَا الْأَوْلِيَاءِ - فَلَا إِشْكَالَ، وَإِنْ كَانَ بغيرِ رِضَاهُمْ فَلَمَعْرُوفٌ مِنْ أَقْوَالِ الْفُقَهَاءِ: أَنَّ الْقَصَاصَ لَا يَسْقُطُ بِذَلِكَ. لِأَنَّ الْجَانِيَّ قَدْ اعْتَرَفَ بِمَا يُوجِبُهُ، وَلَمْ يَوْجَدْ مَا يُسْقِطُهُ، فَيَتَعَيَّنُ اسْتِيفَاؤُهُ. وَبَعْدُ: فَلِحُكْمِ أَمِيرِ الْمُؤْمِنِينَ وَجْهٌ قَوِيٌّ.

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 51-52.

⁷¹ وَلَمْ تَزَلِ الْأَثَمَةُ وَالْخُلَفَاءُ يُحْكُمُونَ بِالْقَطْعِ إِذَا وَجِدَ الْمَالُ الْمُسْرُوقَ مَعَ الْمُتَّهَمِ، وَهَذِهِ الْقَرِينَةُ أَقْوَى مِنَ الْبَيِّنَةِ وَالْإِقْرَارِ، فَإِنَّهَا خَبَرَانِ يَتَطَرَّقُ

This is understood in the context that all these necessary conditions must be fulfilled to enable action upon them. Therefore, even if these qarā'in or evidentiary indicators are considered conclusive, the judge must exercise caution, analogous to the evaluation of witnesses, since a witness's testimony is only deemed credible once their integrity is confirmed. Similarly, confessions are only admissible if there is assurance that they were not obtained through coercion or duress.

The Significance of These Principles for Modern Evidence

Taken together, these classifications and conditions reveal the sophistication and flexibility of Islamic evidentiary theory. The jurists did not confine proof to a limited set of historical forms. Rather, they developed a methodology for evaluating evidentiary indicators according to their reliability, authenticity, and capacity to reveal the truth. This methodology remains highly relevant to contemporary legal questions. Photographs, video recordings, audio files, biometric analyses, forensic reports, digital records, metadata, surveillance footage, geolocation data, and AI-generated media are all forms of evidentiary indicators whose legal significance depends not upon their technological form but upon their reliability and evidentiary strength. The central question is therefore not whether such evidence may be considered, but rather where it falls within the hierarchy of qarā'in recognized by Islamic law. Is the evidence definitive, probable, or weak? Has its authenticity been established? Is it supported by corroborating evidence? Does stronger contrary evidence exist? These questions provide the essential bridge between the classical doctrine of qarā'in and contemporary debates concerning photographs, video recordings, digital forensics, deepfakes, and artificial intelligence. Only after establishing this framework is it possible to evaluate the legal status of modern forms of digital evidence and the challenges posed by emerging technologies in the administration of justice.

إِلَيْهِمَا الصَّدُوقُ وَالْكَذِبُ، وَوُجُودُ الْمَالِ مَعَهُ نَصٌّ صَرِيحٌ لَا يَتَطَرَّقُ إِلَيْهِ شُبْهَةٌ، وَهَلْ يَشْكُ أَحَدٌ رَأَى قَتِيلًا يَسْحَطُ فِي دَمِهِ، وَآخَرُ قَائِمًا عَلَى رَأْسِهِ بِالسَّكِينِ: أَنَّهُ قَتَلَهُ؟ وَلَا سِيَّأَ إِذَا عُرِفَ بَعْدَاوَتُهُ

Muhammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim al-Jawziyyah, al-Ṭuruq al-Ḥukmiyyah (Beirut: Maktabat Dār al-Bayān, n.d.), 6.

Photographs, Video Recordings, Audio Recordings, and Digital Forensics as Contemporary Qarā'in

Having established the juristic foundations governing qarā'in, their classifications, and the conditions imposed upon judicial reliance, it is now possible to examine the status of contemporary forms of evidence through the framework developed by the classical jurists. Although photography, video recording, audio recording, forensic imaging, and digital technologies were unknown to earlier scholars, the legal principles governing their admissibility are not fundamentally different from those governing other forms of circumstantial evidence. The essential question is not whether such technologies existed during the formative period of Islamic law, but whether they constitute reliable indicators capable of revealing the truth and assisting judges in the realization of justice.

One of the most significant developments in modern evidentiary practice has been the emergence of forensic sciences. Contemporary investigations increasingly rely upon scientific methods capable of identifying individuals, reconstructing events, and preserving physical evidence. Among the most important of these methods are forensic photography, crime-scene imaging, fingerprint analysis, footprint analysis, tire-track comparisons, blood-trace analysis, DNA profiling, ballistic examinations, document examination, biometric identification, electronic communications, digital transaction records, geolocation data, and digital surveillance technologies. These methods function in much the same manner as the physical traces and objective indicators discussed by the jurists. Just as the torn shirt of Yūsuf served as a physical indicator revealing the truth of a disputed event, modern forensic sciences seek to reconstruct reality through objective traces left behind by human actions. Contemporary scholars have therefore generally treated forensic evidence as falling within the broader category of qarā'in. The rationale for this classification is straightforward. The evidentiary value of forensic evidence derives not from testimony concerning the event itself but from objective indicators that permit the event to be reconstructed after its occurrence. In this respect, modern forensic science represents an extension of principles already recognized within classical Islamic legal theory rather than a departure from them.

Among the most important forms of modern forensic evidence is photography. Photographic technologies are widely employed in criminal investigations and civil disputes. They are used to preserve crime scenes, document physical evidence, record fingerprints and footprints, compare tire tracks, examine forged documents, photograph physical traces, document traffic accidents, identify suspects, inspect sealed correspondence, and preserve information that may later assist judicial proceedings. Photographs possess the advantage of preserving visual information in a manner that may be repeatedly examined and evaluated by investigators, experts, and judges.

The question arises, however, whether photographs themselves may constitute proof in judicial proceedings. Contemporary discussions have generally distinguished between the admissibility of photographic evidence and the evidentiary weight assigned to it. Some scholars have expressed reservations regarding reliance upon photographs as independent proof. Among the concerns frequently raised are the possibility of photographic manipulation, the potential for combining images from different locations through editing techniques, the resemblance that may exist between different individuals, the possibility of producing images through artistic or technological means that do not accurately represent reality, and the contextual limitations of a single image that captures only one moment of a larger event. These concerns may be summarized under four primary considerations. First, photographs may be fabricated, manipulated, altered, or combined in ways that create a false representation of reality. Second, physical resemblance between different individuals may create uncertainty regarding identification. Third, artistic and technological methods may produce images resembling authentic photographs despite lacking any connection to

actual events. Fourth, photographs frequently lack the broader context necessary for accurate interpretation, making it possible to draw erroneous conclusions from an isolated image.

For these reasons, some contemporary scholars characterized photographs as relatively weak indicators when considered in isolation. Nevertheless, the dominant contemporary approach has not been to reject photographic evidence altogether. Rather, scholars have generally regarded photographs as evidentiary indicators whose strength depends upon the surrounding circumstances and the degree to which their authenticity can be established. When supported by corroborating evidence, expert analysis, metadata, witness testimony, or other reliable indicators, photographs may become powerful forms of evidence capable of assisting judges in determining the truth. Accordingly, photographs are best understood as qarā'in whose evidentiary value varies according to their reliability, authenticity, and corroboration.

Video recordings generally occupy a stronger evidentiary position than still photographs because they preserve a sequence of events rather than a single moment in time.⁷² The ability to observe movement, interaction, continuity, and the progression of events often provides contextual information unavailable through individual photographs. Consequently, contemporary scholars have frequently regarded video recordings as possessing greater evidentiary value than still images, particularly in cases involving traffic accidents, criminal conduct, commercial disputes, and public safety investigations. Video surveillance systems have become especially significant in contemporary legal practice. Cameras installed in public facilities, commercial establishments, transportation systems, warehouses, financial institutions, and private organizations routinely capture events that may later become the subject of judicial proceedings. Such recordings often provide evidence that would otherwise be unavailable and may serve as powerful indicators when their authenticity is properly established. Many contemporary jurists therefore regard authenticated surveillance footage as among the strongest forms of modern circumstantial evidence. Nevertheless, the evidentiary value of video recordings remains dependent upon the same principles governing other forms of qarā'in. Questions concerning editing, manipulation, chain of custody, continuity, source, and authenticity must be addressed before reliance may be placed upon a recording. The existence of a video alone does not automatically establish the truth of its contents; rather, its evidentiary value depends upon the extent to which its authenticity can be verified.

Audio recordings present a somewhat different evidentiary challenge. Contemporary jurists have generally viewed audio evidence with greater caution than photographic or video evidence because of the possibility of voice imitation and technological manipulation. Even before the emergence of artificial intelligence, scholars recognized that recordings may be altered through deletion, insertion, rearrangement, or other forms of editing. Furthermore, similarities between voices may create difficulties in accurately identifying speakers. Among the principal concerns identified by contemporary scholars are the possibility of intentional voice imitation, deletion of portions of conversations, insertion of additional material, rearrangement of statements, and other forms of technological manipulation. For these reasons, a number of jurists characterized audio recordings as

⁷² Usman Khan said: You noted that before recent advances, contemporary scholars often considered video to be more reliable than imagery, since it was harder to consistently edit a sequence of events. While there is still something of a technological gap between images and videos, it might be worth noting that it's now much smaller. Spatiotemporal consistency can be achieved with some modern techniques, especially with the advent of diffusion world models. Examples of these world models include NVIDIA's Cosmos, Google's Genie, and others.

relatively weak evidentiary indicators when considered in isolation. Nevertheless, audio recordings may still possess significant evidentiary value when supported by corroborating circumstances. They may assist in identifying suspects, verifying statements, uncovering criminal activity, corroborating testimony, and strengthening other forms of evidence. Consequently, while audio recordings may not ordinarily serve as independent proof, they may function as important corroborative qarā'in within a broader evidentiary framework.

Beyond photographs, videos, and recordings, modern legal systems increasingly rely upon digital records and metadata. Telephone records, text messages, electronic communications, internet activity logs, geolocation data, GPS records, timestamps, financial transaction histories, access records, and metadata often provide highly valuable information concerning a person's activities, communications, and movements. From the perspective of Islamic legal theory, such evidence functions in essentially the same manner as traditional qarā'in. These records are not direct testimony regarding the event itself; rather, they constitute objective indicators from which factual conclusions may be drawn. Their evidentiary value therefore depends upon authenticity, reliability, security, and the degree to which they have been protected from alteration or manipulation. When properly authenticated, digital records may constitute some of the most powerful forms of contemporary evidentiary indicators available to courts and investigators.

Thus, we can divide what was previously mentioned into: Strong digital qarā'in are those whose authenticity has been established through reliable means and whose evidentiary value is reinforced by corroborating indicators. Examples include authenticated surveillance footage preserved from its original source, digital records accompanied by verified metadata, communications whose origin has been independently confirmed, biometric evidence supported by forensic analysis, geolocation records corroborated by additional evidence, and recordings maintained through a secure chain of custody. Such evidence closely resembles the strong qarā'in discussed by the jurists. Where authenticity has been established and the possibility of fabrication is remote, such evidence may provide a legitimate basis for judicial rulings according to the position of those scholars who accepted strong circumstantial evidence. Indeed, in many contemporary cases, digital evidence may establish facts with a degree of certainty equal to or greater than that produced by individual witness testimony, particularly given the well-known possibility of mistake, forgetfulness, bias, and dishonesty among witnesses.

Consequently, strong digital qarā'in may be relied upon in establishing many forms of legal rights and obligations, particularly in civil disputes, commercial transactions, financial claims, contractual disagreements, and similar matters where the objective is the determination of factual reality.

A second category consists of digital evidence whose authenticity appears probable but which lacks sufficient corroboration to establish facts independently. Examples include screenshots whose source cannot be conclusively verified, recordings with incomplete metadata, partially authenticated digital communications, or media whose chain of custody contains gaps. Such evidence may still possess evidentiary value, but its value is less than that of stronger forms of proof. In these circumstances, digital evidence functions primarily as corroborative evidence rather than as an independently decisive proof. When supported by witness testimony, admissions, expert analysis, or other evidentiary indicators, such evidence may contribute significantly to establishing the truth. Standing alone, however, it may be insufficient to justify judicial reliance. This category closely resembles the probable qarā'in discussed by Ibn al-Qayyim and other jurists. Such indicators may justify further investigation, support existing evidence, or strengthen competing proofs, but they do not necessarily establish liability independently.

The third category consists of weak digital qarā'in. These include anonymous recordings, media obtained from unknown sources, files lacking verifiable provenance, suspiciously edited content, unauthenticated screenshots, and materials reasonably

suspected of manipulation or fabrication. In the contemporary environment, many social-media images and videos fall within this category because they frequently circulate without metadata, provenance information, or any reliable chain of custody. The emergence of deepfake technologies significantly increases the importance of this category. Artificial intelligence now allows highly realistic images, videos, and audio recordings to be generated with minimal cost and effort. As a result, mere visual realism can no longer establish authenticity. A video may appear entirely genuine while depicting events that never occurred. Likewise, an audio recording may accurately reproduce an individual's voice while containing statements never uttered. Accordingly, weak digital qarā'in cannot ordinarily establish liability independently. At most, they may justify investigation or raise questions requiring further inquiry. Acting upon such evidence without adequate verification risks precisely the type of injustice that led some jurists to caution against excessive reliance upon circumstantial indicators.

The Evidentiary Significance of Contemporary Digital Evidence

Taken together, photographs, video recordings, audio recordings, forensic analyses, metadata, biometric identifiers, surveillance systems, and digital records represent contemporary manifestations of the broader category of qarā'in recognized by the jurists. Their admissibility derives not from their technological novelty but from their capacity to reveal facts and assist in the realization of justice. At the same time, the increasing sophistication of technological manipulation necessitates careful attention to authenticity, verification, corroboration, and expert evaluation. The juristic principles governing qarā'in remain unchanged: evidence must be authentic, reliable, and properly authenticated; stronger evidence prevails over weaker evidence; corroboration increases evidentiary strength; and judges must exercise caution when alternative explanations remain plausible. These principles provide the bridge between classical Islamic evidentiary theory and contemporary digital technologies. Yet the emergence of artificial intelligence introduces a new challenge. Unlike earlier forms of manipulation, AI systems are capable of generating entirely synthetic images, videos, and voices that may closely resemble authentic evidence. This development requires a reassessment of the evidentiary weight traditionally assigned to digital media and raises important questions concerning the future of proof in Islamic law. The next section therefore examines the phenomenon of deepfakes and AI-generated media and analyzes their implications through the framework of classical qarā'in.

The Current State of Deepfake Technology and the Challenge of Digital Authenticity⁷³

The legal implications of deepfakes and artificial intelligence cannot be properly understood without first examining the current state of the technology itself. Earlier forms of digital manipulation generally required specialized expertise, significant time, and access to advanced editing software. Contemporary generative artificial intelligence, however, has fundamentally altered this landscape. Modern AI systems can generate photorealistic images, clone human voices, alter facial expressions, synchronize lip movements, translate speech while preserving a speaker's vocal characteristics, and create realistic videos depicting events that never occurred. As a result, visual and audio realism can no longer be treated as reliable indicators of authenticity.⁷⁴

Recent advances in deep learning have dramatically accelerated the development of synthetic media. While earlier deepfakes were primarily generated through Generative Adversarial Networks (GANs), current systems increasingly rely upon diffusion models, transformer-based architectures, neural rendering techniques, and large multimodal models capable of producing highly realistic images, videos, and audio. Contemporary surveys of the field note that diffusion-based systems have significantly improved the quality of AI-generated media and have become one of the primary drivers of the rapid evolution of deepfake technology.⁷⁵ These developments have simultaneously generated an ongoing race between increasingly sophisticated generation systems and increasingly sophisticated detection systems.

The result is a significant evidentiary challenge. Historically, photographs and recordings derived much of their evidentiary force from the assumption that they captured real-world events. Although manipulation was always possible, fabrication generally required substantial effort and technical expertise. Artificial intelligence has dramatically lowered these barriers. Today, a realistic photograph, audio recording, or video can be generated without any corresponding real-world event ever having occurred. A person may appear to say words never spoken, perform actions never committed, or appear in locations never visited. Consequently, courts and legal institutions can no longer assume that visual realism alone establishes authenticity.

Can Humans Reliably Detect Deepfakes?

One of the most important questions for courts is whether ordinary people can distinguish authentic media from AI-generated fabrications. Current scientific research suggests that they generally cannot. In one of the most influential studies on the subject, Nils C. Köbis and his colleagues found that individuals cannot reliably detect deepfakes and are often overconfident in their ability to do so. The researchers observed that participants frequently relied upon a "seeing-is-believing" heuristic and were biased toward accepting

⁷³ Usman Khan said: Diffusion models can also be post trained with relatively few examples of a person's likeness, using techniques such as LoRA, to greatly boost the realism of scenes in their resemblance to actual individuals. Some modern models can also do this with single reference images. This is now often doable with very few images on consumer-grade GPUs.

⁷⁴ Yisroel Mirsky and Wenke Lee, "The Creation and Detection of Deepfakes: A Survey," *ACM Computing Surveys* 54, no. 1 (2021): 1–41.

⁷⁵ Guohua Pei et al., "Deepfake Generation and Detection: State-of-the-Art, Open Challenges, Countermeasures, and Way Forward," arXiv preprint arXiv:2403.17881 (2024).

deepfake content as authentic. Even efforts to raise awareness of deepfakes or provide financial incentives failed to significantly improve detection performance.⁷⁶ Similar findings have emerged in studies involving AI-generated images. Bray, Johnson, and Kleinberg examined participants' ability to distinguish real human faces from AI-generated faces and found that overall performance was only slightly above chance levels. Participants often expressed high confidence in their judgments despite being incorrect, demonstrating that confidence is a poor indicator of accuracy when evaluating synthetic media.⁷⁷

The challenge extends beyond images to audio recordings. In a large study examining speech deepfakes, Mai and her colleagues found that participants were unable to reliably distinguish authentic speech from AI-generated speech. Even when participants were informed about deepfakes and provided examples beforehand, improvements in performance were minimal. The researchers concluded that human detection of speech deepfakes is unreliable and likely to become increasingly difficult as voice-cloning technologies continue to improve.⁷⁸

Collectively, these studies demonstrate an important evidentiary reality: visual inspection alone is no longer sufficient to establish authenticity. Judges, investigators, witnesses, and ordinary observers may all be vulnerable to deception when relying solely upon appearance.

Can Scientists Reliably Detect Deepfakes?

The inability of ordinary observers to detect deepfakes naturally raises a second question: can experts reliably distinguish authentic media from fabricated media? The answer is more complex. Scientific and forensic detection methods have improved considerably, but researchers generally agree that detection remains imperfect. Modern deepfake detection systems employ a wide range of techniques, including image-forensic analysis, compression-pattern analysis, metadata examination, facial consistency analysis, biological signal detection, audio-spectral analysis, machine-learning classifiers, and behavioral pattern recognition. These methods can successfully identify many manipulated files, particularly when original media and metadata remain available.⁷⁹ Nevertheless, detection remains an ongoing technological arms race. Researchers have repeatedly demonstrated that detection systems may perform well against one generation of deepfakes yet perform substantially worse against newer synthetic media. Some studies have shown that deepfake detectors achieving very high accuracy under laboratory conditions may experience significant reductions in effectiveness when confronted with novel manipulations, altered files, compressed media, or adversarial attacks specifically designed to evade detection.⁸⁰

The problem arises because deepfake generation technologies evolve rapidly. Every generation of synthetic media introduces new techniques that eliminate previously detectable artifacts. Consequently, many experts now view deepfake detection not as a

⁷⁶ Nils C. Köbis, Barbora Doležalová, and Ivan Soraperra, "Fooled Twice: People Cannot Detect Deepfakes but Think They Can," *iScience* 24, no. 11 (2021): 103364.

⁷⁷ Sergi D. Bray, Shane D. Johnson, and Bennett Kleinberg, "Testing Human Ability to Detect Deepfake Images of Human Faces," *Journal of Cybersecurity* 9, no. 1 (2023): tyad011.

⁷⁸ Kimberly T. Mai, Sergi Bray, Toby Davies, and Lewis D. Griffin, "Warning: Humans Cannot Reliably Detect Speech Deepfakes," *PLOS ONE* 18, no. 8 (2023): e0285333.

⁷⁹ Mirsky and Lee, "The Creation and Detection of Deepfakes," 1–41.

⁸⁰ Apurva Gandhi and Shomik Jain, "Adversarial Perturbations Fool Deepfake Detectors," in *Proceedings of the International Joint Conference on Neural Networks (IJCNN)* (Piscataway, NJ: IEEE, 2020), 1–8.

permanent solution but as an ongoing contest between generation and detection technologies. As generation systems improve, detection methods must continually adapt.⁸¹ Accordingly, the current scientific consensus is not that deepfakes are impossible to detect. Rather, the consensus is that detection is probabilistic rather than absolute. Some deepfakes can be detected with a high degree of confidence, particularly when forensic investigators possess access to original files and supporting metadata. Other cases may remain far more difficult, especially when media has been repeatedly compressed, altered, reposted, or stripped of identifying information.⁸²

This point is particularly important for courts. The question is not whether scientists can always identify deepfakes, but whether sufficient evidentiary confidence can be achieved in a particular case. In many instances, experts can detect manipulation through forensic analysis. In others, uncertainty may remain. Thus, scientific expertise improves evidentiary reliability but does not eliminate the possibility of error.

Contemporary Authentication Methods⁸³

Recognizing these limitations, forensic science has increasingly shifted away from reliance upon appearance alone and toward multilayered authentication procedures. Contemporary authentication methods include metadata analysis, device identification, chain-of-custody verification, camera-sensor analysis, compression-pattern examination, image-forensic analysis, audio-forensic examination, geolocation verification, biometric analysis, and comparison with independent records. These techniques seek not merely to determine whether a file appears authentic but whether there is objective evidence supporting its provenance and integrity.⁸⁴ Government agencies and research institutions have invested heavily in these efforts. The United States Defense Advanced Research Projects Agency (DARPA) developed the Semantic Forensics (SemaFor) program specifically to address manipulated and AI-generated media. The program seeks to identify synthetic content, detect manipulation, and develop methods for establishing media provenance and attribution.⁸⁵ Similarly, the National Institute of Standards and Technology (NIST) has devoted substantial resources to evaluating deepfake detection systems and developing standards for the authentication of synthetic media. Recent NIST research emphasizes the importance of evaluating detection systems against modern AI-generated content and highlights the continuing challenges posed by increasingly sophisticated deepfake technologies.⁸⁶

Increasing attention has also been directed toward provenance systems that seek to

⁸¹ Pei et al., "Deepfake Generation and Detection."

⁸² Haiying Guan, James Horan, and Andrew Zhang, "Guardians of Forensic Evidence: Evaluating Analytic Systems Against AI-Generated Deepfakes," *Forensics@NIST 2024* (2025).

⁸³ Usman Khan said: Likewise, aside from generating completely novel scenes, through the use of technology such as ControlNets and the like, they are also capable of precise and subtle image and video editing, in which an image may bear close resemblance to an authentic source but have subtle differences. In this scenario, the majority of an image or video may be authentic and free of signs of tampering, while only a small portion has been edited. Two consequences arise from this: a) the need to safeguard individual data and likenesses from misuse; b) an additional layer of caution when scrutinizing evidence that appears to be from an authentic source.

⁸⁴ Ibid.

⁸⁵ Defense Advanced Research Projects Agency (DARPA), *Semantic Forensics (SemaFor) Program*, Arlington, VA.

⁸⁶ Guan, Horan, and Zhang, "Guardians of Forensic Evidence."

authenticate media at the moment of creation. Rather than attempting to detect manipulation after the fact, these systems record information concerning the origin, modification history, and chain of custody of digital files. Such approaches strengthen evidentiary confidence by preserving information regarding the source and history of a particular file. The most prominent contemporary example is the Content Credentials framework developed by the Coalition for Content Provenance and Authenticity (C2PA).⁸⁷

Implications for Islamic Evidentiary Theory

The current state of the science yields several important conclusions. First, modern AI-generated images, videos, and voices are often realistic enough to deceive ordinary observers and may even deceive trained individuals when evaluated in isolation.⁸⁸ Second, scientific detection is possible in many cases but remains probabilistic rather than infallible. Detection methods vary in effectiveness depending upon the quality of the media, the availability of metadata, the generation method employed, and the sophistication of the forgery.⁸⁹ Third, the strongest authentication occurs when multiple forms of evidence converge. Original files, metadata, chain-of-custody records, forensic analyses, witness testimony, location records, digital logs, and other independent sources collectively provide a stronger evidentiary basis than any single indicator standing alone.⁹⁰ Fourth, neither authenticity nor fabrication should be presumed solely from appearance. The absence of proof that a file is fake does not automatically establish authenticity, just as the existence of suspicion does not automatically establish fabrication.

These conclusions correspond closely to the classical doctrine of qarā'in. They demonstrate why photographs, videos, and audio recordings can no longer be treated as self-authenticating evidence in the age of artificial intelligence. At the same time, they also demonstrate why such evidence should not be categorically rejected. Rather, each item of digital media must be evaluated according to its reliability, provenance, corroboration, and susceptibility to manipulation. A video preserved from its original device, accompanied by verified metadata, authenticated through forensic examination, supported by a secure chain of custody, and corroborated by independent evidence may constitute a strong qarīnah. By contrast, an anonymous video circulated through social media, stripped of metadata, lacking provenance information, and unsupported by independent evidence may constitute only a weak qarīnah. If forensic analysis establishes that the media is synthetic or manipulated, its evidentiary value may be displaced entirely by stronger contrary evidence.

The current science of deepfakes therefore reinforces rather than undermines the classical juristic framework. Artificial intelligence has not rendered evidentiary analysis impossible; rather, it has increased the importance of authentication, corroboration, expert evaluation, and careful judicial scrutiny. The task of the court is not to accept or reject digital media as a category of evidence, but to determine where a particular item of evidence falls within the hierarchy of evidentiary indicators recognized by Islamic law. This is precisely the type of inquiry that the doctrine of qarā'in was developed to address.

⁸⁷ Coalition for Content Provenance and Authenticity (C2PA), *Content Credentials Technical Specification*.

⁸⁸ Köbis, Doležalová, and Soraperra, "Fooled Twice"; Bray, Johnson, and Kleinberg, "Testing Human Ability to Detect Deepfake Images of Human Faces"; Mai et al., "Warning: Humans Cannot Reliably Detect Speech Deepfakes."

⁸⁹ Guan, Horan, and Zhang, "Guardians of Forensic Evidence"; Pei et al., "Deepfake Generation and Detection."

⁹⁰ DARPA, *Semantic Forensics (SemaFor) Program*; Coalition for Content Provenance and Authenticity (C2PA), *Content Credentials Technical Specification*; Guan, Horan, and Zhang, "Guardians of Forensic Evidence."

Conclusion

Based upon the evidences of the Qur'ān, Sunnah, judicial practice of the Companions, and the discussions of the jurists concerning qarā'in, the strongest view appears to be that digital evidence, including photographs, video recordings, audio recordings, metadata, forensic analyses, biometric evidence, digital communications, and AI-assisted evidence, may be acted upon to the extent that their authenticity and reliability are established. Their legal effect varies according to their evidentiary strength and the legal consequences attached to the ruling. Strong and authenticated digital qarā'in may constitute a legitimate basis for judicial action, while weak and unverified materials cannot ordinarily establish liability independently.

The existence of deepfakes and artificial intelligence does not negate the admissibility of digital evidence in principle. Rather, it reinforces the classical juristic emphasis upon authentication, corroboration, expertise, and careful evaluation. The challenge posed by artificial intelligence is therefore not whether digital evidence may be considered, but how courts and legal institutions should assess its place within the hierarchy of evidentiary indicators recognized by Islamic law. In this respect, the doctrine of qarā'in remains fully capable of addressing the evidentiary realities of the digital age while preserving the fundamental objectives of justice, truth, and the protection of rights.

And Allah knows best.