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Judicial experience and its impact on evidentiary evidence in Sudanese law

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Abstract

The study dealt with the effect of judicial experience on evidentiary evidence. The study problem is summarized in the following main question: What were the effect of judicial experience on evidentiary evidence in Sudanese law? The study aims to identify the suitability of judicial expertise to the topics of dispute in the cases presented before the courts, to reveal the procedures that are followed in conducting judicial expertise, correct and sound, and to identify the clarity and accuracy of the role of the judicial expert's opinion. The study used the comparative descriptive method and the historical method. The most important findings of the study are: Judicial expertise is a means of proof and an investigative procedure ordered by the judge if the dispute is ambiguous and difficult for him to understand. The judge has the right to dismiss or replace the expert and the opponents may request that as well. The role of the criminal judge differs from the role of the judge. Civilian on the issue of judicial expertise. The most important recommendations provided by the study: The expert must carry out his duties within the period specified for producing the report and the expert must not exceed the field of expertise, the judicial expert must be financially motivated, and the judicial expert must be provided with legal protection.

Keywords : Experience , evidentiary , law , criminal judge

Introduction

Judicial expertise is a key evidentiary tool in the criminal justice system, helping judges understand and evaluate technical evidence for which they lack sufficient expertise. Judicial expertise is essential in many criminal cases, as it helps determine the cause of death, the method of committing the crime, the tools used in the crime, the identity of the accused, and other important information that helps the judge issue a fair verdict. Proof involves presenting evidence before a court through legal means to establish a specific right or fact. This article addresses two types of provable facts: legal acts and physical acts, and emphasizes the necessity of meeting specific conditions for the fact to be proven. The article first reviews the requirements required by the judicial proof system, such as identifying the fact and its possibility, then addresses legal conditions such as relevance to the lawsuit and the legal permissibility of proving the fact.

The importance of study

The importance of this research stems from the importance of judicial expertise, which is a fundamental element in uncovering criminal facts. It helps guide investigations and trials in the right direction and arrive at just decisions. Furthermore, expertise is an important means of achieving justice in the judicial system. If applied properly, experienced judges and lawyers can strike a balance between protecting the rights of defendants and achieving fairness in handling crimes and uncovering criminal facts accurately and impartially.

Study objectives: the study aims to:

1)Identifying the extent to which judicial expertise is appropriate to the topics of dispute in cases brought before the courts.

2)Disclosing that the procedures followed in conducting the forensic expertise are correct and sound.

3)Identify the clarity and accuracy of the role of the judicial expert's opinion.

Study problem

The research problem can be formulated in the following questions:

a) Are the judicial experiences appropriate to the topics of dispute in the cases before the courts?

b) Are the procedures followed in conducting the forensic expertise correct and sound?

c) Is the forensic expert's opinion clear, accurate, and based on scientific evidence?

Study Methodology

The researcher followed the scientific, descriptive, analytical, and comparative method, where the requirements of the research plan and its definitions were presented, followed by description, analysis, commentary, and comparison.

Judicial experience

The concept of judicial experience

Judicial expertise is a key evidentiary tool in the criminal justice system, helping judges understand and evaluate technical evidence for which they lack sufficient expertise. Judicial expertise is essential in many criminal cases, as it helps determine the cause of death, the method of committing the crime, the tools of the crime, the identity of the accused, and other important information that helps the judge issue a fair verdict(Ahmed Kamal , 2012). Forensic expertise in forensic evidence is an essential component of the investigation and trial process. It represents a body of knowledge and experience that judges and lawyers acquire over the years, helping them understand and evaluate evidence and testimony presented in court(Suleiman Marcus , 2005). Forensic expertise in forensic evidence includes the ability to recognize the quality and reliability of evidence presented, examine the validity of testimony, and evaluate scientific evidence such as chemical and medical analyses. Experienced judges and lawyers may be able to detect loopholes in criminal evidence and detect evidence tampering. Criminal court decisions rely heavily on the assessment and guidance of judicial experts. If evidence is improperly processed and analyzed, it can lead to erroneous and unfair rulings. Therefore, relying on experienced experts is crucial to ensuring justice in criminal justice.

The importance of judicial expertise in uncovering criminal facts

Judicial expertise is an essential component of uncovering criminal facts. It helps guide investigations and trials in the right direction and arrive at fair decisions. Experienced judges and lawyers rely on their in-depth knowledge of criminal law, procedures, and evidentiary techniques to ensure that evidence is handled accurately and carefully. Furthermore, judicial expertise can contribute to better analysis of evidence and uncover gaps and inconsistencies in testimony and evidence presented. Experienced lawyers can use this knowledge to effectively defend their clients or assist judges in making informed decisions. Overall, expertise is an important means of achieving fairness in the judicial system(Adly Amir Khaled , 2001). If applied properly, experienced judges and lawyers can strike a balance between protecting the rights of the accused and achieving justice in the handling of crimes and uncovering criminal facts accurately and impartially.

Types of judicial expertise in criminal evidence

Judicial expertise in criminal evidence is divided into several types, including**(**Ahmed Kamal **, 2012)**:

a) Medical expertise: This expertise is provided by a forensic medical expert to help determine the cause of death, determine whether there was violence or coercion, determine the type of injury, estimate the age of the body, and provide other medical information that helps the judge issue a fair ruling.

b) Chemical expertise: This expertise is provided by a chemical expert in the field of chemistry, to help identify the type of substance, determine whether it was used in the crime, determine the location of the crime, determine whether there are traces of another crime, and other chemical information that helps the judge issue a fair ruling.

c) Physical expertise: This expertise is provided by a physical expert in the field of physics, to help determine how the crime occurred, understand the trajectory of gunshots, identify the type of tools used in

the crime, estimate the speed of the vehicle, and other physical information that helps the judge issue a fair ruling.

d) Criminal expertise: This expertise is provided by a forensic expert in the field of forensic medicine, to assist in detecting fingerprints, identifying firearms, determining how a thief entered a crime scene, and other criminal information that helps the judge issue a fair ruling.

e) Engineering expertise: This is the expertise provided by an engineering expert in the field of engineering. This expertise helps determine the method of constructing a building, determine whether there are defects in the building, determine the causes of the building's collapse, and provide other engineering information that helps the judge issue a fair ruling.

Conditions for the validity of judicial expertise in criminal evidence

Forensic expertise is technical advice provided by an expert in a specific field to a court or investigative body to assist in understanding and assessing technical evidence that the judge or investigator lacks the necessary expertise to understand. Forensic expertise is subject to certain conditions, including(Suleiman Marcus , 2005):

1) Academic Qualifications and Practical Experience: The expert must have academic and expert qualifications in his field of expertise, i.e., he must hold a university degree in this field, and have practical experience in this field. This condition aims to ensure that the expert is able to provide a professional and accurate opinion, and is aware of the latest developments in his field of expertise.

2) Independence of Opinion: The expert must be independent in his opinion, i.e., the expert must not be affiliated with any party to the dispute, and his opinion must be objective. This condition aims to ensure that the expert's opinion is unbiased and based on a scientific basis.

3) Reliance on Scientific Evidence: The expert must base his opinion on scientific evidence, i.e., the expert's opinion must be based on scientific foundations and must be verifiable. This condition aims to ensure that the expert's opinion is open to discussion and evaluation, and is based on tangible facts. If these conditions are not met in the expertise, it may not be authoritative before the court, and the judge may refuse to accept the expert's opinion.

Cases in which the judge refuses to take the expert's opinion

The following are some examples of cases in which the judge may refuse to take the expert's opinion (Adly Amir Khaled , 2001).

1) If the subject matter of the expertise is irrelevant to the case or issue before the court.

2) If the expertise procedures are incorrect or improper.

3) If the expert's opinion is unclear or inaccurate.

4) If the expert's opinion is biased.

Although judicial expertise has relative authority, it is of great importance in criminal evidence, as it helps uncover criminal facts and ensure criminal justice.

The Role of Judicial Expertise in Ensuring Criminal Justice

Judicial expertise plays an important role in ensuring criminal justice, as it helps uncover criminal facts and avoid erroneous rulings. Among the most prominent roles played by expertise in ensuring criminal justice are the following(Amal Othman Abdel Rahim , 1964):

1) Assisting the judge in understanding and appreciating technical evidence: Judicial expertise helps the judge understand and appreciate technical evidence that he does not have sufficient expertise to understand, such as medical, chemical, physical evidence, etc.

2) Uncovering criminal facts: Expertise helps uncover criminal facts that may not be clear or obvious, such as determining the cause of death, method of committing the crime, crime tools, the identity of the accused, etc.

3) Avoiding erroneous rulings: Judicial expertise helps avoid erroneous rulings by providing accurate and objective information to the judge.

Judicial expertise in digital-age cases

With the advancement of technology and the emergence of digital-age crimes, such as cybercrimes, cybercrimes, and data crimes, judicial expertise in digital-age cases has become more important than ever. Judicial expertise in digital-age cases plays a crucial role in uncovering criminal facts and ensuring criminal justice. Expertise helps in understanding digital evidence, determining how a crime was committed, and identifying the perpetrator. Prominent examples of the role of judicial expertise in digital-age cases include the following(Karima Baghashi , 2009):

1) In cybercrime cases, expertise can help determine the type of crime, how it was committed, and who the perpetrator is.

2) In cybercrime cases, expertise can help determine the type of crime, how it was committed, and the damages suffered by the victim.

3) In data crime cases, forensic expertise can help determine the type of crime, how it was committed, and the damages suffered by the victim.

Judicial expertise in terrorism cases: Judicial expertise plays an important role in terrorism cases, helping to uncover criminal facts and ensure criminal justice. Prominent examples of the role of judicial expertise in terrorism cases include the following(Sayed Ahmed Mahmoud , 2007):

a) In terrorist planning cases, judicial expertise can help determine how terrorist operations were planned and identify the conspirators.

b) In terrorist execution cases, judicial expertise can help determine how terrorist operations were carried out and identify the terrorists.

c) In terrorist investigation cases, judicial expertise can help analyze forensic evidence and identify the terrorists.

The following are some of the challenges facing judicial expertise in terrorism cases

a) The covert nature of terrorist operations: Terrorist operations may be highly secretive, making it difficult to obtain forensic evidence.

b) The violent nature of terrorist operations: Terrorist operations may be extremely violent, making it difficult to access the crime scene.

c) Lack of specialized judicial expertise in the field of terrorism: Specialized judicial expertise in the field of terrorism may be scarce, which may lead to the use of non-specialized experts, which may lead to inaccurate results**(**Amal Othman Abdel Rahim , 1964) .

Therefore, it is important to work to address these challenges in order to enhance the role of judicial expertise in terrorism cases and ensure criminal justice.

It can be said that judicial expertise is an important tool in the criminal justice system and is indispensable in ensuring criminal justice. It helps uncover criminal facts and ensure criminal justice, especially in digital age and terrorism cases.

Evidence

The concept of evidence: The concept of evidence in the legal context, indicating that it is represented by presenting evidence before the court through legal means to prove a specific right or fact. The article addresses two types of facts that can be proven: legal acts and material acts, and emphasizes the necessity of meeting specific conditions for the fact to be proven. The article first reviews the conditions required by the judicial evidence system, such as defining the fact and its possibility, then addresses legal conditions such as connection to the lawsuit and the legal permissibility of proving the fact. The article concludes by emphasizing the importance of the judge's discretion and his role in judicial proof(Murad Mahmoud El Shenikat , 2011). The meaning of proof in law: It is establishing evidence before the court through the methods specified by the law regarding a specific right or fact that entails legal consequences, which can take one of two forms.

1)To be legal acts that aim to create a specific legal effect, such as contracting and donation.

2)That they are material actions that have a legal effect, such as neighborliness and causing a harmful act. Therefore, the fact to be proven must meet several conditions, some of which are required by the judicial proof system, and others are required by the law. We will briefly present them below:

Conditions required by the judicial evidence system: These are the conditions derived from the nature of the fact subject to proof and judicial logic, namely:

1) The fact must be specific: Ignorance of the fact renders it unprovable, because proof is persuasive, and persuasion does not apply to vague matters. This requires that the fact be specified when presented before the court for proof, whether negative or positive. This means that the fact must not be ambiguous, such as when a person claims a debt owed by another person without specifying the nature and amount of the debt, or when a person claims ownership of a property without specifying the terms of the property ownership contract. If the fact is not specific, there is no way to prove it, because the judge cannot determine its relationship to the required legal effect, since the legal effect is inherently linked to a specific legal connection. The fact to be proven may be positive, i.e. proving the existence of the property or a debt, for example, or negative, i.e. denying the existence of something, such as abstaining from a specific act or not neglecting to exercise a certain degree of care.

2) That the incident be possible: “rationally conceivable” (for example, a person may not prove his lineage to another person without there being an age difference that allows for that, and it is not permissible to prove that an action was taken by a person if the action was subsequent to his death. 3/ It is permissible to prove a fact that is established by its nature, so the opponent does not need to prove something self-evident, such as his being alive, and the opponent is exempt from proving what his opponent has admitted in his favor. Legal conditions for the fact to be proven:

These are the conditions required by the Code of Civil Procedure for the facts to be proven before the court, as Article 146 of the Code of Civil Procedure stipulates that (the facts to be proven must be related to the lawsuit, productive in it, and acceptable), and they are as follows:

1) That the fact be related to the lawsuit before the court: meaning that there is a disputed fact. The idea of judicial proof necessarily requires the idea of a dispute. If the fact is not disputed, there is no meaning to proof or litigation regarding it, as the court’s consideration is related to what is disputed between the parties.

2) The fact must be relevant to the case: meaning that the fact sought to be proven, if proven, would convince the judge of the validity of all or some of the claimant's claim. This fact is considered relevant if its proof would influence the judgment to be issued. However, not every fact related to the case is relevant to it. Furthermore, a fact relevant to the case is not required to have absolute significance in resolving the dispute; it may only contain an element of persuasion.

3) The legal permissibility of proving the fact: The law must permit the permissibility of proving the fact sought to be proven, as the law may prohibit proving the fact if it violates public order or morals. For example, it is not permissible to prove that the debt arose from gambling or an illicit relationship.

There are matters of proof that are subject to the discretion of the trial judge, and other matters whose ruling is monitored by the Court of Cassation. For example, the relevance of the fact sought to be proven to the right in dispute is considered a matter within the judge's discretionary power, while the legal permissibility of proving the fact is subject to the supervision of the Court of Cassation(Sayed Ahmed Mahmoud 2007). The judge is not bound by the outcome of the evidence, nor is he bound by taking into account the testimony of witnesses or the outcome of the expert report, as long as his ruling does not deviate from the rules of logic and the apparent meaning of the case documents. 6/ Finally, the absence of evidence in the case does not prevent a ruling on it, which is known as dismissing the case as is. When evidence is available, the case may be refiled again, and the opponent may not plead the previous ruling(Murad Mahmoud El Shenikat , 2011).

Evidence and judicial expertise in Sudanese law

Sudan Evidence law of 1994:

Article (1): This law shall be called the "Evidence Law of 1994."

Article (2): The Evidence Law of 1983 shall be repealed.

Article (3): (1) This law applies to evidence in criminal transactions and matters. (2) The provisions of this law apply to cases in which evidence has not been heard. (3) With regard to evidence prepared before the issuance of this law, the provisions in force at the time the evidence was prepared, or should have been prepared, apply. (4) The provisions of this law apply to every case or dispute before the court and do not apply to a dispute before arbitrators or conciliators unless the parties agree to that. Article (4): In this law, unless the context requires another meaning: "Evidence" means any means by which any fact related to a claim or dispute is proven or denied before arbitrators or conciliators. "Claim" includes any procedure in which evidence is taken before the court. "Transactions" means financial relationships and actions, personal status, and all other non-criminal legal matters. "Fact" means any act, thing, condition, or relationship between things that can be characterized by the senses or the mind. "Fact in dispute" means every fact denied by the opponent, and this includes stating the nature and extent of that fact. Article (5): When considering lawsuits, the court shall adhere to the following fundamental rules: (a) The default in transactions is innocence, and the burden of proof lies with whoever claims otherwise. (b) The default is the innocence of the accused until his guilt is proven beyond reasonable doubt. (c) The default in the case of adulthood and freedom of action is the burden of proof upon whoever claims any obstacle to his capacity or the existence of any guardianship over him. (d) The default is the validity of apparent conditions, and the burden of proof lies with whoever claims otherwise. (e) The default in what is proven by time is that it remains as it was for a reasonable period of time, and the burden of proof lies with whoever claims its disappearance or change. (f) The default in legislative, executive and judicial measures is that they are in accordance with the rule of law, and the burden of proof lies with whoever claims otherwise. (g) A silent person is not to be attributed with a statement, but silence in the context of a need for clarification is clarification, and the court may extract from it what it deems reasonable. (h) Whoever seeks to overturn what was done by him, his effort is rejected. (i) Verbal or practical custom is evidence if it is consistent or predominant(Hassan Hammad Idris , 2001).

Article (6): The facts to be proven must be related to the lawsuit, productive in it, and permissible to accept them. Article (7): The following shall be considered relevant to the claim: (a) the facts in dispute; (b) the facts connected therewith so as to form part of a single transaction; (c) the circumstantial facts which: (i) are a cause or consequence of the facts in dispute or reveal their nature, extent, place, time or other surroundings; (ii) show or constitute a motive or intention for any fact in dispute, and facts which reveal any initial mental state or feeling connected with the fact in dispute; (iii) show the identity of persons and

their physical conditions, behaviour and relationships, and facts affecting them which are connected with the fact in dispute; (iv) show that the particular act is consistent with similar precedents to which the perpetrator was connected in order to prove that the act was accidental or intentional, or that it was undertaken with special intent or knowledge; or show a method of dealing with which the act is usually carried out in order to prove that it was or was not done. Article (8): The evidence which is acceptable to be presented in any claim is that which results in proving Article (9): Subject to the conditions for accepting evidence stipulated in this law, evidence shall be deemed rejected in any of the following cases: (a) Evidence that violates the principles of Islamic Sharia, law, justice or public order, (b) Evidence based on the judge's personal knowledge, (c) Evidence presented by one of the parties to the dispute to deny his conduct indicating consent or acceptance, or an act proven by his correct admission, a document or a judicial ruling, (d) Opinion evidence from someone other than an expert, (e) Evidence of morals presented against one of the parties, unless the statement of the morals of that party is related to the dispute(Mutahhar Mohamed Abdo , 2009).

Article (10): (1) Subject to the provisions of admission and rejected evidence, evidence shall not be rejected merely because it was obtained through an incorrect procedure, provided that the court is satisfied that it is independent and acceptable. (2) The court may, whenever it deems it appropriate to achieve justice, not issue a conviction based on the evidence referred to in Clause (1) unless it is supported by other evidence. Article (11): (1) Produced evidence is that which affects the proof or denial of the case. (2) The court may, at any stage of the case, exclude evidence if it deems it to be unproductive. Article (12): An error in accepting or rejecting evidence shall not constitute a reason for ordering a retrial or overturning the judgment in any case if it becomes clear to the court to which the appeal against that judgment is filed that the judgment is supported by sufficient evidence even if the accepted evidence was erroneously excluded, or that the evidence erroneously rejected would not have changed the judgment had it been accepted. Article (13): The court may, within the limits stipulated in this law, assess the evidence and take from it what it considers most likely and what it deems to achieve justice. Article (14): (1) There is no need to prove the facts that the court takes judicial notice of. (2) The court takes judicial notice of local and public matters that are presumed to be known to everyone. (3) Without prejudice to the provisions of subsection (2), the Court shall take judicial notice of the following matters: (a) the Constitution, legislation and other provisions and measures having the force of law; (b) the general operation of the systems of the legislative, executive and judicial bodies and their organs; (c) the assumption of public offices and the names, titles, functions and signatures of their occupants if their appointment has been officially announced; (d) every state recognised by the Government of the Sudan and, in general, all international and political matters relating to the external relations of the Sudan; (e) time and geographical divisions, measures, weights and other standards common in the Sudan; (f) public and national holidays; (g) general Sudanese customs recognised by the courts; (h) general meanings of words; (i) the laws of nature and its ordinary course. (4) In all matters of which it takes judicial notice, the court may investigate and seek assistance from any official body or any appropriate authority. It may also stipulate that whoever requests it to take judicial notice of any matter must provide it with whatever references and documents it deems necessary to take judicial notice(Al-Bukhari Abdullah Al-Jaali, 2006).

Article (15): (1) An admission is a person's acknowledgment of an incident that proves the defendant's responsibility. (2) An admission may be judicial or non-judicial. Article (16): (1) A judicial admission is an admission of an incident, when the case related to it is being heard before a court or during a procedure related to the case before a judge, or before any quasi-judicial body. (2) An admission before any quasi-judicial body shall not be considered a judicial admission in criminal matters. Article (17): The general rules of evidence shall be followed in proving a non-judicial admission. Article (18): An admission may be express or implied, verbally or in writing, and by the usual gesture of a mute who does not know how to write. Article (19): (1) The person making the admission must be sane, of sound mind, not under

interdiction, and of the age of responsibility stipulated by the law. (2) An admission made by a discerning minor is valid in transactions for which he is authorized. (3) The agent's admission is valid if it is made within the limits of his authority. Article (20): (1) The admission shall not be valid if it is belied by the apparent circumstances. (2) The admission shall not be valid in criminal matters if it is the result of any inducement or coercion. (3) Notwithstanding the provisions of subsection (2), inducement shall not affect the validity of the admission in transactions. Article (21): (1) The admission shall be conclusive evidence against the person who made the admission, and it shall apply in transactions to the successor of the person who made the admission with regard to what he admitted. (2) The admission shall constitute conclusive evidence of the validity of what he admitted, unless the person who made the admission intended thereby to harm his successor with regard to what he admitted, or the two parties disagreed as to the reason thereof. (3) The admission in criminal matters shall not constitute conclusive evidence if it is non-judicial or suspicious. Article (22): (1) In transactions, it is not valid to withdraw an admission except due to an error in the facts, provided that the person who made the admission proves that. (2) Retraction of a confession in cases of hadd crimes is considered a suspicion that makes the confession inconclusive evidence. Article (23): Testimony is the oral evidence of a person regarding his direct awareness of an incident that proves to another the alleged responsibility of another before the court. Article (24): Every sane person who is able to discern the facts to which he testifies is qualified to give testimony. Article (25): The testimony of a person charged with public service shall not be accepted, even after he has left work, regarding confidential information that he has learned by virtue of performing his official duties and that has not been published legally unless the competent authority authorizes it or the court deems that the public interest will not be harmed by the disclosure of that information. Article (26): The testimony of one spouse against the other shall not be accepted regarding information that the other spouse has confided in him unless the person who kept the secret authorizes him. Article (27): The testimony of trustees of secrets, such as legal representatives, doctors, and the like, shall not be accepted regarding information they learned by virtue of their profession unless the person who kept the secret authorizes it, or the secret relates to the commission of a crime in the future. Article (28): The testimony of a person who transmits the testimony of another person shall not be accepted unless the person has died or it is impossible to find him. Or he becomes unable to testify or it is impossible to bring him in without wasting money or time that the court does not deem necessary.

Article (29): (1) Testimony by hearsay shall not be accepted, except in cases of marriage, birth, lineage, religion, and death. (2) The quorum for testimony by hearsay shall be two witnesses, who testify to the widespread prevalence of the news being testified to. (3) When assessing the weight of this evidence, the court shall assess the circumstances surrounding it and the extent to which it needs to be supported by any other evidence. Article (30): If the decision in the case requires the inclusion of technical matters, such as medicine, engineering, accounting, handwriting, antiquities, and other technical matters, the court may seek the opinion of experts therein and appoint one or more experts for that purpose, unless the parties agree on their selection. Article (31): The court may, whenever it deems it appropriate, be satisfied with the expert’s report unless one of the parties requests to summon him for discussion. Article (32): Taking into account the evidence of the limits, the court may base its ruling on the expert’s testimony. If it rules contrary to his opinion, it must include in its ruling the reasons that necessitated not taking into account the expert’s opinion in whole or in part. Article (33): (1) The person against whom the testimony is given may challenge the witness’s testimony due to the existence of an accusation of loyalty, interest, or hostility. In this case, the court may reject the testimony after hearing it if it is not satisfied with its validity. (2) The testimony of a person flogged for slander or convicted of false testimony shall not be accepted unless their repentance is proven. Article (34): When assessing the weight of testimony, the court shall consider any accusation against the witness, any challenge to his integrity, any weakness in his discernment, or any disturbance in his testimony, taking into account the behavior of the witness while giving testimony, and

taking into account any other conditions required by any legislation for the perfection of testimony. Article (35): A witness shall not be subject to any legal accountability because of the testimony he has given, except for giving false testimony, or admitting to violating a legal limit. If the witness retracts his testimony after the judgment is issued, he shall be liable for a guarantee. Article (36): (1) Documents are data recorded in writing, audio, or visual form. (2) Documents may be official or ordinary. Article (37): (1) A document shall be considered conclusive evidence of what it contains. (2) Evidence shall not be accepted to provide anything that exceeds, modifies or contradicts what is contained in the document except in the following cases: (a) there is a provision in the document that permits this; (b) proof of the existence of any condition precedent upon which the validity of what is contained in the document depends and which does not conflict with its express provisions; (c) proof of any custom or practice that does not conflict with the express provisions of the document; (d) proof of any fact that may lead to the invalidity of what is contained in the document due to lack of capacity, illegality or the like, or lead to its invalidation due to fraud, coercion or the like; (e) proof of any subsequent procedure or agreement that modifies what is contained in the document except insofar as the law requires it to be recorded. (3) The expiration of the liability arising from what is contained in the document may be proven by any means of proof. Article (38): Testimony is accepted to correct any defect in the registration of the document or its expression that is necessary to give a reasonable meaning to its texts or to apply its requirements to reality. Article (39): All other means of proof are accepted to prove what the law requires to be registered in a document if the document is lost for a reason beyond the control of the person claiming the document or if there is an acceptable obstacle preventing the presentation of the document.

Article (40): Official documents are those in which a person charged with a public service proves what he has done or received from the concerned parties, in accordance with the legal conditions and within the limits of his authority and jurisdiction. Article (41): Official documents shall be evidence against the issuing authority and against everyone regarding what is recorded therein unless it is proven to be forged. Article (42): (1) A copy of an official document approved by the competent employee when the original is available shall be evidence to the extent that it is identical to the original. (2) A copy shall be presumed to be identical to the original. If the opponent disputes this, he shall compare the copy to the original. (3) If the original is not available, the copy shall have the same evidence as the original, provided that its appearance does not allow for doubt as to its conformity to the original. Article (43): (1) Ordinary documents are papers proving a fact and signed by the signature, seal, or fingerprint of the person against whom it is presented. (2) Data recorded in audio or video format shall be considered ordinary documents. Article (44): (1) Ordinary documents shall be considered to have been issued by the person to whom they are attributed unless he denies attributing them to him or his successor swears that he does not know that the signature, seal, fingerprint, audio or image is that of the person from whom the right was received. (2) In the event of denial, it is permissible to prove the authenticity of the issuance of the document by the person to whom it is attributed by all means of proof. (3) Antique documents that are twenty years old or more are presumed to have been issued by the person to whom they are attributed, and the authenticity of the witnesses' signatures is presumed. Article (45): Signed letters shall have the same validity as ordinary documents, and telegrams shall have the same validity if their original deposited at the dispatch office is signed by their sender. The telegram shall be deemed to be identical to its original until evidence to the contrary is provided. Article (46): Allegations of forgery may be made against official and ordinary documents, while denial of a signature, seal, fingerprint, or voice shall be made against ordinary documents only. Article (47): (1) The court may rule on its own initiative that a document is forged if this is clearly evident to it from the document or the circumstances of the case. (2) The court may decide what effect deletion, scratching, erasure, addition, and other material defects have on the value of the document. (3) The court may investigate the claim of denial or forgery by comparison or by hearing witnesses or both, and decide on the authenticity of the document as it deems appropriate. Article (48): Presumption is the indication

proving or denying any fact based on the majority of cases. Article (49): The conclusiveness of presumption shall be to the extent of its indication in proving the fact, although it may be denied in all cases. Article (50): (1) The existence of material evidence such as a trace, handwriting, fingerprint, etc. shall be considered as presumption. (2) The evidence of a partner and the evidence of a dying person shall be considered as presumption. Article (51): Final judgments shall be considered conclusive evidence against the parties in what they have decided, and no evidence may be presented to contradict that conclusiveness. Article (52): The court shall be bound in transactions lawsuits by the criminal judgment, in the facts decided by that judgment.

Article (53): (1) An oath is an oath by God or God to the truth of information about an event. (2) The person to whom the oath is directed may take it in accordance with the procedures prescribed by his religion or belief. (3) A representative may be called upon to take an oath, but not an oath. Article (54): A decisive oath is an oath directed by a party, who has the burden of proving any disputed fact, to his opponent, in whatever circumstances the case may be, in order to resolve the dispute. Article (55): (1) The person directing a decisive oath to his opponent must state precisely the facts on which he wants him to be sworn. (2) The fact on which the decisive oath is directed must relate to the person to whom it is directed or to whom it is directed. If it is not related to his person, it shall relate to his mere knowledge of it. (3) A decisive oath may not be directed in respect of an event that constitutes an admission of a crime. Article (56): (1) The court may determine the wording of the decisive oath, and it may accept or amend the wording offered by the opponent. (2) The decisive oath may be made more aggravated by the wording of the oath, by time or place. (3) The court may prevent the making of the decisive oath if it is impermissible, irrelevant to the dispute, unproductive in it, or if the opponent is arbitrary in making it. Article (57): (1) If the person to whom the decisive oath is directed does not dispute its permissibility or its relevance to the case, or disputes and the court rejects his dispute, he must take the oath or return it to his opponent, otherwise he shall be considered to have refused. (2) If the person to whom the decisive oath is directed takes the oath, the dispute shall be concluded against him. (3) Whoever is directed to take the decisive oath and refuses to take it without returning it to his opponent, and whoever is directed to take the decisive oath and refuses to take it, shall lose his case. Article (58): (1) The court may, of its own accord, direct the supplementary oath to either of the opponents to weigh it in ruling on the merits of the case. (2) The supplementary oath must not contain complete evidence and must not be devoid of any evidence. (3) The party to whom the court has directed the supplementary oath may not return it to the other party. Article (59): When evidence is established proving a right to the property of a deceased, missing person, minor or those in a similar situation, the court must direct the oath to the plaintiff before the issuance of the judgment in order to demonstrate the right. Article (60): The oath of cursing is the husband's oath that his wife committed adultery, or denied that she was pregnant by him, and the wife's oath that he is lying. This is done by the husband swearing four times by God that he is truthful in what he accused his wife of, and the fifth time that God's curse be upon him if he is lying, and the wife swearing four times by God that her husband is lying and the fifth time that God's wrath be upon her if he is telling the truth. Article (61): (1) The court may, of its own accord or at the request of one of the parties, decide to go to inspect the disputed matter, and it may seek the assistance of whomever it deems necessary to hear from experts or witnesses. (2) The court shall prepare a report stating all its observations, without stating its impressions of the inspection or its own opinion. (3) The inspection report shall be considered part of the evidence upon which the court bases its judgment. Article (62): The crime of adultery shall be proven by any of the following methods: (a) An explicit admission before the court unless it is retracted before the start of the execution of the judgment, (b) The testimony of four just men, (c) Pregnancy by someone other than the wife if there is no doubt, (d) The wife's refusal to swear an oath of cursing after her husband has taken the oath of cursing. Article (63): Subject to the provisions of Article 62, all other prescribed punishments shall be proven by any of the following two methods: (a) An explicit admission, even if only once, before the court, (b) The

testimony of two men, and it shall also be proven, when necessary, by the testimony of one man and two women or four women. Article (64): Notwithstanding the provisions of Article 63, the smell shall suffice to prove the crime of drinking alcohol if it is proven to the court by the testimony of two just men or by the report of a specialized expert that it is the smell of alcohol. Article (65): (1) The prescribed punishments shall be averted by doubt. (2) The doubts include retracting a confession, disagreement between witnesses, and a witness retracting his testimony. (3) The punishment for cursing is averted by a wife's swearing an oath.

Judicial experience in Sudanese law :

Precedent in the handwriting expert's evidence :

Number M A/A S J/291/1995

Principles: Evidence Act of 1993 - Article 32 - Expert opinion is subject to the court's discretion. Evidence Act of 1993 - Handwriting expert evidence is not binding.

The evidence of handwriting experts is fertile ground for errors, as handwriting comparison is merely opinion evidence. Handwriting evidence cannot be used as a basis for convicting an accused unless there is other supporting evidence. The passage of time and illness may affect the way of writing. There is another possibility, as two people's handwriting may be so similar that it is difficult to ascertain the original writer. From what is stated in the books of jurisprudence and established court rulings, the evidence of a handwriting expert is weak. Although it is opinion evidence, it is ranked at the bottom of the hierarchy in terms of other opinion evidence, such as medical reports, laboratory experts' evidence, and fingerprint evidence. It is not permissible to rely on the evidence of a handwriting expert if there is any other evidence - even circumstantial - that indicates the authenticity of the document. This ruling was upheld in the Supreme Court, No. 190/1995. Attorneys: Omar Abdel Ati for the complainant. Judge: Al-Rashid Al-Toum Mohammed Khair. Date: March 13, 1995.

The two accused were brought to trial before the Khartoum North Criminal Court under Articles 123, 178, and 20/21 of the Criminal Code of 1991. The court ruled to dismiss the charge and release the accused immediately. Against this decision, Mr. Omar Abdel Ati, the lawyer, submitted to us on 2/12/1995 the attached appeal request, which I consider acceptable in form for its submission within the specified time limit, since the judgment subject to the appeal was issued on 1/21/1995. As for the substance, the honorable Mr. Ali complains that the issued judgment violates the law and the proper weight of the evidence for the reasons he presented in his request to review the trial procedures. By examining the statements of the witnesses and the attached documents, I find that the facts are that the complainant, "Al Baraka Bank of Sudan, Arab Market Branch, Khartoum," informed the prosecution on 9/28/1992 that the first accused had deposited an amount of five thousand Sudanese pounds in the denomination of fifty dinars at Al Baraka Bank, Arab Market Branch, Khartoum, and received a receipt for the deposited amount, but he modified the amount in a way that On September 24, 1992, the accused wrote two checks, one for three million and one hundred thousand pounds and the second for 550 thousand pounds, and delivered them to his brother, the second accused, who presented them to the aforementioned bank for approval. However, the bank returned the two checks to the drawer due to insufficient funds, indicating them with the term "R.D." The officials at the aforementioned bank requested to meet the first accused, "the account drawer," who met with the bank manager and his deputy, confirming that he had deposited the amount in question, which was 7,500,000 pounds (seven million and five hundred thousand pounds). A report was opened, an investigation was conducted with the accused, and he was questioned about the source of the amount in question. He stated that he obtained it from the sale and purchase of some vehicles. The investigator asked him to provide a list of the vehicles he had sold and the names of the lawyers with whom he had notarized. He only provided information regarding one vehicle. He was also questioned about the amount for which he wrote the two checks that he paid to the bank. Regarding their approval and the purpose of the amount, he

stated that a person named Kamal was asking him for 550 thousand pounds. Upon interrogation of that person, he denied what the first accused had said.

The investigation conducted by the bank authorities revealed that the total amount deposited on the day the accused deposited the amount did not exceed one million, two hundred and sixty-five thousand, seven hundred and fifty pounds. Samples of the signatures and handwriting of the first accused were sent with the deposit receipt held by the accused to the handwriting expert, who responded that there was a change in the amount written in the number five, which was changed to five hundred, and that there was only a word crossed out. The court heard the case against the first accused and ruled to acquit him on February 28, 1994. The ruling was appealed to the Khartoum State Court of Appeal, which ruled to cancel the decision to acquit the accused and ordered his re-arrest and the addition of Articles 178/20/21 of the Criminal Code of 1991. It also ordered the addition of the accused's brother as a second accused in the case. The second accused was added, and the court re-examined the prosecution witnesses and finally issued its aforementioned decision, in which it ruled to dismiss the accusation against the accused instead of issuing its decision of acquittal after hearing the cases of the prosecution and the defense. Because dismissing the accusation takes place at a prior stage before the charge is brought and the defense case is heard. First of all, and since the lawsuit includes an accusation of forgery for fraud, I think it is superfluous to explain here the crime of forgery. This crime was derived by the Sudanese legislator from the English common law and means the fabrication of a document or alteration of a document with the intent to defraud, harming the rights of another person. The definition of forgery of documents in light of the text of Article 122 of the Penal Code of 1991 is as follows: Whoever, with the intent to defraud, fabricates, imitates, conceals, destroys part of a document or makes a substantial change to it in order to use it to arrange legal effects is deemed to have committed the crime of forgery of documents(Badriya Abdel Moneim , 2000).

The documents alleged to be forged were sent to a handwriting expert to compare them with other handwriting samples. Article 30 of the Evidence Law of 1993 states that if the resolution of the case requires the inclusion of technical issues, such as medicine, engineering, accounting, handwriting, antiquities, and other technical issues, the court may seek the opinion of experts in them, and appoint one or more experts for that purpose unless the parties agree on their selection. It goes without saying that the opinion expressed by the expert is not binding on the court. The court must rule in accordance with it or otherwise. If it rules otherwise, it must include in its ruling the reasons that necessitated not taking into account the expert's opinion in whole or in part, Article 32 of the Evidence Law of 1993, corresponding to Article 74 of the repealed Evidence Law of 1983. The court is not bound in its ruling by the expert's opinion, but rather has absolute freedom to assess the situation to the extent that it can rule on the opinion that contradicts what the expert expressed or reached, because the expert's opinion is not binding on the court. "The Book of Evidence by Dr. Al-Bukhari Abdullah Al-Ja'ali, Comparative in English, Indian and Egyptian, 1984 edition, p. 402." It is worth noting that merely signing, ratifying or writing a document is not sufficient for it to acquire the status of a false document. The crime of forgery is not established unless the document was written with the intent to defraud or with bad intent, meaning that a false document is based on two material elements: "Mens Rea" and "Actus Reus." "In this precedent, the accused amended a document that was a disbursement order for his relocation allowance entitlements after the document had been correctly issued by the financial controller. The amendment stipulated an increase in the amount due to be disbursed to the accused, who was actually entitled to that amount. The court decided to acquit the accused of the forgery charge and stated in the grounds for its ruling that merely amending the disbursement order is not sufficient to establish the crime of forgery, but rather the prosecution must prove the presence of the element of bad faith or intent to defraud. In summary, the crime of forgery must have both its material and moral elements, and the burden of proving this falls on the prosecution without the stage of reasonable doubt, and the defense does not have the burden of proving that a specific person committed the forgery or prepared or concluded the document. The prosecution alone must prove that the

accused alone prepared the false document with bad faith and intent to defraud(Journal of Judicial Rulings , 2018).

In light of the above, and after I have reconsidered and looked twice, I find it very difficult to rely on the evidence of the accusation for the following reasons: First: The accusation relied on the evidence of the handwriting expert and made it the basic basis for establishing the case of accusation. Therefore, I think it is superfluous to address this evidence (the evidence of the handwriting expert) with some response and detail based on what is stated in the books of comparative jurisprudence and the rulings established by the judiciary, as the opinion is unanimous that it is weak evidence, and although it is an opinion evidence, it is settled at the bottom of the pyramid in terms of the order of opinion evidence, and jurisprudence and the judiciary viewed it with great suspicion, and in some cases it was rejected completely. It is not among the evidence that the judiciary relies on greatly in establishing any judgment of conviction, and work is carried out to exclude it whenever other evidence is found, even if it is circumstantial, that contradicts and opposes it. It differs from other opinion evidence such as medical reports and the evidence of laboratory experts and fingerprints. It is located at the bottom of the pyramid if we take it as it is with other evidence. The scholarly writer Sarkar launched an attack in his book “On Evidence” He was violent towards the handwriting experts and devoted an entire chapter to this on page (511) to page (515). “See the same reference, 1971 edition.”(Amer Mohamed Abdel Majeed , 2013). The case of the Government of Sudan/vs. Taj Al-Sir Ibrahim - Judicial Rulings Magazine, 1971 AD - p. 37.

In the case of Taj Al-Sir Ibrahim, Judge Saleh Atiq said: “The handwriting expert’s evidence cannot be used as a basis for convicting the accused unless there is other evidence to support it. The passage of time and the occurrence of any disease can affect the way of writing. There is another possibility, as the handwriting of two people may be so similar that it is difficult to ascertain the original writer.” In the case of Saeed Abdel Fattah, the court supported the same opinion and applied the same opinion to the case of the Government of Sudan/vs./ Mohammed Al-Hassan Daba. M.A./ASG/234/1955 AD, where the learned judge Aburnat stated the following: “A considerable number of judges have expressed their opinion on this evidence, saying that it is evidence that does not deserve a great deal of weight and cannot be relied upon to establish a judgment of conviction... It is one of the established rules in practice now that it is not permissible to convict based on this evidence without it being supported and reinforced to a high degree and in its essential aspects by other independent evidence.” In the case of Amal Bayoumi, the Supreme Court expressed this point of view clearly, as it stated that the handwriting expert’s reports are not among the reports covered by the texts of Articles 228 and 229 of the Criminal Procedure Code. Moreover, it confirms the judiciary’s opinion that this evidence is not reliable. Second: The principle in deposit transactions at banks, according to what was stated by the bank employees among the witnesses, is that it is kept with the bank that received the deposited amount. In this case, the prosecution presented a receipt for the deposit of five thousand pounds, which it claimed was the original amount deposited by the accused and received by the bank. "M.A.2" also submitted document (1), which is supposed to be an exact copy of document (2) submitted by the bank, considering that it was distorted and modified by changing the letter number five and deleting only one word. It has been proven beyond doubt that indictment document (2) is not a carbon copy of indictment document (1), contrary to what the prosecution relied upon. The handwriting expert's evidence, which the prosecution relied upon to establish its case, confirmed before the court on oath that the writing on indictment document (1) and the writing on indictment document (2) do not belong to the same person, and that the writing on indictment document (2) "the carbon copy of the supply voucher" is the handwriting of the accused, and that the writing on indictment document (1) is not the handwriting of the accused. He explained that it cannot be said that indictment document (2) is a carbon copy of indictment document (1). It was also stated in the handwriting expert's statements "p. 40 and following" that the signature on indictment document (1) resembles but does not match the signature on indictment document(Journal of Judicial Rulings , 2018).

Third: By looking at the ordinary, abstract documents (1) and (2) of the indictment documents, we find that the number (3) is different in the two documents, which negates that document (2) is the original carbon copy of document (1), as is noted from indictment document (1), while the phrase “five hundred thousand pounds only” was written on the second line of indictment document (2), while the phrase “seven million” was written on the first line of indictment document (2). If we take into consideration what was stated in the statements of the bank teller, the fourth prosecution witness, that the seal on the wallet is the bank’s seal and that the signature on the wallet is his personal signature and that the signature and seal are not done until after the amount is received, which makes it very difficult to believe that the accusation document (2) was forged after it was signed by the teller and opened by the bank, due to the lack of conformity of the original deposit wallet that the bank presented and sealed with its seal and the teller’s signature with the copy in the hands of the accused, which is something that the accused benefits from without the slightest doubt, due to the doubt and suspicion that there is another hand inside the bank that carried out this work and changed and altered the documents. It goes without saying that doubt and suspicion cannot be relied upon to establish a sound and correct conviction, based on the golden rule established in jurisprudence and judiciary, which states that every accused is innocent until proven guilty without the slightest shadow of reasonable doubt. If such doubt is found, it is interpreted in favor of the accused and he benefits from it first and last. This is stated in the noble hadith: “Avert the prescribed punishments with doubts as much as you can. If you find a way for him, then release him.” It is better for an Imam to err in pardoning than in punishing. The Prophet (peace and blessings be upon him) said, “If I were to stone someone without evidence, I would have stoned so-and-so, because of the suspicion surrounding her appearance, speech, and the person who visited her.” Based on the evidence presented before the court, we find that the handwriting expert’s testimony was in more than one support of the accused, as explained above. The money changer himself, the fourth prosecution witness, confirmed before the court that he had only added one word and then crossed out another, not the accused, which reinforces the accused’s statement (p. 43 of the minutes).
Fourth: From the investigation stage, the prosecution attempted to place the burden of proof on the accused, violating the Islamic jurisprudence principle that the burden of proof in criminal cases falls from the outset on the prosecution, and not on the accused to prove his innocence, since the presumption of innocence is legally presumed. The prosecution stated that the accused failed to identify the people he dealt with or the lawyers with whom he documented his vehicle sales(Journal of Judicial Rulings , 2018).
In the book "Law of Evidence" by Dr. Al-Bukhari Abdullah Al-Jaali, p. 26, the following is stated: As for criminal matters, the general rule is that the burden of proof falls on the prosecution, with the exception of insanity and any other matters whose proof falls on the accused according to this law. The professor/writer goes on to say on page (30 of the book): What we mentioned previously about who bears the burden of proof is clear. The burden of proof is the decisive factor when the trial court is faced with doubt. The matter is usually not difficult, as the essential requirements of every judicial system oblige the party requesting the court to take action to prove his case to the point of convincing it. This means, of course, that the burden of proving all the essential facts of the case falls on the plaintiff in a civil suit and the accuser in criminal proceedings. This rule is expressed in common law by the well-known saying (he who asserts must prove).The judicial precedent "Walid Futoon vs. the Public Prosecutor in 1931 AD established the rule that the state bears the burden of proving any matter in a criminal case, taking into account the exception provided in the law regarding insanity and any other legality."
The case of the Government of Sudan /v/ Muhammad Abdullah Ali, published in the Journal of Judicial Rulings in 1962 AD, p. 196, where the learned Judge Babiker Awad Allah refused to uphold the conclusion reached by the trial court regarding the conviction of the accused and ordered his immediate release. The facts of this case are that the accused was convicted under Article 1 (1) of the Passports and Immigration Act of 1960 AD because he entered Sudan without a valid entry visa. The charge stated that the accused had previously been deported to Ethiopia, but he returned again and was arrested in Port Sudan without

having any documents proving the legality of his entry into Sudan. The accused denied it and claimed that his father was of Turkish origin and that his mother was Ethiopian. He claimed that he was born in Al-Rusairis and had lived there since 1924 AD. He argued that he had not left Sudan since his birth except once when he was deported to Ethiopia, but the Ethiopian authorities refused his entry and deported him again to Sudan. The trial court reached the conviction of the accused and decided that he was Ethiopian because he failed to refute the claim that he was Ethiopian. And it is proven that he is Sudanese. The decision of the appellate authority was stated by the learned judge Babiker Awad Allah: (In my opinion, the court erred when it placed the burden of proof on the shoulders of the accused. The golden rule in criminal justice is that the prosecution must prove the case and the accused must not refute the accusation. In this case, the police had to prove the case and the accused must not refute the accusation. In this case, the police had to prove that the accused was a foreigner, that is, a non-Sudanese person. In order to prove this, they had to prove positively each of the following two elements(Journal of Judicial Rulings , 2018):

1) That the accused or his paternal ancestors were not residing in Sudan from December 31, 1897 until the date of the implementation of the Nationality Law o.

2) He did not obtain Sudanese citizenship through naturalization.

As long as neither of the racists has been proven in this case, the conviction is certainly a disaster "...and cannot be approved." As for the circumstantial evidence referred to by the honorable professor, the applicant, in his appeal, it is open to doubt, and doubt is interpreted in favor of the accused, as we have stated. It goes without saying that the circumstantial evidence in use is that which leads to one interpretation, which is the conviction of the accused, and does not lead to any other interpretation consistent with the innocence of the accused. What was stated about the large sums being deposited into the large safe, according to what was stated by the bank manager and the teller, "the third and fourth prosecution witnesses, who are originally complainants, their testimony is taken with caution. They also denied that there is no regulation that establishes or stipulates what they mentioned, that large sums are deposited into the large safe. Also, the claim that the first accused took advantage of the negligence of the bank teller and his lack of accuracy is a weak claim. Also, the claim that the accused's accounts with the complaining bank do not contain large sums, and that the highest balance of the accused is the amount of one million, four hundred and ninety-two thousand, seven hundred pounds on 10/2/1991 AD." Witness This does not necessarily mean that the accused did not deposit the aforementioned amount and forged the deposit slip, because this presumption is surrounded by doubt from behind and in front of it. As for what was mentioned in the accusation case regarding the existence of a publication during that period prohibiting the disbursement of an amount exceeding one hundred thousand pounds, this does not mean that it is not possible to deposit an amount or amounts exceeding that amount. The statement that this is not possible is merely an assumption and a type of doubt that cannot be relied upon as an acceptable presumption in the context of proof, considering that it is above the stage of reasonable doubt from which the accused alone benefits. These are some of the assumptions that the accusation relied upon and presented as evidence to strengthen its claim against the accused, but they are not conclusive evidence and are surrounded by dense shadows of doubt that prevent us from being reassured about them. From the above, we see the justice of rejecting the submitted request and upholding the judgment of the subject court, and we issue the following order for that the submitted request is rejected. 2/ We support the ruling of the subject court.

Judge: Babiker Makkawi Musa Date: 4/27/1995, Judge: Othman Ali Hassan Date: 6/6/1995(Journal of Judicial Rulings , 2018).

Results

1. Judicial expertise is a means of proof and an investigative procedure ordered by the judge if the dispute is ambiguous and difficult to understand.

2. Judicial expertise helps direct the investigation and trial processes in the right direction and reach fair decisions.

3. The judge has the right to reject or replace the expert, and the parties may also request this.
4. The role of the criminal judge differs from the role of the civil judge in the matter of judicial expertise.
5. The Evidence Law of 1994 applies to evidence in criminal transactions and matters.
6. The burden of proof lies with the prosecution, with the exception of insanity and any other matters where the burden of proof lies with the accused.

Recommendations

1. The expert must carry out his duties within the period specified for producing the report and must not exceed the scope of his expertise.
2. The judicial expert must be financially motivated.
3. The judicial expert must be provided with legal protection.

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