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ARTICLE

Evidentiary Fallacies in Criminal Trials and Their Impact on Judicial Conviction: A Study in the Guarantees of a Fair Trial

Meliani Fayçal

Mohamed Boudiaf-msilaUniversiy

Algeria

Email: melianifaycal55@gmail.com

Hakim Belil

Mohamed Boudiaf-msila Universiy

Algeria

Email: belil.hakim@univ-msila.dz

Bourouis Adel

Mohamed Lamine Debaghine Sétif 2

Algeria

E-mail: adel.bourouis1977@gmail.com

Doi Serial

<https://doi.org/10.56334/sci/8.9.33>

Keywords

Criminal evidence, judicial reasoning, evidentiary fallacies, presumption of innocence, public opinion, impartiality, legal certainty, fair trial.

Abstract

Criminal justice is fundamentally grounded in certainty, with the judge's conviction forming the cornerstone of public trust in judicial rulings. Evidence serves as the primary means to reach that certainty, making the theory of proof the foundation upon which fair criminal adjudication is built. Justice is only realized when judges adhere strictly to legally established rules of evidence, and when the prosecution substantiates its claims with valid, objective proof. Avoiding evidentiary fallacies is therefore essential, as such errors can compromise the fairness of criminal judgments. Among these are: the overly broad interpretation of criminal statutes, biased selection or evaluation of evidence, reliance on personal knowledge, public opinion, or rumor. Other fallacies include the reversal of the presumption of innocence, undue emphasis on appearances, unexamined confessions, or the weight given to a single testimony. A fair trial demands that judges maintain impartiality, resisting influence from extraneous or unlawful factors. Ultimately, rulings must rest solely on admissible, well-examined evidence, thus safeguarding the integrity of the justice system and upholding both fairness and legal certainty in criminal proceedings.

Citation. B Meliani, F., Belil, H., & Bourouis, A. (2025). Evidentiary fallacies in criminal trials and their impact on judicial conviction: A study in the guarantees of a fair trial. *Science, Education and Innovations in the Context of Modern Problems*, 8(9), 357–370. <https://doi.org/10.56352/sci/8.9.33>

Issue: <https://imcra-az.org/archive/383-science-education-and-innovations-in-the-context-of-modern-problems-issue-9-vol-8-2025.html>

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Received: 02.02.2024

Accepted: 04.05.2025

Published: 22.07.2025 (available online)

Introduction

One of the most critical issues in criminal justice is the matter of convincing the judge through the evidence presented. The judge's personal conviction is what ultimately determines the outcome of the public prosecution—either a conviction or an acquittal. This principle is explicitly enshrined in Article 212 of the Algerian Code of Criminal Procedure, which grants judges full discretion in evaluating all elements of evidence. Article 307 of the same code reinforces this, affirming the supremacy of the judge's personal conviction. The core objective of criminal justice systems is to ensure that judges arrive at the truth in their rulings, whether by convicting or acquitting the accused. A judge can only reach this truth through a state of certainty regarding the facts. Such certainty forms the foundation of all human justice and is the cornerstone of public trust in the judiciary. The tools through which this certainty is achieved are the means of proof. Hence, the theory of evidence serves as the solid foundation upon which the criminal justice system builds its decisions—far removed from misconceptions that may arise in trials lacking strong and credible proof. It is, therefore, imperative that rules of evidence safeguard this process, while the prosecution must be prepared to challenge such evidence if it believes otherwise—primarily through forensic proof, which remains the backbone of evidentiary processes.

This research paper aims to address the following central question:

What are the common fallacies that criminal judges may fall into when evaluating evidence, and how might these affect the criminal verdict?

To address this issue, the research is structured as follows:

Section One: The Conceptual Framework of Fallacies in Criminal Evidence

Evidence is the process of presenting proof before a court using methods prescribed by law to establish the truth of a legal fact claimed by one party and denied by the other. The use of legally defined methods is binding upon both the parties and the judge. As a result, the legal truth established by a judge's ruling may at times diverge from factual reality, as the judge is constrained by specific methods of proof.¹

, reliance on legally sanctioned means to uncover the truth, and the exclusion of methods that fall within the realm of evidentiary fallacies, is crucial. These fallacies are the primary focus of this study.

Subsection One: Principles Governing Criminal Evidence

The Algerian legislator grants the criminal judge considerable authority to assess the evidence presented in criminal cases and to search for the truth through all lawful means. Article 186 of the Algerian Code of Criminal Procedure allows the judge to consider any evidence deemed necessary and beneficial to uncover the truth. The rules of evidence are designed to scrutinize and verify the strength of proof to ultimately determine whether the accused is guilty or not.²

¹ : Dr. Abdul-Wadoud Yahya, *Lectures in the Law of Evidence*, University Publications, Cairo, 1989, p. 9

² Ahmed Shawqi Shalqani, *Principles of Criminal Procedure in Algerian Legislation*, Vol. 2, University Publications, Algeria, 1988, p. 437

However, the judge must ensure that the evidence used offers the highest possible degree of judicial truth so that the verdict is aligned with justice. Furthermore, this pursuit of evidence must not infringe upon the rights and freedoms guaranteed to the accused. The ultimate aim of criminal evidence is to ascertain the truth, which remains the subject of continuous investigation until it reaches a level of certainty. If no strong evidence is presented against the accused, the judge must issue an acquittal in accordance with the principle that a person is presumed innocent until proven guilty through admissible evidence that leaves no room for doubt.³

Key principles that govern criminal evidence include the **principle of freedom of evidence**, which allows judges to consider all forms of proof, provided the accused is granted full rights to defense through all available means of refutation, as per Article 212 of the Algerian Code of Criminal Procedure. Another is the **principle of the legitimacy of evidence**, which requires that the judge's conviction be based solely on lawful and valid evidence. The judge must adhere to procedural legality and uphold the rule of law, recognizing that the state's power to punish can only be exercised through lawful procedures that respect individual freedoms and safeguard legal guarantees.⁴

In reaching a verdict—whether of guilt or innocence—the judge must have arrived at a confirmed truth. This is only possible through a state of certainty, which is the foundation of justice and the source of litigants' trust in the judiciary.

The judge must also uphold the principle of “**in dubio pro reo**”—the presumption of innocence—which dictates that any doubt should be interpreted in favor of the accused. If the presented evidence is weak, circumstantial, or uncorroborated, the court must not issue a conviction. Criminal judgments must be based on certainty, not on speculation or possibility. The criminal judge can only reach the truth if they are convinced beyond reasonable doubt—a state described as the **judge's personal conviction**.

As affirmed in Article 212, the judge may render a decision based on personal conviction. This personal conviction is the mental impact of clear evidence and rational confirmation rooted in deep intuition or a subjective state of mind derived from the circumstances. It involves evaluating high-probability scenarios that dismiss reasonable doubt in a decisive manner. Absolute truth exists only in mathematics; judicial decisions, by contrast, are built on high degrees of probabilistic certainty. Thus, personal conviction is a psychological condition shaped by the interaction of the judge's conscience when assessing facts. It reflects the subjectivity and individuality of the judge, who may err in judgment, since personal conviction is inherently relative and can be influenced—consciously or unconsciously—by the judge's emotions.

Nevertheless, once the judge forms a conviction freely, that conviction gains full and complete authority. At that point, the judge cannot be held accountable for the method through which the conviction was formed, nor are higher courts entitled to review or scrutinize the reasoning behind it.

The judge is subject only to the guidance of his conscience, as stipulated in **Article 307 of the Algerian Code of Criminal Procedure**, which states:

³ The general rules governing evidence in criminal matters serve as a reference for judges in all criminal courts—felonies, misdemeanors, and infractions alike

⁴ Fathi Sorour, *The Intermediate Text on Criminal Procedure Law*, Vol. 1, 4th Edition, 1981, Dar Al-Nahda Al-Arabiya, p. 506

"The law does not require judges to account for the methods by which they reached their conviction, nor does it prescribe specific rules they must follow, particularly in assessing the sufficiency or validity of any piece of evidence. Rather, it instructs them to question themselves silently and reflectively, and to sincerely examine their conscience regarding the effect that the evidence presented against the accused and the arguments of the defense have had on their understanding. The law poses only one question to them, which encompasses the entire scope of their duty: Do you have a personal conviction?"

Consequently, the criminal judge must take the appropriate measures to resolve the dispute—either on their own initiative or at the request of a party. This may involve hearing witnesses, appointing an expert, conducting an inspection, or initiating supplementary investigations.

The judge has the discretion to evaluate the probative value of evidence and to base their conviction on any evidence they find reliable. However, this **personal conviction** must be **logical** and not grounded in **subjective or personal considerations**, which may be influenced by various **unconscious factors** related to the judge's human nature—such as psychological predispositions or **biases linked to personal relationships** (e.g., kinship, marriage, or professional ties). For this reason, **Article 544(8)** of the Code of Criminal Procedure allows for the **recusal of judges** in situations where such ties may compromise impartiality. This is not considered a failing of the judge, but rather a safeguard to preserve judicial **objectivity and neutrality**, as emotional ties can unconsciously affect their judgment.

Thus, the criminal judge is **bound to respect the fundamental rules of evidence**, particularly the presumption of innocence until a final conviction is issued, the **burden of proof** resting with the prosecution and the civil party, and the **principle that doubt must be interpreted in favor of the accused**. Furthermore, the judge **must not combine the roles of witness and adjudicator** in the same case, as testifying would reveal their internal belief and constitute a deviation from their role as an impartial decision-maker.

The judge may not rely on personal knowledge or observations made outside the courtroom, as this would violate the principle of **orality** and **confrontation**, which are essential at the trial stage. If a judge possesses personal information about a pending case, they must recuse themselves and may only participate as an ordinary witness—subject to cross-examination like any other. Moreover, the judge must not base the judgment on **external opinions** or influences—such as media pressure, legal scholars, religious authorities, or prominent figures—because **criminal evidence must be assessed solely by the judge** based on the in-court investigation.

Section Two: The Concept of Evidentiary Fallacies in Criminal Trials

The criminal judge must base their ruling on **legally sound foundations** derived from the case file, ensuring that any relied-upon evidence is included therein. The judge must not render decisions based on any evidence that was not **presented and discussed** during the hearings, so as not to infringe upon the parties' rights to a fair defense. If the judge relies on an undisclosed or undiscussed piece of evidence, this not only **violates the right of defense**, but also undermines the **integrity of the proceedings**, rendering the resulting judgment **null and void**.

Invalid or flawed evidence, which does not meet legal standards, is classified by most criminal legal systems under **evidentiary fallacies**. These are **errors in reasoning or assessment** that arise during the collection or analysis of evidence in criminal cases, potentially leading to **incorrect conclusions** and compromising justice. The most common forms include:

➤ **Fallacy of Expansive Interpretation of Criminal Texts**

This occurs when a criminal statute is interpreted to cover scenarios it clearly does not include. Expanding the scope of a provision beyond its clear language—for example, interpreting "breaking a window during theft" to include "forcing a window open"—violates the principle of **legality** ("nullum crimen, nulla poena sine lege"). Likewise, interpreting "home" to include adjacent caves, or treating employees of public enterprises as public officials despite their not being state-appointed, constitutes **analogical reasoning**, which is prohibited in criminal law.⁵

➤ **Direct Attribution Fallacy**

This involves attributing guilt solely based on superficial evidence, such as finding a fingerprint on a stolen car, without verifying whether the person had a legitimate reason to be there (e.g., a mechanic).

➤ **Historical Prejudice Fallacy**

Here, the judge relies on the defendant's criminal history as a basis for conviction, even in the absence of current incriminating evidence.

➤ **Presumptive Guilt Fallacy**

This involves presuming guilt simply because the prosecution has named the individual as a suspect, without objective proof.

➤ **Selective Evidence Fallacy**

Occurs when the judge considers only incriminating evidence while disregarding exculpatory material—such as excluding defense witnesses.

➤ **Confirmation Bias Fallacy**

The judge gives more weight to evidence that supports their preconceived notion of guilt, while ignoring contradictory evidence.

➤ **Reversal of Presumption of Innocence**

⁵ Arab jurists agree: expansion is permitted in **description**, not in **creation** of crimes.

This is when the judge assumes the accused is likely guilty and requires proof of innocence, rather than maintaining the presumption of innocence until proven guilty beyond reasonable doubt.

➤ **Unverified Confession Fallacy**

Occurs when the judge relies solely on a confession without examining whether it was obtained under duress or psychological pressure.

Appearance Bias Fallacy

- Judges, like all humans, may be influenced by the defendant's **demeanor, attire, and eloquence**. Well-dressed and articulate individuals with good reputations may be viewed more favorably, while poorly presented defendants may face prejudice.

The Qur'an encourages dignified appearance without extravagance:

"O Children of Adam! Take your adornment at every place of worship and eat and drink, but be not excessive." – ⁶

The Prophet ﷺ also warned:

"I am only human. You bring your disputes to me, and perhaps some of you may be more eloquent than others. So I judge according to what I hear. If I give someone what rightfully belongs to another, then I am granting them a piece of the Fire." – Agreed upon.

➤ **Overreliance on Expert Testimony**

This occurs when judges accept expert or witness testimony without scrutinizing its **accuracy** or **objectivity**—e.g., blindly accepting a fingerprint analyst's opinion despite inconsistencies.

➤ **No Smoke Without Fire Fallacy**

The belief that the sheer number of complaints or accusations implies guilt—even in the **absence of direct evidence**.

➤ **Mischaracterization Fallacy**

This involves using a single past incident to generalize a behavioral trait. For instance, concluding that the accused is violent and guilty simply because they were previously involved in a fight.

➤ **The Crime Scene Fallacy:**

This fallacy involves an overreliance on circumstantial or temporal evidence in the absence of conclusive proof. For example, assuming that the accused is the perpetrator merely because they were found near the crime scene or owned a knife similar to the weapon used.

⁶ [Al-A'raf: 31]

➤ **The Necessity Fallacy:**

This fallacy presumes that the accused had no choice but to commit the crime, thereby ignoring the possibility of other potential suspects. For instance: “The accused was hungry; therefore, he must have stolen the fruit.”

➤ **The Circumstantial Fallacy:**

This is the assumption of guilt based on prior threats or disputes. For example, if the accused had previously threatened the victim, and the victim is later found murdered, the conclusion is drawn that the accused is the killer. Similarly, if there was a property dispute and plants were damaged, the opposing party is immediately considered responsible.

➤ **The Victim's Character Fallacy:**

Here, the character or sexual orientation of the victim is used to infer guilt. For instance, if both the victim and the accused are known to be homosexual, and the victim is subjected to an indecent act, it is presumed that the accused committed it.

➤ **The Lengthy Investigation Fallacy:**

This fallacy insists on convicting the accused simply because the investigation consumed considerable time and resources, even if exculpatory evidence later emerges.

➤ **The Single-Narrative Fallacy:**

This involves constructing the case on a single version of events while ignoring alternative narratives that may explain the incident.

Section II: Practical Framework of Fallacies in Criminal Proof

When a criminal judge lacks sufficient confidence in the accused's guilt or the attribution of the act to them, the judge is obligated to issue an acquittal. This is a direct consequence of the presumption of innocence, and it reflects the legal principle that criminal judgments must be founded on certainty and conviction, not on suspicion or probability.

The principle of the criminal judge's personal conviction arises from the judiciary's pursuit of truth—whether it leads to conviction or acquittal. Thus, before issuing a judgment, the judge must genuinely be convinced, and such conviction cannot exist without reaching the truth. This is the essence of our current discussion.

Subsection I: Fallacies Derived from the Criminal File

It is impermissible for proof to be based on speculation about future events. Rather, the judge must base their conviction solely on lawful and valid evidence. Any evidence obtained in violation of the law is deemed invalid, and reliance upon it renders the judgment defective. Such invalidity may arise from a breach of constitutional provisions or the Penal Code, constituting a public order violation. It may also result from violating procedural norms.

Importantly, criminal courts do not act on their own initiative. They respond to claims presented by the parties, which must be substantiated with legally admissible evidence to shape the judge's conviction concerning the factual elements that establish a legal right disputed by the other party.⁷

⁷ Nabil Ismail Omar, *The Intermediate Guide in Civil and Commercial Procedures Law*, New University Publishing House,

A criminal judge is free to use all available means of proof to uncover the truth. The judge must not confine their assessment to evidence presented by the parties; they must actively seek out the most credible and understandable evidence, potentially even involving those better able to interpret it.⁸

However, a major issue in court practice is that many parties—especially victims—resort to unlawful evidence (often in good faith due to the lack of alternative proof). For example, if a victim films the perpetrator assaulting them, such evidence may be deemed inadmissible due to being unlawfully obtained, and could even constitute a criminal offense.

Judges also encounter procedural flaws during investigations, particularly when actions by judicial police officers precede judicial oversight. This includes violations under Articles 12–28, 42–55, and 63–65 of the Code of Criminal Procedure.⁹

Examples include investigations conducted without a judicial warrant, seizure records drafted by customs officials with conflicts of interest or without the necessary legal authority, or interrogation of minors without a legal guardian present.

The legal question arises: Do such invalid pieces of evidence influence the judge's conviction?

Certainly not. The criminal judge must not base a conviction on evidence that has been deemed invalid, contested, or disqualified, such as testimony from an individual legally barred from testifying or procedural violations like searches conducted outside authorized hours.

The Assize Court: Conviction Court vs. Evidence Court

Criminal assize courts, whether at first instance or appeal, are courts of conviction, not strictly courts of evidence. Thus, in theory, they may consider unlawful evidence among the reasons for conviction without oversight from the Supreme Court, as long as the verdict is rendered by majority vote without justification.

However, a recent procedural reform requires the reasoning of judgments (“Paper of Motivation”) by the presiding judge. Therefore, it is no longer permissible to explicitly rely on unlawful evidence when drafting the justification for a conviction. A judgment, as a procedural act, must state its source, context, and the facts it concerns.¹⁰

An important dilemma arises: What if the jury and judges reach a guilty verdict by majority based on inadmissible evidence, but the presiding judge disagrees?

In such cases, the presiding judge must seek alternative, lawful justifications for the conviction. If none are found, and only unlawful evidence supports the verdict, the judge may be forced to rely solely on the victim's testimony—rendering the judgment vulnerable to appeal on grounds of insufficient reasoning.

Criminal Misdemeanors and Minor Offenses: Handling Unlawful Evidence

If a defendant raises objections about the legality of the victim's evidence in misdemeanor or infraction courts, how should the criminal judge proceed?

Alexandria, Egypt, 2006, p. 210.

⁸ Zoubida Massoud, *Judicial Presumptions*, National Institution of Printing Arts, Algeria, 2001, p. 111

⁹ Djilali Baghdad, *Investigation*, previously cited, p. 17

¹⁰ Hassan Allam, *Criminal Procedure Law*, Al-Maaref Establishment, Egypt, 1991, 2nd ed., p. 535

Misdemeanor courts are evidence-based, requiring open discussion of all evidence between the parties. A conviction must be grounded in lawfully obtained and contested evidence. Judges cannot base a ruling on unexamined or unlawful evidence.

Yet, in practice, judges often apply creative and lawful reasoning:

- ✓ Forming internal conviction based on unlawful evidence, while justifying their ruling with minimal supporting facts—for instance, referencing a reconciliation agreement, the accused's compensation to the victim, or their presence at the customs office when the goods were moved.
- ✓ Interrogating the accused regarding the unlawful evidence (e.g., a video presented by the victim), and if the accused admits to the contents, the judge bases the conviction on this courtroom confession, not the illegal evidence.
- ✓ Using flawed reports (e.g., invalid customs reports) as ordinary documents, provided that their procedural defects are acknowledged—thus, allowing the judge to lawfully base a conviction on them.
- ✓ Final Dilemma: Can a Conviction Be Based on Illegally Obtained Physical Evidence?

A critical issue arises: Can a judge convict an accused if the contraband was found in their residence, but the search was unlawful (e.g., conducted outside authorized hours, without a warrant, without qualified personnel, or in an immune location like a consulate)?

This remains a legal gray area and depends on the court's discretion, the availability of corroborating evidence, and whether the judge can separate the unlawful aspect of the procedure from the substance of the discovery.

- ✓ **Here, the judge cannot base a conviction on such records under penalty of cassation.** Nevertheless, it is evident that in such situations the judge's conviction may be caught in a conflict between legal truth and judicial truth. On one hand, the facts may clearly indicate that the accused is guilty of committing a criminal act; on the other, the law obliges the judge to justify the judgment with sound legal reasoning. This places the judge at a critical juncture: should they apply the presumption of innocence and the principle of fair trial as enshrined in the Constitution and advocated by international human rights instruments, which uphold the guarantees of the accused? Or should they prioritize the rights of the victim, which are also protected by national legislation—especially considering that modern criminal policy has begun to recognize and emphasize victims' rights, which were previously eclipsed by the prominence of the fair trial principle, the presumption of innocence, and the legality of evidence rule, all of which place the burden of proof on the victim?
- ✓ This issue, in our opinion, must be handled with great prudence, and the criminal judge must approach it with caution. It essentially concerns the guarantees of a fair trial for the accused. Any disregard of these guarantees by the judge may amount to partiality and constitute grounds for cassation. On the other hand, dismissing such evidence for being unlawful or invalid may fail to satisfy the victim—who may be unaware of the principle of the legality of evidence or evidentiary rules—and whose main concern is obtaining a conviction and securing justice through appropriate punishment and redress for the harm suffered. This is particularly pressing when the victim

has pinned their hopes on evidence they provided—such as video recordings clearly implicating the accused in, for instance, consumer fraud.

One might argue that no reasoning can convince the victim of an acquittal based on a lack of admissible evidence. An acquittal, to them, may feel like a thunderbolt, potentially provoking unlawful reactions such as uttering remarks that could be construed as contempt of court—saying, for example, “This is not justice,” or insulting the accused before the judge, or even verbally assaulting the court that ruled for acquittal. The victim’s confidence in the justice system may waver, not understanding that the judge is legally bound to rely only on lawful evidence. For this reason, many judges tend to avoid acquittals in such cases and make every effort to search for other legal evidence, however tenuous, to uphold justice. After all, the case involves a crime that undeniably took place in the presence of, or was experienced by, the victim who provided the inadmissible evidence.

At times, such fallacies may stem from the procedural and intelligence file (the *dossier de forme et de renseignements*), as the criminal case file consists of both the substantive file and the procedural-intelligence file. The latter includes the criminal record and the intelligence sheet prepared about the accused. This raises a pertinent question: can a criminal judge form their conviction based on the procedural-intelligence file? In other words, can the judge rely on a criminal record or police intelligence sheet—particularly if the accused has a prior criminal history, or is listed as such even without actual convictions?

The answer, of course, is that neither the criminal record nor the intelligence sheet can be considered as evidence of guilt. The rationale behind the conviction must lie in evidence that has been duly examined before the judge in the presence of the accused. Reliance on such records violates the presumption of innocence. Nonetheless, judicial practice often allows criminal records to be considered only in the context of determining sentencing circumstances, as stipulated in Article 53 of the Penal Code and subsequent provisions. Anything beyond that constitutes a ground for cassation, as a judgment based on the accused’s prior record would lack proper reasoning.

It is often observed that, in criminal cases where no concrete evidence is available against a recidivist or habitual offender, judges may resort to the criminal record—particularly in cases of theft or drug offenses. Perpetrators of such crimes are typically cautious and leave no traceable evidence, which leads some judges to privately form their conviction based on the record without explicitly referencing it in the judgment’s reasoning.

In this context, I encountered a case involving defendants accused of redirecting goods from their intended preferential destination. The judge relied on the defendants’ intelligence sheets, noting that all three had prior involvement in smuggling. Although they denied all charges and even claimed not to know one another, the judge observed that they had been questioned by the judicial police on the same day, at the same police station, and in connection with similar smuggling offenses. When confronted with these facts, the defendants recanted their previous statements and admitted knowing each other. The judge based the conviction on these contradictory statements. Thus, the intelligence sheets significantly contributed to forming presumptions of guilt and shaping the judge’s conviction.

In another criminal case, the judge relied on the procedural-intelligence file to discredit the accused’s claim that he had no involvement in commerce, claiming instead that he was merely a security guard in a private company. Upon

confronting him with his criminal record, which included convictions for failing to declare employees to social security and failing to publicize commercial data, the accused withdrew his statement.

In a different matter, an accused denied knowing the second defendant, who was involved in inflated invoicing. However, their birth certificates showed their mothers shared the same last name and birthplace, a remote village. After intense questioning by the judge, both admitted they were cousins. This familial link was sufficient to establish a significant presumption of guilt.

In conclusion, the procedural-intelligence file may assist the judge in forming a conviction. It may also be argued that social investigations in criminal matters can play an important role in influencing the court's conviction—especially if the outcome of such an investigation is unfavorable to the accused. This is consistent with the principle that the Criminal Court is a court of *intimate conviction* as per Article 307 of the Code of Criminal Procedure.

Second Requirement: Fallacies Outside the Criminal Case File

A criminal judge is required to collect, examine, and evaluate evidence strictly within the bounds of admissible criminal proof. The judge must not base a ruling on evidence outside the criminal case file presented before them. Doing so would constitute one of several legal fallacies, including but not limited to:

- The Fallacy of Judging Based on the Personal Knowledge of the Criminal Judge

Personal knowledge refers to facts known to the judge outside the courtroom proceedings. Judicial practice has long upheld the principle of judicial impartiality, which is a foundational tenet of the general theory of evidence. Accordingly, a judge may not rely on personal knowledge of the case's facts unless such knowledge stems from common public experience accessible to all.

The judge's role is to apply the law correctly—not to rely on firsthand knowledge of specific facts, such as being present at the signing of a contract, the transfer of funds abroad, or the detailed declaration of imported goods. Therefore, judges are prohibited from resolving technical matters based on personal knowledge. Instead, they must refer to expert opinion. Likewise, courts must disclose the sources upon which they rely in technical matters.¹¹

The legislator's aim in this regard is to ensure that judges refrain entirely from basing their convictions on personal knowledge—not merely factual knowledge of the case or coincidental awareness of its circumstances. Rather, the prohibition extends to any situation in which a judge substitutes expert analysis with personal information in matters requiring specialized or technical insight.

The jurisprudence of our Supreme Court has confirmed that a judge may not rely on personal knowledge in technical matters, as this constitutes a prohibited basis for judgment. Moreover, when a judge rules based on personal knowledge, they essentially introduce evidence themselves—an act which denies the parties their right to challenge that evidence. This undermines the respect due to the judiciary. The judge's role is thus confined to assessing the evidence submitted by the parties through legally prescribed means. They must not depend on personal knowledge or gather

¹¹ The judge may not resolve technical matters based on personal knowledge but must refer to experts and disclose sources.

their own evidence, as the judge is not an investigator. Still, judicial impartiality does not preclude the judge from actively seeking the truth by utilizing the legal authority granted to direct proceedings and complete the evidentiary record.¹²

As Dr. Abdel-Razzak Al-Sanhouri notes:

“The prohibition against judging based on personal knowledge is not merely a subset of the principle of judicial impartiality—it is a direct consequence of the right of the parties to challenge any evidence introduced in a case.”¹³

Personal knowledge here becomes a piece of evidence in the case. Since the parties have the right to challenge this evidence, the judge would effectively become both a litigant and an arbiter—an unacceptable contradiction.

- The Fallacies of Rumor and Public Opinion

Some individuals attempt to influence judicial decisions through rumors.¹⁴ A rumor is a psychosocial phenomenon—a double-edged psychological weapon often used in psychological warfare.¹⁴

It may involve recounting a fabricated or exaggerated story to undermine morale or erode group cohesion. Unfortunately, such rumors can influence criminal courts, particularly in cases that generate public concern—especially if widely reported by television or print media.

Examples include political crimes, corruption cases, or terrorism, especially if the accused holds a high-ranking position. In such scenarios, acquittal becomes highly unlikely, as suspicion is almost interpreted in favor of the prosecution. Furthermore, senior authorities may monitor such cases closely, requesting copies of rulings or entire case files along with detailed reports on procedural history.

Some exploit the public and political importance of a case to spread rumors—whether whispered among peers or more overtly within tightly knit environments connected by work or residential proximity. These rumors aim to confuse perceptions, stir emotions, or dismantle community cohesion. Rumor-mongers usually operate covertly, whether driven by a desire for attention, group amusement, economic motives (e.g., hyping a scarcity-related import case), or emotional manipulation.

Rumors may also be aimed at discrediting defendants or undermining the justice system itself—for example, alleging that a judge or lawyer received an undeserved benefit or had a connection to a defendant. All these ideas are, in essence, unfounded rumors intended to damage judicial integrity or sway the judge’s conviction.

The real danger lies in the possibility that such rumors might influence a weak-willed judge, especially in sensitive or high-profile cases—whether social, economic, military, or political—such as the undeclared import of sensitive devices or the involvement of prominent figures. The public, driven by curiosity, may unwittingly contribute to the spread of such rumors.¹⁵

¹² Judicial impartiality permits proactive truth-seeking within legal bounds but prohibits self-supplied evidence.

¹³ Abdel-Razzak Al-Sanhouri: “The prohibition is a direct result of the adversarial right to challenge every piece of evidence.”

¹⁴ A rumor is a psychosocial weapon used for psychological manipulation and public influence

¹⁵ Rumors often arise from curiosity, fear, or hidden agendas, spreading widely in socially connected environments.

Rumors typically evolve through two stages: origination and refinement. Their creators may be disruptive insiders, marginal groups, or even agents of external entities. Sometimes, leaders themselves propagate rumors to gauge public reaction. Innocent individuals might also spread rumors out of fear, unaware of the negative consequences they cannot later control.

The digital environment—cyberspace¹⁶—has amplified the spread of rumors¹⁶, especially in the realm of criminal justice, due to the accessibility and speed of online platforms. Today, digital rumors have become among the most dangerous tools threatening¹⁷ societal values and institutions. In some cases, their impact may exceed that of conventional political or military power.¹⁸

Conclusion

Ultimately, a judge must be governed by legal rules when delivering verdicts—whether of conviction or acquittal. It is impermissible to rely on evidence not recognized by law, even if such evidence appears to reveal the truth. To preserve the principle of the criminal judge's personal conviction, the legislator must support it with clear legal mechanisms that help the judge justify their ruling.

At the same time, the legislature must clearly define the types of admissible evidence in public prosecutions. Accordingly, we affirm the following:

It is better for a criminal judge to err by acquitting a guilty person than to wrongfully convict an innocent one. This is the true essence of justice—and of compassion in judgment.

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¹⁶ Cyberspace is a term used to refer to the world of computing and digital communication

¹⁷ Jan-Noël Kapferer, *Rumors: The World's Oldest Media*, trans. Tania Najjiya, Dar Al Saqi, Beirut, 2007, p. 14

¹⁸ Jamilah Qadim, "Electronic Rumors and Their Role in Misleading Public Opinion," *Al-Risala Journal for Human Studies and Research*, Vol. 7, No. 3, Algeria, 2022, p. 297.

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