

The Presumption of Innocence

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ABSTRACT

Presumption of innocence, as a practical principle that where, in the judgment, and we doubt that we, in practice it is not required to, and did not establish a breach of duty In other words, in cases where the task is suspected (Article Kafi, Hosein, the presumption of innocence and the application of law, fundamental research, Journal of principles, S 3, No. 10, Winter 90)

These principles, the principles of natural jurisprudence known, the most likely result will be published ruling, judgment, and ability to deal with apparent reason, does not originate from the fact, therefore, result in a true sentence without considering the past If the requirement is subject to the presumption of innocence, and the like, which are themselves divided into: 1) overnight Hokmeh 2) quasi Objectivity

• Hokmeh like, is that the general rule is unknown, as it is halal or haram Sharia comments know the insurance contract, or the necessity of knowing the judgment of the occultation, the emergence of the Friday noon prayer or Friday Prayers? (Doctor Mohammadi, Abolhasan, Principles of Islamic law presumption of Warcraft Edition 32) Hokmeh like himself to suspicion and doubt in respect of the obligation, to split and divided the task, such as the necessity of a prayer or prayer on Friday, the day of absence.

• Objectivity like: the overnight and doubt, in part divine decree and on the other hand, the subject of the sentence, but the direction of it is confirmed, for example, drinking alcohol is forbidden, and Non-Alcoholic Beverage is forbidden, and allowable under the glass cooking liquor are questionable, the alcoholic or non-alcoholic (doctor Mohammadi, Abolhasan, Principles of Islamic Law gather Warcraft Edition 32)

• The pseudo-subject, divided into sub-concepts and evidence that the concept is that the concept of meaning, what is not clear that such a right acquired, jurists differ on the definition and expression of it.

Like the evidence, that the meaning is somehow doubt destroy, not clear as the mass-circulation newspaper, the newspaper may doubt that, under the concept or not (doctor Mohammadi, Abolhasan, Foundations Islamic Law gather Warcraft Edition 32) Ali Ayhal with respect to the above description, the network is suspicious Hokmeh general rule is that, while the pseudo Objectivity details, and also a source of ambiguities Objectivity confused and mistake in foreign affairs while the doubts Hokmeh by the legislator, and while doubts Objectivity by the inquiry, the foreign matters can be resolved.

KEYWORDS: presumption of innocence, his already beginning, like Objectivity part, the actual sentence, like Hokmeh

INTRODUCTION

Notice shall cause Sutra, one of three cuts, leading to suspicion and doubt, this is the essence of the nature of the cut itself, so no one is left to the crowd.

Suspicion, given that the meaning of objects in nature "may be Credibility. And operates a number of suspects and would like more reliable, and valid Book of the Law of Islam and health, have been placed. Doubt due to the inability of the meaning and nature Discoverer "Credibility is possible. Since the suspect is not shown, and no doubt the actual order is not generated. Therefore, if one is, like the rule of presumption of innocence, the apparent order will be ruled feint ruled that, for technical holy lawgiver, the actual sentence has been denied access.

This is because it is important that the principle of non-science and the subject of frequent news and positive definite, science. The reason for requiring the available scientific knowledge in order to be a leading question, and subject to the action of the sentence remains to be done. Nevertheless, the relationship between the posterior, with the intellect rather than peace, because the issue of rational, non-Communiqué (in Mentality innocence. Risk Elimination (at the discretion of reason), and the preference of the unit and the principle of change. And the posterior of religious expression, and the lack of Communiqué, the risk can be ruled out, and the lack of preference for the preference becomes. The reason think relationship with the government regarding religious practice, because the subject of legal action non-science which includes suspicion I doubt it. A sentence (ruled as true) without consideration, the history is divided into two categories:

- Determine the order in doubt, the discussion focuses on the presumption of innocence.

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- A sentence in which the task belongs to the principles of precaution and deals.

Anyway doubt the presumption of innocence, the rule of God. The task here is to know the sex, and God know. Place of practice:

Here are four sources, the supreme religious order that refers to infer, explains. Guardianship, sometimes, in their turn, in fact, the supreme triumph is often "a certainty, or piety think (suspicion confirmed by the legislator), in order to reflect the actual legal, then the condition is unknown, but sometimes supreme their lack of access to natural techniques, has been given to them? The answer is yes. Lawgiver in this situation a set of rules and standards, to have been given such circumstances, in some sense, the religious order is confirmed. (Vasel, Volume I, p. 175)

Practical knowledge of the principles to be implemented correctly, and also the hierarchy of norms and rules, which are intended to such conditions as it teaches.

- The presumption of innocence is one of four sources, the sutra by reservation applies to the original, it is our obligation to go, and not in relation to the assignment.
- The precautionary principle means that, in practice, it is necessary to be cautious and always have, that if the suspension of the operations of our soul is to be done.
- The change means that the principle of free choice of one of two Are free, so choose.
- Count the fourth principle, the principle is the practice of maintaining What was, in other words, that which is past, remains the primary mode, and not the opposite. VASAEL F. Volume One, p. 175

There's a lot of news about the presumption of innocence, the fix is famous hadith, the Prophet (PBUH) said nothing to that, the principle has been removed, there are many discussions on this tradition, and in a part of tradition It has been said, I do not know what people were not communicated to them, their obligation is removed from the timber. The witness is to be presumed innocent.

Ramazan, p. 417 Vol. 2, p. 463, with slight difference

Another example, in place of Practical Principles: If you know of fluid that is in front of us, we have a glass of vodka in there, we do not doubt that we are renouncing the current obligation, and its use OK, but if you have two glass medicine, science glimpse at one of the two female alcohol is available, then certainly due to the presence of alcohol, in one of the two glasses are used instead of the precautionary principle, is, and Hezal p. 417, Kafi vol. 7, p. 463

Terminology, terminology

Innocence: Illustrated by Arabic root' {b R A}, we construct the most general sense of duty exempt from the charge, responsibility, innocence, meaning the Quran in verse 114 of Surah Tobeh, Verse 53 of Surah Yusof, verse 63 of Surah Qesas, verse 69 Ahzab, verse 4 Chapter Moetazeh used. Meaning of the word acquit the Qur'an in Surah Qamar, verse 43 Um pond in the scriptures that means protection and safe from retribution. Quran Ali ibn Mohammadi Ameri, Provisions Cairo in 1914 called innocence presumption of innocence is summarized, and the principle of legal reform is, the tendency to deny the legitimate alarms, and a lack of commitment and obligation and providing free, and when dealing with suspected In Homework Jafari, Mohammad Jafar, terminology Rights, published 17His motto 831 Innocence, or Innocence in legal terms, means a lack of commitment "is Innocence sale, the seller in the event of a malfunction, or defect in the sale of any Undertaking and responsibility, the buyer is free (Sanitvana, vol. 2, p. 149, to the presumption of innocence or authenticity Innocence (conquering a nobility) is that, in cases of doubt in our judgment, we believe that in practice, it is not required to . For example, we know stealing is a crime, and we know it has been stolen, and someone also mentioned, including crime, has been presented to the court, but on whether the person is introduced, certainly "not committing theft, or No, we do not know, and he did not steal the idea, and the reasons for retaining the positive not the case. Here it is in terms of jurisprudence, the acquittal verdict was issued and researcher laws solution, of robbery, theft proof.

Exoneration

And called the fight for freedom from the shackles of obligation and duty, remain protected.

The concept of the presumption of innocence and wide pen, the current law has been the foundation of many other branches of innocence principle, and each has its specific item is placed.

The presumption of innocence is the return to, Katoozian, Naser, Philosophy of Law, Vol. 3, No. 131, since the presumption of innocence, the idea is marked by philosophical ethics, it is safe to practice law as we should be.

Eagle ugly previously stated, one of the important principles of moral and intellectual, the presumption of innocence (Sheikh Morteza Ansari, benefits and principles of lithography, the principle of presumption of innocence, also return to. Mirza Hosein Naini -benefit principle, vol. 3, p. 365, Mirza Taqi Terms principle, lithography, Volume 2 Page 14 Not affect the rules in the past, one of the two principle governing the transfer of rights, and the elimination of conflict of laws in time (return to transfer of rights, conflict Rules in time, the 17, 41 onwards). Of this rule will result, because the rest of the new law is returned to the subject of an eagle,

based on pre-defined task (Equinus jurisprudential rules, p. 242 Sheikh Ansari principles of presumption of innocence
And our Owner done between sent Rolla, and explained that the messengers "is emblematic of the speech task. Task insofar as it is reasonable, does not it run out of power and the power required to run the task .Expectation not stated, expect pleasant not wise, and it should be out of the arduous task of examples (Unbearable) count.

Types of payment

The presumption of innocence of the scholars of jurisprudence, is divided into two kinds:

- legal innocence: If proof of the presumption of innocence, the evidence in this case Legitimacy innocence is legal, it is not the subject of the Academy of Science.
- intellectual innocence: this kind of innocence if Evidence mentality that, because of the presumption of innocence is proven. Topic and channel it Communiqué death.

(Summarize the advantages of assets, Moslem Qolipoor Poorgilani, Volume II, p. 30, issue 9, Winter 2013

The presumption of innocence in Share other categories, which are divided into 8 sections, the Kefayah, he sometimes doubts about that:

- with it as text
- patients is outlined
- agreement is in conflict
- In case of doubt as a result of mistake is

Each of these a necessity is in doubt, or in Prohibitive doubt that the sum of these types are sworn to 8. The late Sheikh, stated in his speech, the 4 kinds are also added to the above categories, it expressed doubts sometimes wavering between necessity and dignity and ambiguity is that the borrower 4 brevity and lack of conflict and Lobes Indeed, in the case before it.

View of Saheb Kefayah, to the kind of presumption of innocence: Give them, all these forms are placed under one title, and does not recognize that the alternative that, in all cases, there is no express lawyer, but compared to the period between Guessed, the expression cannot be ruled the presumption of innocence, but also to consider which of the 2 letter of reference, has done the same, and if both the sentence, then the sentence to be changed, not innocence, (Adequacy of assets, Akhond Khorasani, p. 338) certainly obliged to apply the principle of precaution employment and a place of duty to apply the presumption of innocence, and it has its own dedicated forms are as follows.

Doubt on the task at times, and sometimes the doubts of the doubt Hokmeh Objectivity is, in every 2 or doubt the necessity, without the possibility of sanctity, or no possibility of doubt in respect of the obligation, or a determination of the dignity and necessity, Overview of the existence of one of them), the principle of the presumption of innocence and the rest of the duct which, in the opinion is Assets there is Lost their another that is beyond the scope of this office. The formal integration of a sentence, the eight case remains important, as follows:

- Hokmeh Prohibitive doubt, the lack of text
- Hokmeh Prohibitive doubt, due to the brevity of the text
- Hokmeh Prohibitive doubt, due to the conflict between 2 text
- Objectivity doubt Prohibitive
- Hokmeh Prohibitive A necessity doubt, the text Loss
- Hokmeh Prohibitive A necessity doubt, due to the brevity of the text
- Hokmeh Prohibitive doubt, due to the conflict between 2 text
- Objectivity A necessity doubt, Abolhasan Mohammadi, lack of principles, Page 305

Innocent passage

This is known as the principle of presumption of innocence in the books where used, is concerned that the principle of innocent passage legal theorists, have doubted the task so that the task is sometimes wonder, and sometimes the task is doubt, and sometimes doubt the task is sometimes required to doubt that in the latter case, it is the job of caution and doubt about the task of applying the presumption of innocence. (doctor Mohammadi, Abolhasan, Principles of Islamic law principles gather Law, edition 32 Here is a discussion that arises is that, in terms of the obligation and a duty to Third control doubt is, and according to recent case when the science of sex exists, but there is no science to the task, then this is the kind of doubt, the burden is placed, or doubt the task? Mohaghegh Naini, doubt if they must, to a minor what a way science and knowledge of the cobra, have knowledge of the current task, the researcher knows. According to the late Naini, shall not be in doubt unless we have knowledge of the task ((In a sentence)) we have that, then the term "becomes clear, and they believe that if knowledge of the task, even though we do not have on sentence This doubt can be found in the task (Section 218 meeting of innocence, Ayatollah Sheikh Mohammad Javad Fazel lankarani - She checked on 31/02/2011 backup session) In Hokmeh doubts, ignorance is not an excuse, and the total attendance was compulsory priest, but the excuse of ignorance Objectivity doubts whether the ignorant, Enable of education is, or not. Given the

above, it would run the presumption of innocence in doubt Hokmeh, if incapable of seeking knowledge or suspicion Objectivity reliable but is not in doubt, therefore, even the affluent of education, can the presumption of innocence current (Qolipoor Gilani assured, Fried tabloid principle, Volume 2, Winter 2013) Sheikh Ansari raised in benefits, the presumption of innocence in the duct, doubts must either return to duty or obligation to belong (Its costly) if the original task is definitively proven, but Assignment of the doubt, and caution is simply "possible assumption, duct principle of caution. The Sheikh Ansari believes in 2 cases of doubt, the existence of a duty, then caution is necessary, and the presumption of innocence this will include:

- In case of doubt that the sanctions issue, around which is not enclosed.
- The second question is a legal obligation, the period between the least and most (Ansari, Interest principle, Volume 1, pp. 2-308 to post - Page 314 - 1991 onwards), Qom, published by the Society of Teachers
Objectivity law presumption of innocence, the performance, for example:
- The principle of the presumption of innocence intellectual authority (evil speech), is devoted to religion and rational rule of law, and does not specify a country and a people. The rule of reason is everywhere . Competent performance is not specific to time and place.

Article 197 of the Civil Procedure Code, adopted in 2000, explicitly "accepted the principle of presumption of innocence, and states. Originally been acquitted. So if someone calls or religious right, it should prove to be another, and otherwise in accordance with the principle of the acquittal verdict, the defendant will be. (doctor Mohammadi, Abolhasan, Principles of Islamic legal reasoning and printing of Warcraft 329.

Guides evidentiary

Principles to prove the validity of the presumption of innocence, in many verses of the Qur'an and hadith, the Prophet and the infallible Imams and religious community, and have the wisdom and virtue of that, each of which are briefly described below:

- Quran verses
- A. Talagh Surah: Verse 7: Not entrusting a breath ... "but what Ataha Meaning of the verse: God is not a tough task, but it is a legal person that has been given to him. So If an order is not slaves, servants of God, it will not be, and the same provisions of the presumption of innocence. Comment Sheikh Ansari, the argument in this verse, the verse does not imply that the presumption of innocence Because the true meaning of the verb Taha, was meant to give, and that means the opposite of the way, because the verse before it is about alimony and property (Qolipoor Gilani assured, summarization, Volume 2, Winter 2013)
- B. What we were tormented in order to send a messenger "(verse 159 of Surah Esrae Verse, but the lack of punishment for the supposed lack of legal implications, while in our discussion (presumption of innocence) lacks text absolutely legal text, and the text is rational. According to the author verse not imply the presumption of innocence, and not bound by law Corollary (Whenever rule by rule of reason by Proceeded and vice versa) is.
- C. Verse 15 of Sura Tobeh. What was God folk ", BL guided them until after them what fear the theme is the meaning of the verse. God guided them after any ethnic, not misleading (not punish or humiliate and oppress or not), unless stated before, it is unlawful for them. Ali faith if there is no express provisions, there is no punishment. Other verses, as verse 286 of Surah Baqarah - 42 Surah Anfal - Chapter 145 Anam - 119 Anam in this chapter there.

The argument is not about innocence news

- A. has been removed from my Ummah 9 things: error, forgetfulness, they are forced into it, they do not tolerate what they are in distress, horoscope Touch, jealousy adore and contemplate the temptations of the devil, the creation or the people as long as the man did not speak. Here, tradition says, punishment and its effect because people do not know, for example in respect of drinking Teton, Teton then if someone was drinking in the absence of the text, and in fact was forbidden, then there is an eagle, the debate fully "to the provisions of the presumption of innocence.
- B. In view of the above hadith is legal theorists, is famous hadith that meet all of the above, it is. The author believes, Hadith fix signifies innocence in doubt Objectivity implies.
- C. Hadith 3 timidity: What God withholding his knowledge about the subjects he is the subject of them It is argued, with regard to the presumption of innocence sentence And deprived alcoholic wine, at which time the balance is covered, then use it due to lack of knowledge, to move it does not hold, and the same provisions of the presumption of innocence.
- D. God's judgment against the verdicts, the notification stated argues.
- E. Divorce Hadith (the main reason for acquittal, the news)

F. Everything is free, so you get discouraged about it. This hadith indicates, the authority very clear presumption of innocence. (Doctor Mohammadi, Abolhasan, Principles of Islamic Law gather Warcraft Edition 32)

Consensus

2 of the consensus has been claimed that one is suspended and another

Tengiz include: Suspension: religious news and the consensus that, Judgment where we diploma, Eagle is committed not to. Tengiz a consensus of jurists, on the order of each object that is unknown Inviolability, intellectual and religious reasons, it is not, innocence and lack of caution is necessary. Qolipoor Gilani assured, purifying benefits principle (innocence, given a choice, choose) Volume 2 Doctor Abolhadan Mohammadi, the book Foundations of Islamic legal reasoning, it is believed Warcraft, the consensus value as an independent because the evidence is not clear, while the verses and hadith is clear evidence of Legal Decisions, and to demonstrate consensus on this case it's difficult.

- Reason:

Into 2 logical reasoning is:

- Eagle Bella odd expression
- Task Bella Express

Duty to What excruciatingly is bad (Qolipoor Gilani assured, summarized the benefits of the principle of presumption of innocence, discreet volume 2, issue 9, Winter 2013)

It seems that the validity of the presumption of innocence, the principle of evil eagle is permissible expression, the rule of reason and reflection on the new law, and the wise "is also unacceptable. To have someone do something that is forbidden before, to announce he will be punished.

Conclusion

Presumption of innocence, one of the main pillars of the current law, not only in the laws and judicial decisions, legal writings and a lot of it will be remembered, other principles such as the principle Legalization -, the validity of the contracts - the principle of freedom of contract - Shedding originally derived from it. It should be mentioned that, it seems, cannot be the direct result of the presumption of innocence, and are considered.

- Presumption of innocence in doubt Objectivity A necessity, flow.
- obligatory introduction of specific schools, glancing around science, no doubt Bedouin
- 4-fold in matters a necessity doubt, doubt the task, on the presumption of innocence.
- The purpose of the obligation in question a necessity, Tassa obligation is independent, and doubt the necessity consequential damages (First, implied) are obliged to doubt, to be concerned.
- Apparently "evidence the presumption of innocence, dedicated to the necessity of a set of objects. (Qolipoor Gilani assured, summarized the benefits principle, 9th edition, volume 2, Winter 2013)

The remarkable thing is, that the integrity of lawyers, freedom of contract and the Shedding, based on the presumption of innocence have themselves stated, although the principles are based on the presumption of innocence is built. However, independent of any particular item, for example, if in doubt friendship agreement, it cannot be said that, in accordance with the presumption of innocence does not know it, and independently according to the principles of correctness, and also on the same principles (Katoozian, doctor Naser, Philosophy of Law, vol. 2, p. 249)

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