

Controversies Around Verbal Evidence: An Investigation of the Islamic Jurisprudential Principles

Mohammed ALI. M. Alasmari¹

Abstract

This study explains the reasons for the controversies in the interpretation of Islamic verbal evidence by examining the opinions of scholars on verbal clues, evidence, and the differences in opinions on them. Taking an inductive approach in collecting the scientific materials on Islamic jurisprudence principles, the study extracted what was related to the theme. Findings showed that the controversy among scholars on the verbal evidence can be classified into two schools of thought: One, which believes that verbal evidence only provides uncertain conjecture; and two, that it provides certainty and conclusive evidence. The study concluded with asserting the importance of fundamental research to identify the reasons of such controversy and its impact on jurisprudential branches. Also, the study shows that a connection exists between jurisprudence and Islamic theology. Finally, the study showed that the roots of the controversy on verbal evidence lie in the jurisprudential principles themselves.

Keywords: *Controversy, reasons, interpretation, Islamic jurisprudence principles, verbal evidence.*

Introduction

Whereas it is ideal to know the prevalent Jurisprudence, familiarity with disagreement with it and the reasons for disagreement add to one's logic and scientific thought, whether it be a scholar, mufti, judge, or a layperson. Ignorance cannot be taken as a fair excuse in any case, as it is of individual and societal importance to understand meanings and realize consequences of such disagreement. Thus, a true scholar is characterized by their knowledge of the areas of disagreement, their causes, and their effects on jurisprudential branches and related issues. As Al- Al-Sabki (1992) affirmed, the jurist should not belittle the strange aspects, deviant opinions, and peculiar disagreements. One should not limit themselves to what is already known. Moreover, if a person does not know thoughts and ideas opposite to the accepted ones and their sources, they cannot be considered a jurist. Their existence, in fact, can be equated with the passing of a camel through the eye of a needle. They will only convey knowledge to others without the ability to deduce one case from another or compare present and future cases. They would be incapable to link the known to the unknown. They are prone to mistakes, and errors accumulate on them, making them less knowledgeable (p. 319). Prompted by such words of wisdom, this study aims to shed light on the reasons for controversies surrounding the fundamental of jurisprudence of verbal evidence.

¹ Department of Sharia, College Sharia And Fundamentals Of Religion, Najran University, Najran, Saudi Arabia, mamalasmari@nu.edu.sa

Research questions

The study answers the following research questions:

- a. What is meant by verbal evidence?
- b. What is meant by the reason for the controversy on fundamental issues?
- c. What are the sayings of scholars regarding the verbal clues, and what is the reason for controversy about them?

The research questions have been answered by recognizing the meaning of verbal clues; explaining the reason of the controversy on fundamentals; and clarifying the scholars' doctrines on the issue of attesting verbal evidence, with the reason(s) for the scholars' disagreement over them.

Significance of the research

The significance of this study lies in the following:

1. Knowing the reasons for disagreement reveals to us the efforts of scholars in reaching the true ruling. Such efforts are not based on personal desires, but rather to reveal the pure truth for public good .
2. Understanding the different jurists' opinions of controversial issues and their evidence, and how they deduce their opinions based on the evidence or present arguments to clarify the controversial issues.
3. The novelty of the topic lies in its specialization in studying the reasons of controversy on fundamental issues. The researcher has not found any study specially focused on the reasons behind verbal cues amongst jurists.

The study follows a systematic layout:

In the introduction, the concept of verbal evidence is defined. The first section discusses the “reasons for the controversy on fundamental issues” among scholars is explained. In the second section, the reasons for the controversy are explained based on two factors: firstly, the issue of prioritizing rational evidence over transmitted evidence, and secondly, whether the knowledge gained from a single report is sufficient. The research concludes by highlighting the relationship between Islamic theology and jurisprudential principles, which was a major factor in the controversy over the fundamental issues.

Methodology

This study takes an inductive approach in gathering the scientific material from out of the available literature on Islamic jurisprudence principles and chronicling relevant sections. The related Hadiths with their sources are also included here, and if the Hadith was found in Sahih Al-Bukhari or Sahih Muslim, it has been duly attributed to the respective book. If it was found in other books, the exact page number, volume, chapter, and the Hadith number if available are cited if the material has been extracted from other sources to indicate its degree of authenticity.

All texts quoted here have been duly referenced to their original sources, and appropriate citation practices and norms followed, such as in case of direct quotation or paraphrasing of the original materials. Further, to keep the research scope limited to the aims, the researcher refrained from mentioning biographies of scholars to avoid unnecessary additions. The accepted practice in these studies is to use abbreviations whenever possible in terms of pages and words, and the same has been followed here. Finally, the researcher asks Almighty Allah to make this work a success purely for His sake and to benefit me with it in this world and the hereafter. May Allah's peace and blessings be upon the noble Prophet, his family, and his companions.

Discussion

The first research question was, What is meant by verbal evidence?

The following section on verbal evidence clarifies its features to define it.

Verbal evidence is a science and not an arbitrary method as some views are disposed to consider it. Verbal evidence refers to the understanding of the speaker's words by the listener, whether it is about the completeness of the terms, their parts, or their implications (Al-Qarafi, 1993). Others scholars defined it as the wording that conveys meaning to the listener when it is expressed (Ibn al-Humam al-Siyarwasii, 1351AH). The term has also been perceived as a set of words that together convey some meaning (Al-Qarafi, 1993).

The second research question was, What is meant by the reason for the controversy on fundamental issues?

The following section espouses on the definition of controversy, and the reasons for it.

Definition and Reason for (al-khilaf al-usuli) controversy

Multiple searches in available literature could not reveal a specific definition for the reasons for controversy in the fundamentals by the early scholars, as there is no science that specifically deals with this term. There are no books or writings by early scholars that are solely dedicated to this issue. However, one can comprehend the reason for controversy through early jurists' statements on controversial issues when they specify or identify it during debates on the opinions along with their evidence. They define controversy in terms of conception and occurrence.

The reasons for controversy are a part of the science of controversy and also a sub-part of it. It is necessary to define the science of controversy as a separate art and science with its writings.

As for the definition of the reasons for controversy related to the principles of Islamic jurisprudence, Al-Wadaan (2013) stated that when the disagreement is linked to the principles of Fiqh, the reasons for controversy refer to the methods and means that lead to the occurrence of disputes between scholars on fundamental issues. Knowing these reasons requires an understanding of the sources of these controversies and their underlying causes. Furthermore, Al-Mughira (1426 AH) stated that the reason for controversy refers to the meaning for which the controversy occurred in the issue.

The previous definitions can be further expanded and extended as they essentially serve as a diagnosis and description of the cause of controversy. In my opinion, after recognizing that the cause of controversy is a fundamental part of the study of controversy, a suitable definition would be the topic of disagreement in primary and secondary issues, along with the sources of the scholars' viewpoints regarding the statements made concerning them.

1. The significance of verbal evidence among the Jurisprudences

Resolving the disputed issue

There is no controversy among the jurisprudences that the Shari'a evidence is a transmitted report, whether it is through the Quran or the purified Sunnah. There is also no controversy among any of the Islamic sects on the obligation to adhere to what is in the Quran, as it is the same text that we have today (Ibn Hazm, 1983a). Furthermore, there is no controversy among scholars that the Quran and the purified Sunnah are of equal rank, and each of them is a decisive evidence (Ibn Hazm, 1983b). Scholars do not contravene that the indication of some words or their meanings is a possible indication and not conclusive. They may have more than one meaning, which is due to the nature and rule of language (Al-Sadik, 2009). This indication is commonly divided by scholars

into three categories: (i) the indicative indication, which conveys the complete meaning of the wording; (ii) the implicit indication, which conveys a specific intended meaning within the wording; and (iii) the obligatory indication, which conveys an external obligation related to the subject of the wording (Al-Mughira, 1981). However, scholars have differed in the significance of some of the legal verbal evidence for certainty. Some scholars even denied the significance of the legal verbal evidence for certainty and decisiveness.

The third research question was, What are the sayings of scholars regarding the verbal clues, and what is the reason for controversy about them?

The following section discusses different views on the issue and attempts to clarify the reasons for controversy in viewpoints.

Scholars' doctrines in verbal significance, and their evidence

Scholarly opinion is divided into two on this:

The first school of thought states that the narrated verbal evidence only indicates doubt, and that adherence to verbal evidence never leads to certainty. Al-Razi (1418 AH) supported this opinion and claimed that the entire Muslim community (ijmae) agreed on the absence of decisiveness in verbal evidence on religious matters. However, this consensus is questionable, as Al-Razi himself refuted it by saying that "it is necessary not to achieve decisiveness in any of the meanings of the Quranic and Hadith texts, and this is contrary to consensus" (Al-Razi, 1418 AH, p. 210). Moreover, it is found that Al-Razi mentioned this issue in several places and in different formulations, counter-arguing his own previous opinions.

In one place, Al-Razi (1418 AH) asked: "Does arguing with speech lead to decisiveness or not?" (p. 390). In another place, when discussing the intellectual conflict with verbal evidence of transmission, he said, "Adherence to verbal evidence only indicates doubt" (pp. 406-7). In a third place, he stated, "There is no way to derive certainty from these verbal evidence" (p. 408).

Al-Razi (1407 AH) also stated in Al-Matalib Al-Aliyah, "Verbal evidence does not lead to certainty, so it is not permissible to adhere to it based on auditory evidence" (p.113). Al-Isfahani (1986) said, "Since auditory evidence is presumptive, it can lead to contradiction" (p. 12). A group of scholars agreed with Al-Razi in this opinion, but not without conditions that limit it and prevent it from being absolute. They placed restrictions on the use of verbal evidence and did not consider it as a decisive evidence for sure (Al-Asnawi, 1993; Al-Isfahani, 1986).

Al-Shatibi (1997) said, "The primary evidence relied upon in Islamic law is the legal evidence, and the presence of decisiveness in it based on common usage is either non-existent or extremely rare. By singular evidence, I mean if it is a report from a singular narrator, then its lack of decisiveness is apparent. If it is a mutawatir report, its decisiveness is dependent on the presumptions. Most of its prerequisites are presumptive. What is dependent on presumption must be presumptive. It depends on the transfer of languages and opinions of grammar, the absence of coincidence, the absence of metaphor, legal or customary transfer, implication, specification of generalizations, restriction of absolutes, absence of abrogation, precedence and delay, and intellectual conflict. It is difficult to derive certainty from them. However, those who claimed their decisiveness considered them presumptive in themselves. On the contrary, if they are associated with visual or transmitted indications, they may indicate certainty, but this is rare or difficult. The reliable evidence here is the presumptive evidence that converges on a single meaning until it indicates decisiveness" (Al-Shatibi, 1997, p. 27). This restriction moved verbal evidence from being merely presumptive to being decisive. Verbal evidence can only become decisive when the following conditions are achieved:

Firstly, the infallible preciseness of verbal evidence vocabulary. Otherwise, a mutawatir report is sufficient.

Secondly, the correctness of its grammatical structure and conjugation.

Thirdly, the absence of figurative language, i.e., coincidence, metaphor, specification, implication, precedence, delay, and other factors. Figurative language requires interpreting the word in a way that differs from its literal meaning. Possibility and certainty are contradictory and can suggest difference in meaning.

Fourthly, the absence of intellectual conflict.

When each of these four conditions are met, verbal evidence can indicate certainty (Al-Zarkashi, 1419 AH). Auditory evidence does not provide knowledge and certainty except when accompanied by an indication (Al-Asnawi, 1993) explained below:

- a. The correctness of verbal evidence is dependent on the absence of intellectual conflict, and the absence of this evidence is doubtful.
- b. What is based on doubt is also doubtful (Al-Shathri, 1416 AH).

Reasoning with verbal evidence is based on presumptive prerequisites, and what is based on presumptive prerequisites is not absolute, and hence, not perfectly reliable. Therefore, reasoning with speech only provides presumption. We say that it is based on presumptive prerequisites because it is based on language transfer, grammar transfer, absence of coincidence, metaphor transfer, and implication (Al-Razi, 1418 AH).

The second school of thought states that verbal evidence is based on narration which indicates decisiveness and certainty. This is the opinion held by the Imams of the Salaf and others (Al-Futuhi, 1413 AH). Al-Amidi in Al-Ahkam (Al-Amidi, 1424 AH), and Ibn Taymiyyah adopted this opinion (Ibn Taymiyyah, 1991). Al-Mardawi attributed this opinion to himself (Al-Mardawi, 1421 AH). Many other scholars also supported this opinion (Al-Futuhi, 1413 AH; Al-Mahbubi, 2014; Al-Qarafi, 1993).

Al-Sarakhsi said, "Know that the foundations of legal evidence are three: the Quran, the Sunnah, and the consensus. The fourth, which is (Alqias) analogy, is the meaning derived from these three foundations. Alqias is divided into two types: One, which requires certain knowledge, and the other, which is permissible but does not require certain knowledge. We call it permissible because it must be acted upon, and the principle is that acting without knowledge is not permissible. Allah says, "Do not follow what you have no 'sure' knowledge of" (17:36). We call it permissible because it must be acted upon, even though it does not require certain knowledge. As for the types of legal evidence that require certain knowledge, there are three: the Quran, the Sunnah of the Prophet (PBUH) that is heard from him and transmitted through mutawatir narration, and consensus" (Al-Sarakhsi, 1414 AH).

Their evidences are: as follows

- a. A valid intellectual evidence cannot contradict a clear textual evidence. Therefore, we benefit from the textual evidence in the Quran with decisiveness, and we do not require the absence of intellectual contradiction. The possibility of intellectual contradiction is a possibility that is not based on evidence, so it does not affect the decisiveness of the evidence in the Quran (Al-Shathri, 1997).
- b. Decisive evidence can be based on presumptive evidence. For example, a common person must follow the opinion of a mujtahid or a mufti decisively, even though the basis for this decisiveness is presumptive, which is the presumption that the mujtahid is correct. (Al-Shathri, 1997).

2. The reason for the controversy on verbal evidence

The issue of precedence of intellectual evidence over textual evidence

The reason for the controversy in this issue is related to the question of whether intellectual evidence takes precedence over textual evidence. This reason is related to the principle of belief. Scholars who give precedence to intellectual evidence may argue that verbal evidence is based on presumption. On the other hand, those who give precedence to textual evidence may argue that verbal evidence is decisive and certain. This is a rule that was established by theologians, but it is considered invalid because it leads to deviating from the path of Allah and the intention of the Prophet Muhammad (PBUH) (Ibn Taymiyyah, 1991). Al-Zarkashi (1992) pointed out this reason as, "The purpose of this issue is that if the textual evidence leads to the affirmation of a matter, and the intellectual evidence contradicts it, then the textual evidence loses its validity in this case." It cannot be said that textual evidence contradicts intellectual evidence as it is often assumed that there is a contradiction between intellectual and textual evidence in the same context.

According to Al-Razi (1418 AH), verbal evidence is based on presumption because it relies on the absence of intellectual contradiction. If there is a clear contradiction between intellectual evidence and the apparent meaning of textual evidence, it is impossible to accept both since negation and affirmation cannot coexist. Similarly, choosing one over the other is not feasible because the intellect is the foundation of textual evidence. Denying the intellect would mean denying the source of textual evidence. Therefore, if we want to correct textual evidence by rejecting the intellect, we would effectively be rejecting the textual evidence itself. Hence, it is necessary to prioritize intellectual evidence.

Does an individual report/ news convey knowledge?

The reason for this dispute is whether individual reports can be considered as evidence in acquiring knowledge. This issue is directly related to the principles of jurisprudence. Supporters of validity/ reliability of individual reports as evidence may assert that verbal evidence has the capacity to provide certainty and establish conclusive facts. Conversely, proponents of the view that individual reports should not be deemed as evidence may argue that verbal evidence is merely rooted in suspicion and lacks substantial basis.

Therefore, the news of an individual is considered one of the verbal or auditory evidence category. Sheikh al-Islam Ibn Taymiyyah said, "For this reason, the majority of scholars from all sects agree that if the Ummah accepts the news of an individual as true or acts upon it, it necessitates knowledge. This is what the authors of Usul al-Fiqh, including the followers of Abu Hanifa, Malik, Shafi'i, and Ahmad, mentioned barring a few later scholars who followed a faction of theologians who denied this. However, many theologians, or most of them, agree with the jurists, the people of Hadith, and the early generations on this" (Al-Najdi, 1416 AH).

Ibn Taymiyyah also said, "The news that is narrated by one companion or two, if it is accepted and believed by the nation, it benefits knowledge among the majority of scholars" (Al-Najdi, 1416 AH, p. 337).

Sheikh Al-Islam (as per Al-Najdi, 1416 AH, p. 337) referred to the result of the controversy in this matter as the inability to argue based on the Quran and Sunnah because of what they have preached. He said, "And some people from the extreme innovators claim that it is not valid to argue with the Quran and Hadith on absolute definitive matters, based on the assumption that the literal meaning does not necessarily imply certainty, as they claim. Many innovators claim that the accepted Hadiths cannot be used as evidence for matters related to attributes, predestination, and similar issues that require certainty and definitive proof."

The reason why some argue that the testimony of a single individual is based on conjecture, as well as the impact this has on the issue of verbal evidence, can be understood by examining two key points. Imam Al-Razi (1418 AH) raised the argument

that both individual testimony and verbal evidence rely on conjecture. He stated that, “The accounts provided by individuals are merely speculative, and the understanding of the Quran and traditions is dependent on knowledge of language, grammar, and conjugation. Since conjecture is the basis for these, it follows that absolute certainty cannot be attained from the meanings derived from the Quran and traditions” (p. 406).

He said in another place, “And know that the intended meaning in the fundamentals of jurisprudence is the content of the single report that does not imply knowledge and certainty” (Al-Razi, 1414 AH). This difference was regarding the issue of whether verbal evidence implies absolute certainty and knowledge.

Conclusion

Based on the arguments presented earlier, this study concludes that there is need for fundamental research on the reasons of controversy and the impact of such controversy on the different branches of jurisprudence. The relationship between the science of Usul al-Fiqh (principles of Islamic jurisprudence) and the science of Kalam (Islamic theology) lies in the fact that it is one of the basis for the doctrinal differences in this field of jurisprudence. The roots of the controversies in fundamentals of jurisprudence go back to the jurisprudential principles.

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