

## The Base: (Of The Accused Is Innocent Until Proven Guilty By Comparative) Jurisprudential Study Through The Noble Sunnah

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Article Info	Abstract
<p><b>Article History</b></p> <p>Received: December 20, 2020</p> <p>Accepted: February 18, 2021</p> <hr/> <p><b>Keywords :</b> The Patent Rule, The Origin Of The Patent, The Rooting Of The Patent Rule, The Effects Of The Patent Rule</p> <p><b>DOI:</b> 10.5281/zenodo.4549081</p>	<p><i>Islamic law and its jurisprudence have reached the height of perfection in preserving human rights and preserving their dignity, whether the person is innocent or accused, which made the principle innocent of his responsibility, as well as the innocence of his body from the limits, retribution and good judgment, and to be fair, man-made laws have agreed that the rule (the accused Innocent until proven guilty) is a necessary rule for human life, and for that the necessity to look at positive law in all impartiality and fairness, and to explain this in Islamic law, and to evoke the distinction of Sharia with the divine, perfection and inclusiveness. The main question in this paper is how Islamic law dealt with this principle? What are the evidence and the consequent principles of jurisprudence and law?</i></p>

### Introduction

Praise is to God, Lord of the worlds, and may blessings and peace be upon the best messengers, Muhammad, and upon his good and pure family. As for after:

PBUH, Islamic law and jurisprudence have reached the height of perfection in preserving human rights and protecting human dignity, whether innocent or accused. When Muslims became weak and weak and were subjected to an intellectual invasion by the forces of the West, this resulted in the admiration of some Muslims with the laws of the West that they enacted to regulate their criminal affairs, and some Muslims began to promote. The idea that these laws are capable of establishing justice and preserving human dignity. To be fair, man-made laws have agreed that the rule (the accused is innocent until proven guilty) is a necessary rule for human life, and for that the positive consideration of positive law must be impartial and fair, and this is explained in Islamic law, which calls for distinguishing Sharia with divine, perfection and comprehensiveness. . The main question in this paper: How did Islamic law deal with this principle? And the sub-questions: What is the concept of the origin of the accused's innocence in Islamic law? What are his evidence and the consequent principles of jurisprudence and law?

#### The first requirement in the statement of search terms

Since being aware of something is a condition of being judged, it is important to become familiar with the concept of basic terms. From here it was necessary to define it, so we talked about it in branches:

The first topic: the concept of the accused in language and idiom

First: The Accused in Language: In language the accusation comes in the sense of suspicion, suspicion and suspicion. IbnFaris (d. 395 AH) said: ((litigation) i, h, m is one origin, and it is corruption against the authority of the free people)) (1)

Al-Fayoumi (d .: 770 AH) said: ((The accusation of silence of distraction and opening it with suspicion and suspicion and its origin is Waw because it is a delusion and accused the man of accusation and adultery with honor, so he did what he accused him of and accused him of believing it as an evil, it is a delusion)) (2)

Al-FayrouzAbadi (d.: 817 AH) said: ((And he exulted: He thought, delusion, delusion, and accusing him of his accusations, delusions, and delusions.)) (3) Enter the accusation.

Second: The accused idiomatically: The accusation was defined as: ((Attribution of a crime or an act contrary to the law to a natural or legal person to be arrested and referred to the court, and the accused must deny the accusation and defend himself)) (4)

He also knew: (He is the accused, because the suspicions of committing an act punishable by law have arisen around him ... and the accused in the initial investigation stage is: the person against whom the preliminary investigation procedures were taken.) [5].

**The second branch: the concept of innocence in language and idiom:**Speech about it:

First: Innocence as a language: innocence in the language of projection, security from shame, hatred and disease. Al-Khalil Al-Farahidi (d.: 175 AH) said: ((Innocence is from the defect of the guilty party, and it is only said: innocent is innocent, and its perpetrator is innocent, as you see. He is innocent.)) [6]

IbnFaris (d.: 395 AH) said: (((Al-Baraa: Al-Ba`a, Al-Ras, and Al-Hamza are the two origins to which the branches of the door refer, and the innocent are the safety of disease))) [7]

Al-Fayoumi (d.: 770 AH) said: ((Mubarak) much of his religion (be absolved), he is exempt from fatigue (innocence), his request is forfeited, so he is (innocent.)) [8]

Second: innocence is a term: innocence is used in the language of the jurists in the same linguistic sense, as they say: innocence from religion, meaning that there is no responsibility for it or preoccupation with it, and innocence is the same. Of defect in the sense of security and selling - for example - from it and the like, because they are all copies in the linguistic sense.

Yes, the patent was launched in the science of assets, and it indicates the originality of the patent, and it is one of the current practical principles when there is a suspicion of the compulsory waiver, that is, the obligation or the prohibition, that is: raising the mandate and ability in the workplace. That is why it was known as the absence of responsibility, and innocence (((It is not judged by anything negative or evidence, it is evidence of a judgment in the negative)) (9)

It was said accompanying the rule of reason in the absence of provisions [10]

They are: (The case of the accused who was proven by a court judgment that he did not commit an act punishable by law, or a personal case whose commission was not proven incriminating the law) [11] The first part of the definition refers to the innocence that the court rules in the absence of evidence or insufficient evidence, while it indicates The second part indicates that the principle in human actions is innocence.

**The third branch: in explaining the concept of condemnation in language and idiom**

The first language of contentment is: obedient sex, humiliation and enslavement. Al-Farahidi said (Tel: 175 AH): (Religion: its heel is not combined because it is a source, like yours: God condemns people from God on the Day of Resurrection, meaning. In the proverb: He also condemns anyone who comes as he came to you)) [12]

According to IbnFaris (tel: 395 AH): ((Sex is obedient and humiliated. Religion: obedience, Dan Dan said, if he accompanies the savior and the obedient. And the popular religion, that is, obedient and obedient. Obaid: His Saying. He condemned himself and any humiliated person who enslaved her, so he said: You are detested. A people will judge them if you do them)) [13]

Second: Conviction idiomatically: ((Determining a court ruling stating the responsibility of the accused for a crime he was assigned to, and imposing a penalty or a precautionary measure)) [14]

Based on the foregoing, the conviction of the accused requires conclusive evidence that denies the presumption of innocence, and in the absence of this evidence, the accused shall be judged innocent.

**The fourth branch: the authenticity of the accused's innocence**

In Islamic law, this is expressed as innocence of responsibility, from hudud, punishment and discretionary statements.

The principles of Islamic law since the time of the Holy Prophet, may God's prayers and peace be upon him and his family and companions, through his successors, the infallible imams (peace be upon them), and to this day it is considered that the basic principle in man is innocence. And this is what came in the hadith of the Messenger of God, may God's prayers and peace be upon him and his family and companions: (Pay attention to the limits of doubt) There is no intercession, no guarantee, and no oath of torment) (15)

The rule in the interim Iraqi constitution came in the following form: ((The accused is innocent until proven guilty in a court of law)) [16]

While the permanent Iraqi constitution stipulated this rule, as it states: ((The accused is innocent until proven guilty in a fair court, and the accused shall not be tried for the same charge again after his release unless new evidence appears)) [17].

**The second requirement: the concept of the rule of innocence of the accused and its grounding in Sharia and law**

It has three branches:

**The first branch: Explaining the meaning of al-Qaeda in Islamic law**

The principle of innocence in man means that a person's innocence is presumed, and that he has a fixed origin, whether in his innocence of his responsibility for rights and duties or in the innocence of his body from limits and retribution. Excuses, and innocence is one of the principles that the street has kept, because it protects the rights and freedoms that the texts guarantee its protection, and it is not evidence that the origin of the innocence of the important principles in Islamic law says :) It wins a sin or sin and then throws it on the innocent and may

endure slander and sin ([18] And this noble verse calls for the importance of protecting innocence in every person, from being subjected to aggression by the aggressor who wants to discredit a person who is fundamentally innocent of all rights and duties, so that his responsibility remains innocent.) Is what you created on earth, then he turned to heaven and made seven heavens Knowing everything ([19], the verse indicates that the principle in the matter is permissibility until there is evidence of the prohibition [20] and from these noble verses and others that we mention, the jurists concluded that the basic principle for a person is his innocence of rights. Duties and the innocence of his body from Limitations, retribution and excuses.

**The second branch: establishing the rule (the accused is innocent until proven guilty) of the noble Sunnah**

Jurists inferred from hadiths on the origin of the accused's innocence

The first hadith: First: The hadith: ((Prevent the boundaries of doubt)) [21]

Study the sequence of transmission: documented the hadith on the authority of Abu Abdullah al-Hakim al-Nisaburi (d.: 405 AH), then al-Dhahabi (d.: 748 AH) by saying: Al-Nasa'i said: Yazid bin Ziyad al-Shami is matrook, and this is more than IbnZiyad, or IbnAbiZiyad al-Qurashi al-Dimashqi And he is weak, as if his words were fabricated [22]

Ruling on hadith: The hadith is very weak with this series because of the severity of Yazid's weakness and its difference in hadith

Al-Tirmidhi (d.: 279 AH) said: ((I asked Muhammad - meaning Bukhari - about this hadith, and he said: Yazid bin Ziyad al-Dimashqi denies the hadith)) [23]

But with the weakness of the chain of transmission, IbnMunther Al-Nisaburi (d.: 318 AH) said: All the scholars who have preserved the limits are bound by doubt. [24]

And Muhammad al-Shawkani (d.: 1250 AH) said: ((The hadith is valid in protesting against the legitimacy of banishing borders with suspicions)) [25]

Abdullah Al-Bassam (d.: 1423 AH) said: ((Most scholars have argued that there is no limit to doubt, because the limits are prevented by doubt)) [26]

Although the hadith has reasons for weakness, but collecting these hadiths strengthens some of them, and they are good for others. That is why scholars protested them to ward off doubts.

It is supported by what came from the hadith of Abu Hurairah, which was included in IbnMajah (d.: 824 AH) in the chapter on concealment of the believer, and he pushed the limits with doubts by Ibrahim bin Al-Fadl, may God have mercy on him. On the authority of Saeed bin AbiSaeed, on the authority of Abu Hurairah, he said: ((He said: The Messenger of God, May God bless him and grant him peace), so they pay the limits of what you find a rifle for. To him)) [27]

Rather, it is said on the claim of the frequency of conversation between the two parties, and is supported by the saying of the scholar Majlisi (T.: 1110 AH) by saying: ((What was repeated over the authority of the two parties from his saying, may God's prayers and peace be upon him and his family: Stay away from the limits of suspicions)) [28]

And is supported by what was reported on the authority of Ibn Abbas with the attribution of his account He said: When Anza bin Malik came, the Prophet said to him: Perhaps you kissed, winked, or looked, and he said: No, O Messenger of God, he said: Then he ordered stoning. [29] Then the noble Messenger moved away from the seat of adultery, and ordered he to return from it by saying (Perhaps you kissed, winked, or looked) and this is a sign of him, may God bless him and grants him peace. And his family) in preventing the punishment of adultery on suspicion.

What was narrated on the authority of Abu Hurairah, with his chain of transmission, that he said: A Muslim man came on the authority of the Messenger of God, may God bless him and grant him peace, while he was in the mosque, and called him. He said: O Messenger of God, I committed adultery, so he moved away from him and stepped on his face and said to him: O Messenger of God, I have committed adultery. He moved away from him until he praised that four times, and when he testified against himself four testimonies, the Messenger of God, may God bless him and grant him peace, called for him and said: Your father is crazy. He said: No, he said: Did you get up? He said: Yes, so he said: The Messenger of God, May God bless him and grant him peace, went and killed him. [30] Then the Messenger of God (may God bless him and his family) tried. To arouse suspicion. Because the border ward off suspicion, and the original innocence of the accused.

The significance of the hadith: The indication of the hadith is clear and clear that the basic principle is that a person is innocent, and the hadd punishment is not proven against him except after certainty, otherwise the penalty is waived based on his innocence.

Second: The hadith on the authority of Abu Hurairah with a chain of transmission narrated by him: ((The Messenger of God, may God's prayers and peace be upon him and his family, said: Pay the destiny as long as you find a rifle for him)) [31] IbnMajah narrated it through Ibrahim bin al-Fadl on the authority of Saeed bin AbiSaeed on the authority of Abu Hurairah, and from this saying Abu Ali narrated it in his Musnad, he said in Al-Zuwa'id: weak. Transmission chain. Ibrahim bin al-Fadl al-Makhzoumi is weak by Ahmad, IbnMu'in and al-Bukhari. , And the woman [32]

Third: The third hadith: On the authority of Urwa on the authority of Aisha who said: He said: The Messenger of God, may God's prayers and peace be upon him, said: ((Beware of the limits of Muslims as much as possible. If you find a way out for the Muslim, let him go, so the imam's mistake in pardoning is better for him than a mistake in the punishment)) [33] Narrated by Waki, Yazid bin Ziyad, arrested Aisha. It was narrated by Abu Abdullah Al-Hafiz, Nadhr Abu Al-Walid Al-Faqih, Tana Muhammad bin Ahmed bin Zuhair, Tana Abdullah bin Hashem, Tana, and Kaya, for more than one, so the exclusivity remained more than Ziad al-Shami, the authority of the family. - Syphilis, which is weak [34]

The preponderance of the previous hadiths: Although the hadiths contain weakness, but the collection of previous and other narratives strengthens each other, especially with many scholars as evidence of these hadiths in their fatwas of jurisprudence, so they are in the interest of others. That is why scholars protested them to ward off doubts.

Al-Muzni Al-Shafi'i (T. 264 AH) said: (And his well-known saying that he does not limit defamation except with evidence of the slander that he is free because the limits obscure him. Doubts)) [35]

Saeed Verne (Tel.: 483 AH): ((And the dumb agrees if he writes and reasoned with the legal retribution and the rights of people ... except for the limits because confession calls permission by the word fornication and theft, and his return does not comprehend this; and because the boundaries ward off suspicions, perhaps in the same suspicion he cannot He shows it by insinuating it)) [36]

IbnRushd Al-Qurtubi (d.520 AH) said: ((If raising to the guardian and the man is crazy, the mind is gone, then some of our companions said: He distracts from torment, because the limit is for God, and this is not like the right of people if it is raised and it is madness ... To distract from him the torment, and they did it with the guardian, which is a right or a madman, because punishments dispel doubts, and any doubt is stronger than if only two witnesses testified to him that at a time of fornication he was insane, and he went away. [37]

IbnIdris Al-Hilli (d. : 598 AH) said: ((If the slave woman is among the partners, he leaves her with one of them and interferes with her, and he is prevented from torment, because the limits. Ward off doubts)) [38]

IbnQudamah al-Maqdisi (d.620 AH) said: ((He found on his bed a woman whom he thought was his wife or a slave-girl, and he stepped on her, or called his wife or his neighbor a female. Then someone came to him and thought that her call was to him, then the woman begged him, "Al-Shafei said, and it was narrated from Abu Hanifa is obligated to do so, because he trampled in a place where there was no property.) [39]

Fourth Hadith: On the authority of Ibn Abbas with the chain of transmission of his narration on the authority of the Prophet, may God's prayers and peace be upon him, who said: ((If it was said to people they would ask for blood and money)). Of the men, but the oath is over the accused)) [40]

The fifth hadith: Sahih Muhammad bin Muslim, on the authority of Imam Al-Baqir (may God's prayers and peace be upon him): ((There is no evidence for a man with a mortgage with his owner, so the owner of the pledge claims) that it is for a thousand, so the owner of the mortgage said: It is only a hundred, he said: The evidence for the mortgage owner is that For a thousand, if he does not have evidence: the one who takes the oath.)) [41]

In the two previous hadiths, it was inferred: that the Messenger presented evidence to the prosecutor, which is evidence of preoccupation with guilt. Because he is demanding without the appearance, and he only asked the defendant for an oath, which indicates that the principle is the release of liability, so the interest of the oath is to keep the fixed liability vacant.

### **The third branch: in explaining the meaning of the rule in law**

The meaning of this rule is that every person against whom a lawsuit is brought is considered innocent until proven guilty by a final and final judgment, issued in a fair legal trial, and there are guarantees to defend himself, and that he is treated on the basis that he is innocent before the verdict is issued, regardless of the charge against him, and one of the most important matters covered by the principle The main thing is that if the judge does not provide conclusive evidence of the accused's conviction, the judge must rule that the accused is innocent of the charge against him. [42]

Opinions differed in the law as to whether the presumption of innocence is a legal assumption that can prove the opposite, deducing from a known origin, which is that the principle in things is permissibility, or the presumption of innocence is an origin in man and not a presumption?

Some have argued that it is a simple legal presumption, and the assumption is an unknown conclusion from what is known, and it is known that the basic principle in things is permissibility unless a court ruling determines that the crime is committed and deserves. He is punished, and the unknown that follows from this principle is the person's innocence until proven guilty by a court ruling [43]

Others have argued that innocence has its origin in humans, which is not just a legal presumption, nor is it a form of it. ((Presumption of innocence in a person is one of the general principles in criminal law whose scope goes beyond the scope of presumption ... and this original is not denied except by the issuance of a court judgment ... a conviction, and it is not considered a legal presumption, and it is merely an inference of an unknown matter from the last known. A well-known matter, and there is no disagreement between the rule that the origin in the act is permissible and the original. In the person of innocence, they are intertwined and

complementary, and each has its legal field, so the principle of principle in acts of permissibility protects individuals from the risk of criminalization and punishment without a legal text ... Either the original rule In the human being is innocence, and it is a procedural rule that protects the freedoms of individuals in the face of authority) (44).

In the researcher's view, the presumption of innocence is an origin .Because a person is considered innocent from birth, and it is unacceptable to say that innocence is an unknown matter that was derived from a known matter at a time when innocence is the known thing in particular.

#### **The fourth branch: Perceptive rule in law**

Some international agreements have been issued that prove the innocence of the original accused, including:

1. The Universal Declaration of Human Rights issued by the General Assembly in Resolution No. 217A (D-3) On December 10, 1948 AD, Article Eleven, the first paragraph of this stipulated the following: ((Every person accused of committing a crime shall be considered innocent until proven guilty according to law in a public trial in which he has the necessary guarantees for his defense)[ 45]
2. On December 6, 1966 AD, the United Nations General Assembly ratified the Civil and Political Rights Convention, which entered into force on March 23, 1976 AD. The second paragraph of Article 14 of this agreement states: ((It is the right of every person accused of committing a crime to be considered innocent until proven guilty according to law)) [46]

Thus, it becomes clear to us that the Universal Declaration of Human Rights and the International Convention on Political and Civil Rights explicitly stated that the principle in the accused is innocence.

The rule in the interim Iraqi constitution came in the following form: ((The accused is innocent until proven guilty in a court of law)) [47]

While the permanent Iraqi constitution stipulated this rule as it states: ((The accused is innocent until proven guilty in a fair court, and the accused will not be tried for the same charge again after his release unless new evidence appears))[ 48]

From the foregoing, it is clear that Islamic law preceded the Universal Declaration in establishing the principle that the accused is innocent, nearly fourteen centuries before the convention was issued.

The origin of the innocence was mentioned in the law several justifications, including:

First: It is an imposed result; the exemption is a foregone conclusion and does not even require a stipulation [49]

Second: The crime is an accident. This is because the basic principle in things is permissibility, and that the principle is nothingness, and from that the principle in a person is innocence, and that crime is an accident. [50]

Third: The defendant's weakness before the indictment: The accused is required to prove a negative stance, which is to prove that he did not commit a crime, which is impossible, and almost impossible. [51]

From here it appears that treating the accused as innocent has logical, ethical and psychological justifications to protect the human being from the risk of criminalization and punishment. Punishment, if you fall for an innocent, will be more harmful to society than the criminal's impunity.

#### **The third requirement: the implications of al-Qaeda in Sharia and law, and a comparison between the legal and legal text of al-Qaeda**

In this paper, we will address three branches:

##### **The first branch: the implications of the origin of innocence in Sharia**

If the field in which the rule operates in positive law is to preserve the freedoms of individuals and persons from arbitrariness, then the rule of origin is clearance of liability in Islamic jurisprudence that works much more broadly than criminal law, so we find jurists working this rule in all branches of Islamic law, but rather in costs and duties Purely religious or devotional, and among these effects:

First: Guaranteeing the accused's personal freedom. The presumption of innocence in the accused requires that he be treated as innocence in all stages of the case.

Second: Not obligating the accused to prove his innocence, so he is not required to present any evidence of his innocence from the crime attributed to him.

Third: The doubt shall be interpreted in favor of the accused, so he shall not be sentenced to conviction except by arguments established with certainty. If the condition of certainty is disturbed, this will be in the interest of the accused, and he shall remain innocent .Because it is the original and because the major jurisprudential rule says certainty does not disappear with doubt.

The same applies to the interrogation of the accused, as Islamic Sharia has laid down guarantees for the interrogation of the accused, including:

1. It is not permissible to bring the accused person to the crime of hudud and retribution.
2. It is not permissible to torture him or to be subjected to physical or moral coercion, or to treat him inhumane.
3. The accused has the right to remain silent.

It is clear from the foregoing that the origin of the patent is a fundamental principle in Islamic law, and Sharia preceded the positive law in its adoption, and in this section we will talk about the effects of the existence of this origin, so the principle from the origin of the patent has an important place in Islamic law and its jurisprudence

in criminal procedures. Guarantees. . Basic for the suspects and the accused. In Islamic law, many jurists on both sides stipulated the repetition of confessing the number of witnesses, so the adulterer must confess and return it four times. Peace: A man came to the Prophet, may God's prayers and peace be upon him and his family and companions, and said: I committed adultery, so the Prophet, may God's prayers and peace be upon him and his family, directed him to him, and he came. Of him from his other side and then he said something like what he did and turned his face away from him. Then he came to him and said: O Messenger of God, I am fornication and the torment of this world is lighter than the torment of the Hereafter. , He said. : Are you hurting your friend? I mean Heaven. They said: No, so he knew his fourth soul, so the Messenger of God, may God bless him, his family and his companions, commanded him. Then Al-Zubayr shot him with the camel's man and his mind, and the people realized him, then killed him, so they said to the Prophet, may God's prayers and peace be upon him and his family, that, and he said. : Do you leave him? [52]

On the authority of Abu Hurairah with his chain of transmission: He said: A Muslim man came from the Messenger of God, may God bless him and grant him peace, while he was in the mosque, and he called to him. Four times, when he witnessed four testimonies against himself, the Messenger of God, may God bless him and grant him peace, called for him and said: Your father is crazy. He said: No, he said. [53].

### **The second branch: the legal implications of the origin of the accused's innocence**

Through the judiciary, the state exercises its right to punish criminals and to achieve general deterrence to maintain public security within society, so that the indictment authority follows up every person accused of committing a crime if there is no law and objective. Reasons for conservation. The state is constitutionally mandated to protect the rights and fundamental freedoms guaranteed to every citizen in the event that he is subjected to criminal prosecution, unless his guilt is proven by a final judicial ruling issued by a regular judicial authority. Providing all legal and judicial guarantees to protect the original presumption of innocence.

The principle of the origin of the patent has very important consequences:

First: The accused shall not be compelled to be innocent, otherwise he shall be considered guilty. Because the origin is innocent.

The burden of proving the accusation falls on the authority of investigation or accusation in accordance with the rules of evidence in criminal cases, and the accused is not obligated to present any evidence of his innocence, and this is not considered evidence of the commission of the crime. The same is the case when silence, except that he has the right to discuss the evidence that accumulates on him, and refute it or question its value. He may also voluntarily submit any evidence to prove his innocence. Or admit the charge.

Second: The doubt is explained in favor of the accused. Because it strengthens the origin of innocence in it, and the original remains with certainty.

If the judge doubts that the accused committed the act or did not do it based on insufficient evidence or its contradiction, then the basic principle is that he did not.

If it is suspected that it was used as a right or for aggression, the basic principle is that it is the use of a right that confirms the origin of the patent.

Third: Any weakness in the evidence strengthens the origin of the accused's innocence. He is not presumed guilty, nor may he be found guilty based on a strong belief, but based on assurance and certainty.

The combination of the principle of the origin of innocence and the principle that the judgment of conviction can only be based on assertion and certainty requires the existence of a fundamental difference between the judgment of conviction and the judgment of innocence. Therefore, the judgment of conviction must be based on evidence of proof, while it is sufficient for the judgment of innocence to be based on suspicion of conviction with this evidence.

Fourth: It is not permissible to convict the accused based on the statements of the plaintiff alone. Because the plaintiff claims contrary to the original principle, and the accused is protected by the origin of his innocence, hence the statement came in accordance with this principle.

Fifth: It is considered a grave constitutional violation for the legislator to include in his legislation legal presumptions that contradict the origin of the patent.

### **The third branch: a comparison between Sharia and law**

Islamic law and man-made laws are keen to protect man and preserve his interests, whether the person is innocent or accused, and for this it has made the origin of the person innocence, so he is innocent until proven guilty by a final and final judgment that he is condemned, and if that happens, the origin of innocence is denied to the person. Islamic Sharia and man-made laws promised that the accused is innocent until proven guilty, and this rule has all effects in the interest of the accused and the interest of society. Therefore, we find great similarities between the effects of this origin in Sharia and the law, as each of them has effects that maintain the security of society and achieve the existing justice.

### **Conclusion And Research Results**

Praise is to God, and may blessings and peace be upon the Seal of the Prophets and the God of the Good and Pure

This includes the conclusion

First :On your findings

1. The meaning of the origin of innocence is that a person is considered innocent of any rights or duties, and his liability remains innocent until proven guilty, and his liability is occupied with a certain matter or a final judgment, and this is the meaning intended in Islamic law and positive law.
2. Innocence is an origin in man, not a presumption, since man is born free and absolved of all sin or transgression.

#### **Second: Recommendations**

1. The issue of the defendant's innocence is a large and complex one, and it needs more time and effort in order to fulfill his right.
2. Study the major jurisprudential rules and derive criminal rulings and root them in Islamic law, based on those rules.

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