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عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ رَسُولَ اللَّهِ صَلَّى
اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَوْ يُعْطَى النَّاسُ بِدَعْوَاهُمْ لَادَّعَى
رِجَالُ أَمْوَالِ قَوْمٍ وَدِمَاءَهُمْ لَكِنَّ الْبَيِّنَةَ عَلَى الْمُدَّعِيِ
وَالْيَمِينَ عَلَى مَنْ أَنْكَرَ.
حَدِيثٌ حَسَنٌ، رَوَاهُ الْبَيْهَقِيُّ وَغَيْرُهُ هَكَذَا وَبَعْضُهُ
فِي الصَّحِيحِينَ.

Ibn 'Abbas, (رضي الله عنه), said that the Messenger of Allah, (ﷺ), said: "Were people to be given according to their claims, some would claim the wealth and blood of others. But the burden of proof is upon the claimant and the taking of an oath is upon the one who denies (the allegation)." [An excellent hadith which al-Bayhaqi and others have related. Parts of it is in the two Sahih books (i.e. in al-Bukhari and Muslim).]

Background

There are in every judicial dispute at least two litigating parties, the plaintiff and the defendant. The first claims what is contrary to the apparent fact; the second holds to the apparent fact and denies the claim. (Mahmassani: Falsafat al-Tashri' al-Islami - p 169, 170).

This hadith forms an important maxim. The text of the hadith has been expressed in the following way: "Evidence is for the person who claims; the oath is for the person who denies." (The Mejlle 1967 article # 76)

Lessons

This hadith shows the supreme importance of proof to the administration of justice. The necessity of proof is a restrainer to false, weak, and unsubstantiated claims. (Mahmassani 168).

Therefore it becomes important to know upon whom the onus of proof lies. There is no doubt that the burden is upon the plaintiff. This is explained by the fact that what is apparent is presumed to be the original state; any one who makes a claim to the contrary must prove such claim. (ibid)

The proof of a matter requires presentation of evidence until the matter attains the degree of certainty. Certainty is that which can be established by sight or proof. It can only be dispelled by another certainty. (ibid)

Since it is established that a defendant is presumed to be free from liability until the claimant proves the contrary, it is important to know who is the defendant and who is the plaintiff, who of the two must bear the onus of proof, and whose evidence takes precedence in case of conflict. (ibid p172).

The definition of "Plaintiff" and "Defendant"

There are three views regarding the above issue (Zarabozo 3/1167):

1. The plaintiff is the one who is not charged with anything or can remain silent of the two disputants.
2. The plaintiff is the one who is claiming something other than what is apparent or what has not yet been established in the past. The defendant is the one who is on the opposite side, arguing to what is apparent.
3. The defendant is the one rejecting a claim while the plaintiff is the one making the claim.

The meaning of al-Bayinah or "proof" (ibid)

Many jurists seem to think that "proof" refers only to witnesses. However, the meaning of proof is much more comprehensive and also applies to means of proof other than witnesses.

According to some early and contemporary scholars, "al-Bayinah" or proof is a noun that encompasses all means of establishing the truth. Circumstantial evidence, conclusive presumption, and clear signs that lead to a definite conclusion can all be taken into consideration.

Modern forms of criminal investigation can be used in making judicial conclusion. Otherwise, rights will be lost and injustice will be allowed to prevail.

The criteria for being an acceptable witness (ibid)

1. The witness must be sane and competent.
2. In general, the witness must be an adult.
3. The witness must be a Muslim unless it be in a case dealing with non-Muslims.
4. The witness must be of sound memory.
5. The witness must be a person of integrity and honesty.

The importance of giving one's testimony

It is an obligation that people offer their testimony truthfully when called upon to do so. Allah the Almighty says:

And the witness should not refuse when they are called. [Surah al-Baqarah: Ayah 282]

It is considered a sin to conceal what one has witnessed. Allah the Almighty says:

And conceal not the testimony, for he who hides it is certainly sinful of heart. [Surah al-Baqarah: Ayah 283]

A warning to those who make successful false claims

It is noted that Islam stresses on appealing to fearing Allah whenever there is misuse of authority, or taking chances over others in all human relations such as trading, family disputes, and making false claims against others.

The Prophet, (ﷺ), said:

"I am a human being. You come to me as litigants. Perhaps, one of you is better in presenting his argument than the other and I decide in his favour according to what I have heard. If I have decided anything for someone from the rights of his brother, he should not take it for I have portioned for him a portion of the Hell fire."

In another hadith the Prophet, (ﷺ), warns us that taking as little as a spin of a palm of some one else's property unjustly will be horribly taken responsible for in the Day of Judgment.

In a third hadith the Prophet, (ﷺ), cursed the one who changes for no good reason the landmarks of a property.

Conclusion

Islam is a practical religion where it takes into account the possible natural conflicts, quarrels, and disputes among community individuals where people may claim something against one another. Islam establishes rules and principles by which these disputes are brought to an end in a just manner. A person is free of guilt or claims made against him or her until proven otherwise.