Original Article: The Importance and Status of Criminal

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ABSTRACT

This research study discusses the importance and status of criminals in Iran. Security and peace in society by bringing the guilty to punishment or imposing disciplinary measures on the supply. They lived up to the power that the government can devise is established. It seems that the defendant will escape the charge or change the term offender is charged. Unfortunately, the importance and place of a criminal are because of no paper, writing, or books. The field has been written. It is hoped the introduction of this paper to review the literature concerning the importance and place in criminal matters. The importance of reason Evidence in criminal matters refers to anything that leads to the discovery of the truth, so we are dealing with a collection of evidence and circumstances in the criminal field. The word lawsuit in legal language means the right to refer to the legal action that a person asks the court to implement the claimed right. With this interpretation, a lawsuit arises after a dispute regarding the existence or dispute of rights. Therefore, there is no connection between the right and the lawsuit. Regarding the importance of proving the right and bringing the reason.

Introduction

Even if there is a right to implement a right that has been violated or denied, to be able to use government institutions to implement that right, the right must first be proven by relying on evidence. In other words, the reason is a tool to enforce the right, and the right cannot be enforced if it is not enforced. In the case of crimes, since the goal is to preserve the safety of the community and prevent the perpetrators from running away, this supreme purpose of punishment is revealed only if the committed crime is proven. As mentioned in the introduction, proof of a crime is necessary for light of the evidence. Otherwise, we are facing a flood of undiscovered and unproven crimes, the first corrupt consequence of which is the perpetrator's practice due to the lack of proof of criminal behavior, and the second corrupt consequence is the weakening of the power of the judicial system in dealing with criminals. Therefore, all the goals of the punishments are in the light of proving the crime using a tool called (proof) [1-5]. Because punishment is

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applied after the crime is proven. In addition, it should be acknowledged that the policy of the judicial system requires that a person who violates the written rules of the society - for which punishment has been determined - should not be immune from prosecution and punishment. This is also important in light of the evidence to prove and discover the crimes. The black figure uses this tool. Of course, defending the interests of society should not lead to ignoring the rights and freedoms of the members of society. Therefore, the formal and substantive rules, especially the proofs, should be regulated so that the cases we mentioned (lack of immunity from prosecution, reduction of black code crimes) are included. And people's and collective rights and freedoms should also be considered. The importance of the procedure and especially the evidence of proof has comprehensively emerged in this sentence: "The execution of criminal justice and judicial security is fair in the light of the evidence of the criminal case" [6-8].

The place of reason First speech: generalities "Evidence is a means of proving reality" because evidence has particular importance and position in criminal matters. The reason draws the line that connects the different stages of the criminal proceedings from the moment of discovery of the crime to the issuance of the sentence. Although the reason is not the purpose of the proceedings, it is always the most critical factor with the help in which justice is done. In this sense, the performance of criminal justice enforcers in all legal systems after discovering a crime or becoming aware of its occurrence revolves around gathering evidence in favor of or losing the accused. Then their evaluation and assessment are bypassed. Regarding the position of the evidence, first of all, some things should be stated so that the position of the criminal evidence is not confused with the evidence of legal proof [9-14]:

1- Evidence to prove a criminal case does not follow a single system: it is considered that the evidence to prove them is not at the same level, at least in terms of value and quality of evidence And they do not follow a single system, even if the punishments are under a more general heading, for example, limits. For example, it is enough to confess 4 times for adultery, 2 times for theft, 2 times for theft, and 1 time for muharibeh.

2- The effects of criminal proof evidence are not decisive: insisting on proof evidence in criminal matters, even if it is a positive crime, is not proof of conviction and bearing its effects, especially punishment. For example, although the crime of ghazf is proven by the 2 confessions of the ghazf, with the acknowledgment of the ghazf, this confession is not necessarily considered the source of the effect. 3- The conversion of punishment causes the conversion of evidence: Dr. Ahmad Ali Waqif, in his book Proof of Case Evidence, believes that the conversion of punishment leads to the conversion of evidence, for example, in the crime of intentional homicide, with the acquittal of the plaintiff, the punishment for intentional homicide becomes the punishment for pseudo-intentional or wrongful homicide. In this case, the crime is proved by paragraph b of Article 237, that is, by the testimony of 2 righteous men or 1 man and 2 women or 1 man and an oath. In our opinion, the mentioned opinion is a point of reflection because, first of all, the evidence is to prove the scope of the crime (legal, material, psychological element), not the punishment or its amount, and as a rule, reduction and commutation of the punishment do not affect it. The plaintiff does not change the nature of the murder from intentional to pseudo-intentional. Article 612, which stipulates that anyone who commits intentional murder and does not have a plaintiff or forgives, confirms our opinion. Of course, articles 74 and 75 may be expressed as an example of a flaw in the rejection of the author's objection in such a way that it changes with the

conversion of the hadd from and the stone to the volume of evidence and testimony, that is, if the volume requires the limit, the testimony is 2 A righteous man with 4 women is acceptable, but only 4 men or 3 men and 2 women can be stoned, which can be fixed. The scope of the punishment for the crime of adultery does not include the terms of the horse. The second speech: the stages of the reason channel. The first topic: the stage of proof and proof "The proof of the realization of the matter is in the argument stage, and the proof of the realization of the matter is in the real stage" or "the proof of the stage of existence, realization, and creation and the proof stage is the stage of reaching the reality or the stage of knowledge of something" if a person has a right in the stage of proof, but in stage

If he does not have proof, he is not considered the owner. Or, in the words of another jurist, "Proofing is a matter in the process of proceedings, and the owner of that right must prove that matter or right." Therefore, it does not find a valid reason because it is not a conflict with a difference. Therefore, the place of the reason is in the stage of proving or discovering reality [15-19].

Proving the conditions and circumstances of the committed crime is one of the components of the material element, not its compliance with the law.

Attribution of actions: At this stage, the claimant must prove that the act or omission is attributed to a specific person or people. In other words, the role of evidence in this stage is to prove that a specific behavior belongs to the person attributed to the opponent.

For example, where multiple fines for speeding have been registered for a car, can we attribute the illegal driving to him simply because the car is in his possession, or should we have sufficient reasons for the assignment? The type of statistics negates the criminality of the owner in Iran. There is no particular procedure in this regard. Still, in practice, it is observed that at least for payment of a violation, it is assumed that the owner of the car (the owner) is responsible for paying the fine bills. Still, criminality is about the owner of the researcher. Mr. Dr. Kaldouzian believes that "in material crimes, the judicial authority is exempted from presenting the evidence of the material element of the crime following the legal assumptions" prosecution is exempted from it by proving the mental element, not the material element, which means that the prosecuting authority is obliged to attribute the criminal behavior to the accused (for example, the issuer of a bounced check) and provide sufficient reasons for this attribution. Article 19 of the Check Issuance Law stipulates: "If the check is issued to the power of attorney or representation by the account holder, the signatory is responsible unless the non-payment is documented by the account holder," according to the author's opinion in this legal article Evidence of imputation of criminal behavior is evident. Therefore, in this regard, the reference to crimes against the relationship must be established with sufficient reasons. Or at least this opinion should have been given as an exception regarding the connection between the spiritual element and reason.

The third topic: reason and psychological element in the proof stage

- Intentional crimes: If the crime has specific or general malice, it must be proven by the prosecuting authority or by the plaintiff. Of course, since the psychological element is assumed in some crimes, there is no need to prove it in this type of crime, such as abandoning alimony (in which the presumption of malice is borrowed from French law) or mere material crimes such as issuing a check or running a red light (although some believe that in this type of crime, intentionality must be proven and only the intention of the result (specific malice) does not need to be proven)
- Unintentional crimes: Since the psychological element in this type of

crime is carelessness, recklessness, and failure to comply with government systems and technical standards (criminal offense), the mere occurrence of a criminal act in this type of crime does not constitute a positive or criminal offense. The country's Supreme Court says about the accident, "Mere proof of an accident is not enough to prove recklessness." Of course, some lawyers have assumed guilt for these people according to the content of the mandatory vehicle insurance law [20].

The fourth speech: Examining the position of evidence in terms of the system governing proceedings (investigative-accusative)

- **Accusative system (English):** Aside from the definition, conditions, and characteristics of this system, in this type of system, the judge is like a spectator in the lawsuit, and the judge only monitors which of the parties presents stronger and more powerful proofs. As a result, there is a close relationship between the issuance of a founding or declaratory judgment with the application and quality of providing evidence. The rule prohibiting the study of evidence in this system requires that the judge be excluded from the citations. On the contrary, the parties to the lawsuit are obliged to provide evidence to assert their rights or submit to injustice. Another point is the quality of evidence presentation and formalities, which is essential; however, it is not so important that it is written.
- **Investigative system:** on the contrary, in investigative systems, unlike the accusatory system, the purpose is to reveal the truth, and the study of evidence has been declared permissible. Take [21]

From the point of view of the value of arguments

In the accusatory system, testimony, confession, and oath are very important. Howev er, in investigative systems, since the system of legal evidence is often desired, confession is significant, and testimony is placed at the next level [22].

The position of evidence in formal and substantive rights and the interaction of different systems

Clash of different systems: Regarding the place of evidence in the laws of the new doctrine, the approach of different systems is usually divided into 3 categories [23-25]:

- Some people believe that the rules of proof are formal or that overcoming formal rules is used to prove the claimed right, and most of the rules have an evidential and formal aspect, not a constructive and substantive aspect. In other words, the laws related to positive evidence are right and obligatory and have a formal aspect. For this reason, countries such as Germany and Switzerland have included proof evidence in procedural law.
- Some others believe that the rules of proof have both substantive and formal aspects. Although they have a positive aspect of rights and obligations, they have a substantive description and create rights and obligations. For this reason, its substantive rules are included in civil law and its formal rules. In the law of procedure, they have raised such as France, Egypt
- Another group has brought the rules of reason according to its particular characteristics in a special law so that the sum of substantive and formal rulings in a particular branch and its dispersion does not harm their coherence, such as British and American law or Binat law in Syria.

Conclusion

Although the Iranian system is based on the second opinion because the arguments of evidence are stated in the substantive laws of the civil law (Articles 1275 onwards of the Civil Code) or Islamic punishment and the

procedural rules of articles 194 onwards, however, some jurists believe that at least in an academic manner A dedicated lesson titled (Evidence to prove the claim) in the academic environment, apart from the procedure, shows the influence of the third method in our country. Some professors rightly acknowledge that establishing the rules of evidence in a law called procedural or civil, or substantive criminal law does not make it twofold. The rules of evidence are considered part of the formal laws, whether they are crystallized in the substantive laws or stipulated in the set of formal laws. There are some effects on this statement: First, in terms of becoming retroactive: because formal rights are generally retroactive, therefore, the rules related to the evidence of proof are also retroactive. That is, the judge can spread the evidence of the later law to the previous law. Therefore, the law that governs the legal evidence is the time of filing a lawsuit, not the time of committing a crime. The second is in terms of the type of interpretation: that is, if the evidence is presented as part of formal rights, its extended interpretation is not prohibited, and the analogy does not negate the rights of the accused because the rules of procedure are for the convenience of the defense of the defendant or the defendant.

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