

Legal Changes in Personal Knowledge of the Judge with Emphasis on Islamic Punishment Law

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Abstract

Evidence in substantiation of claim is one of the very important legal issues of all legal systems of the world such as legal system of Islam. Some evidences in substantiation of claim are agreed by all Muslim jurists and layers for example, evidence but some other evidences in substantiation of claim are disagreed as well. Personal knowledge of the judge as a pivotal subject of this research is one of the instances of this difference of attitude. Of course, most jurists from the beginning to the present despite difference of opinion emphasize that judge can act based on his knowledge which is acquired conventionally. The most important evidence is that Islamic trial and litigation are stopped in case the knowledge of judge is not proved as evidence in substantiation of claim. In Iran criminal law, the objector of judge's knowledge had not been expressed before establishment of Islamic Republic system but personal knowledge of the judge became synonymous with spiritual evidence system from the viewpoint of lawyers and judicial precedent, therefore, concept and system of the said system prevailed over it. After establishment of Islamic Republic of Iran system, personal knowledge of the judge was regarded valid generally and particularly for proving all crimes by enacting prescribed punishment law and its regulations and also law amending some articles of Criminal Procedure Code and Islamic Punishment Law but articles of these laws which have dealt with the judge's knowledge are heterogeneous and sometimes inconsistent with the juristic decisions. For this reason, considering complexity of the crimes, personal knowledge of the judge was recognized reliable in new judge's knowledge law in order for the penal judge to punish the criminals with appropriate means in all crimes and preferred over other evidences and was regarded as a criterion for evaluation of other evidences in substantiation of claim.

Keywords: *Legal changes, personal knowledge of the judge, Islamic Punishment Law.*