

Critical Analysis of Proving Zinā by Video Evidence in Islamic Jurisprudence and Positive Law: Reconsidering Articles 160, 161, 162, 211, and 212 of the Islamic Penal Code

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ABSTRACT

Iran's Islamic Penal Code recognizes judicial knowledge as an independent and exceptionally powerful means of proof. One consequence is the apparent possibility of proving zinā through video evidence where the recording generates certainty for the judge. This article examines the fihi validity of that result through a descriptive-critical analysis of the evidentiary foundations of judicial knowledge. It argues, first, that contrary to the dominant juristic view, a judge's personal knowledge is not universally valid and that zinā cannot, in the domain of rights belonging purely to God, be established solely by video. Second, where a case implicates private rights, the validity of judicial knowledge may arise not from a specific transmitted proof but from a rational argument based on the correlation between reason and revealed law. Reason condemns a rule that would disregard clear video evidence where doing so destroys a victim's right, emboldens offenders, and facilitates crime. Such rational validation applies only where the matter concerns private rights and the evidentiary basis is manifest and generally persuasive. The scope of any resulting punishment depends on the scope of the rational condemnation. Articles 160, 161, 162, 211, and 212 therefore require substantial revision.

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Introduction

Articles 160, 161, 162, 211, and 212 of the Islamic Penal Code give judicial knowledge a prominent position among criminal proofs. Article 211 limits such knowledge to certainty arising from manifest evidentiary grounds, while Articles 161 and 212 allow it, in appropriate circumstances, to prevail over other legal proofs. Article 162 also permits evidence lacking complete formal conditions to operate as a judicial indication where, together with other circumstances, it produces judicial knowledge.

This structure makes the proof of *zinā* through video legally conceivable and has supported severe judgments in practice. The *fiqhi* question, however, is whether the judge may act on such knowledge at all and, even if the general authority exists, whether the special evidentiary rules of *zinā* displace it. The article accordingly examines both the existence of a general basis for adjudication by knowledge and the possible operation of specific restrictions governing *zinā*.

Methodology

The study uses critical analysis of primary *fiqhi* documentation. Library sources and electronic databases were systematically examined to collect juristic arguments and first-hand texts. The relevant doctrines were then evaluated through principles of law and *uṣūl al-fiqh*, with particular attention to the distinction between *ḥuqūq Allāh* and *ḥuqūq al-nās*, the evidentiary status of certainty, and the rational rule correlating sound reason with revealed law.

Literature Review

No prior study has addressed the precise problem in the same form. Existing writings generally discuss judicial knowledge in broad terms and often accept the dominant opinion without sustained criticism. Some merely list the traditional proofs and conclude by reproducing the view permitting adjudication on the basis of personal knowledge. The present article differs by testing both the textual foundations and the special evidentiary structure of *zinā*, and by proposing a limited rational basis for judicial knowledge in matters involving private rights.

Findings

The transmitted evidence does not establish universal authority for a judge's personal or typical knowledge. In matters belonging purely to God, including ordinary cases of *zinā* that do not directly violate an individual right, even clear video evidence cannot by itself establish the offense under the *Sharīʿa*. Texts relied upon for adjudication by knowledge either concern exceptional cases, relate to the infallible Imam, or are restricted by other evidence.

A rational specification may nevertheless validate manifest judicial knowledge in matters of private right. Where disregarding clear evidence would

destroy an individual's right and foster serious injustice, independent reason condemns non-recognition, and the rational–legal correlation supplies legal authority. The evidence must be clear, generally persuasive, and free from a substantial risk of fabrication or corruption. Even then, the legal consequence extends only as far as the rational condemnation. In rape, for example, the private-right dimension may justify proving both the violation and its penal consequences; where the private right is merely collateral, such as a contractual consequence triggered by adultery, the conduct and the private-law consequence may be proved without necessarily establishing the ḥadd.

Discussion

The analysis requires a disciplined separation between the proof of conduct, the protection of private rights, and the imposition of a fixed punishment. Treating video as automatically sufficient because it persuades the judge collapses these distinct questions. Conversely, a categorical refusal to consider manifest evidence in every private-right case may produce consequences that reason and justice cannot accept.

A workable statutory approach should therefore define who may rely on personal knowledge, what forms of evidence are sufficiently manifest, and what procedural safeguards are required. Institutional review, disclosure of the evidentiary basis, and reasoned explanation of any conflict with formal proofs are necessary to reduce suspicion and prevent abuse.

Conclusion

Judicial knowledge lacks absolute validity in proving zinā, and video evidence alone cannot establish the offense in the domain of pure divine rights. A limited exception may be justified in matters of private right through a rational argument grounded in the correlation between reason and revelation, provided that the evidentiary basis is clear and generally persuasive. The scope of the legal consequence must correspond to the scope of the private right and the rational condemnation. The broad language of Articles 160, 161, 162, 211, and 212 should therefore be consolidated and qualified to reflect these distinctions.

Declarations

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