

Criminal Law Doctrines

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The Legality Principle of Punishments

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The legality principle of punishments which means the necessity of the intervention of the law authorities to issue a verdict and its execution is the fundamental base of the modern penal code. After the review of the principle, its position and the process of its historical evolution, this paper shows (with regard to the emphasis of Islamic teachings on the concepts such as order, justice discipline criterion, fair judiciary, not being allowed to judge by ordinary citizens, the necessity systematic planning for the promotion of virtue and prevention of vice) the legality principle of punishments is a jurisprudential principle in Islam penal code. The note evaluates the view of exception of the legality principle of punishments (as it is mentioned in the Islamic jurisprudential texts) problematic and without reliable (stable) reasons. By planning dynamism ideas like the concept of fair judiciary, the necessity of the exclusive official authority by the state to issue a verdict and its execution, the necessity attention to the evolution relating to private-public and figured crimes and punishments in the new intellectual perception, the paper states the legality principle of punishments absolute and without exception. This understanding is coincided with the precautionary principle about men's life which is emphasized by the Holy Sharia.

Key words: *The legality principle of punishments, The jurisprudence of Islam penal code, The right to a fair court, Arbitrary punishments.*