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Legal Presumptions and Their Role in Criminal Evidence (A Comparative Study)

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Abstract: This study aims to demonstrate the effectiveness of presumptions and their role in criminal evidence by examining their impact on criminal cases as one of the forms of evidence and the extent to which the criminal judge has the freedom to accept them as indirect evidence. Given that the rules of evidence are of paramount importance in all branches of law, and a right without supporting evidence is null and void, evidence is what supports the right and makes it prevail. Presumptions enjoy this importance as a means of proof stipulated by the legislature and adopted by the judiciary and jurisprudence.

Presumptions play an important, vital, and effective role in the field of criminal evidence, as original, complementary, or reinforcing evidence, no less important than other forms of evidence. This is especially true given that they have become the most widely used method in criminal justice in our current era, given scientific and technological progress in all fields, especially after criminals resorted to the use of the most accurate modern scientific methods to commit their crimes without leaving traces of their perpetrators. Judicial presumption also plays an important and influential role in determining the credibility of other evidence obtained and existing alongside it in a criminal case. Evidence derived through judicial presumption is similar to a check on other evidence, such as witness testimony, defendants' confessions, and other evidence. Since deducing the unknown fact sought to be proven from a concrete fact is consistent with the remaining circumstances and conditions of the case, deriving a presumption requires the judge to derive the presumption from a fact, then provide evidence for it. He then demonstrates the logical causal relationship between the known fact and the other fact sought to be proven. The oversight imposed by the Court of Cassation on the judge's authority to derive or prove judicial presumption is nothing more than legal oversight of rulings and procedures, about their rationale, whether they occurred in error, whether the judge deviated from his discretionary authority in issuing the final judgment in the case before him, or whether his decision was not consistent with reason and sound logic. Therefore, we find it an essential and unavoidable duty to address the subject of presumption, as it is a very important form of evidence, given the development of the criminal's mind and his attempts to escape punishment. Therefore, we have embarked on writing this research to demonstrate the role of presumptions, whether legal or judicial, and their role in criminal evidence, according to a research plan consisting of two sections. In the first section, we will address the concept of presumptions according to two requirements. In the first, we will explain the definition of presumptions, and in the second, the elements of presumptions. The second section is devoted to the types of presumptions, and in the two requirements, we will discuss legal presumptions in the first section and judicial presumptions in the second section. We will address this in turn according to the established plan, as follows.

Keywords: Simple, Conclusive, Likely Occurrence, Inference.

Introduction: As is well known, the role of presumptions is of great importance in matters of criminal evidence, especially presumptions as one of the methods of proof in the Code of Criminal Procedure. Although they are indirect evidence, they are preceded by direct evidence, as they are included in the Code of Criminal Procedure. Since they are included in the text of the law, they must be followed

as a matter of public order, and no agreement may be made to contradict them. Since direct evidence is the foundation of criminal evidence, presumptions also have great importance in criminal evidence and influence the course of criminal proceedings. Legal presumptions are evidence, indirect evidence, as they are the inference of an unproven matter from an established matter, or the deduction of a ruling on a particular fact from other facts by the requirements of reason and logic. In other words, they derive the fact sought to be proven from a fact that necessarily leads to it, and by rational necessity. Therefore, they rank last in the sequence of evidence. Although presumptions are indirect evidence and rank last among the forms of evidence, research into the subject of presumptions and their role in criminal evidence is of great importance.

In many cases, they can be relied upon to guide the judge's thinking in determining the facts of the case before him, particularly when there is no direct evidence in the case before him that can be relied upon to characterize the criminal case. This is particularly true when the presumptions are met and are relevant to the criminal case, to issue a just ruling imposing a penalty on the offender commensurate with the criminal act committed. Since the principle of right and wrong can affect all direct evidence, such as false testimony, false confessions, and the forgery of written evidence, the researcher believes that the conclusiveness of presumptions is no less important than that of other forms of evidence, as long as the matter is left to the discretion of the trial court judge, based on the circumstances of the crime and its evidence. First: The Importance of the Topic

One of the most important topics that has sparked controversy in legislation and the judiciary is the means of criminal evidence. The rules of evidence occupy paramount importance in branches of law, and presumptions are particularly important as a means of criminal evidence. Legal and judicial presumptions are perhaps one of these forms of evidence that have a direct impact on the judicial process in uncovering the crime and identifying the perpetrator.

Second: The Problem of the Research

The problem of the research lies in the extent of the legal impact that presumptions have in terms of their importance in the subject of criminal evidence, which has a direct impact on the judicial process in uncovering the crime and identifying its perpetrator through the conviction achieved by the trial court when imposing the penalty.

Third: The Scientific Research Method

The scientific, analytical, inductive method was adopted, as we examine the principles upon which presumptions are based by extrapolating the opinions of jurists from various legal schools, as well as examining how they can be relied upon as evidence in legislative and judicial applications.

Fourth: Research Plan

The research will be conducted according to the research plan prepared for it, which consists of two sections. In the first section, we will address the concept of presumptions in two sections. In the first section, we will explain the definition of presumptions in two branches. In the second section, we will discuss the elements of presumptions in two sections.

The second section will address the types of presumptions in two sections. In the first section, we will explain legal presumptions in two branches. In the second section, we will devote the discussion to judicial presumptions in the two branches. We will discuss this in turn, as follows:

Section One

The Concept of Qarain

The research requires that we divide this section into three sections. In the first section, we explain the definition of Qarain, the second section explains the elements of Qarain, and the third section is devoted to the types of Qarain, as follows:

Section One

Definition of Qarain

The research requires that we continue to define Qarain linguistically and then technically.

Section One / Definition of Qarain linguistically

Qara'in linguistically is the plural of Qarina, which is the feminine of Qareen. Qareen is (your companion who never leaves you) (1). A man's Qareena is his wife, her companionship with him (2). Qareena is the singular of Qarayen, which is derived from Muqarana, meaning companionship. Qareen is a companion, and (so-and-so is Qareen so-and-so if he never leaves him, and the plural is Qareen). The saying is to compare something to something else and compare it to a qiran, including the qiran of the planets (Eid). And God Almighty said in His Noble Book: {And We appointed for them a companion.} Companions who made what was before them and what was behind them seem attractive to them (4). God Almighty also said, "One of them said, 'Indeed, I had a companion'" (Sermon).

Second Section: Definition of Presumptions in Terminology

First: In Legislation

The Egyptian legislator did not provide a general

definition of presumption in the codification (6), nor did he define it in the Law of Evidence in Civil and Commercial Matters (7), nor the Penal Code (8).

Likewise, the Jordanian legislator did not define presumptions, whether in the Law of Evidence in Civil and Commercial Matters (9) or the Code of Criminal Procedure (10).

The Iraqi legislator also did not take the initiative to define presumptions in civil law, despite the existence of the Majalla al-Ahkam al-Adliyya, which was prevalent before the issuance of the Civil Code, where it defined "an indication that reaches the level of certainty" (11).

Second, In the judiciary

The Egyptian Court of Cassation defined presumption as "the inference of an unknown fact from a known, established fact" (12), and the Jordanian Court of Cassation defined presumption as "the inference of a fact that must be proven from another fact upon which evidence is based" (14). We did not find a definition of presumptions in the Iraqi judiciary, which appears from the judicial definitions to be in agreement on the existence of a known fact from which the unknown fact can be deduced and proven. Regarding legal presumption, Article 98 of the Iraqi Evidence Law (13) defines legal presumption as "the legislator's inference of an unproven matter from an established matter," which renders the person in whose favor it is established unnecessary to provide any other evidence.

Article 213 of the Iraqi Code of Criminal Procedure (15) also stipulates that "the court shall rule on the case based on its conviction based on the evidence presented at any stage of the investigation or trial, which includes confessions, witness testimony, investigation reports, other official records and statements, expert and technical reports, and other legally established presumptions and evidence."

Third: In Jurisprudence

Presumptions, according to civil law commentators, are (what the judge or legislator extracts from a known matter to indicate an unknown matter) (17), and others have defined them as (the results that the law or judge extracts from a known fact to know an unknown fact) (18). Jurists have offered several definitions of presumption, but there is clear agreement among them on the same logic or concept, as it carries the same essence, which is based on the idea of deducing the unknown from the known. Some have defined it as "the necessary connection between two events, the establishment of the first being evidence of the occurrence of the second, or a connection between an event and its outcome, the establishment of the event being evidence of the occurrence of its outcomes" (19). Others have defined it as "the indication that guides us to the hidden, unknown matter, without which it would not be possible to reach it" (20). Still others see it as "extracting the unknown from the known, through rational and logical necessity, based on general experiences and the normal course of events" (21).

Second Section

Elements of Presumption

From the previous definitions of presumption, it becomes clear that it is based on two elements: the first is the element of probability, which expresses the idea of "the most likely occurrence"; the second is "the decision." We will explain this in two sections, sequentially, as follows:

Section One: The Element of Probability. What is meant by the most likely occurrence is the high probability that indicates certain results, which are a reality based on existing facts, and which is what is expressed by the idea of the most likely occurrence in the course of events (22). The presumption is an assumption based on the most prevalent or likely occurrence according to the normal course of events. If, for example, a murder occurred in a certain house, and the perpetrator was not discovered, but people saw a man leaving the house above with a bloody knife in his hand. He was moving quickly and showed signs of fear, then people entered the house and found the victim, but did not find anyone besides him. The presumption would be most likely that the one who left the house was the murderer, because the normal course of the incident leads us to this conclusion that leads us to this result, even though this result is not conclusive, meaning that we cannot confirm with certainty that the one who left the house is the murderer. However, the presumption obtained in these matters was conclusive in the sense of being established, so the knowledge obtained from it is conclusive in this regard (23). Conclusive knowledge is used in two meanings: the first is that which cuts off the possibility originally and is called knowledge of certainty, and the second is that which cuts off the possibility arising from evidence and is called reassurance. The presumption indicates knowledge of reassurance, which is suspicion. The most likely: As long as arriving at conclusive evidence that negates every possibility and suspicion is impossible, then it is necessary to take definitive evidence and arguments. If that is impossible and we do not arrive at certain knowledge through it, then in the knowledge of reassurance or what is close to it of conjecture, there is what is sufficient to take it as evidence (24). (25) Therefore, the legislator uses probability to establish an

objective rule or legal presumption that he arrives at from the idea of most cases. Likewise, the judge arrives at it from what is likely to occur. However, the presumption remains merely a possibility that is likely to occur, so there is no alternative (from a scientific standpoint to be satisfied with the preponderant presumptive arguments as long as the definitive arguments are unattainable. In addition to that, the nature of legal facts, as well as the nature of the means of proving them, and indeed the nature of human beings in general, necessitates that judicial facts be relative facts) (26), and not absolute like the factual truth, since the judge is bound to prove the disputed fact. (27) This judicial fact may be in agreement with the factual truth, but at other times it is not in agreement with it, so the judicial fact is thus merely a likely possibility and not a definitive truth. In practice, it is necessary to be satisfied with the hypothetical arguments as long as they are likely, because the requirement of definitive arguments makes the door of proof closed to the judge, as he cannot reach the absolute truth in most cases, and for this reason a difference may occur between the judicial fact and the factual truth, because the proof of the right is Probable proof, not certain proof. If reaching the level of certainty is sometimes impossible in a dispute, then the judge must not stop at the mere probability of occurrence, but rather must do his utmost to reach the level of certainty if he can do so as much as possible, to make the judicial truth match the actual truth (29), which is the hope that he seeks to achieve. The judicial truth is not absolute, but rather relative, and is based on the most likely occurrence. Therefore, the idea of the most likely occurrence is considered a basic element in the evidence (30). However, there are criticisms of the idea of the most likely occurrence of presumptions. It isn't easy to draw a clear line between what is possible and likely, and what is certain and definite. Therefore, the distinction between these matters remains largely personal.

Furthermore, basing presumptions on the most likely occurrence leads to the elimination of differences between presumptions and other methods of proof, particularly testimony and writing. The idea of the most likely occurrence also appears in direct proof. Testimony, when attributed to it, does not lead to absolute truth. A witness may give false testimony, and evidence may be forged. Therefore, the idea of the most likely occurrence alone cannot constitute the basic element of presumptions. Rather, it must be accompanied by another element that can fill the gap above (31). The second section / The decision

The idea of the most likely occurrence must lead to the emergence of many possibilities that outweigh others in terms of the likelihood of their occurrence in most cases. Stopping at them is of no use. Rather, it is necessary to go beyond the probabilities that have been favored to the stage of reporting these probabilities and hesitating between the various possible hypotheses. The originator of the presumption must end the dispute and choose to adopt one of the probabilities and hypotheses. This process of choosing represents the second element of presumptions, which is the decision, which means choosing between the available alternatives, the most likely probabilities, and the possible hypotheses. Whoever wants to adopt one of these hypotheses must decide to choose one of them from the ones he prefers (32). Although the decision ends the dispute, it is in reality a probable matter. It is a process of will and does not resemble probability in any way. Saying that a certain event is probable is a statement that includes a judgment, and therefore, it is a process of mental perception (33). For example, evidence or signs in judicial presumption estimate its material element, but it does not It has no effect on proof except when the judge intervenes to interpret these indications and signs and chooses from them one possibility that is the most likely and predominant over the rest of the possibilities, and thus the element of the decision is highlighted, as it allows going beyond the idea of what is likely to happen, and thus the element of the decision leads to confirming the probable characteristic of what happened, and from here the importance of the idea of the presumption appears (34), and thus the idea of what is likely to happen alone is not sufficient for the presumption to arise, rather the presence of the decision is necessary (35), as these two elements are closely linked to each other, as the idea of “what is likely to happen” reveals to some extent the decision, and estimates one of the motives for this on the one hand, and on the other hand, when the creator of the presumption goes beyond the idea of what is likely to happen, he uses it only for incidents (36), and thus the presumption is based on two elements, which are the idea of what is likely to happen and the decision, as the legislator uses it to establish an objective rule or legal presumption, and the judge uses it to establish a judicial presumption and Judicial rulings establish reasoned and justified judicial facts, stating that they are absolute truths. However, these facts are relative and subject to change (37).

Section Two

Types of Presumption

Evidence by presumption generally does not apply to the fact itself that is the source of the right, but rather to another fact. If proven, the fact sought to be proven can be deduced from it. The judge or the legislator may

undertake this deduction process. Presumptions are of two types: judicial presumptions and legal presumptions, each with its nature, elements, and characteristics that distinguish it from the other type. Therefore, this section consists of two sections. In the first, we will explain legal presumptions, and in the second, judicial presumptions. We will explain this as follows:

Section One

Legal Presumptions

The first type

First: Definition of the legal presumption

Most criminal legislation does not include a definition of the legal presumption (37), but civil legislation has stipulated this. The Iraqi legislator stipulated in the Evidence Law that the legal presumption is "the Iraqi legislator's deduction of an unproven matter from a proven matter" (38).

Likewise, the Egyptian legislator stipulated in the Evidence Law in Civil and Commercial Matters that "the legal presumption is sufficient for the person in whose favor it is established, rather than any other method of proof, provided that this presumption may be rebutted by counter-evidence unless there is a text that stipulates otherwise" (39). The Jordanian legislator has mentioned this same text in the Evidence Law (40). The definition provided by the Egyptian legislator and adopted by the Jordanian legislator is a definition of the legal presumption in terms of its result and purpose. As for the Iraqi legislator, he defined it in terms of its nature. However, these definitions, or definitions, if the expression is correct, are that the legal presumption is an act undertaken by the legislator and its purpose is to relieve the plaintiff of proving the fact claimed and to be satisfied with proving the alternative fact. It transfers the proof from the original fact to another fact close to it or connected to it. If it is proven, the legislator exempts the plaintiff from proving the second fact that the legislator considers proven by the law. However, commentators on civil law and criminal law have differed in their definitions. In short, the legal presumption is (the legislator's deduction of an unknown fact from a proven fact due to a relationship between them that leads to it by necessity and by rational necessity). Second: The Element of Legal Presumption

The element of legal presumption is the text of the law, and the judge has no role in it. The entire task lies with the legislator, who chooses to describe the fact. He is the one who draws conclusions and inferences until he arrives at the unknown fact, based on its connection to the facts. As long as the fact chosen by the legislator is established, the other fact is established by its context. Therefore, the element of legal presumption is the text of the law and nothing else. A legal presumption cannot exist without a legal text (41).

This means that the judge cannot exercise discretion based on similarity or priority and derive legal presumptions not provided for by the legislator. Rather, a specific text or set of texts is required for each presumption. Therefore, it is not possible to compare a legal presumption with another presumption without a text, even if it is by analogy due to the unity of cause or reason, or even more so (42).

Hence, the legal presumption, even if it is based on the idea of the most likely occurrence, does not entail any danger. This is because the legislator formulates the legal presumption in a general, abstract form that applies to everyone without discrimination between individuals. It also applies to all similar incidents without discrimination between one incident and another, even if in some cases it does not conform to the truth. The legislator establishes it in advance and applies it before the specific incident to which it is applied occurs. He does not consider each case individually, as is the case with the judicial presumption. It is very conceivable that cases may occur to which the presumption applies despite their discrepancy with the truth of the incident, or that cases of varying fewness or abundance may occur in which the legal presumption is not valid when applied. Therefore, some jurists believe that the legislator should limit himself to establishing a few presumptions and not expand upon them, leaving the task of deriving the presumption to the judge, according to the circumstances and facts of each case, and not resorting to legal presumptions except when necessary (43). If the presumption is the text of the law, then the text must include both the known and unknown incidents (44).

Section Two

First: Types of Legal Presumption

The principle of legal presumption must be based on proof of the contrary. Accordingly, this means freedom of defense, meaning that evidence can be refuted by evidence, as it is based on the idea of the most likely and most likely occurrence, and is established in a general, abstract form. This allows for proof of the opposite in each case. On this basis, legal presumption accepts proof of the opposite (46). However, the legislator, for reasons he deems necessary and requires consideration, decides not to refute the presumption with contrary evidence and stipulates this. In light of this basis, legal presumptions are divided into simple presumptions and conclusive presumptions, which we

will explain as follows:

A - Simple Legal Presumptions

This type of presumption accepts proof of the opposite, as the principle of legal presumptions is that they can be refuted with contrary evidence, as the legislator bases his deduction of legal presumptions on the most common situations, meaning that there is a possibility that the presumption does not match each case. Accordingly, the Iraqi legislator has allowed the party against whom the legal presumption is relied upon to prove the opposite from While allowing him the opportunity, he must establish evidence that the presumption does not match the truth and reality (47). The legal presumption may be simple and not conclusive, so it is permissible to prove the opposite, as in the case of a witness's failure to appear before the court despite being notified to appear at a specific time, as evidence of his refusal to testify unless he provides an acceptable excuse for his failure to appear (48). B./ Conclusive Legal Presumptions:

The principle of legal presumptions is that they are not conclusive, so proof to the contrary is accepted, based on the principle of refuting evidence with evidence. However, the legislator may, for an important reason, deem it inadmissible to refute the validity of some presumptions established by it due to their connection to public order (49). This constitutes an exceptional exemption from the burden of proof required by general rules, and the judge is required to accept them whenever the conditions stipulated by law are met, whether they conform to the facts or are inconsistent with them (50). However, this does not mean that they are never refuted, because legal presumptions, regardless of the legislator's intention to definitively and decisively assert them, cannot be refuted by admission or oath, as long as they are among the rules of evidence (51).

The Iraqi legislator explicitly stipulated this in Article 101 of the Evidence Law, which states, "Admission and oath may not be accepted to refute conclusive legal presumptions that do not accept proof to the contrary in matters not related to public order." This ruling also applies in Jordanian law without an explicit text on it. The reason is that the jurisprudence is unanimous on the permissibility of refuting a conclusive legal presumption, by oath and admission, as they are two methods of proof, and that resorting to proof to the contrary is permissible, and that the legal presumption by admission and oath does not apply to cases related to public order, as it is public property and not the property of the opponent and was legislated in the public interest to maintain public order (52). The legal presumptions established by penal laws are all considered to be part of public order, and as a result, it is not permissible to prove the opposite. An example of this is what is stated in Article 331 of the Jordanian Code of Criminal Procedure, which relates to the presumption of the validity of judgments (53). Second: Characteristics of the legal presumption

Legal presumptions are those provided by the legislator in explicit texts in the laws, which derive their evidential force from the law exclusively, not from the judge. This is because the judge may not assess them in a way that ranges between strength and weakness, according to what he sees of the circumstances of the case. He also does not have the right to refrain from accepting them even if it becomes clear to him that they do not agree with the truth, but they are considered in the eyes of the law to be the title of the truth (54). The legal presumption does not exempt from proof, but rather exempts the one who bears the burden of proof, but he must prove the occurrence of the fact upon which the presumption is based (55). It shifts the subject of proof from the fact to be proven to another fact connected to it, determined by the legislator. The latter fact is the basis of the legal presumption, the existence of which the law requires for the application of the ruling of this presumption (56). The legal presumption is in special legal texts that state in a general form the conditions for its application, that is, it is in the form of an abstract general rule. Therefore, the availability of these conditions is a legal matter, and in it the decisions of the judge of the subject court are subject to the supervision of the Court of Cassation (57). Therefore, the legal presumption constitutes a restriction on the freedom of the criminal judge in the field of his conviction of the evidence of proof, as the role of the judge is limited to verifying the occurrence of the fact to which the legal presumption is linked. He applies it to the case before him after adhering to the precision of the meaning specified for it by the legislator, and without having discretionary authority in it (58). (59) Since the legal presumption is based on the idea of the most likely occurrence or possibility, it entails danger, as the legislator places the legal presumption in a general, abstract form, taking into account the most likely, even if some cases do not agree with the truth. The legislator does not look at each case individually, as is the case with judicial presumptions. Therefore, the judiciary must take caution and care in ignoring them. A trend of jurisprudence may see that the legislator should reduce the report of these presumptions, leaving the judge the task of deducing the presumption according to the circumstances and facts of each case individually and its facts, and not resorting to legal presumptions unless there is an urgent need for such

recourse. (60) The researcher supports this trend, as it gives a greater opportunity to uncover the truth and reduces the percentage of error in the factual and actual correspondence.

First: Definition of judicial presumption

Criminal legislation does not provide a definition for judicial presumptions. However, in civil legislation, some have merely referred to them, such as French legislation, which merely referred to them in Article (1353) of the French Civil Code. The Egyptian legislator also referred to them in Article (100) of the Evidence Law in Civil and Commercial Matters. The Iraqi legislator defined them in Article (102/First) of the Evidence Law, and the Jordanian legislator defined them in Article (23) of the Jordanian Evidence Law. As for the commentators of criminal law, some of them defined it as “every inference of an unknown fact from a known fact, such that the inference is necessary by virtue of rational necessity, and there is nothing in it that he considers conclusive, but rather the matter is left to the judge’s discretion” (62). Others defined it as one that is left to the judge to choose from it what he wishes and infer what matches his mind and conscience (63). Still others said that it is “the judge’s inference from a fact upon which evidence has been established to prove another fact with a logical connection to it” (64). Judicial presumption is “every inference of an unknown fact from a known fact, such that the inference is necessary, and by virtue of rational and logical necessity. The matter of assessing judicial presumption is left to the judge, so that he infers from it what matches his mind and eases his conscience, for he is the one who assesses the circumstances and the degree of their influence on the case” (65). The Iraqi Court of Cassation also ruled that "a judgment based on personal conviction devoid of any established evidence and certainty devoid of doubt may be relied upon to issue a sentence" (66). This is considered the conclusion that the judge must draw or infer from a specific incident (67). The judge draws conclusions from these evidences, based on the established facts before him, by way of deduction. The results are arranged according to the premises, based on the causal connection established by reason and logic. They are derived from the rule of rational necessity and derive their strength from the principle of the judge's freedom to form his own convictions (68).

Second: The Elements of Judicial Presumptions

The elements of legal presumptions are two: the material element and the moral element. We will examine these two elements as follows:

A. The material element

Is a fact or facts that the judge selects from among the facts presented to him in the case he is considering. These facts or facts are called evidence or indications (69).

If a judge has formed an opinion about a fact, he must assume there may be another opinion, so that he can arrive at a conclusion that is not open to interpretation and that is fully consistent with all the premises. This agreement must be genuine (70). There is no specific or definite rule or standard for the court's selection of the fact that serves as the basis for deduction. It is only bound by the fact that it is established with certainty, that its deduction is permissible, sufficiently reasoned, and leads to the conclusion reached. Judicial evidence derives its strength from the large number of credible indications upon which it is based. Therefore, these indications must be carefully examined, their meaning determined, and their correct interpretation given. Given this, they must possess certain characteristics, the most important of which are the following:

1. That these indications be precisely defined:

This means that the evidence must be precisely defined and clear, to facilitate the process of deduction (71). 2. That this evidence be established with absolute certainty.

That is, the evidence must be established with absolute certainty, without being open to interpretation or debate (72).

3. The connection between the known evidence and the unknown fact:

There must be a causal connection between the evidence and the known, unknown fact to be proven, in accordance with the rules of logical deduction, so that the unknown fact can be deduced from the known evidence (73).

4. That this evidence be consistent and consistent:

That is, the evidence must be consistent and consistent with each other, not contradictory, and agree on the same result (74).

B- The Moral Element

The moral element requires us to discuss the terms upon which this element is based, namely logic and deduction, and to discuss the concept of the most likely occurrence and its sufficiency in establishing presumption in criminal matters, as follows:

1- Logic

Logic is reasoning, and reasoning is usually based on truth or falsehood. It does not mean the mental process by which a person arrives at a proposition called the conclusion based on another proposition, or more, called premises or evidence, due to the relationship between them. The mind has a specific

method of linking meanings together, forming a chain of connected links from whatever comes to mind, whether in thought, conscience, or will. The extract of the presumption begins with an analysis of the actual circumstances, and makes an assumption inspired by the natural course of things, and he also believes that events cannot occur in a manner different from the assumptions made with regard to a certain type of events, and then links these assumptions to what logic requires, and in the correct deduction the premises are conclusive evidence of the truth of the result, such that his conviction is based on a logical mental process, based on induction and deduction and ends at its conclusion with a certain result, so that The trial judge is called upon to avoid extremism in in-depth analysis, which is overloaded with profound elements, distracting him from matters of no value from a legal perspective (75).

In this regard, the Jordanian Court of Cassation ruled that "judicial presumption is considered indirect evidence drawn by the judge from a known fact to prove the fact he seeks to prove. This deduction must be consistent with logic and the facts of the case. Otherwise, it is considered evidence and indications that do not rise to the level of evidence intended in the Code of Criminal Procedure" (76).

2- Deduction

Requires a person to use deduction to indirectly ascertain the greatest possible amount of surrounding facts, using mental discourse through the methods of deduction, induction, and reasoning (77). There are two types:

First: Direct deduction

This refers to deducing one issue from another without resorting to any intermediary, through which we reach a conclusion based on a specific premise or premises.

Second, indirect reasoning. This reasoning takes two forms:

A. Deduction:

This is the reasoning in which the mind moves from general, accepted propositions to other particular propositions. It always represents the source of rational truth. When we move from the general known to the specific unknown, we then deduce.

B. Induction:

This is the reasoning in which the mind moves from particular propositions to general propositions, i.e., studying or examining a part of an aspect of a fact or parts of a known fact, then moving on to all the facts in a general manner. The method of induction reveals to us an unknown, general matter from a known, particular matter. Deduction is a mental and intellectual process undertaken by a judge in light of the facts at issue in the dispute before him, and the resulting judicial results based on the established and selected facts in the subject of the dispute (78). Therefore, the judicial presumption must have a definite, not a hypothetical, significance, as the unknown must be extracted and arrived at by deduction from the known, with extreme precision and vigilant awareness of its significance (79).

Third: The Idea of What Is Most Likely to Occur

Deduction in judicial presumption is based on the idea of what is most likely to occur or what is most common among people, which is what gives it the advantage of being used as evidence in various legal fields. The judge's choice of established fact should be open to possibilities. Consequently, the judge's inference of presumption is based on his choice of the most likely or most likely probability. Here, a very important issue arises, revolving around the sufficiency of this most likely probability to be the basis for a conviction, given that it is an established and accepted principle that criminal judgments must be based on certainty and conviction, given the seriousness of a conviction and the personal and financial consequences that befall the accused (80). Civil law commentators are satisfied with establishing a judicial presumption by inferring the unknown fact from the known fact, based on the idea of the most likely probability. This differs from criminal evidence, where the evidence of the judicial presumption must elevate this strong probability to the level of confirmed certainty that leaves no room for doubt. For example, a specific theft of movable property occurred, with clearly defined and precise descriptions beyond any reasonable doubt. The search procedures resulted in the seizure of these stolen items in the possession of a specific person. In this case, the seizure of these stolen items in the possession of this person is a known fact. Is this specific and known fact sufficient, based on this preponderant assumption, to establish a judicial presumption that this possessor is the thief? The assumption here is that this possessor denied the theft and was also unable to prove a legitimate or illegitimate source. In this case, it is most likely that the possessor of these items is the perpetrator, but this is not to the degree of absolute certainty that he committed it. Rather, it is a strong possibility that is subject to the preponderant ruling. The reason for this is that what often occurs does not always occur. The notion of preponderance does not negate the rare occurrence that constitutes a suspicion associated with this strong possibility. In this case, the possessor of these items may be someone other than the thief, such as the purchaser.

For example, or if the depositor was in good faith or

bad faith, if the possessor of these items can prove otherwise, perhaps he purchased them from someone else and directed the court to that person, he is presumed innocent. Therefore, the evidence of judicial presumption must rise to the level of absolute certainty, supported by other facts, such as traces or fingerprints belonging to him found at the crime scene. If this is not possible, we are faced with a presumption by way of inference—or a supplementary or reinforcing presumption that is not sufficient on its own as proof, unlike the original presumption, which is sufficient on its own as proof, just like any other piece of evidence (81).

The distinction between judicial presumption and legal presumption

I will explain the similarities and differences between legal presumption and judicial presumption as follows:

First: Similarities

1- Judicial and legal presumptions are based on the idea of the most likely occurrence (82).

2- The two presumptions are considered transitive evidence, as what is proven by them is considered proven for all, not limited to the parties to the lawsuit (83).

3- The two presumptions are similar from a fortified logical standpoint, as each involves concluding a known fact to determine an unknown fact (84).

4- The two presumptions are similar in terms of qualification and classification. In terms of qualification, most legal presumptions are originally judicial presumptions. After repeated efforts to derive a specific presumption from a specific fact and the jurists' consistent application of it, the legislator generalized and regulated them by stipulating them (85).

In terms of classification, both presumptions are indirect evidence, as they are based on shifting the subject of proof from the disputed fact to another fact close to it, or closely related to it, that is easy to prove. Such that if proven, its proof is considered evidence of the disputed fact. This is the concept of the transformation of proof (86).

Second: The Differences

1- The judicial presumption is at the core of the judge's work. He is the one who selects the fact that constitutes the material element of the judicial presumption, and in turn, carries out the process of deduction. The legal presumption, however, is the exclusive creation of the legislator. He is the one who determines the fact that constitutes the material element of the legal presumption, and he is the one who carries out the process of deduction. The judge is obligated to apply the ruling of this presumption to the dispute before him when the conditions for its application are met (87).

2- The judicial presumption is not conclusive; it is always and in all circumstances subject to proof to the contrary. No matter how strong it is, it is not without possibility. However, the legal presumption may be proven to the contrary in other cases (88).

3- The judicial presumption is considered evidence of proof, while the legal presumption is considered an exemption from proof. Modern jurisprudence, however, believes that the concept of the legal presumption.

Conclusion

After completing this study, we reached a set of conclusions and recommendations that we deem necessary for its completion.

First:

CONCLUSIONS

1. This study concluded that deducing the intended fact from the known fact is consistent with the remaining circumstances and conditions of the criminal case. Deriving a presumption requires the judge to establish the fact from which the presumption is derived fully, and then demonstrate the causal and logical relationship between the known fact and the other fact to be proven.

2. The means of proof in criminal law are not limited to a specific number that must be limited and not exceeded. Rather, they are means of proof to demonstrate justice, and everything that leads to demonstrating justice is a means of proof.

3. This study also concluded that there are similarities and differences between judicial presumption in criminal matters and other presumptions, such as legal presumption and civil judicial presumption.

4. The study also demonstrated that judicial presumptions are of great importance in the field of criminal evidence, both from a scientific perspective as a result of scientific progress, and from a practical perspective to strengthen other evidence in criminal cases, such as witness testimony, confessions, and other forms of evidence.

Second:

Recommendations

1. We believe criminal judges must rely solely on presumptions, as they are considered one of the primary forms of evidence. At the same time, they contribute to strengthening other forms of evidence. Presumptions are the standard by which judges balance different types of evidence and assess their

veracity or falsity. Assessing the value of presumptions is an objective matter that falls within the discretion of the trial judge, based on the principle of moral conviction.

2. We recommend that criminal judges exercise extreme caution in their inference and deduction, and use a logical and sound approach to arrive at a just and sound decision in the criminal case before them. We recommend that the results of the evidence be consistent with each other. To achieve this consistency, each piece of evidence must be evaluated individually to ensure it possesses the quality of certainty. Each piece of evidence must logically intersect with the other pieces of evidence within the fabric of the unknown matter, and there must be no possibility of the evidence being separated from the matter to be proven. We recommend that judicial evidence not be considered the least valuable piece of evidence, but rather that this be left to the trial judge, who has the authority to evaluate and assess the evidence obtained according to the circumstances of each criminal case.

REFERENCES

Abu Mansur Muhammad ibn Ahmad al-Azhari, Tahdhib al-Lugha, Egyptian House for Authorship and Translation, 1964, vol. 7, p. 93.

Ibn Manzur, Muhammad ibn Makram, Lisan al-Arab, 1st ed., vol. 13, Dar Sadir, Beirut, 1999, p. 339.

Ibn Manzur, Muhammad ibn Makram, previous source, p. 361.

Surat Fussilat, verse 25.

Surat al-Saffat, verse 51.

Dr. Abd al-Razzaq al-Sanhuri, A Concise Explanation of the New Civil Law, Egyptian Universities Publishing House, vol. 2, Cairo, 1952, p. 372.

Dr. Tawfiq Hasan Farag, Rules of Evidence in Civil and Commercial Matters, University Culture Foundation, Alexandria, 1982, p. 71.

Articles 291 and 302 of the Egyptian Code of Criminal Procedure, No. 50 of 1950.

Articles 40 and 43 of the Jordanian Law of Clarification in Civil and Commercial Matters, No. 30 of 1952.

Articles 147 and 496 of the Jordanian Code of Criminal Procedure No. 9 of 1961.

Article 174 of the Iraqi Journal of Judicial Rulings.

Decision No. 496 of April 27, 1961, Collection of Legal Rules Decided by the Egyptian Court of Cassation, in Fifty Years of Suspicion, Vol. 1, Year 12, p. 399.

Decision No. 143/92, Jordanian Criminal Cassation, Journal of the Jordanian Bar Association: 1993, p. 384.

Iraqi Evidence Law, No. 107 of 1977, p. 140.

Iraqi Code of Criminal Procedure No. 32 of 1971, p. 31.

Dr. Abdel Hamid Al-Shawarbi, Legal and Judicial Presumptions in Civil, Commercial, and Personal Status Matters, Dar Al-Fikr Al-Jami'i, Alexandria, 1999, p. 17.

Dia Sheet Khattab, The Art of the Judiciary, Institute of Arab Research and Studies, Baghdad, 1984, p. 117.

Dr. Abdul Razzaq Ahmed Al-Sanhouri, A Brief Explanation of the New Civil Law, op. cit., p. 881.

Dia Sheet Khattab, The Art of the Judiciary, op. cit., p. 119.

Qais Abdul Sattar Othman, Legal Presumptions and Their Role in Evidence, op. cit., p. 30.

Qais Abdul Sattar Othman, Legal Presumptions and Their Role in Evidence, op. cit., p. 33.

Hussein Al-Moumen, Lawyer, Theory of Evidence, op. cit., p. 11.

Qais Abdul Sattar Othman, Judicial Presumptions and Their Role in Evidence, op. cit., p. 34.

Qais Abdul Sattar Othman, Judicial Presumptions and Their Role in Proof, previous source, p. 34.

Hussein Al-Moumen, Lawyer, Theory of Evidence, previous source, p. 36.

Hussein Al-Moumen, Lawyer, Theory of Evidence, previous source, p. 11.

Hussein Al-Moumen, Lawyer, Theory of Evidence, previous source, p. 11.

Articles (216-221) of the Iraqi Code of Criminal Procedure, Articles (291-302) of the Egyptian Code of Criminal Procedure, and Articles (147-62) of the Jordanian Code of Criminal Procedure.

Article 98 (first) of the Iraqi Evidence Law No. 107 of 1979.

Article 99 of the Egyptian Code of Evidence in Civil and Commercial Matters.

Article 40 of the Jordanian Evidence Law.

Dr. Abdul Hamid Al-Shawarbi, Legal and Judicial Presumptions in Civil, Criminal, and Personal Status Matters, previous source, p. 63.

Dr. Abdel Razzaq Ahmed Al-Sanhouri, A Concise Explanation of the New Civil Law, previous source 600.

Dr. Mahmoud Abdel Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Comparative Legislation, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 298.

Dr. Abdel Moneim Farag, Evidence in Civil Matters, 2nd ed., Al-Halabi Library and Press, 1955, p. 293.

Dr. Mahmoud Abdel Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and

Comparative Legislation, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 267.

Article 40 of the Jordanian Evidence Law.

Dr. George Hazboun Al-Sarraf, Introduction to the Science of Law, Dar Al-Thaqafa for Publishing and Distribution, Amman, 1997, p. 237.

Text of Article 174 of the Iraqi Code of Criminal Procedure No. 23 of 1971 (as amended).

Dr. Muhammad Zaki Abu Amer, Evidence in Criminal Matters, Al-Faniya for Printing and Publishing, Amman, 1997, p. 21.

Dr. Mahmoud Abdel Aziz Halifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Comparative Legislation, previous source, p. 280.

Dr. Abdel Hamid Al-Shawarbi, Legal and Judicial Presumptions in Civil, Criminal, and Personal Status Matters, op. cit., p. 70.

Dr. Ahmed Nashat, The Evidence Treatise, Vol. 2, 1986, p. 415.

Article 331 states: "Unless otherwise provided, a criminal case shall be dismissed with respect to the person against whom it is brought and the facts based thereon by the issuance of a judgment of acquittal, non-liability, dismissal, conviction, or by the issuance of a judgment on the subject of the criminal case. It may not be reconsidered except by appealing the judgment through the methods prescribed by law, unless otherwise provided."

Ronaldo del Carmen, Op. cit., p. 135

Hussein Al-Moumen, Lawyer, Theory of Evidence, op. cit., p. 106.

Dr. Adam Wahib Al-Nadawi, The Role of the Civil Judge in Evidence, op. cit., p. 218.

Ronaldo del Carmen op. cit. p. 135

Dr. Suleiman Marqus, Principles of Evidence in Civil Matters, Al-Asriya Press, Cairo, 1952, p. 110.

Jundi Abdul Malik, The Criminal Encyclopedia, Vol. 1, Dar Ihya' Al-Turath Al-Arabi, Beirut, 1976, p. 209.

Dr. Subhi Muhammad Najm, A Concise Guide to the Principles of Jordanian Criminal Trials, Dar Al-Thaqafa Library, Amman, 1991, p. 2.

Dr. Raouf Ubaid, Principles of Criminal Procedure in Egyptian Law, 14th ed., Cairo, 1982, p. 613.

Ali Al-Samak, The Criminal Encyclopedia in Iraqi Criminal Justice, 2nd ed., Vol. 1, Al-Jahiz Press, Baghdad, 1990, p. 175.

Saeed Hasab Allah Abdullah, Explanation of the Code of Criminal Procedure, Al-Ani Press, Baghdad, 1990, p. 396.

Jordanian Court of Cassation, in its criminal capacity, Decision No. 1406/2003 (five-member panel), dated February 9, 2004, Adalah Center Publications.

Jordanian Court of Cassation, in its criminal capacity, Decision No. 636/2006, dated July 25, 2006, Adalah Center Publications, considers circumstantial evidence to be the inference of an unknown fact from a known fact, and it is an admissible form of evidence in criminal matters.

Iraqi Court of Cassation Decision No. (81/28), General Panel/2000, dated July 5, 2000, Al-Qadaa Magazine, Issue 1, p. 131.

Dr. Raouf Obeid, Principles of Criminal Procedure in Egyptian Law, 2nd ed., op. cit., p. 727.

Dr. Abdul-Wahhab Homoud, Principles of Criminal Trials, Vol. 3, University Press, Damascus, 1957, p. 104.

Dr. Ahmed Fathi Sorour, Principles of Criminal Procedure Law, Dar Al-Nahda Al-Araba, Cairo, 1969, p. 33.

Dr. Suleiman Marqus, Principles of Evidence in Civil Matters, op. cit., p. 76.

Hussein Al-Moumen, Lawyer, Theory of Evidence, op. cit., p. 29.

Dr. Muhammad Al-Fadhel, Concise Principles of Criminal Trials, op. cit., Al-Ihsan Press, Cairo, 1977, p. 438.

Dr. Mahmoud Abdul-Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Comparative Legislation, op. cit., p. 151.

Dr. Mamoun Muhammad Salama, Criminal Procedures in Egyptian Legislation, Dar Al-Fikr Al-Arabi, Cairo, 1979, p. 214.

Dr. Mahmoud Naguib Hosni, Explanation of the Criminal Procedure Code, previous source, p. 498.

Ahmed Fathi Sorour, Cassation in Criminal Matters, Dar Al Nahda Al Arabiya, Cairo, 188, p. 160.

Muhammad Zaki Abu Amer, The Flaw of Error in Criminal Rulings, Dar Al-Matbouat Al-Jami'a, Alexandria, 1985, p. 265.

Jordanian Court of Cassation Decision No. 651/2002, dated June 27, 2002, Adalah Center Publications.

Dr. Muhammad Ali Al-Kik, Causes of Judicial Rulings, Dar Al Nahda Al Arabiya, Cairo, 1982, p. 292.

Dr. Mahmoud Abdel Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Comparative Legislation, previous source, p. 189.

Fadel Zidan Muhammad, The Authority of the Criminal Judge to Determine Evidence: A Comparative Study, PhD Thesis, University of Baghdad, 1987, pp. 282-289.

Dr. Hassan Sadiq Al-Mardawi, Principles of Criminal Procedure - Mansha'at Al-Maaref, Alexandria, 1972, p. 747.

Dr. Mahmoud Abdel Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Contemporary Legislation, previous source, p. 209.

Dr. Mahmoud Abdel Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Contemporary Legislation, previous source, p. 220.

Dr. Mahmoud Abdel Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Contemporary Legislation, previous source, p. 220.

Hussein Al-Moumen, Lawyer, Theory of Evidence, previous source, p. 113.

Dr. Abdel Razak Al-Sanhouri, A Brief Explanation of the New Civil Law, previous source, p. 600.

Dr. Adam Wahib Al-Nadawi, The Role of the Civil Judge in Proving Evidence, previous source, p. 426.

Hilal Abdel-Ilah Ahmed, The General Theory of Evidence in Criminal Principles, PhD dissertation, no university or place of publication mentioned, 1987, p. 949.

Dr. Mahmoud Abdel-Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Contemporary Legislation, previous source, p. 249.

The Holy Quran

Dictionaries

Abu Mansur Muhammad ibn Ahmad al-Azhari, Tahdhib al-Lugha, Egyptian House for Authorship and Translation, 1964, vol. 7, p. 93.

Ibn Manzur, Muhammad ibn Makram, Lisan al-Arab, 1st ed., vol. 13, Dar Sadir, Beirut, 1999, p. 339.

Legal Books

Dr. Abd al-Razzaq al-Sanhuri, Al-Wajeez fi Sharh al-Qanun al-Jadid, Egyptian Universities Publishing House, vol. 2, Cairo, 1952, p. 372.

Dr. Tawfiq Hasan Farag, Rules of Evidence in Civil and Commercial Matters, University Culture Foundation, Alexandria, 1982, p. 71.

Dr. Abd al-Hamid al-Shawarbi, Legal and Judicial Presumptions in Civil, Commercial, and Personal Status Matters, Dar al-Fikr al-Jami'i, Alexandria, 1999, p. 17.

Dr. Salah al-Din al-Nahi, Principles of Obligations, Salman al-Azami Press, Baghdad, 1968, p. 427.

Dr. Ahmed Fathi Sorour, The Intermediary in the Criminal Procedure Law, 4th ed., Dar al-Nahda al-Arabiya, Cairo, 1987.

Dr. Mahmoud Najib Hosni, Explanation of the Criminal Procedure Law, 3rd ed., Dar al-Nahda al-Arabiya, Cairo, 182, p. 498.

Dr. Hassan Joqdar, Principles of Criminal Trials, Vol. 2, Damascus University, 1997, p. 189.

Dr. Adam Wahib al-Nadawi, The Role of the Civil Judge in Proof, Dar al-Abiya Press, Baghdad, 1976, p. 377.

Hussein al-Moumen, The Lawyer, Theory of Evidence, Vol. 4, al-Fajr Press, Beirut, 1983, p. 10.

Ibrahim Naguib Muhammad Awad, The Judiciary in Islam, published by the Islamic Research Academy, Cairo, 1975, p. 227.

Qais Abdul Sattar Othman, Judicial Presumptions and Their Role in Proof, Shafiq Press, Baghdad, 1975, pp. 59-60.

Diaa Sheet Khattab, The Art of the Judiciary, Institute of Arab Research and Studies, Baghdad, 1984, p. 117.

Dr. Mahmoud Abdul Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Comparative Legislation, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 298.

Dr. Abdul Moneim Farag, Evidence in Civil Matters, 2nd ed., Al-Halabi Library and Press, 1955, p. 293.

Dr. Mahmoud Abdel Aziz Khalifa, The General Theory of Presumptions in Criminal Evidence in Egyptian and Comparative Legislation, Dar Al Nahda Al Arabiya, Cairo, 1996, p. 267.

Dr. George Hazboun Al Sarraf, Introduction to the Science of Law, Dar Al Thaqafa for Publishing and Distribution, Amman, 1997, p. 237.

Dr. Muhammad Zaki Abu Amer, Evidence in Criminal Matters, Al Faniya for Printing and Publishing, Amman, 1997, p. 21.

Dr. Ahmad Nashat, The Evidence Treatise, Vol. 2, 1986, p. 415.

Ronaldo del Carmen, op. cit. p. 135

Ronaldo del Carmen, op. cit. p. 135

Dr. Suleiman Marqus, Principles of Evidence in Civil Matters, Al Asriya Press, Cairo, 1952, p. 110.

Jundi Abdul Malik, The Criminal Encyclopedia, Vol. 1, Dar Ihya al-Turath al-Arabi, Beirut, 1976, p. 209.

Dr. Subhi Muhammad Najm, A Concise Introduction to the Principles of Jordanian Criminal Trials, Dar al-Thaqafa Library, Amman, 1991, p. 2.

Dr. Raouf Ubaid, Principles of Criminal Procedure in Egyptian Law, 14th ed., Cairo, 1982, p. 613.

Ali al-Sammak, The Criminal Encyclopedia in Iraqi Criminal Justice, 2nd ed., Vol. 1, al-Jahiz Press, Baghdad, 1990, p. 175.

Saeed Hasab Allah Abdullah, Explanation of the Code of Criminal Procedure, al-Ani Press, Baghdad, 1990, p.

396.

Dr. Abdul Wahab Homoud, Principles of Criminal Trials, Vol. 3, University Press, Damascus, 1957, p. 104.

Dr. Ahmed Fathi Sorour, Principles of Criminal Procedure Law, Dar Al-Nahda Al-Arabiya, Cairo, 1969, p. 33.

Dr. Muhammad Al-Fadil, A Concise Introduction to the Principles of Criminal Trials, Vol. 1, 4th ed., Al-Ihsan Press, Cairo, 1977, p. 438.

Dr. Mamoun Muhammad Salama, Criminal Procedures in Egyptian Legislation, Dar Al-Fikr Al-Arabi, Cairo, 1979, p. 214.

Ahmed Fathi Sorour, Cassation in Criminal Matters, Dar Al-Nahda Al-Arabiya, Cairo, 188, p. 160.

Muhammad Zaki Abu Amer, The Flaw of Error in Criminal Rulings, Dar Al-Matbouat Al-Jami'a, Alexandria, 1985, p. 265.

Dr. Muhammad Ali Al-Kik, The Causes of Judicial Rulings, Dar Al-Nahda Al-Arabiya, Cairo, 1982, p. 292.

Dr. Hassan Sadiq Al-Mardawi, Principles of Criminal Procedure, Manshaat Al-Maaref, Alexandria, 1972, p. 747.

Dr. Fawzia Abdul Sattar, Explanation of the Criminal Procedure Code, Cairo University Press, Dar Al Nahda Al Arabiya, Cairo, 1986, p. 581.

Qais Abdul Sattar Othman, Judicial Presumptions and Their Role in Proof, Shafiq Press, Baghdad, 1975, p. 195.

Thesis and Dissertations

Hilal Abdul-Ilah Ahmed, The General Theory of Evidence in Criminal Principles, PhD dissertation, without mention of university or place of publication, 1987, p. 949.

Muhammad Muhyi al-Din Awad, Publicity in the Penal Code, PhD dissertation, Al-Nasr Press, Egypt, 1955, p. 416.

Fadhel Zidan Muhammad, The Authority of the Criminal Judge to Confirm Evidence: A Comparative Study, PhD dissertation, University of Baghdad, 1987, pp. 282-289.

Fifth: Periodicals and Research

Article 174 of the Iraqi Judicial Rulings Magazine.

Laws

Iraqi Evidence Law No. 107 of 1979.

Egyptian Evidence Law in Civil and Commercial Matters.

Jordanian Evidence Law.

Iraqi Criminal Procedure Code No. 73 of 1971

Egyptian Criminal Procedure Code No. 50 of 1950.

Jordanian Law of Clarification in Civil and Commercial Matters No. 30 of 1952.

Jordanian Criminal Procedure Code No. 9 of 1961.

Cassation Decisions

Jordanian Court of Cassation Decision No. 651 of 2002, dated June 27, 2002, Adalah Center Publications.

Jordanian Court of Cassation, in its criminal capacity, Decision No. 1406/2003 (five-member panel), dated February 9, 2004, Adalah Center Publications.

Jordanian Court of Cassation, in its criminal capacity, Decision No. 636/2006, dated July 25, 2006, Adalah Center Publications. Presumption is considered the inference of an unknown fact from a known fact, and it is an admissible form of evidence in criminal matters.

Iraqi Court of Cassation Decision No. (81/28), General Panel/2000, dated July 5, 2000, Al-Qada Magazine, Issue 1, p. 131.

Decision No. 496, dated April 27, 1961, Collection of Legal Rules Decided by the Egyptian Court of Cassation, in Fifty Years of Suspicion, Vol. 1, Year 12, p. 399.

Decision No. 143/92, Jordanian Criminal Cassation, Jordanian Bar Association Magazine: 1993, p. 384.