



Witness Testimony in the Law of Evidence: A Comparative Analysis of Fuqaha Perspectives and Civil Law

Rahmatul Qadri^{1*}, Andi Huzaifa², Abdul Halim Talli³, Asni⁴

¹²³⁴Universitas Islam Negeri Alauddin Makassar

Corresponding Author: ¹rhmtlqdr15@gmail.com, ²andi.huzaifa002@gmail.com

³abdulhalimtalli@gmail.com, ⁴asni.azrai@uin-alauddin.ac.id

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Abstract

The determination of the evidentiary value of witness testimony depends not only on the facts presented before the court but also on the legal paradigm through which juridical truth is constructed. This study examines the evidentiary value of witness testimony from the perspectives of *fuqaha* and civil law to explain the epistemological foundations underlying their different approaches. Employing normative legal research with conceptual, statutory, and comparative approaches, this study finds that although both legal traditions recognize witness testimony as an essential means of proof, they adopt different standards for assessing its probative value. Islamic jurisprudence emphasizes the witness's moral credibility (*‘adālah*) and legal qualifications, whereas civil law primarily relies on procedural legality and judicial evaluation. These differences demonstrate that the evidentiary value of witness testimony is fundamentally shaped by distinct epistemological conceptions of juridical truth. Accordingly, this study advances an epistemological perspective that enriches comparative scholarship on the law of evidence.

Keywords: Witness testimony; Law of evidence; Islamic jurisprudence; Civil law; Juridical truth.

1. Introduction

The determination of the evidentiary value of witness testimony constitutes one of the most fundamental issues in the law of evidence, as it depends not only on the facts presented during judicial proceedings but also on the legal paradigm through which juridical truth is constructed.¹ Witness testimony is universally recognized as one of the principal forms of evidence in judicial

¹ Adrian Keane and Paul McKeown, *The Modern Law of Evidence* (Oxford: Oxford University Press, 2022), h. 326.

proceedings.² Nevertheless, different legal systems establish distinct standards for assessing the validity, evidentiary weight, and legal consequences of witness testimony.³ These differences indicate that the issue of witness testimony extends beyond procedural considerations and reflects the philosophical and epistemological foundations underlying each system of the law of evidence.⁴

This issue becomes particularly significant when examined from the perspectives of *fuqaha* (Islamic jurists) and civil law.⁵ Although both legal systems recognize witness testimony as a legitimate means of proof, they employ different paradigms in determining its evidentiary value.⁶ Consequently, the same testimony may possess different evidentiary weight depending on the legal framework within which it is assessed.⁷ This demonstrates that the discourse on witness testimony concerns not only the qualifications of witnesses or the legal status of testimony as evidence, but also the manner in which each legal system constructs the concept of juridical truth through its evidentiary framework.⁸

Studies on witness testimony have been extensively conducted within both Islamic law and civil law.⁹ Most of these studies concentrate on the qualifications of witnesses, the legal status of testimony as evidence, or its evidentiary force within each respective legal system.¹⁰ However, these studies are generally descriptive-normative in nature and primarily focus on identifying similarities and differences in legal provisions.¹¹ Research that specifically examines the evidentiary value of witness testimony through a comparative legal approach by exploring the philosophical and epistemological foundations underlying such differences remains relatively limited.¹² As a result, the relationship between evidentiary paradigms and the determination of the evidentiary value of witness testimony across both legal systems has yet to receive a comprehensive scholarly explanation.¹³

Against this background, this article aims to analyze the evidentiary value of witness testimony within the law of evidence from the perspectives of *fuqaha* and civil law through a comparative legal approach. Unlike previous studies that primarily emphasize normative comparisons, this study focuses on the philosophical and epistemological foundations that shape the evidentiary value of witness testimony and examines their implications for the legal construction of evidentiary

² Mohammad Salwa Zakky, Azriel Asshidiqi, and Anggi Sri Hayati Simarmata, "Legal Analysis of Issues of Evidence and Testimony in Civil Disputes in Court," *Journal of Legal, Political, and Humanistic Inquiry* 1, no. 4 (2026): 218. <https://doi.org/10.65310/08138888>

³ Brian Leiter, "The Epistemology of Admissibility: Why Even Good Philosophy of Science Would Not Make for Good Philosophy of Evidence," *BYU Law Review* (1997), h. 804.

⁴ Hafsa Abbasi and Asim Iqbal, "Authentication of Oral Evidence in Islamic Law of Shahādah: A Critical Analysis of Qanoon-e-Shahadat Order in the Light of Shari'ah Teachings," *Al-Meezan Research Journal* 3, no. 2 (2021), h. 1.

⁵ Abdul Basir Mohamad and Nurbazla Ismail, "Role of Forensic Evidence in Upholding Justice: Exploring Islamic Law and the Experience of Syariah Courts in Malaysia," *Pertanika Journal of Social Sciences & Humanities* 29, no. 2 (2021), h. 1091–1092.

⁶ Suhaizad Saifuddin et al., "Examining the Application of Standard of Proof in Criminal Cases: A Comparative Analysis of Islamic Law and Common Law in Malaysia," *Malaysian Journal of Syariah and Law* 12 (2024), h. 11–12.

⁷ Mathias Siems, *Comparative Law* (Cambridge: Cambridge University Press, 2022), h. 413.

⁸ J. J. Losari, "Geography Has Little Impact: A Comparative Study on the Role of Judges in Singapore and Indonesia in the Taking of Evidence in Civil Proceedings," *Asia Pacific Law Review* 32, no. 1 (2024), h. 190. <https://doi.org/10.1080/10192557.2023.2274635>

⁹ Hijrian Angga Prihantoro, "Examining Witness Interest: The Obstacles of Testimony in Islamic Jurisprudence and Positive Law," *Justicia Islamica* 21, no. 1 (2024), h. 9. <https://doi.org/10.21154/justicia.v21i1.8653>

¹⁰ G. L. Wells, Amina Memon, and Steven D. Penrod, "Eyewitness Evidence: Improving Its Probative Value," *Psychological Science in the Public Interest* 7, no. 2 (2006): 45. <https://doi.org/10.1111/j.1529-1006.2006.00027.x>

¹¹ Rosalind Dixon, "A Democratic Theory of Constitutional Comparison," *The American Journal of Comparative Law* 56, no. 4 (2008): 947. <https://doi.org/10.5131/AJCL.2007.0032>

¹² Georgi Gardiner, "The Reasonable and the Relevant: Legal Standards of Proof," *Philosophy & Public Affairs* 47, no. 3 (2019), h. 288. <https://doi.org/10.1111/papa.12149>

¹³ Jan Christoph Bubltz, "When Is Disbelief Epistemic Injustice? Criminal Procedure, Recovered Memories, and Deformations of the Epistemic Subject," *Criminal Law and Philosophy* 18 (2024): 681–708. <https://doi.org/10.1007/s11572-023-09695-3>

assessment in judicial proceedings.¹⁴ Accordingly, this study seeks to make a conceptual contribution to the development of scholarship on the law of evidence while enriching academic discourse on the relationship between the Islamic juristic tradition and civil law in understanding the evidentiary value of witness testimony.

2. Literature Review

A. Law of Evidence and the Concept of Proof

The law of evidence occupies a central position within every judicial system because it provides the normative framework through which disputed facts are transformed into legally recognized truth.¹⁵ The adjudication of a case therefore depends not merely on the existence of factual events but on whether those facts can be established through legally admissible evidence and evaluated according to the evidentiary standards prescribed by the applicable legal system. In this sense, the law of evidence functions not only as a procedural instrument but also as a normative mechanism for constructing juridical truth through rational and legally accountable methods.¹⁶

Within legal theory, proof is generally understood as a process of establishing the existence of legally relevant facts through recognized evidentiary instruments.¹⁷ Nevertheless, the determination of evidentiary value is not entirely objective because every legal system develops its own criteria regarding the admissibility, credibility, and probative force of evidence. Consequently, identical factual circumstances may generate different legal conclusions when assessed under different evidentiary paradigms. This demonstrates that the law of evidence is fundamentally shaped by epistemological assumptions concerning how legal truth should be discovered, justified, and validated in judicial proceedings.¹⁸

Modern legal scholarship therefore distinguishes between factual truth and juridical truth. While factual truth refers to events as they actually occurred, juridical truth represents the version of those events that can be legally established through admissible evidence before a court.¹⁹ Judges consequently do not determine cases solely on the basis of factual certainty but on the evidentiary value assigned to legally recognized means of proof. Within this framework, witness testimony occupies a distinctive position because its probative value depends not only on procedural admissibility but also on the legal philosophy governing the assessment of credibility and evidentiary weight.²⁰

This theoretical perspective provides the analytical foundation for comparing the approaches of *fuqaha* and civil law toward witness testimony.²¹ Although both traditions recognize testimony as an essential means of proof, they differ in the philosophical assumptions that determine its

¹⁴ Michael S. Pardo, "Naturalized Epistemology and the Law of Evidence: Methodological Reflections," *Quaestio Facti. Revista Internacional sobre Razonamiento Probatorio* 1 (2020). H, 300-302 https://doi.org/10.33115/udg_bib/qf.i2.22484

¹⁵ Michael S. Pardo, "Legal Epistemology and Legal Proof," *Quaestio Facti: Revista Internacional sobre Razonamiento Probatorio* 10 (2026), h. 188, https://doi.org/10.33115/udg_bib/qf.i10.23222

¹⁶ Hock Lai Ho, *A Philosophy of Evidence Law: Justice in the Search for Truth* (Oxford: Oxford University Press, 2008), h. 85.

¹⁷ Syaloomita Electra Opit and Mardian Putra Frans, "Proving Securities Trading Fraud in Capital Market Crimes," *SIGn Jurnal Hukum* 7, no. 1 (2025), h. 63, <https://doi.org/10.37276/sjh.v7i1.413>

¹⁸ Erwin Susilo, "Epistemic-Justificatory Proof Theory and the Legitimacy of Judicial Decisions," *Law & World* 37 (2026), h. 25.

¹⁹ Maurizio Catino, "Forms of Knowledge and Regimes of Truth: The Case of the Vajont Disaster," *Sociologica* 20, no. 1 (2026), h. 63, <https://doi.org/10.60923/issn.1971-8853/23297>

²⁰ Aditi Sharma and Abhiranjan Dixit, "Probative Value of Eye Witnesses Testimony in Criminal Justice System," *International Journal of Law Management & Humanities* 7, no. 2 (2024), h. 3215.

²¹ Marco Baggio, "Logical Epistemology, Social Evidence, and the A Priori," *Synthese* 205, no. 209 (2025), <https://doi.org/10.1007/s11229-025-05029-z>

evidentiary value.²² Accordingly, understanding these differences requires an examination not merely of procedural rules but also of the epistemological principles that shape the operation of the law of evidence within each legal tradition.

B. Witness Testimony from the Perspective of *Fuqaha*

Within the Islamic legal tradition, witness testimony (*shahādah*) occupies a central position in the law of evidence as one of the principal means through which legal rights and obligations are established before the court.²³ Unlike modern legal systems that primarily assess testimony based on procedural admissibility and judicial evaluation, classical *fuqaha* conceptualize witness testimony as an epistemological instrument for attaining justice in accordance with the objectives of the Shari‘ah.²⁴ Consequently, the evidentiary value of testimony is determined not merely by the factual information conveyed by a witness but also by the moral and legal qualifications required to ensure the credibility of the testimony itself.

Classical jurists generally regard *shahādah* as an integral component of *al-bayyinah* (legal proof), although they differ in defining the scope of *al-bayyinah*. The majority of *fuqaha* interpret *shahādah* as formal testimony delivered before a judge under legally prescribed conditions, whereas some jurists, particularly Ibn al-Qayyim, adopt a broader conception of *al-bayyinah* by including every form of evidence capable of revealing the truth. Despite these differences, both approaches emphasize that the function of testimony is not merely to satisfy procedural requirements but to establish judicial certainty based on reliable evidence.²⁵

To preserve the integrity of judicial proceedings, *fuqaha* establish rigorous qualifications for witnesses. Among the most fundamental requirements are legal capacity (*ahliyyah*), moral integrity (*‘adālah*), competence, impartiality, and the absence of factors that may undermine credibility. These requirements demonstrate that Islamic jurisprudence evaluates testimony not solely from the perspective of admissibility but also through ethical and moral considerations. In other words, the credibility of the witness constitutes an inseparable element in determining the evidentiary value of testimony.²⁶

Although the four major Sunni schools of law generally agree on these fundamental principles, they differ in several subsidiary issues concerning witness competency and evidentiary standards. These differences reflect the dynamic nature of Islamic legal reasoning rather than contradictory legal doctrines. The diversity of juristic opinions illustrates that the assessment of witness testimony in Islamic law is grounded in interpretative reasoning aimed at balancing legal certainty, justice, and the protection of rights within judicial proceedings.²⁷

²² Paul Roberts, “Standards and Methods of Proof: An English Perspective on Della Torre’s Comparative Legal History,” *Quaestio Facti: Revista Internacional sobre Razonamiento Probatorio* 9 (2025), https://doi.org/10.33115/udg_bib/qf.i9.23151

²³ Wahbah al-Zuhayli, *Al-Fiqh al-Islāmī wa Adillatuhu*, vol. 8 (Damascus: Dār al-Fikr, 1985), h. 5985–5988.

²⁴ Aisyah Pratiwi, Muthalib Rachmadani, La Muthalib, and Syamsul Hanafi, “The Judicial Model of Prophet Muhammad: A Conceptual Reconstruction Towards a Humanistic Modern Legal System,” *Al-‘Adl* 18, no. 2 (2025): 24–44, <https://doi.org/10.31332/aladl.v18i2.12137>

²⁵ Ibn Qayyim al-Jawziyyah, *Al-Ṭuruq al-Ḥukmiyyah fī al-Siyāsah al-Shar‘iyyah*, ed. Nāyif ibn Aḥmad al-Ḥamad (Makkah: Dār ‘Ālam al-Fawā’id, 2007), h. 16–20.

²⁶ ‘Alā’ al-Dīn al-Kāsānī, *Badā’i‘ al-Ṣanā’i‘ fī Tartīb al-Sharā’i‘*, vol. 6 (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1986), 269–272.

²⁷ Hijrian Angga Prihantoro, “Examining Witness Interest: The Obstacles of Testimony in Islamic Jurisprudence and Positive Law,” 9–15, <https://doi.org/10.21154/justicia.v21i1.8653>

From an epistemological perspective, the approach adopted by *fuqaha* indicates that witness testimony is not merely a procedural means of proof but also a mechanism for safeguarding substantive justice.²⁸ Accordingly, the evidentiary value of testimony is inseparable from the ethical reliability of the witness, as truth in Islamic adjudication is understood not only as procedural compliance but also as a reflection of moral accountability before both the court and God. This philosophical orientation distinguishes the Islamic law of evidence from modern civil law, which generally emphasizes procedural legality and judicial discretion in evaluating evidence.

C. Witness Testimony in Civil Law

In civil law systems, witness testimony is recognized as one of the legally admissible means of evidence within judicial proceedings.²⁹ Unlike the Islamic law of evidence, which places considerable emphasis on the moral integrity and personal qualifications of witnesses, civil law primarily evaluates testimony through procedural legality and judicial assessment.³⁰ Consequently, the evidentiary value of witness testimony is determined not solely by the characteristics of the witness but also by the manner in which the testimony is presented, examined, and assessed in accordance with procedural law.

Within the Indonesian civil procedural system, witness testimony constitutes one of the principal forms of evidence alongside written documents, presumptions, confessions, and oaths, as stipulated in Article 1866 of the Indonesian Civil Code (*Burgerlijk Wetboek*) and Article 164 of the *Herziene Indonesisch Reglement* (HIR).³¹ Nevertheless, testimony does not possess absolute evidentiary force. Rather, judges are required to evaluate its credibility by considering its consistency, relevance to the disputed facts, corroboration with other admissible evidence, and the overall circumstances revealed during the proceedings.³²

One of the fundamental principles governing witness testimony in civil law is the doctrine of *unus testis nullus testis*, which holds that the testimony of a single witness is generally insufficient to establish a legal fact unless supported by additional evidence.³³ This principle reflects the cautious approach adopted by civil procedural law in preventing judicial decisions from relying exclusively on subjective statements. Accordingly, witness testimony acquires legal significance only when it forms part of an integrated evidentiary framework capable of convincing the court.

²⁸ Hafsa Abbasi and Asim Iqbal, "Authentication of Oral Evidence in Islamic Law of Shahadah: A Critical Analysis of Qanoon-e-Shahadat Order in the Light of Shariah Teachings," *Al-Meezan Research Journal* 3, no. 2 (2021): 1–10. <https://www.academia.edu/download/111516473/125>. Lihat Suhaizad Saifuddin, Hanifah Haydar Ali Tajuddin, Mohd Azhan Yahya, Mohamad Rizal Abd Rahman, and Fatimah Hashim, "Examining the Application of Standard of Proof in Criminal Cases: A Comparative Analysis of Islamic Law and Common Law in Malaysia," *Malaysian Journal of Syariah and Law* 12 (2024): 11–12.

²⁹ Ахундова, «Procedural Features of Witness Participation in Civil Proceedings: A Comparative Legal Analysis.» *Науковий вісник Ужгородського національного університету. Серія: Право* 1, no. 92 (2025): 286–293. <https://doi.org/10.24144/2307-3322.2025.92.1.40>

³⁰ Latifatul Fajriyyah and Alfitri, "Hearsay Evidence Admissibility: Due Process and Evidentiary Rules in Muslim Marriage Legalization (*Isbat Nikah*)," *Fiat Justisia Jurnal Ilmu Hukum* 16, no. 3 (2022): 269–296. Available at SSRN: <https://ssrn.com/abstract=4237637>

³¹ *Burgerlijk Wetboek* (BW), art. 1866. *Herziene Indonesisch Reglement* (HIR), art. 164. Pada R. Subekti, *Hukum Pembuktian* (Jakarta: Pradnya Paramita, 2008), 35–42.

³² Natashja Atherton, "Say It Once, Say It Twice: Abrogating the Rebuttal Requirement of the Prior Consistent Statement Hearsay Rule," *Pepperdine Law Review* 52 (2025): 901.

³³ Ade Astika, Abd Asis, and Wiwie Heryani, "Implementation of Exceptions to the *Unus Testis Nullus Testis* Principle in the System of Proof for Drug-Related Crimes," *Veredas do Direito* 23, no. 7 (2026): 3. <https://doi.org/10.18623/rvd.v23.6424>

From a theoretical perspective, the civil law approach demonstrates that the assessment of evidence is primarily procedural rather than ethical.³⁴ Although the credibility and impartiality of witnesses remain relevant considerations, these factors are generally evaluated through judicial examination rather than predetermined moral qualifications.³⁵ The authority to determine the probative value of testimony therefore rests largely with the judge, who exercises judicial discretion within the limits established by procedural law and the applicable rules of evidence.

This orientation illustrates a significant epistemological distinction from the approach developed by *fuqaha*. Whereas Islamic jurisprudence associates the evidentiary value of testimony with the moral reliability of the witness as an indispensable prerequisite for establishing judicial truth, civil law emphasizes procedural regularity, corroborative evidence, and judicial reasoning as the principal foundations for determining evidentiary value.³⁶ These differences demonstrate that although both legal traditions pursue the same objective of achieving justice, they construct juridical truth through distinct evidentiary paradigms.

D. Previous Studies and Research Gap

Previous studies have extensively examined witness testimony from both Islamic law and civil law perspectives.³⁷ Within Islamic legal scholarship, most studies focus on the legal qualifications of witnesses, the admissibility of testimony, and the juristic requirements governing *shahādah* in judicial proceedings.³⁸ These studies generally emphasize doctrinal analysis by explaining the legal provisions formulated by classical *fuqaha*, including the requirements of *‘adālah*, *ahliyyah*, and other conditions affecting the admissibility of testimony. Although these works provide valuable insights into the normative structure of Islamic evidence law, they rarely explore the philosophical assumptions underlying the determination of evidentiary value.

Similarly, studies within civil law predominantly examine witness testimony from the perspective of procedural law. Existing literature commonly discusses the legal position of witness testimony as one of the recognized means of proof, the application of evidentiary principles such as *unus testis nullus testis*, and judicial discretion in evaluating testimony within civil proceedings.³⁹ Consequently, the discussion tends to concentrate on procedural mechanisms and statutory interpretation rather than on the epistemological foundations that shape judicial assessment of evidentiary value.

Comparative studies between Islamic law and positive law have also received increasing scholarly attention. However, these studies generally focus on identifying similarities and differences regarding witness qualifications, evidentiary requirements, or procedural mechanisms. While such

³⁴ Henni Rahayu Handayani, "Proof Approach to Civil Procedures through Judge's Knowledge: A Literature Review Study," *AKADEMIK: Jurnal Mahasiswa Humanis* 5, no. 2 (2025): 857. <https://doi.org/10.37481/jmh.v5i2.1421>

³⁵ Michael S. Pardo, "Legal Epistemology and Legal Proof," *Quaestio Facti* 10 (2026): 188. https://doi.org/10.33115/udg_bib/qf.i10.23222

³⁶ Moh Hamzah et al., "The Transformation of Electronic Mediation: A Legal Innovation in the Sharia Economic Dispute Resolution," *JURIS* 25, no. 1 (2026): 15–27. <https://doi.org/10.31958/juris.v25i1.15856> Lihat juga Haged A. Alotaibi, Bandar A. Alyahya, and Salem R. Alazizi, "Electronic Signatures in Saudi Arabia's Contemporary Digital Era: Examining Authenticity and Attribution Through the Lens of Islamic Law," *MILRev: Metro Islamic Law Review* 5, no. 1 (2026): 845–890. <https://doi.org/10.32332/milrev.v5i1.13561>

³⁷ Mahmood Jawad Abu-AlShaeer, "From Qiyas to Quantification: Reimagining Evidentiary Standards in Islamic Law through Statistical Methodologies," *International Journal of Sharia and Law* 1, no. 1 (2025): 30. <https://doi.org/10.65211/ybkj5j81>

³⁸ Isfahani Azmil Aziz and Siti Rohmah, "Witness Qualification and Quantification in Sexual Jarimah under Aceh Qanun," *International Journal of Business, Law, and Education* 7, no. 1 (2026): 950. <https://doi.org/10.56442/ijble.v7i1.1460>

³⁹ Ахундова, «Procedural Features of Witness Participation in Civil Proceedings: A Comparative Legal Analysis.» 286–293. <https://doi.org/10.24144/2307-3322.2025.92.1.40>

comparative analyses contribute to understanding the interaction between the two legal systems, they largely remain descriptive and normative. As a result, the comparison is frequently limited to legal rules without examining the underlying philosophical paradigms that explain why each legal tradition assigns different evidentiary value to witness testimony.⁴⁰

Based on this review, it can be observed that the existing scholarship has not comprehensively addressed the relationship between legal epistemology and the determination of the evidentiary value of witness testimony. This study therefore seeks to fill that gap by moving beyond normative comparison toward a philosophical and epistemological analysis of witness testimony within the law of evidence.⁴¹ By examining how *fuqaha* and civil law construct the evidentiary value of testimony through different legal paradigms, this article offers a conceptual framework that contributes to the development of comparative evidence law and provides a deeper understanding of the relationship between legal philosophy and judicial proof.

3. Method

This study employs a qualitative normative legal research design using a comparative legal approach to examine the evidentiary value of witness testimony from the perspectives of *fuqaha* and civil law.⁴² As a library-based legal research, the study analyzes legal norms, doctrines, and scholarly literature rather than empirical field data. The research combines a statutory approach to examine legal provisions governing witness testimony and a conceptual approach to analyze the legal doctrines and principles developed in Islamic jurisprudence and civil law.⁴³

The study relies on primary legal materials, including the Qur'an, Hadith, classical works of Islamic jurisprudence, the Indonesian Civil Code (*Burgerlijk Wetboek*), and the *Herziene Indonesisch Reglement* (HIR), as well as secondary legal materials such as scholarly books and peer-reviewed journal articles. The collected materials are analyzed using descriptive, comparative, and philosophical analysis to identify the similarities, differences, and epistemological foundations underlying the evidentiary value of witness testimony in both legal systems.⁴⁴

4. Result and Discussion

A. Results

The comparative analysis conducted in this study reveals three principal findings concerning the evidentiary value of witness testimony in the law of evidence.

First, the study finds that Islamic jurisprudence (*fiqh*) constructs the evidentiary value of witness testimony on the basis of the witness's moral integrity, legal capacity, and compliance with

⁴⁰ Giovanni Tuzet, "The Evolution of Testimony," in *Research Handbook on Legal Evolution* (Edward Elgar Publishing, 2024), 307–322. <https://doi.org/10.4337/9781803921822.00032>

⁴¹ F. Novaković, "Proving Guilt Beyond Reasonable Doubt: Evidentiary Standards in Criminal Proceedings in Bosnia and Herzegovina," *The International Journal of Evidence & Proof* 30, no. 3 (2026): 268–284. <https://doi.org/10.1177/13657127261436186>

⁴² Abdul Halim Talli, Erniawati, Zulhas'ari Mustafa, & Mohamad Subli. (2026). The Position of Testimony in the Court Evidentiary System: A Juridical-Normative Analysis of Indonesian Law and Islamic Courts. *BAYAN: Jurnal Studi Islam Dan Humaniora*, 2(1), 27–43. <https://e-journal.nawaedukasi.org/index.php/bayan/article/view/56>

⁴³ Siti Saenah, "Types of Evidence: A Comparative Study Between Islamic Law and Civil Procedure Law," *JURISTA: Jurnal Hukum dan Keadilan* 4, no. 1 (2020): 70–71, <https://doi.org/10.22373/jurista.v4i1.21>.

⁴⁴ Sayed Sikandar Shah Haneef, "Modern Means of Proof: Legal Basis for its Accommodation in Islamic Law," *Arab Law Quarterly* 20, no. 4 (2006): 334–364. <https://doi.org/10.1163/026805506779147319>

the substantive requirements of *shahādah*.⁴⁵ Although classical *fuqaha* differ in several subsidiary rules governing witness competency, they consistently regard testimony as a means of establishing judicial truth through ethically reliable evidence. Consequently, the probative value of witness testimony is inseparable from the personal credibility of the witness.

Second, civil law determines the evidentiary value of witness testimony primarily through procedural legality and judicial assessment.⁴⁶ Witness testimony is recognized as one of the legally admissible means of proof; however, its evidentiary force is not absolute. Instead, judges evaluate testimony by considering its consistency, relevance, corroboration with other evidence, and its capacity to establish legally convincing facts within judicial proceedings.

Third, the comparative analysis demonstrates that the differences between *fuqaha* and civil law do not merely concern the legal requirements imposed upon witnesses but reflect two distinct epistemological paradigms governing the construction of juridical truth. Islamic jurisprudence emphasizes moral credibility as the foundation of evidentiary value, whereas civil law places greater emphasis on procedural regularity and judicial reasoning in assessing testimonial evidence.⁴⁷ These findings indicate that the determination of evidentiary value is fundamentally influenced by the philosophical assumptions underlying each legal system.

Table 1: Comparative Findings on the Evidentiary Value of Witness Testimony

Aspect	Fuqaha	Civil Law
Foundation of evidentiary value	Moral integrity (<i>‘adālah</i>) and legal qualifications	Procedural legality and judicial assessment
Primary orientation	Substantive justice	Procedural justice
Basis of judicial truth	Ethical reliability of the witness	Evaluation of evidence by the judge
Determinant of probative value	Credibility of the witness	Consistency and corroboration of evidence
Epistemological foundation	Religious-ethical paradigm	Legal-procedural paradigm

B. Discussion

1. Moral Integrity as the Foundation of the Evidentiary Value of Witness Testimony in Islamic Jurisprudence

The findings of this study indicate that Islamic jurisprudence does not determine the evidentiary value of witness testimony solely on the basis of procedural admissibility.⁴⁸ Rather, *fuqaha* regard

⁴⁵ Mahmood Jawad, H. . (2025). Integrating Islamic Principles with Modern Criminal Justice: Re-Evaluating Hudud Laws in the Context of Digital Evidence and Procedural Fairness. *International Journal of Sharia and Law*, 1(2), 143-158. <https://doi.org/10.65211/ijsl.v1i2.24> Lihat pula Wahbah al-Zuhayli, *Al-Fiqh al-Islāmī wa Adillatuh*, vol. 8 (Damascus: Dār al-Fikr, 1985), 5985–6002.

⁴⁶ Stankovic, Marko, Marija Stankovic, and Nina Aleksic Oliveira. "The Importance of Witnesses in Civil and Criminal Proceedings." *Kultura Polisa* 22 (2025): h. 70. Lihat, Ho, Hock Lai. *A philosophy of evidence law: Justice in the search for truth*. Oxford University Press, 2008.

⁴⁷ Amin, Z. (2025), Women’s Testimony in Criminal Law (Hudūd and Qiṣās): Classical Islamic Frameworks, Contemporary Applications, and Normative Tensions. *Muslim World*, 115: 358-383. <https://doi.org/10.1111/muwo.70021>

⁴⁸ Abualfaraj, M. (2011). Evidence in Islamic law: reforming the Islamic evidence law based on the federal rules of evidence. *Journal of Islamic Law and Culture*, 13(2–3), 140–165. <https://doi.org/10.1080/1528817X.2012.733130>

the credibility of testimony as inseparable from the moral integrity (*‘adālah*) of the witness.⁴⁹ This orientation reflects the fundamental objective of Islamic evidentiary law, namely ensuring that judicial truth is established through evidence originating from individuals who possess both legal competence and ethical reliability. Accordingly, the value of witness testimony in Islamic law is not measured merely by its conformity with procedural requirements but also by the moral credibility of the person delivering the testimony.

This finding demonstrates that the concept of *‘adālah* functions beyond a formal qualification for witnesses.⁵⁰ Instead, it represents the epistemological foundation upon which the probative value of testimony is constructed. From the perspective of *fuqaha*, testimony derives its legal authority because it is presumed to originate from a person whose integrity minimizes the possibility of falsehood or personal interest.⁵¹ Consequently, the assessment of witness credibility becomes an integral component of the evidentiary process rather than a preliminary procedural requirement.

The emphasis on moral integrity also reflects the distinctive orientation of Islamic adjudication toward substantive justice.⁵² Unlike evidentiary systems that primarily evaluate testimony through procedural compliance, Islamic jurisprudence seeks to harmonize legal certainty with ethical accountability. Judicial truth is therefore understood not merely as the outcome of procedural verification but as a conclusion reached through evidence that fulfills both legal and moral standards.⁵³ In this sense, the evidentiary value of witness testimony cannot be separated from the ethical character of the witness because both constitute complementary elements in achieving justice.

These findings are consistent with the broader objectives of the *Shari‘ah*, particularly the protection of rights and the prevention of injustice within judicial proceedings.⁵⁴ By requiring witnesses to satisfy standards of legal competence and moral integrity, Islamic jurisprudence establishes a model of evidentiary evaluation in which procedural legality and ethical responsibility operate simultaneously. This explains why *fuqaha* place considerable emphasis on the personal credibility of witnesses as an essential determinant of evidentiary value rather than treating testimony as merely one procedural means of proof.

⁴⁹ Ibn Qudāmah, *Al-Mughnī*, vol. 12 (Cairo: Hajr, 1992), 33–41; Al-Kāsānī, *Badā’i‘ al-Ṣanā’i‘ fi Tartīb al-Sharā’i‘*, vol. 6 (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1986), h. 269–275.

⁵⁰ Ibn al-Qayyim al-Jawziyyah, *Al-Ṭuruq al-Ḥukmiyyah fi al-Siyāsah al-Shar‘iyyah* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 2002), h. 15–33; Wahbah al-Zuhayli, *Al-Fiqh al-Islāmī wa Adillatuh*, vol. 8, h. 5998–6002.

⁵¹ Fikriansah, Deny, Salman Lokollo, and Muhammad Rizky Zidan. “Validitas Saksi dalam Kajian Kitab Alfiyah Zubad pada Mata Pelajaran Kitab di Pondok Pesantren Raudlatul Muhibbin Al-Mustainiyyah Surakarta: Validity of Witnesses in the Study of the Book of Alfiyah Zubad in Book Subjects at the Raudlatul Muhibbin Al-Mustainiyyah Islamic Boarding School in Surakarta.” *DIRASAH: Jurnal Kajian Islam* 3, no. 1 (2026): 104–126.

⁵² Abū Ishāq al-Shāṭibī, *Al-Muwāfaqāt fi Uṣūl al-Sharī‘ah*, vol. 2 (Beirut: Dār Ibn ‘Affān, 1997), 8–20; Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2008), 21–39.

⁵³ Desiana, W., Abdussamad, Z. ., & Rahim, E. . (2026). Reconstructing Administrative Remedies from the Perspective of Administrative Justice Principles and Legal Certainty. *Journal of Public Representative and Society Provision*, 6(1), h. 264. <https://doi.org/10.55885/jprsp.v6i1.841>

⁵⁴ Abū Ishāq al-Shāṭibī, *Al-Muwāfaqāt*, vol. 2, h. 8–20; Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, h. 39–51, pada Saifnazarov, Ismail; Mukhtarov, Azamat; Aliyev, Bekdavlat; *Pharos Journal of Theology*, 2025, v. 106, n. 3, p. 1, doi. 10.46222/pharosjot.106.3033.

2. Procedural Legality and Judicial Assessment of Witness Testimony in Civil Law

The findings of this study show that civil law does not determine the evidentiary value of witness testimony primarily through predetermined moral qualifications of the witness.⁵⁵ Instead, the value of testimony is constructed through procedural legality and judicial assessment within the evidentiary process.⁵⁶ Testimony becomes legally significant when it is presented in accordance with procedural rules and evaluated together with other admissible evidence before the court. Consequently, the reliability of testimony is assessed through the judicial process itself rather than through prior assumptions concerning the personal morality of the witness.⁵⁷

This orientation reflects the procedural character of modern civil evidence law. Judges are not bound to accept testimony solely because the witness appears trustworthy, nor are they required to reject testimony merely because the witness lacks a particular moral status.⁵⁸ Rather, judges evaluate the consistency of the testimony, its relevance to the disputed facts, its coherence with other evidence, and its capacity to establish legally convincing conclusions. The evidentiary value of testimony therefore emerges from a process of judicial reasoning that integrates multiple sources of proof within the procedural framework of litigation.

The emphasis on judicial assessment also demonstrates the role of procedural certainty in civil adjudication.⁵⁹ By requiring testimony to be corroborated and evaluated through established evidentiary mechanisms, civil law seeks to minimize the risk of decisions based solely on subjective assertions. Principles such as the requirement that testimony be supported by additional evidence illustrate that legal certainty is pursued through procedural safeguards rather than through moral evaluation of witnesses as a formal prerequisite.⁶⁰ In this sense, the credibility of testimony is treated as a matter to be tested during judicial proceedings, not as a condition presumed in advance.

These findings indicate that civil law constructs juridical truth through an evidentiary model centered on procedural regularity and judicial discretion.⁶¹ The judge occupies a pivotal position in determining the probative force of testimony because the legal system entrusts the assessment of evidence to judicial evaluation within the limits prescribed by procedural law. As a result, the evidentiary value of witness testimony depends less on the personal character of the witness and more on the persuasive relationship between the testimony and the totality of evidence presented before the court.

⁵⁵ Mirjan Damaška, "Epistemology and Legal Regulation of Proof," *Law, Probability and Risk* 2, no. 2 (2003): 118, <https://doi.org/10.1093/lpr/2.2.117>

⁵⁶ Michael S. Pardo, "Legal Epistemology and Legal Proof," *Quaestio Facti* 10 (2026), h. 190, https://doi.org/10.33115/udg_bib/qf.i10.23222

⁵⁷ Hock Lai Ho, *A Philosophy of Evidence Law: Justice in the Search for Truth* (Oxford: Oxford University Press, 2008), h. 90.

⁵⁸ Vincent Denault, "The Use of Nonverbal Communication When Assessing Witness Credibility: A View from the Bench," *Psychiatry, Psychology and Law* 31, no. 1 (2024): 99, <https://doi.org/10.1080/13218719.2023.2175068>

⁵⁹ Fraser P. Davidson and Pamela R. Ferguson, "The Corroboration Requirement in Scottish Criminal Trials," *International Journal of Evidence & Proof* 18, no. 1 (2014): 3, <https://doi.org/10.1350/ijep.2014.18.1.439>

⁶⁰ Ade Astika, Abd Asis, and Wiwie Heryani, "Implementation of Exceptions to the Unus Testis Nullus Testis Principle in the System of Proof for Drug-Related Crimes," *Veredas do Direito* 23, no. 7 (2026): 5, <https://doi.org/10.18623/rvd.v23.6424>

⁶¹ Erwin Susilo, "Epistemic-Justificatory Proof Theory and the Legitimacy of Judicial Decisions," *Law & World* 37 (2026), h. 27.

3. Epistemological Differences in the Evidentiary Value of Witness Testimony

The comparative findings of this study demonstrate that the differences between Islamic jurisprudence and civil law extend beyond technical rules governing witness testimony.⁶² More fundamentally, they reveal two distinct epistemological frameworks through which juridical truth is constructed within the law of evidence. Although both legal traditions recognize witness testimony as an admissible means of proof, they differ in the underlying assumptions that determine why testimony should be regarded as legally convincing and how its probative value should be assessed.⁶³ Consequently, the evidentiary value of witness testimony cannot be fully understood merely by examining procedural requirements or legal doctrines; it must also be analyzed through the epistemological foundations that shape each legal system.⁶⁴

Within Islamic jurisprudence, the evidentiary value of testimony is inseparable from the moral credibility (*‘adālah*) of the witness because judicial truth is understood not only as a legal determination but also as an ethical responsibility.⁶⁵ The emphasis placed by *fuqaha* on moral integrity reflects the assumption that reliable evidence originates from individuals whose character minimizes the possibility of falsehood, bias, or personal interest. Consequently, the assessment of testimony extends beyond factual verification to include the ethical trustworthiness of its source. This illustrates that Islamic evidentiary law integrates legal norms, moral values, and judicial responsibility into a unified framework for establishing juridical truth.⁶⁶

By contrast, civil law constructs the evidentiary value of witness testimony through a procedural epistemology.⁶⁷ Rather than presuming the credibility of testimony from predetermined moral qualifications, civil law entrusts judges with evaluating testimony based on procedural legality, consistency, relevance, corroboration, and its relationship with other admissible evidence. Accordingly, judicial conviction is achieved through a systematic assessment of the entire body of evidence presented during litigation.⁶⁸ The authority of witness testimony therefore derives primarily from the evidentiary process itself rather than from the personal moral status of the witness.⁶⁹

These contrasting approaches indicate that the principal distinction between the two legal traditions lies in the foundation upon which evidentiary value is constructed.⁷⁰ Islamic jurisprudence prioritizes ethical credibility as the basis of legal certainty, whereas civil law emphasizes procedural verification as the basis of judicial conviction. These different epistemological orientations consequently influence not only the legal standards governing witness testimony but also the manner

⁶² Mirjan Damaška, "Epistemology and Legal Regulation of Proof," *Law, Probability and Risk* 2, no. 2 (2003): 122, <https://doi.org/10.1093/lpr/2.2.117>

⁶³ Sayed Sikandar Shah Haneef, "Modern Means of Proof: Legal Basis for its Accommodation in Islamic Law," 334–364, <https://doi.org/10.1163/026805506779147319>

⁶⁴ Ronald J. Allen and Brian Leiter, "Naturalized Epistemology and the Law of Evidence," *Virginia Law Review* 87 (2001): 1520.

⁶⁵ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2008), h. 45–46.

⁶⁶ Tarek Badawy, "Towards a Contemporary View of Islamic Criminal Procedures: A Focus on the Testimony of Witnesses," *Arab Law Quarterly* 23, no. 3 (2009): 269–305.

⁶⁷ Paul Roberts, "Theorising Evidence Law," *Oxford Journal of Legal Studies* 43, no. 3 (2023): 635, <https://doi.org/10.1093/ojls/gqad007>

⁶⁸ Michael S. Pardo, "Legal Epistemology and Legal Proof," *Quaestio Facti* 10 (2026), h. 192, https://doi.org/10.33115/udg_bib/qf.i10.23222

⁶⁹ Susan Haack, "Epistemology Legalized," *The American Journal of Jurisprudence* 45, no. 1 (2000): 43–61, <https://doi.org/10.1093/ajj/45.1.43>.

⁷⁰ Hock Lai Ho, *A Philosophy of Evidence Law: Justice in the Search for Truth* (Oxford: Oxford University Press, 2008), h. 95.

in which judges evaluate credibility, assign probative value, and ultimately construct juridical truth in judicial proceedings. Thus, differences in evidentiary outcomes should not be understood merely as differences in legal rules, but as reflections of distinct philosophies of legal reasoning embedded within each system of evidence.⁷¹

More importantly, the findings of this study suggest that comparative research on witness testimony should move beyond identifying similarities and differences in legal norms toward examining the epistemological assumptions underlying evidentiary reasoning. This perspective constitutes the principal conceptual contribution of the present study. Rather than viewing the divergent evidentiary value of witness testimony solely as a consequence of doctrinal variation, this study demonstrates that such differences originate from distinct conceptions of how juridical truth is established within each legal tradition.⁷² By shifting the analytical focus from normative comparison to epistemological inquiry, this study offers a broader framework for understanding the relationship between Islamic jurisprudence and civil law in the development of contemporary evidence law.

4. Implications for the Development of the Law of Evidence

The findings of this study have broader implications for the development of the law of evidence beyond the comparative assessment of witness testimony.⁷³ The analysis demonstrates that evidentiary rules should not be understood solely as procedural mechanisms governing the admissibility of proof. Rather, they are grounded in broader epistemological assumptions concerning how juridical truth is established and how judicial certainty is achieved.⁷⁴ Consequently, the development of evidence law requires attention not only to procedural reform but also to the philosophical foundations that determine the probative value of evidence within different legal traditions.

From the perspective of comparative law, this study suggests that comparative analyses should extend beyond identifying similarities and differences in legal provisions.⁷⁵ A more comprehensive understanding of legal systems can be achieved by examining the epistemological principles that shape evidentiary reasoning and judicial evaluation. Such an approach enables comparative legal scholarship to explain not only how legal systems regulate evidence but also why they adopt particular standards for assessing the credibility and probative value of witness testimony.⁷⁶

The findings also provide practical implications for judicial reasoning. In contemporary judicial practice, judges frequently encounter witness testimony that satisfies procedural requirements but raises questions regarding credibility, reliability, or evidentiary weight. The comparative perspective presented in this study demonstrates that the assessment of such testimony cannot be separated from the underlying evidentiary philosophy of the applicable legal system.⁷⁷ Accordingly, understanding the epistemological foundations of evidentiary assessment may contribute to more coherent and

⁷¹ Baber Johansen, "Signs as Evidence: The Doctrine of Ibn Taymiyya (1263–1328) and Ibn Qayyim al-Jawziyya (d. 1351) on Proof," *Islamic Law and Society* 9, no. 2 (2002): 168–193.

⁷² Mohammad Hashim Kamali, "Shari'ah and Civil Law: Towards a Methodology of Harmonization," *Islamic Law and Society* 14, no. 3 (2007), h. 391–420

⁷³ Zhuohao Wang, "The Fate of Evidence Law: Two Paths of Development," *International Journal of Evidence & Proof* 24, no. 3 (2020): 235, <https://doi.org/10.1177/1365712720930797>

⁷⁴ Paul Roberts, "Theorising Evidence Law," *Oxford Journal of Legal Studies* 43, no. 3 (2023): 640, <https://doi.org/10.1093/ojls/ggad007>

⁷⁵ Ralf Michaels, "The Functional Method of Comparative Law," in *The Oxford Handbook of Comparative Law*, ed. Mathias Reimann and Reinhard Zimmermann (Oxford: Oxford University Press, 2006), h. 342.

⁷⁶ Mathias Siems, *Comparative Law* (Cambridge: Cambridge University Press, 2022), h. 415.

⁷⁷ Erwin Susilo, "Epistemic-Justificatory Proof Theory and the Legitimacy of Judicial Decisions," *Law & World* 37 (2026), h. 30.

consistent judicial reasoning when evaluating witness testimony within complex legal disputes.

Finally, this study contributes conceptually to the development of the law of evidence by positioning witness testimony not merely as an individual means of proof but as a reflection of the broader legal philosophy governing the construction of juridical truth. This perspective encourages future scholarship to integrate doctrinal analysis with philosophical and epistemological inquiry in order to develop a more comprehensive understanding of evidentiary law.⁷⁸ Accordingly, the advancement of the law of evidence depends not only on refining evidentiary rules but also on deepening the theoretical understanding of how legal systems determine the value of evidence in the pursuit of justice.

5. Conclusion

This study demonstrates that the evidentiary value of witness testimony is fundamentally shaped by the epistemological framework through which a legal system constructs juridical truth rather than by procedural rules alone. Although both Islamic jurisprudence and civil law recognize witness testimony as an essential means of proof, each legal tradition adopts different principles for determining its probative value. Islamic jurisprudence emphasizes the moral credibility (*‘adālah*) and legal qualifications of the witness, whereas civil law primarily relies on procedural legality and judicial evaluation in assessing evidentiary weight.

These differences reflect distinct conceptions of legal certainty and juridical truth rather than merely different evidentiary rules. Accordingly, understanding witness testimony requires moving beyond normative comparison toward an epistemological analysis of how legal systems evaluate evidence. This study contributes to comparative evidence law by advancing an epistemological perspective that explains the relationship between witness testimony, evidentiary value, and the construction of juridical truth across Islamic jurisprudence and civil law.

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⁷⁸ Mohammad Hashim Kamali, "Shari‘a and Civil Law: Towards a Methodology of Harmonization," *Islamic Law and Society* 14, no. 3 (2007), h. 405.

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