

A Comparative Study of the Probative Value of Criminal Evidence in Iranian Judicial Procedure and the Judicial Procedure of the European Court of Human Rights

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DOI: <https://doi.org/10.22096/law.2025.2072037.2328>

Received Date: 20/09/2025 - Accepted Date: 20/10/2025

Abstract

The Code of Criminal Procedure in any country is indicative of the criminal policy model governing its criminal justice system. The principal element within the criminal process that can influence the conviction or acquittal of an individual is the evidence adduced and the probative value accorded to it. Undoubtedly, the assessment of the value of evidence presented by the tripartite parties to criminal proceedings falls within the purview of judicial precedent. The European Court of Human Rights (ECtHR), as the highest judicial authority in member states of the European Union, and a judicial precedent in its broad sense within Iran, can serve as highly suitable benchmarks for evaluating these assessments. This is because certain types of evidence and their methods of acquisition may be deemed admissible and valuable under Iranian practice, whereas the process pertaining to the same evidence within the jurisprudence of the ECtHR might be considered fundamentally invalid. Consequently, through the analysis of the jurisprudence of both legal systems, this article concludes that the judicial authority's perspective and evaluation, on one hand, regarding the nature of the evidence itself, and on the other, regarding the interpretation of the method of its acquisition, collection, and the value conferred upon it by law, can significantly impact the criminal process and, ultimately, the proof of guilt or innocence of citizens.

Keywords: English fair trial and due process; defense rights; criminal process; judicial authority; evidence.

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