



The Effect of Time and Place on the Conditions of Proof of Litigation from the Point of View of Jurisprudence and Law

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Abstract

The most important element in quick and fair proceedings and the vindication of people's rights in the court is the proof of the lawsuit, which needs to be taken into consideration when and where it takes place. For this reason, the purpose of this article is "the effect of time and place on the conditions of proof of litigation from the point of view of jurisprudence and law", which was compiled in a descriptive-analytical method and with library-documentary tools. The findings indicate that the requirements of time and place have been addressed. Then, to some evidences to prove the lawsuit from the point of view of jurisprudence and law, including jurisprudence and legal examination, confession is one of the easiest evidences to prove the lawsuit, the main condition of which is to have reason and free will. Then, the jurisprudence and legal examination of the document was discussed, and only some jurists accepted the authenticity of the document based on verse 282 of Surah Al-Baqarah, and some agreed on its lack of authenticity. But in the civil law, the document is recognized as one of the proofs of the lawsuit. Jurisprudential and legal examination of testimony is also valid in penal and criminal cases. In the discussion of testimony, the number of witnesses and their gender are important. As a result, the proof of the lawsuit depends on its time and place.

Keywords: *Requirements of Time and Place; Evidence; Claim; Evidence to Prove the Claim; Law and Jurisprudence*

Introduction

Undoubtedly, in the Islamic legal and judicial system, the evidence to prove the case is limited and counted, in this sense, the judge must adhere to the evidence of the law in his judicial procedure and proceedings. But due to the fact that judicial emirates are considered in Iran's judicial system and legal system, in which the judge's knowledge and evaluation about emirates is the criterion of attention, and

according to Note 211 of the Islamic Penal Code and also the type of arrangement stated in the law, this point is evident. The judge's knowledge is considered an independent reason and has been taken into consideration in the judicial system, so the legal and judicial system has followed the spiritual or moral judicial system in proceedings. Considering the role of the judge in the legal system and the fact that the knowledge of the judge is an independent reason in the Islamic jurisprudence of the subject laws, the judicial system of Islam and, accordingly, the judicial system which is based on the Islamic judicial system, is moral and conscientious, because the creator of the knowledge of the judge is all The methods of conventional laws and documentation are in between, and modern technologies such as medical tests and scientific tools and storytelling methods make it real and provide knowledge for the judge. On the other hand, in order to prove medicine, it is necessary to analyze the time and place conditions on the evidence conditions, that's why this article tries to answer the question, what is the effect of time and place on the evidence conditions for proving a lawsuit?

Background Research

Regarding the background of the research, no independent article was found in the reliable scientific sites, but articles were found with the keyword of proof of litigation, such as:

- Saeed Sharafuddin Tabatabai, in his article under the title of examining evidence to prove the claim in the law, has come to the conclusion that; Whenever the judge has knowledge based on the evidence and the Emirates and the total contents of the case, it is necessary to specify all the bases that led to his knowledge in the decision he makes, and if there is testimony contrary to that knowledge, in order not to He mentions the acceptance of testimony. Each of the reasons has its own way and they are presented to make the judge suspect and to the highest level of knowledge. However, if the judge is knowledgeable about the case, he must act on that knowledge. The authority of that side is not reasonable against knowledge.
- Saeeda Arab Khabouri in her article entitled "Examination of proofs of lawsuits in Iran's related laws"; In this article, while examining the nature of evidence to prove the lawsuit, various forms of proof are also discussed.
- Sohaila Dibafar et al. in their article entitled "The law governing the proof of litigation in private international law (a comparative study of Iranian and English law)"; In this article, the authors came to the conclusion that the law governing the proofs of the lawsuit, in accordance with the conflict resolution rule mentioned in Article 971 of the Civil Code, is exclusively under the rule of the formal law of the seat of the court.

The difference between this article and previous studies is that this research tries to specifically address the effect of time and place on the conditions of evidence, which has not been researched so far.

1. Conceptology

In any research, it is necessary to analyze key and frequently used words in terms of lexical and idioms in order to remove any ambiguities from the reader's point of view. Below is the concept of some of these words.

1-1. Proof

Proving in the word means to establish, establish, establish and sustain something. It is stated in Misbah al-Munir, "Recording the thing (yabtabu thubata) of the dam and al-stagraffa fahu (tahabta) (Fyyumi, 1414: 8/2 vol.) proof comes after proof, and of course these two must be separated. Proof in the term refers to The existence of anything in fact has a soul and is the real realization of the matter, while the knowledge of something is called the stage of proving that thing, and because there are errors in science, so it is possible that the stage of proof is not in accordance with the proof. (Langroudi, 2017: 5)

Of course, proof is also used in other meanings such as creating, ruling, knowledge and recognition. All these meanings are consistent with the first meaning. (Encyclopedia of Islamic Jurisprudence, 1383: Vol. 3/341)

The term "proof" is used in jurisprudence and law in three meanings: 1- verifying the external existence of an issue with Shariah effect, 2- providing a valid proof of a Shariah ruling, 3- providing proof of a lawsuit before a judge.

Arguments to prove a dispute is a new term that has been used in the last half century and is referred to in jurisprudence with terms such as protest, methods of ruling, and principles of proof, etc. (Langerodi, 1400, vol.1/40)

In legal terms, proof of a lawsuit is a set of tools that are used to prove the validity of the claim of one of the parties to the lawsuit. It means the ways of proving things that are used and cited in the capacity of proving the issue of the judge's ruling, which include: confession, testimony, oath, etc.

There is a difference in whether the proof is the right of the claimant or the ruler. According to the first sentence, the ruler cannot order to summon the claimant in the absence of a witness or, if present, question the witness without the defendant's request. But according to the second word, the ruler can order to summon or, in case of presence, ask questions first. This difference is only about Iqama Binah. (Tusi, 1387: Vol. 8/159)

1-2. Fight

Litigation literally means claim, dispute, litigation, claiming and demanding. (Moin, 1386: 153) In jurisprudence, a lawsuit is when a person claims a right, whether objective or religious, in relation to another person, and demands from the judge to get his right from that person. In Iran's laws, which originate from jurisprudence, there is no definition of litigation, and legal books have provided definitions of litigation. (Shams, 1401: 1/309)

1-3. Evidence to Prove the Case

In jurisprudence, the proofs of the lawsuit refer to the cases that the holy law has accepted as proof of the claimant's right before the judge. The reasons for proving a lawsuit in jurisprudence in criminal and civil matters are: 1. Confession 2. The knowledge of the judge 3. Testimony and in special criminal cases, blasphemy and swearing. (Hairi, 1381: 74-76)

2. Requirements of Time and Place

Due to the fact that man is a free being and this freedom is accompanied by the power of reason, for this reason, human beings and human communities are always evolving and transforming in all personal and social fields. If we compare human and human society with humans and human society of these few years, not with these past few hundred years but with the past few decades.

Deep and significant differences in people's relations with each other and with the society are quite evident and clear due to the changes in social economic relations that exist in human life today compared to the past. From the past, as a result of the emergence of new crimes and new types of evidence to prove the right or not to prove the right in legal and judicial relations, if it is not taken into account, we cannot respond to the social needs of society and individuals.

Therefore, if we want to act in the exact meaning of the word humanity and based on the horizon of its course, we must know the connection of Sharia with the requirements of time. What is meant by the requirements of the time is the changes that occur with the passage of time and in the shadow of social scientific developments and various issues of human life, and the meaning of the Sharia's relevance is that the Sharia should respond to individual needs and social relationships in a logical and normal way, taking into account What changes will happen?

Martyr Motahari expresses the meaning of the requirements of time as follows: "It is various human developments that happen in time and space" (Motahari, 2016: 49 and 55). This noble and enlightened martyr says in another place:

"The requirements of the time means the requirements of the environment, society, and human life, as long as it is equipped with the power of reason, initiative, and discretion, and has the desire to live a better life, and continuously works, thoughts, factors, and tools to meet economic, social, and spiritual needs. It enters life by itself, and more complete and better factors and tools automatically cause the old and imperfect factors to be replaced by these, and man becomes dependent on new factors and your special needs. and spiritual and the constant changes of the factors and means of removing these needs and their permanent improvement which in turn create a series of new needs It causes the requirements of the environment, society, and life to change at any point and time, and man necessarily adapts himself to the new requirements" (ibid., 53).

Ayatollah Marashi has given a detailed explanation about the requirements of time in judicial systems:

"The requirements of the time are sometimes based on the issues that are discussed at the time, such as the issues related to the International Law Bank and the like. Sometimes, when we say the requirements, the time has another meaning in mind, and that is to discuss the issues of Islam in the society in a new format. implement it without dealing with the fundamental principles of Islam, so what is meant by the requirements of time in this sense is that the jurist should try to implement Islamic rules in a new style in the events. The principle of government formation is the issue of the legislature, the executive and the judiciary and the division of powers into three branches is something that was not clear and orderly in the beginning of Islam, and this issue is raised in its own special framework in the current world, for example, the necessity of the rule of law is one of the requirements of the time. And it should be taken into account in the administration and order of the society, so saying that a judge must be a mujtahid is a statement that is not compatible with the requirements of the time, so we must accept the fatwa of those who say that a judge does not need to be a mujtahid". (Ansari, 2014: 325 and 330)

In Islamic teachings, and as an example, in the Sharif prediction of Imam Zaman Ajllullah, human developments are interpreted as happenings in the circumstances of time, that is, people face new things according to the circumstances of time. In these new matters, they should refer to the comprehensive mujtahid, and the comprehensive mujtahids perform ijihad and deduce the new rulings according to the time requirements in such a way that it should respond to the individual and social needs of people, because if these time requirements are not taken into account, it will cause Disruption of the system occurs in both individual and social affairs, and in Islamic Sharia, it is one of the red lines of system disruption, and this in itself is proof of the dynamics and fluidity of Sharia and Islam and its ability to adapt to the requirements of time.

Considering the wide-ranging changes that have occurred in human life, the occurrence of new issues and issues in human civilization and the need to include Sharia rules to new issues, Sharia shows such flexibility by taking advantage of the capacities available in the perfect religion. to be able to respond to all economic, social, cultural, legal, criminal and judicial aspects of the needs of today's progressive mankind. In Islamic texts, many cases can be found, which are mentioned with the change of circumstances due to the passage of time and its effect on Sharia rulings, and for this reason, the works of scholars and jurists show the impact of the requirements of time and place on Sharia rulings.

Mohammad Baqer Majlesi writes about the contents of this narration: "The difference in situations, times, and times necessitates a change in wisdom to change wisdom; The change in circumstances and the passage of time causes the ruling to change due to the change and transformation of its wisdom. (same).

Allameh Hali says in his book *Kashf al-Morad* in this context:

"Rulings are subject to interests, and interests change due to the changes of time and differ with respect to different obligees, for this reason, it is possible that a certain thing at a time is expedient for a group. And for this reason, the divine command and command to do it belongs to it, and at another time it is associated with corruption for another group, and for this reason, it is subject to divine prohibition.

Due to the fact that it is a complete religion, Islamic rules and regulations are updated with new social developments and needs, and are in accordance with the requirements of the time and compatible with the needs of today's human society, because Islam is a dynamic religion and is far from petrification and reaction. Because of this, Islam is permanent and will be the religion of the present and the past and the future.

It should be noted that what should be considered as the inviolable standard of the Mujtahid in deriving rulings and answering them to the needs and requirements of the time are the general and basic goals of the Shari'ah, which the jurists interpret as the legitimate purposes and the spirit of Islamic teachings.

In other words, we can only consider the requirements of time and place to be effective on Sharia rulings, when we can achieve these goals or purposes of Sharia in new social conditions and when we can.

Martyr Motahari states three bases for the limits of the influence of the requirements of time on Sharia rulings, which are:

- Everything that arises at any time and becomes common everywhere should be accepted and taken into consideration in *ijtihad* and inference.
- What the majority of people are interested in and welcome should be accepted and paid attention to.
- The requirements of time only mean changing the real needs and requirements of human society due to the passage of time, and such real requirements can play a role in updating Sharia.

After examining these three hypotheses, what is the extent of the influence of the requirements of time on Sharia rulings, he accepts the third theory and basically does not consider the other cases as part of the real human and social needs. (Motahari, 1381: 1/111-120)

The Shariah has very clear and fundamental goals and objectives that are well understood by common sense and it is obvious that the requirements of the time cannot have an effect on the rulings within the scope of the purpose of the basis of the Shariah, because the effectiveness of the rulings comes from the requirements of the time due to the purpose of the Shariah to acquire benefits. It is the whole of individuals and society, and therefore it is clear that if the rulings are against the will of the Shariah, nothing will be part of the violation of the intention of the Shariah.

3. The Method and Objective of Having Evidence to Prove the Claim

The proofs of the lawsuit are sometimes placed in the courtroom based on the method signed by the Shariah to issue a verdict, which means that the evidence and emirates of the lawsuit are not intrinsically authentic, but if they reveal the facts in such a way as to give the judge knowledge or confidence in They claim to be authentic, and most of the proofs of the *Tariqat* type of litigation are authentic.

The relevance of having evidence to prove the case means that a specific reason can only be used as a document for issuing a verdict for a specific crime, for example, 4 male witnesses to prove the extent of adultery, and if other evidence, even though it leads to the judge's knowledge of the crime, it cannot be

considered from the point of view of jurisprudence. In other words, the proof of crime is only limited to a specific reason.

As stated, the fundamental difference between formality and objectivity is that, if we believe in formality, the evidence to prove the case will not be limited to a specific reason, but if we believe in objectivity, only the specific reason can be used as a document for the issuance of a verdict, or otherwise. . Proving the objectivity of having evidence to prove a lawsuit requires evidence and reasoning, in other words, the principle of having evidence is proof of a lawsuit unless the objectivity of having an argument is proven.

4. The Effect of Time and Place on the Conditions of Evidence to Prove a Lawsuit

Considering the role of the judge in the legal system and the fact that the knowledge of the judge is an independent reason in the Islamic jurisprudence of the subject laws, the judicial system of Islam and, accordingly, the judicial system which is based on the Islamic legal system, is moral and conscientious, because the creator of the knowledge of the judge is all The methods of conventional laws and documentation are in between, and modern technologies such as medical tests and scientific tools and storytelling methods make it real and provide knowledge for the judge. Some jurists are of the opinion that "the property of the authority of the judge and the ruling between the people is the Qiyam al-Binah, without the need for evidence, trust and assurance forever" (Hosseini Firouzabadi, 1412: 3/139) based on the fact that the criterion in the position of judgment and ruling between the people is the sight, without that sight causing trust and confidence, so some jurists believe in the relevance of having evidence to prove the dispute. However, issuing a verdict based on this opinion, which is contrary to the knowledge of the judge or ruler, is not permissible, and they are of the opinion that the knowledge of the judge is prior to evidence and other evidences, and in case of conflict between the knowledge of the judge and other evidences to prove the case, the knowledge of the judge should be given precedence. knowledge over other evidences, therefore, the relevance of having evidences to prove the claim is to the extent that it does not contradict the judge's knowledge. Below are some of the conditions of evidence to prove the lawsuit from the point of view of jurisprudence and law:

4-1. Jurisprudence and Legal Examination of Confession

Aqrar infinitive of verbs from the root "Qarer" means to prove, to establish, to place and to have firm, to acknowledge and to be accepted. As if something is in its place, it also means admitting something (Farahidi, 1414: 22/5) and acknowledging the truth (Firouzabadi, 1412: 200/2).

Jurists have provided different definitions of confession, including:

"Information about the right against which the informer is against himself" (Hali Tusi, 1408: 1/283) or "the certainty of the right that is binding on the informant" (Ibn Makki, 1417: 3/121) and Also, "Confession means reporting something that affects the informer's responsibility, not something that affects oneself or others, which in this case is testimony, not confession" (Da'are al-Ma'arif Faqe al-Islami, 2013: 3/ 356)

Imam Khomeini (RA) gave a relatively comprehensive definition of confession, he defined it as follows:

"Confession is the dogma of informing that the person who informs has an obligatory right, either to something that entails a right or a ruling against him, or to the negation of a right for him, or to something that entails the negation of a right, such as his word, for him or For you, it is the same with me, or with me, or with me, or with me, or with me, it is the property of so-and-so, or with so-and-so, I have committed such a crime, or I have committed theft, or I have committed adultery. or what so-and-so wasted is not mine, and what is similar between them, whatever the word Rather, the confession of an Arab person and a foreigner, and vice versa, of an Indian person to a Turkish person and vice versa. Anyone who pronounces that time correctly and knows about it is authentic and dogmatic, in the sense that they do not express doubt or non-dogmatism

about it, so if he says, I suspect or I believe that you have such a right over me. It is not considered." (Khomeini, 1369: 2/419)

It is stated in the legal reviews that:

"Information with a right for the benefit of another and to the detriment of the person making it is called the time, the person in whose favor the confession is made, and the person who is confessed is said to be appointed".

This definition is mostly in cases where the dispute has two parties, but if there is a case where the opposite party does not have one, such as some criminal offenses that are unilateral, although here it is to one's own detriment, and the other and non-neeftie in the confession of the headquarters It doesn't exist, that's why the Islamic Penal Code defines confession as follows: "Confession is a person's information about committing a crime on his own behalf." With precision in the definition presented in the Islamic Penal Code, it is possible to include both cases of confession, which is sometimes for the benefit of others and sometimes there is basically no other party, so that there is a presumption of benefit or lack of benefit.

With precision in the definition presented in the Islamic Penal Code, it is possible to include both cases of confession, which is sometimes for the benefit of others and sometimes there is basically no other party, so that there is a presumption of benefit or lack of benefit.

Among the evidences, confession is the easiest way to prove the innocence of the confessor or the right of the other party. And from the point of view of analysis, we can also come to the conclusion that since a person is wise and independent, therefore the confession he makes against himself and for the benefit of another is valid and for this reason, if someone who is unconscious or insane to confess, this confession will not be valid. Also, one of the conditions of confession is that the person confessing must be wise, mature, independent, and capable, and the confession can be verbal or written, and the confession must be complete, and if these conditions are present in the confession, it will be given effect in that order. Jurists consider the basis of acceptance of confession to be the rule of reason and rational behavior (Mohaqq Damad, 1401: 126-125) and have proven its validity by adhering to the prophetic hadith "Acknowledgment of the intellect on themselves is permissible."

4-2. Jurisprudence and Legal Review of the Document

The document is one of the valid emirates that indicates the ownership or rightful ownership of individuals. In the civil law, a document is defined as "a document is any writing that can be cited in a lawsuit or defense." Therefore, in today's society, the document plays an important role, and in general, the document is of two types: official document and ordinary document.

It is stated in the jurisprudential review:

Some Islamic jurists have accepted the authenticity of the chain of transmission by citing verses and traditions, one of the proofs of the authenticity of the chain of transmission is verse 282 of Surah Al-Baqarah, which says:

O you who have believed! When you find a long-term debt (due to a loan or trade), write it down! And a writer must write (the document) among you out of justice! And the one who has the power to write, should not refrain from writing - as God taught him! Therefore, he should write, and the one who has the right should spell; And fear God who is his Lord; And don't leave anything behind!

Many Islamic jurists use the above mentioned verse as one of the strongest evidences to prove the authenticity of documents and letters.

According to the words of some jurists, this point is also used in relation to Ayah Sharifah, that a written document is valid and has authority, but famous jurists do not accept the authority of the

document, and the famous expression of the act of the book of falah lessons is found in many jurisprudential books.

The owner of the jewel claims consensus on the lack of authenticity of the document and considers the reason for the lack of authenticity and validity of the document to be the possibility of forgery of the document or the fact that the scribe is not aware of the content of the document, as proof of its lack of Shariah authenticity, but after examining the evidence of the authenticity of the written document, he conditionally He has accepted the authenticity of the document and explains about it:

"If there is evidence that the author intended the meaning and intention of the words he wrote, then it appears that it is permissible to act on it, because the continuous practice in different times and places is based on this. It has been established, but one can claim necessity on this issue, and especially considering the actions of the scholars regarding disagreeing and agreeing with each other, quoting consensus, etc., they rely on the books and writings common among them. (Najafi, 1362: 40/304)

Imam Khomeini in response to the question:

"Regarding the endowment of names that have been in the endowment administration or other departments such as the judiciary for years, currently a quarter of the endowment lands are in the possession of the endowment according to the aforementioned deed, and the title deed has not been issued for the other 3 parts, although when the document was requested The ownership of the waqf's heir has filed a complaint and the case has been ongoing for a long time, and finally the order has not been made. According to the issue of 92 Tahrir al-Wasila of the Book of Al-Waqf, for the time being, according to the confession of Dhul-Alid, it is not clear what the duties of the mentioned lands are.

He writes:

"If the mentioned lands were not in the possession of waqf or it is not known that they were in the possession of waqf, until it is proven through Shari'i means of waqf, it does not have the ruling of waqf" (Khomeini, 1365: 145) in this issue or whether there are old written deeds of waqf, he He considers Shari'a methods necessary to prove endowment, and in case of non-certification through the mentioned method, he ruled that there is no endowment, and he did not attach proof value to the documents, even though they are in the official government office. (The same document, 146)

Currently, there are two types of documents: official document and normal document.

An official document is a document prepared by official officials within the scope of their authority and according to legal regulations, or documents prepared in notary offices or real estate registry offices are called official documents.

A document that is not official is called a normal document, such as contracts.

Now the question is, if we consider the authenticity of the official document and the normal document that the signatures and fingerprints of the parties in the document are in accordance with the fact, less than two witnesses, is it compatible with today's conditions of society and social system?

In jurisprudence, there are very widely used rules, called the rule of preserving the system.

The word system in jurisprudence means organizing people's life and livelihood in various legal, judicial, social, political and economic fields.

The rule of maintaining the system is very broad and inclusive, so that it can be applied in all branches of jurisprudence, so this rule can be considered as a general or general rule. which has many

effects in the field of jurisprudence and social law, that the legislation of secondary rulings or provincial rulings in the field of jurisprudence and social requirements, special or general rulings can be issued according to this rule.

In contrast to the rule of maintaining the system, there is the sanctity of the disruption of the system, which has a rational basis, so that reason independently considers doing anything that causes the disruption of the system to be ugly and doing anything that causes the system to be maintained.

With the above introduction, we will examine the place of documents in the judicial legal system.

According to the definition of official documents, an official document is an official document that has special characteristics and is issued by government officials who represent the government to issue the document.

Now the question is, if we want to consider the authenticity and power of proof of a document, especially an official document, less than the testimony of witnesses, will it not cause disruption of the system and order of people's lives?

For example, if a person has a document, especially an official document, on the ownership of a property, and the other party wants to claim the ownership of the said property based on the testimony of witnesses, and the court wants the testimony of the witnesses on the previous document, this will cause disruption in people's lives. Was.

It should be noted that the conditions of today's society are very different from the conditions of the past 1300 years. In the past, due to the fact that there was no large population in cities like today, and most people knew each other, and therefore there was no need for a written document like today.

Today, in all countries, regardless of religion and type of religion, legal system, tradition, common sense, and customs, they agree on the acceptance of official documents, so we cannot talk about the invalidity of official documents, although this does not mean that official documents have such validity, that basically the UAE And the opinions should not be in conflict with it, but accepting the validity of the official document is one thing and maximizing the validity and giving maximum authority in the courts compared to other emirates is another matter. One of the contemporary jurists in support of this point of view refers to Sirah Aqla and writes: "The said Sirah has not been denied by the Holy Sharia". (Mousavi Golpayegani, 2010: 13/2)

Therefore, according to the sanctity of system disruption and rational behavior, we can conclude that the authenticity of a document, especially an official document, has the highest authenticity compared to other proofs of litigation, unless the judge knows that the contents of the official document are wrong. Of course, the official document can be accepted due to the testimony of privileged witnesses before normal witnesses, in other words, when someone goes to the notary offices to prepare a document, and the clerk and employees of the notary offices, according to the method and legal procedures, including education and inquiries from the authorities Salih is done in this regard, according to common sense and common sense, the probability of hitting the truth is higher than normal witnesses, and it creates a stronger suspicion than normal witnesses about the subject of the lawsuit for the court.

The legal review states:

Based on the acceptance of the authenticity of written documents, the legislator in the civil law has introduced documents as one of the proofs of the lawsuit. Also, in Article 1287 of the Civil Law, the documents that are registered in the Registry of Deeds and Real Estate or official offices or with other government officials within their jurisdiction and according to the law are official documents, and in Article 1289, other than the mentioned document according to Article 1287 are considered documents. From the point of view of the law, an official document has such validity that a lawsuit against the contents of the document cannot be proven even with the testimony of witnesses, and in Article 1309 of

the Civil Code, it states: "A lawsuit against an official document or a document whose validity has been established in court which is contrary to its provisions or contents cannot be proved by testimony .Of course, this article has been revoked according to the opinion number 2655 of the Guardian Council dated 08/08/1367. As stated, the official documents do not have absolute authenticity, but when the knowledge of the judge contradicts the contents of the official documents, this official document loses its authenticity.

Also, the legislator states in Article 20 of the Family Protection Law: "Registration of permanent marriage, annulment, annulment of divorce, and declaration of nullity of marriage or divorce are mandatory."

It has also criminalized the failure to prepare an official marriage certificate and the punishment for it has been stated as follows: "If a man enters into a permanent marriage, divorce or dissolution of marriage without registering it in the official registers, or refuses to register it for one month after appeal, or in cases where the registration It is mandatory to refuse to register a temporary marriage, as well as being required to register the event, he will be sentenced to pay a fine of the fifth degree or imprisonment of the seventh degree. This punishment is also prescribed for a man who refuses to register the annulment of the marriage and declare the nullity of the marriage or divorce.

Therefore, from the legislator's point of view, official documents have high authority and credibility.

In general, it can be said that common sense and maintaining the official document system of one of the emirates along with other emirates can play a role in proving the dispute, and the official document can be included in the dispute due to the testimony of privileged witnesses regarding its authenticity, but this does not mean that any Emirates and other reasons are not accepted against the official document. Therefore, documents have validity and evidential value due to the fact that they can be a discoverer and a way to the truth.

4-3. Jurisprudence and Legal Examination of Testimony

Shahadah is a simple ternary verb, shahd, yeshhad, shahuda, shahad, infinitive and noun. The meaning of shahd to him against means to testify against or against someone, to report decisively to something, to appear (Abu Al-Jeib, 202: 1408). (Mahana, 1413: 1/699)

It is stated in the jurisprudential review:

There are different definitions for martyrdom, but one of the reliable books of the Hanafi religion has defined this kind of martyrdom in three ways according to the news: (Al-Hasri, 1408: 66)

Personal news for the benefit of another and to the detriment of a third party, this news is a testimony.

- If a person's news is for the benefit of another, but to the detriment of the informer, this news is called confession.
- If a person's news is informative for his own benefit and to the detriment of others, this news is called litigation

What is clear is that the meaning of Sharia testimony is the same as its literal and customary meaning, because in any case, the presence of a person with certain news about the subject of the news is considered. (Najafi, 1422: 23)

In jurisprudence, martyrdom sometimes means bearing witness and sometimes it means testifying. But when it is discussed in the discussion of qadha and the proofs of a lawsuit, only shahadah means testifying in the opinion of jurists. In all human societies and legal schools with different religions and religions, testimony is accepted as a reason to prove the claim of the petitioner and the plaintiff, and Islam has also signed this reason to prove the claim (Encyclopedia of Faqe al-Islami, 1383: 4/738- 753) in

the sense that before Islam, testimony was one of the reasons for proof and authenticity in dealing with disputes between people of the same tribe or between people from different tribes, and Islam has signed this reason for dealing with disputes. But he has added justice to the martyrdom of Allah's martyrdom, the mention of Ahadiha Al-Akhri, and by removing personal emotions from the serious matter of martyrdom, he has given credibility and security to this legal establishment.

In my opinion, if the martyrdom is related to an obscenity like adultery, the way the noble verse of Surah Noor is expressed and the traditions that are mentioned in this matter, suggest that this perception is obligatory. That adultery can only be proven with the testimony of four witnesses or four confessions and that the testimony of the witnesses must be given once and in one assembly.

The legislator considers testimony as one of the proofs of litigation in legal and criminal matters. Also, in the Islamic Penal Code approved in 1392, in retribution, the limits of testimony and the testimony of witnesses are accepted as one of the legal evidences to prove lawsuits and crimes, and also with some articles of the Islamic Penal Code, such as Article 199, it is considered as such, that the method of having testimony is accepted. Article 161 of the law states: "In cases where a criminal case is proven with Sharia evidence such as confession and testimony, which is relevant, the judge will issue a verdict based on them, unless he has knowledge to the contrary." Carefully in this legal article, it may be possible to consider the method of having the testimony desired by the legislator. Of course, it can be said that two witnesses must testify in order to accept the testimony before the court, so let's consider the objectivity of the testimony, because with one witness, even if knowledge is created for the judge, the judgment cannot be issued based on it, such a feature shows the objectivity of the testimony.

Conclusion

Considering that the most important element in the quick and fair trial and the vindication of the rights of individuals in the court is the proof of the lawsuit, and the perception of the validity of the proof of the lawsuit is one of the most important and key points in the handling of the cases, and also when there is or is not a conflict between The reason for proving this main and key point will be very helpful.

The effect of time and place requirements on the proofs of the lawsuit is certain and undeniable in understanding and examining the proofs of the lawsuits in legal and criminal cases. In order to examine the extent and manner of the effectiveness of the proofs of the lawsuit from the conditions of time and place, first of all, the subjectivity or the method of having the proofs of the lawsuit must be investigated and researched. As explained in the article, if they know the validity of the evidence to prove the case from the point of view, the time and place of the evidence will be effective, and if they know the validity of the evidence to prove the case from the subject matter, the time and place will not affect the evidence.

The subjectivity of having evidence to prove a lawsuit is used in two senses:

Sometimes, the meaning of having evidence to prove the claim is that if there is only one reason or legal evidence to prove the subject of the case, and this reason or legal evidence, even if it does not make the judge confident and aware of the content of the evidence or evidence, However, the judge must issue the appropriate verdict based on that evidence and legal evidence. This is not the meaning of the topic stated in this treatise.

Sometimes the objective of having evidence to prove the case is based on the type of crime such as adultery. In this case, the word objective is used in its true meaning, meaning that the proof of this specific crime can only be proven with specific evidence and nothing else. And what was said about the subjectivity in the treatise refers to this meaning.

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