

THE METHOD TO PROVE THE RIGHT

1. Giving witness: Two men or one man and two women from among the trusted people give witness. Allah Almighty says:

﴿وَأَسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكِّرَ إِحْدَاهُمَا الْأُخْرَىٰ﴾ البقرة: ٢٨٢

Translation of Meaning: “Have two witnesses from among your men, and if two men are not there, then one man and two women from those witnesses whom you like, so that if one of the two women errs, the other woman may remind her.”[Al-Baqarah:282]

Two witnesses are required in the cases not related to pedigree nobility and honour as such cases require four witnesses.

2. The Judge uses written documents and other types of evidences in an attempt to issue the right decree.

Rules for appointment of a Judge

In an Islamic country only those will be assigned the duty to judge who are:

1. Muslims, wise and mature. So, any infidel, insane, sinful or child cannot judge the issues of Muslims. Besides, the scholars have also made it a condition that he must have knowledge of the Book and the Sunnah and possess at least the degree of intelligence that enables him distinguish the right from the wrong.

2. He must: have knowledge of the verses of the Qur'an and the hadith that are related to commandments; have knowledge of *ijma* (consensus), sayings of the companions and opinions of the scholars in disputed issues; have knowledge of Arabic language and is capable of analogy and deduction.

3. His senses like eyes, ears and tongue etc. must be sound so that he may notice the things and describe them. These are a must for a Judge .

4. A Judge must be just, bearing excellent morals, away from mortal sins, not insistent over venial sins because these all are deeds of a sinner and a sinner cannot become a Judge .

5. The Judge must be a male. It is not allowed for a woman to shoulder the responsibility of issuing decree. Because the post requires patience, suffering of difficulties and not being provoked. The woman is naturally kind in her sentiments and feelings. She is quick to get influenced. Besides, a woman has numerous issues like monthly bleeding, bleeding after childbirth, pregnancy, giving birth to a child and breastfeeding. These things, put together, disqualify a woman for the post of the judge. And at the post of a judge, one is always in contact with the public; witnesses, the parties, advocate and secretaries etc. and they lead to many difficulties and troubles. One has to meet in isolation with the secretary. Therefore, it is not a suitable job for a woman. When the Messenger of Allah (ﷺ) was informed that the Persian have elected the daughter of Chosroes to be their ruler he said:

«لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ» [بخاري]

Translation: “A people who make a woman their ruler will never be successful.”
[Bukhari]

Giving quick decision:

A Judge must not delay in issuing decree except in three situations:

1. For establishing peace between the parties
2. When the plaintiff asks for respite to present his/her evidences
3. When the Judge is in doubt regarding making a decision and the case requires more discussion

The departments that assist the Judge :

Police: This is the old department of Islamic system. The police help the Judge in executing the orders issued against the criminals. The history of police starts with Umar bin al-Khattab (*Radhi Allahu Anhu*) who himself patrolled in the nighttime to assess the situation of the people. He would also track the people having deviated from the right path and reform them.

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