



## Dexter Rule, Presumption of Innocence, and the Presumption of Guilt

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### ABSTRACT

Presumption of innocence criminal is unlike what commonly expressed by the originality of innocence juridical aspects and impacts are different in nature and conduit. Frequently used legal presumption of innocence in civil matters and private rights in the Islamic Republic of Iran is also entered in criminal matters, however, we face essentially the presumption of innocence in the constitution, and the Code of Criminal Procedure is in 2013 expressly to identify them. Although the offenses Islamic or assuming culpability presumption has faced his third famous rule of the right hand.

### Keyword:

- ✓ Presumption of innocence
- ✓ culpability presumption
- ✓ originality of innocence
- ✓ Dexter rule

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## INTRODUCTION

Presumption of innocence of the pillars of the new criminal procedures and legal systems or in other words, is the most important foundation of it. The importance of this principle to the extent that societies more generally to protect the ordinary legislative changes to make it part of their constitution, so that they through changes in laws, it into the prejudice expel.\*

It is assumed as one of the principles governing the criminal proceedings, special status in international instruments of human rights and fair trial of industries and numerous effects such as right to defense, the duty of the prosecution to obtain and provide a reason, the interpretation of doubt in favor of the accused, charged, right to counsel, the right to temporary freedom, the right to silence, and so on. It works in regional and international human rights documents and recognized his government is committed to ensuring they have become laws.

One of the reasons for accepting presumption of innocence in criminal systems is that in order to protect the rights of individuals, the procedure should be carried out impartially and on equal terms, but since the community with all the powers and possibilities of small one hand, and the individual alone and with the possibility other, they have to support him more effective, so easily violated his rights and that proceedings should be conducted in a fair condition. Therefore, the presumption of innocence in criminal regimes accepted the man in the trench it against potential abuses of charges and spared.† in this case is that society has an obligation to face charges in a legal and authentic evidence is found guilty, he other established, no duty is charged in a criminal case brought by appealing to reason his innocence, but the task of representing the education community with sufficient evidence, misdemeanor assignment.

### First Speech: concepts of presumption of innocence and Dexter rule

In this speech in the form of two articles seek to identify the concept and its differences with the presumption of innocence presumption of innocence criminal jurisprudence and law and also clarify the concept and elements of Dexter rule as well.

### First paragraph: The concept of presumption of innocence

Presumption of innocence in criminal law means that in a criminal complaint accused need not prove the guilt of the assignments and the other (community) must prove his guilt. Of course, in this way, he can provide proof of his innocence.

It is necessary to the defense in court proceedings should be conducted in compliance with other formalities verdict in criminal cases has been subordinate to establish the elements of the crime and in this regard should be legal evidence adduced evidence of the crime and its attribution

to the subject material is. In a criminal case, preparation, and presentation of evidence and proof of claim demanding tasks. Therefore, in criminal matters as well as civil affairs, according to the rule proof of claim is the responsibility of reasoning, however, there is also the fact that it will focus.

I think the definition of presumption of innocence, it can be said that "unnecessary person to prove he is not committing to the competent authority criminal."

It should be added that the accused person is found guilty of a crime until proven innocent and should enjoy all the rights and freedoms of others and spend the charges and not his usual rights.

It is necessary to apply the presumption of innocence gathering of several clauses:

A) The person is charged with a crime.

B) The reasons adduced by the crime charged, is not sufficient to exclude the bastion of innocence.

C) The process must be done before a judicial authority.

Contrast with the presumption of innocence, culpability presumption is raised. With a little scrutiny, we find new and used culpability presumption in the classic sense. I think the culpability presumption is the "duty of the individual to prove his innocence in the crime for lack of positive evidence in criminal competent authority".

Meaning above definition implies assuming the classic crime while this hypothesis, the passage of time and changes in changed with the advent of the classical school and after school and then, from disappeared, recently it re-entered the penal system and the presumption of innocence gradually finds his place.‡

It should be noted that the assumption of the crime today means assuming guilt classic differences: first recognized in certain crimes and organized crime orbiting find.

Secondly, contrary to the assumption that spending classic crime charges for allegedly creating responsibility guilt, today only charge must be based on reasons that have created a reasonable doubt in the mind of the judge usually the case for that condition in the definition of the principle modern criminality can say: "assignment accused to disabuse his alleged crime, in particular crime and the competent authority."

After the definition of the concept of presumption of innocence criminal ducts to clarify the concept and consider the legal presumption of innocence. The presumption of legal or authenticity is that in cases where the judgment is in doubt, believe that in practice, we are not obliged to. If you do not know what is the verdict on the assumption that smoking and with enough investigation and did not get a reason in this regard to the actual sentence remain hesitant, because in practice the hesitation, say the presumption of innocence means that there is this not fixed forbidden, smoking is permitted and lawful.

\* The importance of the presumption of innocence to of numerous abuses, it is assumed that cannot be achieved. The default value and the column so that it can be considered primary criminal procedures.

† Effect of derivatives, including charges, realizing the right to silence, the right to counsel of adversarial proceedings and is also added.

‡ With the advent of and development of transnational crime, criminal organizations had such strength they even have the power to change the government. In such a situation, if they have the same guarantees that ordinary citizens are having, this time law will not be executed and they will flee easily from acts of justice. For this reason, The AH Nan In certain cases, the presumption of innocence, and the presumption of guilt will not now be replaced.

So what is meant by the presumption of innocence if it is unknown what is required in doubt, it is the duty of the man is not fixed, the in doubt leave it in doubt it is permissible.<sup>§</sup>

The role of the principle, assigning practical in actual sentence is required in case of doubt; Whenever required in respect of the obligation to object or current, or brief or conflict due to two reasons for the absence of doubt and after investigation, found no evidence, scholars principles According to this principle, the presumption of innocence clearance And he shall decree no.<sup>\*\*</sup> This principle is one of the most important and effective rules on private law and civil procedure code are. Because the burden of proof on the shoulders of expression and claims to be the reason. In Islamic law the rule of interpretation. Namely, providing and due to the plaintiff and the oath of office to deny responsibility. The explanation is that someone complained that there was another neck right or religion, have argued the opposite side to prove or committed owes its absence, there is no need to give a reason.

According to presumption of innocence and the presumption innocence criminal jurisprudence sometimes close to each other, and in the case same result. However, this view cannot be established that the two are the same<sup>††</sup> because:

A) Presumption of innocence in criminal law and evidence, whereas religious originality of innocence is one of the practical principles.

B) Presumption of innocence in criminal law, the discoverer of suspicion is the fact it is not legal, but the presumption of innocence.

C) It seems that the originality of innocence in criminal cases to determine the guilt of the person charged does not work because the accused is acquitted for lack of evidence does not, but should be sworn his innocence presumption of innocence, whereas no such condition.

D) The main reason presumption of legal authority, rules of intellectual evil is expressed Eagle Bella is the reason the authority of presumption of innocence, but presumption of innocence is rule.

E) The authority originality of innocence based on suspicion and suspicion about its making but also about the legal presumption of innocence is suspect in the current task. While the legal presumption of innocence is charged everything revolves around the presumption of innocence.

Also, the legal provisions of the principle of presumption of innocence and the punishment congruity and originality tract doubt on duty, while the presumption of

innocence ever since the ruling way against the principle of the rule of law vacuums criminal offenses decisive, and logically interpret texts it fills the law. Accordingly, the legal presumption of innocence always refers to charging a person (if we can call the topic of doubt it) is.

#### **Second paragraph: The concept of Dexter rule**

Binet principle of legal rules is well known that in addition to many traditions from the Prophet (PBUH & HP) and the infallible Imams (PBUH) to confirm this rule exists, it confirms the consensus of jurists and wise. According to this rule is everyone else's right to claim, if the defendant denies his claim, the assertion of claims to be the beans in your daily prayers. Otherwise, it can only deny the oath to and when not to deny the validity of the claim, swore, and denied the claim lapses will be acquitted. Of course, this rule such cases, the filth, etc. about that in this case the rule is not bucking action.

Known jurisprudential rule the plaintiff has the burden of proof to indicate the judge that the defendant is presumed innocent and alleged culpability of the defendant's duty to prove to the proving grounds .The accused's right to silence and silence Although the reason is not against him but along with other evidences and statistics can be considered evidence against the accused that if the accused the right to silence, the silence of the accused in judge warned him that is Ella said she will answer questions and one who refrain from swearing.) puts if he should refrain from giving answer to the rulers swear it claims are considered and ruled against the accused<sup>‡‡</sup> the the right hand is in conflict with the presumption of innocence criminal silence because something has not been proven guilty and the judge is obliged to issue an acquittal.<sup>§§</sup> It should be noted that in judicial proceedings if the claimant fails to allege sufficient evidence to substantiate their claims and to the judge charged the accused is suspected to be the result of his doubt act as judge and condemn the defendant's culpability presumption applies in this case has been the principle of the accused guilty. But if you doubt the innocence of the accused interpretation and judgment he has applied the presumption of innocence

However, the rule of law has consequences that can be expressed in detail:

First, according to the rule based on the hadith of the Prophet (PBUH) has been established) The evidence on the defendant and the defendant's right) burden of proof on the plaintiff and the defendant proof of his innocence do not want it claims to be contrary to the principle prove and if able to prove his claim is not ruling in favor of the accused issued will be. The result is that the accused is not required to prove his innocence but it is sufficient doubt as to the

§ Hosseini Ghomi , Seyed Mohammad , Clarifying, vol. 4, p. 442.

\*\* Expressions used in, Anvar al-asval, J3, p: 27. P: 46;

†† The main reason jurisprudential authority of the presumption of innocence, evil Eagle Bella expression. However, due to the presumption of innocence and legal authority, but rule is the presumption of innocence. The presumption of innocence and obtain legal authority on suspicion of suspicion about the legal presumption of innocence doubt about that but the task now is whether or not this principle to the judgment of the actual suspect. The proof is suspected or not. And while in legal presumption of innocence of the accused is presumed everything revolves around. As some scholars have said principles, the principle of the provisions is compatible with the principle and penalties duct doubt the authenticity of the task is considered to be the some of the and sometimes the topic, and in either case or doubts without the possibility of self-esteem, or doubt the possibility of the sanctity without obligation. In legal innocence, never judgmental way against since the principle of the rule of law is decisive and logically interprets texts criminal offenses to fill the legal gaps. Accordingly, the legal presumption of innocence always refers to charging a person (if we can call the topic of doubt it) is considered.

‡‡ Tahrir Al- Vasileh Imam Khomeini (RA), Volume 2, p. 425, issue 1

§§ Check some criminal cases shows that some honorable judges also believe in suspended for lack of reason against the accused, should he attempt to deny verdict acquitting the accused, and they should be asked to swear to his innocence. If I swear, Dexter acquit the accused and in case of rejection by the defendant to the plaintiff and swears by the plaintiff, the defendant issued a warrant criminal conviction and, if I do not eat the plaintiff, ruling acquitted the accused. In other words, no Ali and I anchor against)," known as the right hand rule is also applicable in the field of sanctions. While the Legal Office of the judiciary in number theory dated 76/7 1994 Stipulated in its criminal matters, other than as authorized is, I do not .For further reading rack Darwish servant discussion on the implementation of the right hand rule in Justice Law Journal - Winter 2001 Issue 37 Page 38

reasons for the suspicion voiced in the spirit of justice that prevented the delivery to be assured.<sup>\*\*\*</sup>

Second, because the burden of proof is on the plaintiff and the defendant must prove it can remain silent forth, however, say silence is consent but cannot silence against the accused, but also because, among other reasons indication of is Emirates. There's no reason, silence cannot be alone because of conviction

### **Second discourse: the presumption of innocence and Dexter rule in legislative penal policy of the Islamic Republic of Iran**

In this speech in the form of two paragraphs to the place of Dexter rule in penal policy legislative presumption of innocence and the Islamic Republic of Iran.

#### **The first paragraph: presumption of innocence and the Islamic Republic of Iran's penal policy legislation**

Article 37 of the Constitution of the Islamic Republic of Iran, as a general rule of the presumption of innocence is spoken. This principle provides that "the presumption of innocence and no one guilty unless his or her guilt is proven in court."

The presumption in favor of the accused, whether for the first time has committed a crime or is subject to ongoing recidivism, so throughout the proceedings until a final legal decision and, presumption of culpability of the offender to be recognized the rule of presumption of innocence in favor of the accused's innocence can be concluded that the accused has no duty to prove his innocence and the burden is on the plaintiff or the private claimant and the judicial authority in terms of the realization of the crime and the crime committed stand. According to this general rule, the presumption of innocence necessity of securing freedom for people and not against it except in cases of exceptional well-understood and to be guaranteed must be provided.<sup>†††</sup>

In criminal matters in accordance with Article 37 of the Constitution, "the principle of the presumption of innocence is guilty," unless there is proof of his guilt. Therefore criminalizes the person must have proof. These requirements certainty the reasons for the civil rights and trade to this level as it is in criminal cases, with dignity, freedom and even the lives of game. One reason could be the person to the gallows unjustified Blackberry or dangerous criminals to escape punishment.<sup>‡‡‡</sup>

Legislator in the Code of Criminal Procedure 2013 for the first time explicitly presumption of innocence in Article 4 of that law is adopted. According to this article: original, is innocence. Any restrictive measures, depriving freedom and privacy to individuals but to the rule of law and compliance with regulations and under the supervision of judicial authority is not permitted and in any case these measures should be applied in such a manner that the dignity and the dignity of persons may course damage this assumption violations such as detention is also anticipated in the legislation. Detention, although in some cases the interests

of the accused and in some cases, such as where the accused may be to win the victim, and the the invasion of household be, or have intentionally. The temporary detention he had, he would be in the interest of society but also useful, but is inconsistent with the presumption of innocence.

Although temporary detention simplest way is the defendant in criminal courts are available but not always used the banned but there are other meetings that are an alternative temporary detention and the presumption of innocence Another result is that our legislature has considered and the accused must be free until sentencing.

#### **Second paragraph: Dexter rule and legislative penal policy of the Islamic Republic of Iran**

According to Rule of Ali Almdy and Yamine A. I anchor" and the results were reported for the presumption of innocence became clear that the burden of proof on the plaintiff's claim and the claims that have no reasonable doubt the accused is found guilty with proof prove your own innocence and accused of bringing any reason absolutely free and even he could remain silent. However, in our current law that the burden of proof to the accused, the accused must prove his innocence in court and this is in fact the case, the exception to the presumption of innocence.

Legislator in Articles 313 and 317 and 319 of the IPC<sup>§§§</sup>, 2014, denied and rejected by to the accused to prove lack of culpability and consequences of non-implementation of from the accused and the presumption of innocence, but because of the importance of temperature in religious conflicts Anwar exalted by divine legislator anticipated.

In short, it seems that the presumption of innocence in Islamic law with the presumption of innocence in criminal law is different. Of course, there is no trace of the crime of classical Islamic law, the charge, sufficient to lay the burden of proof lies shall not be charged. In principle the majority of cases, primarily claimant must prove his claim. Of course guarantees fair trial, adversarial and there in the criminal system, it reduces the potential for abuse. But the crime to his new sense only in the context of flow, "the anchor and facilities Here, if there are reasons reasonable doubt, he shifted the burden of proof shall return.<sup>\*\*\*\*</sup>

From what has been said, it may be concluded that a third type of criminality in some special cases that it is incompatible with classical and modern because essentially spend enough charges to the presumption of innocence he is tarnished while the first step in this task is claimed to prove fault. However, in the modern criminality in the first phase, charged with the task of proving themselves innocent, also as but here, the task of evidence in most cases with claims.

§§§ Article 313 - the absence of evidence other than sworn oaths that denied the existence of the filth, the plaintiff to prove the crime of intentional or unintentional charged for the disposal of its properties accusations leveled it.

Article 317 In case of obtaining the filth, the first of the accused, claiming to be the reason for rejecting the charge. If the reason is, it's time to plaintiff and the defendant does not appear to be acquitted. Otherwise with proof of the filth, the plaintiff could sue or the accused is.

Article 319- If the complainant, the accused and his not willing to pay blood money is condemned and brought if he is acquitted and the plaintiff has no right to, once again, with or evidence, the case against him renew. In this case, the accused cannot be denied to the complainant.

\*\*\*\* Sadegh, Those who do not attend the jurist, vol. 4, p. 99

\*\*\* Hashemi Bajgani , Seyed Jafar Examination of the principles of civil courts, Tehran, Islamic Revolution Documents Center, 1999 , First Edition, Page 5 of 22

††† Hashemi Bajegani , Seyed Jafar ; Former Source 300 pages

‡‡‡ Diyani , Abdol Rasul , 2007 279

## Conclusion

The legal presumption of innocence is one of the four principles that the principles of jurisprudence are examined. This principle is known in terms of practical principles (presumption of innocence, caution, selection) It explained that sometimes the religious issue no valid reason four sources of law (Qur'an, Sunnah, ijma, reason) that for the final. In this case, that person is hesitant, religious, religiously accountable directive to put feet to their religious duty to be determined. It is the act of instructions to religious principles.

Rule "Burden of proof on the plaintiff and right of Langerhans" rule ubiquitous that it is taken from the traditions. Imam Baqer (AS) said: " The Messenger of Allah (r) judged among the people and faith-based between the people and neophyte" Dexter rule but implementation is faced with In the case of applying the rule in the filth and promise Imam Sadiq (AS) said: "Allah is the temperature you except what is stated on property verdict, the verdict is for the Muslim blood should not be wasted. This is where the principle of presumption of innocence and the existing Criminal find other utilities contention that the author refers to as Islamic culpability presumption.

- 1- Not to be evidence for the claimer
- 2- To be proved for the polluted judge.
- 3- Defendant is not evidence of his innocence.

In this case, the claimant attempted to implement promise and prove their case and if he was not willing to implement promise and demand an oath of the defendant's claim against the run and vote for acquittal given promises.

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