




# The Status of Judicial Presumption in the System of Evidence in the Legislative System of Iran and the Federal Rules of Evidence of the United States

Ali. Azizi<sup>1</sup>, Mohammad. Sadeghi<sup>2\*</sup>, Hamidreza Alikarami<sup>3</sup>

<sup>1</sup> PhD Student of Private Law, Department of Law, Arak Branch, Islamic Azad University, Arak, Iran

<sup>2</sup> Assistant Professor, Department of Private Law, Hazrat-e Masoumeh University, Qom, Iran

<sup>3</sup> Assistant Professor, Department of Private Law, Arak Branch, Islamic Azad University, Arak, Iran

\* Corresponding author email address: msadeghi4817@yahoo.com

Received: 2023-12-20

Revised: 2024-02-13

Accepted: 2024-02-20

Published: 2024-03-03

Judicial presumption, as one of the tools for discovering the truth in the judicial system, particularly in civil proceedings, holds a significant position. This paper meticulously examines this matter from the perspective of Iran's legislative system and the United States Federal Rules of Evidence. Thus, we faced certain questions and sought to provide convincing answers to the following issues: Firstly, how does the system of evidence view this matter, and secondly, what is the status of this evidentiary reasoning in the United States Federal Rules of Evidence? The present research adopts a descriptive and analytical approach, using a library-based method for data collection. The concept of judicial presumption, as a tool for presenting specific evidence in each case, is not only beyond the drafting and specific legal framework of each country but is also an external reality that every legal system must address to ensure comprehensiveness and justice. Initially, we presented general concepts of comparative studies, then discussed the existing judicial procedures in both legal systems, and identified those fundamental legal concepts that have mutual influence with the concept of judicial presumption. We examined these concepts in the context of the origins of each legal system with an approach that considers the fundamental events and thoughts surrounding these related concepts.

**Keywords:** *system of evidence, judicial presumption, Federal Rules of Evidence, Iranian legislative system, lawsuits*

## How to cite this article:

Azizi, A., Sadeghi, M., & Alikarami, H. (2024). The Status of Judicial Presumption in the System of Evidence in the Legislative System of Iran and the Federal Rules of Evidence of the United States. *Interdisciplinary Studies in Society, Law, and Politics*, 3(1), 120-132. <https://doi.org/10.61838/kman.isslp.3.1.13>

## 1. Introduction

The resolution of disputes has long been recognized as one of the most important responsibilities of courts and the judicial process. Throughout the various legal systems and traditions that have developed around the world, the procedure for resolving disputes, especially the means of proving one party's claim, has garnered significant attention. This has prompted jurists to recognize the need for detailed and specific studies of

these means and to categorize and analyze the various tools that can directly or indirectly affect dispute resolution and, consequently, the judicial process. Beyond pure legal studies, various perspectives have emerged in the legislative texts of each country, with some prevailing and others diminishing. In some legal systems, the means of proof are limited and defined with specific scope, whereas, in other legal systems, only general rules regarding these means of proof are mentioned, giving the judiciary broader discretion.



However, this approach by the legal systems of different nations has not always followed legal theories, as social, economic, political, and religious conditions have sometimes influenced these perspectives. This has led the authors of these legal systems to adopt or distance themselves from specific views in light of these conditions. In the Iranian legal system, which is influenced by Twelver Ja'fari Shi'a jurisprudence and the French legal system, five foundational legal codes have been compiled in the typical Roman-Germanic system, namely, the Civil Code, the Code of Civil Procedure, the Islamic Penal Code, the Code of Criminal Procedure, and the Commercial Code.

In the realm of civil law, Article 194 of the Code of Civil Procedure defines evidence in legal discourse as follows: "Evidence is that which the parties to the dispute invoke to prove or defend their claim." According to this definition, evidence is what proves the claim, and these evidentiary means are divided into five types under Article 1258 of the Civil Code: confession, written documents, testimony, presumptions, and oaths. However, Article 160 of the Islamic Penal Code presents a relatively different classification, dividing the means of proof into confession, testimony, qasameh (oath-taking procedure), oaths, and the judge's knowledge.

In this context, the general perspective on judicial procedure implicitly suggests that all actions of individuals, as discussed in law, have a judicial bearing concerning the state and others. The legal system, with its deep jurisprudential insight, also considers individuals' actions towards themselves because if a person or element within society lacks self-discipline and lawful character, it is highly likely that such characteristics and thoughts will manifest. As a result, the ideal judicial procedure, as guided by legal texts and legal scholars' mindset, is tasked with determining whether a specific act with a defined legal bearing has occurred. The judge is only limited to the tools provided by various legal provisions when determining the occurrence or non-occurrence of a matter.

However, due to the vast and extensive nature of social affairs, it can be said that the multitude of legal matters has made it impossible for legal authors to account for all these issues and assign a specific legal bearing to each one. Additionally, in many legal disputes, the parties' arguments, based on the specific conditions of each case, are often scattered and beyond general perception.

These two problems have been addressed by the general perspective of the legislative system.

Regarding the first problem, the laws of the Islamic Republic of Iran, through the parliament and consulting with relevant authorities, have taken steps to maintain dynamism in addressing these issues. Regarding the second problem, whether in civil or criminal matters, the terms "presumptions" and "the judge's knowledge" have practically offered solutions, granting the judge sufficient authority within the judicial framework to consider specific conditions and include matters deemed by the judge to be decisive in determining whether an event occurred. The judge can base their rulings solely on these considerations. Thus, among the means of proof, presumptions are most closely associated with the various facets of legal cases and the judge's character (Katouzian, 2003).

In contrast, the U.S. legal system, influenced by the common law system that originated in England, provides only a very general definition of relevant evidence in Article 401 of the Federal Rules of Evidence. It defines relevant evidence as anything that tends to make a fact more or less probable than it would be without the evidence and affects the judicial process (*U.S. Federal Rules of Evidence, 2023*). It is clear that this definition grants the judge significant discretion, provided it aligns with the provisions of other related laws. Evidently, the two systems have taken different approaches, which warrant further examination.

## 2. Judicial Presumption in the System of Evidence in Iran's Legislative System

As mentioned earlier, Article 1258 of the Civil Code divides the means of proof into five types: confession, written documents, testimony, presumptions, and oaths. Presumptions, the subject of this article, are defined in Article 1321 of the Civil Code as "circumstances that are considered proof of a matter by law or by the judge's decision." According to the following articles, Articles 1322 and 1324, presumptions are divided into two types: legal and judicial. If the circumstances mentioned are deemed proof of a matter by law, the presumption is legal. If deemed proof by the judge's decision, the presumption is judicial.

### A) Scope and Role of Judicial Presumptions

In the realm of judicial presumptions, many materials and discussions are raised. First, it should be noted that

the scope of judicial presumptions is not confined and far exceeds the scope of legal provisions (Katouzian, 2003). This issue arises from the very nature of presumptions, which, by definition, can vary depending on the specific conditions of each case. Thus, due to the multitude of possible disputes, one of the purposes of the presence of this concept in the legal system is to resolve these issues (Qarajehloo). Consequently, in some cases, the inference and factors that strengthen the authors' presumption may not fit the specific conditions of a case. If the particular circumstances and details were presented to the authors, they might have formed a different interpretation of the presumption in that specific dispute. Therefore, it is clear that the scope of judicial presumption is expanded with the presentation of novel disputes and is not limited to the few considerations outlined in legal provisions.

B) Differences Between Legal and Judicial Presumptions On the opposite side lies legal presumption, which, due to the inability to account for all details of all disputes, has been considered to a limited extent by law, while the rest is left to judicial presumption to consider the specific conditions of the case. Additionally, the judge has discretion in relying on judicial presumption during the judicial process, whereas, in the case of legal presumptions, the judge is obligated to follow it (Saleh Ahmadi, 2013). Since the purpose of presumptions is to satisfy the judge's conscience, the judge can reason that a matter did not help increase or decrease their suspicion about a particular issue, or that their suspicion was steered in a certain direction due to a specific reason. This matter is largely dependent on the judge's character and their perspective on the specific conditions of the issue. Thus, it is clear that a judge, by reasoning about their personal suspicions, can consider something as a presumption or refrain from considering it. Unlike judicial presumptions, legal presumptions, as outlined in the legal provisions, are mandatory, and the judge is required to consider them in their reasoning to advance the judicial process.

In case of a conflict between presumptions, if two judicial (or legal) presumptions contradict each other, they cancel each other out. However, if one presumption is judicial and the other legal, the judicial presumption prevails, and the legal presumption is negated (Shams, 2013). As previously mentioned, one reason for the superiority of judicial presumption over legal

presumption in the legal system of the Islamic Republic of Iran is that the judge, being more aware of the specific conditions of each case, considers personal suspicion based on specific evidence, whereas, due to their general nature, legal provisions sometimes fail to account for critical details that may completely alter the effect of the presumption. These details are only apparent to the judge, and the legislator cannot account for all of them in the legal text.

### C) The Evidentiary Power of Judicial Presumptions and Legal Reforms

Regarding the evidentiary power of judicial presumptions, it must be noted that historically, the prevailing legal practice was to limit the scope of judicial presumptions. Article 1324 of the Civil Code states: "Presumptions left to the discretion of the judge refer to circumstances in a specific case and can only be used if the claim can be proven by witness testimony or if they complement other evidence." According to this article, the scope of judicial presumptions was limited to cases that could be proven by witness testimony, as previously outlined in Articles 1306 to 1308 of the Civil Code. These articles stated: "Except in cases where the law provides otherwise, no contracts, obligations, or promises where the subject matter exceeds five hundred rials in value may be proven solely by verbal or written testimony. However, this rule does not prevent courts from considering witness statements for additional insight and truth discovery."

In matters of contracts and obligations mentioned in the above article, even the party claiming to have fulfilled their obligation or been discharged in some way could not prove their claim solely by witness testimony. A claim regarding the extinguishment of a right, such as the repayment of a debt, annulment, revocation, discharge, and similar cases, could not be proven by witness testimony in opposition to an official document or a document that had been validated by the court, even if the value of the subject matter was less than five hundred rials (Islamic Research Center, 1999).

Under these articles, a significant number of claims related to contracts essentially removed the scope of judicial presumptions in adjudicating these cases, and the judge was required to refer to other evidence to satisfy their conscience. However, with the 1982 and 1991 reforms to the Civil Code, the above articles were abolished, the scope of witness testimony expanded, and

the policy of limiting the effect of judicial presumptions and the judge's discretion was effectively eliminated. Today, witness testimony is admissible in all legal cases and events, making judicial presumptions valid and usable in all claims (Katouzian, 2003).

#### D) Judicial Presumptions in Criminal Law

It is also important to note that while lawmakers have addressed judicial presumptions in various sections of the Civil Code and Code of Civil Procedure, there is no such reference in Iran's criminal laws, whether in the Islamic Penal Code or the Code of Criminal Procedure. Concerning the granting of relative freedom in the judge's discretion due to the absence of specific legal restrictions in the criminal legal system of the Islamic Republic of Iran, it has been said that most criminal verdicts rely on judicial presumptions. This is because direct and prearranged evidence that fully satisfies the judge's conscience is relatively rare in criminal matters. Much of what leads to the judge's conviction must be gathered during the investigation and prosecution, and thus, judicial presumptions play a more significant role in criminal proceedings. Legislative limitations on the use of circumstantial evidence and presumptions could hinder fair adjudication, which is why this implicit authority is granted to the judge through the absence of excessive legal complexity in both civil and criminal law, as discussed earlier (Zera'at & Hajizadeh, 2011).

### 3. The Perspective of Iran's Legislative System on Judicial Presumption

The legal system of the Islamic Republic of Iran is based on principles derived from both French legal traditions and the Twelver Ja'fari Shi'a jurisprudence, which is the dominant religious framework for the population of the Islamic Republic of Iran. To understand how Iran's legislative system views judicial presumptions and the origin of legal works, both in civil and criminal law, we must first examine the roots of the concept of judicial presumption in the French legal system and Twelver Ja'fari Shi'a jurisprudence, which form the foundation of Iran's legal system.

#### A) The Concept of Judicial Presumption and the Role of the Judge

The concept of judicial presumption, by definition, necessarily has a direct relationship with the judge's discretion in adjudicating cases. Judicial presumptions, due to their subjective nature, are considered for the

specific details of each case within the legal framework. In practice, they are determined directly by the judge based on reasoning that does not conflict with the values and principles of the legislative system. Since the judge is regarded as the enforcer of law in adjudicating disputes, judicial presumptions, which are essential for ensuring the judge's satisfaction with the evidence, fall directly within the judge's discretion. Therefore, it is the judge who, as the executor of a specific range of judicial powers, has a direct relationship with judicial presumption. However, to understand this relationship as not merely obligatory but causal, we must consider the following:

#### B) The Judge's Limitations and Legislative Works

From a reading of Iran's legislative works, it is implicitly inferred that the judge has no discretion in determining the legal weight of a specific act. Rather, the judge's role is merely to investigate and assess the occurrence of events whose legal weight has been exclusively determined in the legislative works. The judge cannot deviate from the legislative works in attributing a ruling to an individual's actions. However, judicial presumptions, while not violating this inferred principle, are subjective inferences that vary depending on the individual judge and may lead to different conclusions among judges in terms of their personal satisfaction. Therefore, it can be concluded that the scope of judicial presumptions is directly related to the judge's personal discretion. As a result, the scope and effect of judicial presumptions are causally linked to the judge's powers. If we seek to explore the origins of this perspective on judicial presumption in Iran's Civil, Criminal, and Commercial Law, we must examine the philosophical and intellectual roots of how the judge and their powers are viewed in this legal system.

#### C) The Philosophical and Legal Roots in France and Their Influence

In the foundations of the French legal system, as articulated in the *Déclaration des Droits de l'Homme et du Citoyen* (1789), with a natural and secular perspective, it was stated that all human beings are created equal and possess natural rights to property, liberty, and life. The proper function of government is to recognize and protect these rights to ensure equality before the law. Governance must be carried out by elected representatives (*Déclaration des Droits de l'Homme et du Citoyen*, 1789).

The entrenched symbols of feudalism, which recognized social status and public authorities (government) based on land ownership, were in conflict with the ideals of the French Declaration of Rights. Similarly, other forms of nobility, such as judicial nobility, were also at odds with these ideas.

Before the French Revolution, judicial offices were viewed as a form of property that individuals could buy, sell, or inherit, effectively allowing individuals to purchase the position of judge. As a result, judges were a group of nobles who supported the landed nobility against peasants, workers, and the middle classes, as well as the centralization of government power in the capital, Paris. This judicial behavior and the definition of a judge as a property owner inspired post-revolutionary French legal authors to limit the judge's role to that of an enforcer of laws. In this context, judicial presumption was subjected to limitations, as seen in Article 1353 of the French Civil Code, which restricts the application of judicial presumptions to cases where witness testimony is effective. Moreover, it encourages judges to exercise caution and only consider presumptions that are strong, specific, and coherent.

However, the French judiciary has also concluded that one should not assume that witness testimony automatically prevails over presumptions. A judge can reject witness testimony if they find contradictory presumptions (Katouzian, 2003).

#### 4. Islam's Position on Judicial Presumption

##### A) Early Islamic Period

The origin of judicial authority in Islam dates back to the lifetime of the Prophet Muhammad, who served as both a spiritual leader and a social ruler. During this time, the Prophet carried out judicial duties (Hallaq, 2009). He adjudicated disputes, established justice, and applied divine law as revealed to him. The Prophet's role as a judge was intertwined with his prophetic mission, reflecting the unity of religion and social governance in Islam (Coulson, 1964). After the Prophet's martyrdom, Imam Ali (peace be upon him) continued this tradition, frequently handling legal disputes personally. With the expansion of Islamic governance, judges were appointed to manage legal matters, and the selection of judges during this period placed particular emphasis on piety, knowledge of the Quran, and justice (Momen, 1985).

##### B) Umayyad and Abbasid Periods

The Umayyad caliphs played a fundamental role in the institutional development of the Islamic judiciary. The expansion of the Islamic caliphate required a formalized and institutionalized approach to governance, which included legal matters. The Umayyads established structured courts, appointing judges across the realm, and sometimes blending local administrative practices with Islamic principles (Hallaq, 2009). The Abbasid caliphs further institutionalized this judicial structure, with a particular emphasis on developing a comprehensive legal framework based on Islamic jurisprudence. This period saw the compilation of Hadith and the emergence of the Sunni schools of law, including the Hanafi, Maliki, Shafi'i, and Hanbali schools, each with its distinct legal interpretation (Coulson, 1964; Hallaq, 2009).

##### C) Judicial Authority in Shi'a Islam

In Shi'a Islam, the development of judicial authority followed a different path due to theological differences and specific historical contexts as compared to Sunni Islam. In Shi'a Islam, the central focus was on the guidance of the Imams, who were considered the rightful successors of the Prophet (Momen, 1985).

**Role of the Imams:** Shi'a theology holds that the Imam possesses divine knowledge and is infallible in matters of faith and piety. The twelve Imams, from Ali ibn Abi Talib (peace be upon him) to the awaited Mahdi, played a fundamental role in guiding the Shi'a community. The Imams often acted as judges, resolving disputes and providing specific legal interpretations of Islamic jurisprudence (Madelung, 1997; Tabatabaei, 1995).

**Absence of the Imam (Ghaybah):** The doctrine of Ghaybah (occultation) in Shi'a Islam has significantly influenced the formation of the judicial system. During the absence of the Imam, continuous guidance is not possible, leading to the development of the concept of Wilayat al-Faqih (Guardianship of the Jurist), in which a qualified jurist is appointed to lead (Khomeini, 1981; Momen, 1985).

**Development of Marja'iyya:** During the Imam's occultation, Shi'a Islam developed the institution of Marja'iyya, where a Marja' (religious authority) provides religious and legal insights to the community. These authorities hold the highest rank in religious matters, including jurisprudence, issuing legal rulings (fatwas) and adjudicating various matters, thereby preserving the Shi'a legal tradition (Sachedina, 1988).

#### D) The Role of the Jurist in Shi'a Islam

The role of the jurist (faqih) in Shi'a Islam manifests in various forms and profoundly affects social matters, particularly within the framework of Wilayat al-Faqih. This concept, prominently developed by Imam Khomeini, asserts that in the absence of the infallible Imam, a qualified jurist should lead the Muslim community (Khomeini, 1981).

##### D-1) Theoretical Foundations

Wilayat al-Faqih is based on the premise that the jurist possesses comprehensive knowledge of Islamic law and upholds moral principles, making him qualified to lead society. This jurist is responsible for enforcing laws and ensuring that the government aligns with Islamic principles, thus ensuring the welfare of society (Khomeini, 1981).

##### D-2) Practical Implementation

In practice, the role of the jurist encompasses both governance and judicial aspects. For example, in the Islamic Revolution of Iran, the leader, who embodies Wilayat al-Faqih, plays a significant role in religious and political matters. This includes authority in supervising the implementation of Sharia, appointing judges, and overseeing the general legal framework (Arjomand, 1988; Mottahedeh, 1985).

##### D-3) Judicial Authority of Judges

As observed, the jurist in Shi'a Islam holds judicial authority, with the scope of this authority extending to the interpretation of Islamic laws, existing issues, and the issuance of fatwas on new matters. This role is particularly crucial in maintaining the legal structure and moral fabric of Shi'a society, especially when contemporary challenges require new interpretations of Shi'a legal traditions. After the Islamic Revolution in Iran, a prominent example of the implementation of a judicial system based on Shi'a Islam emerged. In this system, the judiciary operates according to the principles of Imamiyyah jurisprudence, with jurists playing a special role in the interactions, application, and approval of laws (Khomeini, 1981; Sachedina, 1988).

Consequently, unlike the civil law tradition in Europe, where the judge is seen as an executor of the law, tasked with ensuring the application of codified laws through the evaluation of initial evidence, in Imamiyyah jurisprudence, the jurist plays a more dynamic role in interpreting Islamic laws and issuing fatwas, which can implicitly be regarded as a form of legislation. In this

respect, the role of the jurist bears more similarity to common law systems. However, a comprehensive reading of the Iranian judiciary suggests that, although it adopts elements from Islamic law, the role of judges retains the essence of civil law interpretation. This is because the judiciary is distinct from jurisprudence, and since judges are considered knowledgeable in Islamic law but not jurists, they are not permitted to interpret Islamic law or issue fatwas in legal disputes as if they were legislating.

## 5. Judicial Presumption in the United States Federal Rules of Evidence

Before introducing the concept of judicial presumption in the United States legal system, it is necessary to define some of these legal terms within the framework of the United States legal system to gain a comprehensive understanding of the presence and perspective of the U.S. legal system regarding judicial presumption.

### A) Definition of Facts

In the United States legal system, facts refer to specific details or information presented in a case (Merriam-Webster Incorporated, 1996, p. 184). These facts can be established through various means, such as testimony, physical evidence, or documents. One of the roles of the court is to determine these facts based on the evidence presented. In the realm of law, a fact represents an actual event or occurrence that holds particular importance in the legal proceedings. Facts are the building blocks upon which legal arguments are constructed and play a crucial role in determining the outcome of a case. A fact is an event that has verifiably occurred or a claim presented as an undisputed truth. Determining facts is a key responsibility of trial courts. The word "fact" comes from the Latin root *factum*, meaning something done, and it was initially used in English with a similar meaning. The term "fact" as a distinct social concept emerged as a byproduct of the rise of codified law. Although fact is a legal term, it became an unintentional concept during the study of reforms and legal institutions by juries. However, it should be noted that the concept of the jury is one of the main pillars of the U.S. legal system (*U.S. Constitution, 1992*).

### B) Concept of the Jury

A jury is a group of ordinary citizens selected to hear evidence and determine the guilt or innocence of the accused. The jury ensures that justice is served and that

the parties involved receive a fair trial. In a trial, the jury plays a vital role as the fact-finder. They are tasked with identifying the events that definitively occurred in each case based on specific evidence and facts. This evidence can take various forms, such as testimony, documents, photos, videos, expert opinions, and many other types. Some evidence may directly point to a fact, while others may indirectly lead to a fact through inference, which is related to our concept of presumptions (*U.S. Constitution, 1992*).

### C) Concept of Presumption

In the U.S. legal system, a presumption is a legal inference that must be drawn based on specific facts. A common definition of the legal meaning of presumption is that it allows the court to consider a fact as true unless direct evidence to the contrary is presented (*Merriam-Webster, 1996*). However, as with many other legal terms, there is no universal definition of this concept within the legal system, and courts have recognized eight different uses of this term in various contexts (*Laughlin, 1953*). Before delving into the precise meaning of this term, it is helpful to consider the Federal Rules of Evidence. According to Rule 301 of the Federal Rules of Evidence (*U.S. Federal Rules of Evidence, 2023*), when a presumption is raised against a party, that party has the responsibility to produce evidence to rebut the presumption, although this does not entirely shift the burden of proof from the claimant.

In this context, Rule 401 of the aforementioned law recognizes as admissible only evidence that makes the occurrence or non-occurrence of an event more probable, thereby influencing the proceedings. As presumptions, by definition, are one of the main factors influencing the likelihood of an event's occurrence, even indirectly, they play a role in the legal process without necessarily resolving the dispute or proving the claim of either party, thus qualifying as evidence. Other provisions of the Federal Rules of Evidence address the introduction of circumstantial evidence as solid evidence in court, which may also be presented to the jury. According to the first section of Rule 201, the scope of this rule is limited to circumstantial evidence pertinent to the specific circumstances of the case. The second section defines the type of circumstantial evidence that the judge may consider as credible evidence, which includes evidence that is generally recognized within the court's jurisdiction or that can be accurately and quickly

determined from sources previously recognized by the court.

Sections three through five of this rule address the rights of the parties in the application of presumptions by the court rather than providing theoretical definitions of presumption and the judge's authority. These rights include the procedure for requesting the court to review a presumption, the timing of such considerations during the proceedings, and notifying the opposing party when the court considers a presumption. Thus, this rule establishes a general framework for presumptions and their application in court. Moreover, Rule 301 specifically addresses civil cases, stating that if a presumption is raised against a party in a case, it becomes the burden of the opposing party to disprove the presumption, provided that it does not conflict with other federal provisions or sections of the Federal Rules of Evidence.

Another important point is that federal law only claims to establish a comprehensive general framework and proper procedure. Rule 302 reiterates this principle by delegating the effect of presumptions in civil cases to state law. However, it is important to note that the precise meaning of presumptions in the U.S. legal system refers to a legal ruling that requires the court to accept a fact as true based on a set of proven facts without requiring direct evidence, provided that the presumption shifts the burden of proof (*McCormick, 1972*). Presumptions are divided into two main categories: 1) rebuttable presumptions and 2) irrebuttable presumptions. Rebuttable presumptions allow a party to present evidence to challenge and potentially refute the presumption (*Merriam-Webster, 1996*). For example, one of the most well-known rebuttable presumptions is the presumption of innocence in criminal trials, which assumes that the accused is innocent until proven guilty. Another example is the presumption that if a married woman gives birth during the marriage, her husband is presumed to be the father of the child, which can be rebutted by genetic testing. Irrebuttable presumptions, on the other hand, cannot be contested once the necessary facts to establish the presumption are proven. Examples of irrebuttable presumptions include the assumption that a child below a certain age is incapable of committing a crime or that individuals under the legal age of consent cannot give valid consent to a sexual relationship.

The legal foundation for these presumptions varies, with some stemming directly from statutory law while others have evolved through court decisions over time, reflecting the values and efficacy of the legal system. These presumptions are not mere procedural shortcuts but are deeply symbolic of the social norms and legal principles designed to protect individual rights and ensure justice.

#### D) Circumstantial Evidence and Its Admissibility

Circumstantial evidence is used in legal proceedings to investigate the truth in disputed matters. Unlike direct evidence, which provides direct proof of events (such as eyewitness testimony or video evidence), circumstantial evidence extends existing evidence through inference and probability. For example, the presence of a defendant's fingerprint at a crime scene does not directly prove the crime but strongly suggests their presence at the scene. The validity and sufficiency of circumstantial evidence are often debated in legal contexts. The U.S. Supreme Court has held that circumstantial evidence can be as effective as direct evidence in supporting inferences, provided it carries the necessary burden of proof in a case ("[Holland v. United States](#)," 1954). The consideration of such evidence requires careful examination of the connections between the available facts and the inferential process. Circumstantial evidence is particularly common in criminal cases but can also be useful in civil cases. The admissibility of this type of evidence is governed by rules that assess its relevance, reliability, and overall significance to the case at hand. These rules ensure the relevance and propriety of the evidence and protect against undue prejudice, confusion, or unnecessary complications ("[United States v. Jackson](#)," 1970).

#### E) Judicial Presumptions and Their Application

Judicial presumptions serve as a framework in both civil and criminal cases for accepting certain facts as beyond dispute. Common legal presumptions that have significant effects on judicial procedures include the presumption of legitimacy, which assumes that a child born during a marriage is the biological child of the husband. This presumption, found in various state statutes and court rulings, protects familial relationships and inheritance rights. The presumption of death after a person has been missing for a specified period (usually seven years) treats that individual as deceased. This presumption facilitates the administration of estates and

legal proceedings related to missing persons. The presumption of sanity in criminal cases implies that the accused is presumed mentally competent unless proven otherwise. This presumption places the burden on the defense to present evidence of the defendant's lack of mental capacity at the time of the crime.

These presumptions are applied under specific circumstances and can be found both in federal regulations and state laws. For example, the presumption of death is detailed in federal probate law, which many states have adopted or modified. The application and longevity of judicial presumptions are typically defined in statutory law and refined through court rulings. The Federal Rules of Evidence address presumptions by stating that, unless federal law or the Federal Rules dictate otherwise, the party against whom a presumption is made bears the burden of providing evidence to rebut it.

Court rules also play a crucial role in the application of presumptions, as seen in several U.S. Supreme Court decisions. For instance, in [Bell v. Wolfish](#) (1979), the U.S. Supreme Court confronted the presumption of innocence, emphasizing its status as a fundamental component of fair trials in the U.S. criminal justice system. In both civil and criminal cases, the admissibility of circumstantial evidence is subject to the same standards as direct evidence ("[Bell v. Wolfish](#)," 1979). The evidence must be relevant, material, and have probative value, without being unduly influenced by unfair biases, confusion, or unnecessary delays. One significant case that relied on circumstantial evidence in criminal law was [Holland v. United States](#) (1954), in which the U.S. Supreme Court upheld a conviction based on circumstantial evidence of tax evasion, stating that the circumstantial evidence was sufficient to justify the conviction and confirming that circumstantial evidence can be as persuasive as direct evidence. When cases rely heavily on circumstantial evidence, juries are often given specific instructions to interpret and evaluate this type of evidence. Jury instructions emphasize that the law makes no distinction between the value of direct and circumstantial evidence, informing jurors that circumstantial evidence must be convincing enough to exclude all reasonable hypotheses other than the defendant's guilt ("[Holland v. United States](#)," 1954).

Unlike Iran's legal system, which is based on Roman-Germanic legal traditions and Islamic jurisprudence, the



legal system of the United States is founded on the common law tradition. In the United States and England, as opposed to France, a different judicial tradition prevailed in which judges typically acted as protectors of individuals against the abuse of power by rulers and played a crucial role in centralizing governmental power and dismantling feudalism. In administrative systems, there was no fear of judicial lawmaking or judicial inferences; instead, the judiciary's authority to develop the common law system was fully recognized and accepted. In contrast to France, the legal system in the United States was not a target of revolution. This view of judges played a significant role in expanding the overall discretionary power of judges in legal proceedings. As a result, today in the U.S. legal system, the tools for proving claims are not specifically determined by federal law, and judges play a crucial role in evaluating and accepting evidence. This authority stems from the revolutionary view of judges as defenders and supporters of the revolution.

#### A) Foundations and Evolution of Common Law in England

The common law system is distinguished by its reliance on judicial rulings and precedents (decisions and holdings of previous cases) rather than codified statutes. This legal system forms the backbone of legal systems not only in the United States and England but also in many other countries. The origins of common law lie in medieval England, where it developed over several centuries, deeply influencing judicial frameworks, including the role of judges and the methodology of judicial processes, such as the presentation of evidence. Understanding the origins and evolution of common law provides valuable insight into the current perspective of the U.S. legal system on judicial authority and the procedures for presenting evidence. To trace the roots of common law, one must look to medieval England. Like the Age of Enlightenment, this period in England's history was filled with legal and social transformations. The common law system emerged from the gradual unification of various local customs under the rule of the Norman and Angevin kings between the 11th and 13th centuries. This unification of diverse legal traditions to form a cohesive judicial system was crucial for ensuring the uniform administration of justice throughout the realm. In 1066, William the Conqueror successfully conquered England and expanded Norman territories.

Following these conquests, William implemented a series of legal reforms to centralize power and oversee the newly conquered regions. The introduction of the feudal system during this period was vital not only for recognizing land ownership but also for laying the groundwork for establishing a centralized legal system (Caenegem, 1988). Norman legal concepts, such as trial by ordeal and the use of the jury, were integrated with existing Anglo-Saxon laws, eventually forming the early structures of modern common law.

#### B) The Role of Judges in Developing Common Law and Judicial Reforms

With this historical background, the foundation of common law was laid during the reign of Henry II. The goal of his legal reforms was to expand the influence of the monarchy and reduce regional disparities in the application of the law. Henry II was the founder of the tradition of appointing royal judges from his central court to hear cases across the country. These appointed judges not only resolved disputes but also compiled rulings that formed the basis of common law, known as "common pleas" because these laws were recognized in all royal courts (Caenegem, 1988). Over time, these judges began recording their rulings, which eventually led to the development of the judiciary based on judicial precedents. The principle of "stare decisis" (to stand by things decided) became a fundamental aspect of common law, evolving into a more formalized doctrine as time progressed (Baker, 1979). Following a rebellion by local rulers against the central government's unjust laws, King John was forced to sign the Magna Carta in 1215. This event was another important milestone in the development of modern common law. It not only limited the arbitrary power of the ruler but also established the principle of legal equality, which became embedded in the common law tradition. The Magna Carta famously asserted that no free man should be arrested, imprisoned, or deprived of his rights, property, or liberty except through the lawful judgment of his peers or the law of the land, thus introducing legal rights and procedures into the common law system. Through such developments, common law emerged as a dynamic and adaptable legal system that, by incorporating and interpreting existing customs and procedures, laid the foundation for the judicial architecture of England and, later, many nations influenced by it.

### C) The Evolution of the Role of Judges and Judicial Procedures

The role of judges in the common law system has evolved significantly from its medieval origins to its modern form. This transformation reflects broader changes in the political, social, and legal philosophy over several centuries. Initially, judges in this legal system were royal appointees whose primary role was to enforce the king's law and maintain peace throughout the country. These early judges were often members of the king's council and played a central role in creating a unified legal system that countered the diverse local and tribal laws. Their decisions were crucial in establishing a consistent legal framework across England. As common law developed, the scope of judicial authority and responsibility expanded beyond merely enforcing royal edicts. Judges became interpreters of the law, and more importantly, they began creating laws through judicial precedents. This judicial approach allowed judges to adapt laws to changing circumstances, ensuring that the legal system remained comprehensive and responsive to societal needs, thus providing a means to address the growing number of legal disputes. Judicial independence gained prominence following events such as the signing of the Magna Carta, emphasizing lawful judgment and legal formalities. Over time, judges in common law systems came to be viewed not only as enforcers of the law but also as impartial adjudicators, who became key interpreters and shapers of the law, particularly through the development of judicial review. Judicial review granted courts the authority to review and, if necessary, overturn laws and actions that were inconsistent with fundamental legal principles, such as the constitution. This judicial authority contrasts sharply with civil law traditions, where judges play a much more limited role, confined mainly to the application of codified laws. This unique position of judges in the common law system, as active participants in shaping the law through judicial decision-making, can be seen in many landmark cases, demonstrating how judges have profoundly influenced the development of common law. For example, the rulings in *Donoghue v. Stevenson* (1932) and *Marbury v. Madison* (1803) not only resolved specific disputes but also laid the foundation for tort law and judicial review, respectively. These cases solidified the role of judges as central figures in shaping the legal landscape, highlighting their wide-ranging authority in interpreting

and changing the law. Judges, as guardians of legal tradition and agents of legislative reform, ensure the dynamism and accessibility of common law by maintaining its comprehensive and flexible nature ("*Donoghue v Stevenson*," 1932).

The presentation of evidence in common law has undergone significant changes since its medieval roots, with modern courts adhering to more formal procedures. This transformation reflects broader shifts in legal philosophy, focusing on improving the accuracy and integrity of judicial outcomes. Initially, common law procedures were rudimentary, heavily reliant on oral testimony and local knowledge. The early legal system employed methods such as acquittal based on the oaths of others and trial by ordeal (forcing the accused to undergo dangerous tests to prove innocence), which were more focused on personal judgment than on rational argumentation. As public law evolved, these primitive procedures gave way to more logical and structured methods of evaluating evidence. The rise of the jury system also marked a profound change in the presentation of evidence in court. In the early common law tradition, juries were composed of local people who presumably had knowledge of the facts and issues in dispute. Over time, the role of the jury shifted from a body of witnesses to a body tasked with evaluating the evidence presented by the parties during the trial. This shift led to the formalization of rules governing the admissibility and quality of evidence.

In the 17th and 18th centuries, as Enlightenment thinking spread, common law courts began developing more detailed rules regarding the admissibility of evidence. During this period, concepts such as the burden of proof and the standard of proof required in criminal (beyond a reasonable doubt) and civil cases (preponderance of the evidence) were formalized. These frameworks were essential for ensuring the fair and sound presentation of evidence in the pursuit of truth. Today, in jurisdictions that follow the common law tradition, there is typically a codified set of rules governing evidence, detailing how evidence is to be presented and evaluated. These rules cover various types of evidence, including testimony, documents, and digital records. The existence of these rules ensures that evidence is presented in a manner that preserves both judicial rights and the integrity of the judicial process. The evolution of evidence law has also impacted the

authority of judges. In the common law tradition, judges not only oversee the application of the rules of evidence but, in certain cases, they also make rulings on the admissibility of evidence, which can significantly influence the outcome of a trial (McCormick, 1972). This role reinforces the position of the judge as a principal overseer, ensuring that justice and procedural fairness are upheld. Through these developments, common law has refined the mechanisms for presenting evidence, ensuring that principles of justice, reliability, and adequacy are maintained.

Judicial discretion in the common law tradition, as observed, has historical roots that have undergone significant transformations. These developments have laid the foundation for the essential aspects of this legal framework. Over time, as common law evolved through the decisions of royal courts, judges gradually acquired the authority to interpret and enforce these laws. This role gave them the power to influence the development of the law through interpretation and adjudication.

#### D) Judicial Independence and the Impact of Landmark Cases

Within the common law framework, the introduction of the principle of the separation of powers, most notably in the Glorious Revolution of England and fully in the drafting of the U.S. Constitution and many other nations following the common law tradition, further strengthened judicial independence. This principle established that the judiciary should operate independently of the other branches of government to ensure that judges could issue rulings freely, without political pressures. This independence is crucial for safeguarding the law and individual rights against governmental overreach. Landmark cases have played a critical role in shaping the perception of judicial authority within the government and society at large. For instance, the case of *Marbury v. Madison* (1803) granted the U.S. Supreme Court the authority to nullify laws that were inconsistent with the Constitution, providing a clear example of the expansion of judicial power through judicial review. Similarly, in *Entick v. Carrington* (1765), the English courts emphasized the importance of personal liberty and judicial oversight of government actions. The use of logical reasoning in judicial decisions, ensuring that rulings not only align with previous judicial precedents but also rest on sound analysis, has contributed to the expansion of judicial authority. This

approach has helped maintain the coherence of the law and foster public trust in the judicial system. In contemporary times, the scope of judicial authority is often scrutinized, especially in high-profile cases, where legal interpretations may vary ("*Entick v. Carrington*," 1765).

#### 6. Similarities in the Approach of Iran's Legislative System and the United States Federal Rules of Evidence to Judicial Presumption

Ultimately, the concept of judicial presumption imposes, regardless of the legal system, a limited scope of discretion and acknowledges the complexity and vastness of cases that cannot be fully codified. This is known in the U.S. legal system as "facts." In the face of this reality, every legal system, regardless of its form and structure, must recognize the judge's role as more than a mechanism for applying the claims and accepted evidence of the parties to the text of the law. Judges must be granted the authority, even if limited, to assess the admissibility and relevance of certain evidence, inferences, and even presumptions that aid in delivering justice and influence the final ruling of the court. Although the legislative approach and philosophical foundations of the legal systems of the Islamic Republic of Iran and the United States differ significantly, the consideration and acknowledgment of judicial presumption is perhaps the only point of similarity between the two.

#### 7. Differences in the Approach of Iran's Legislative System and the United States Federal Rules of Evidence to Judicial Presumption

It is evident from the above discussion that the legal treatment of judicial presumption in these two systems differs substantially, and this difference extends to the foundational roots of these legal systems. In the legal system of the Islamic Republic of Iran, following the Roman-Germanic tradition, the judge's role is largely confined to the mere execution of the law. Although Ja'fari jurisprudence addresses this through the methodology of legal reasoning (*usul al-fiqh*), the predominant role of the judge, as derived from enacted legal texts, is defined by the enforcement of statutes. However, judicial presumption, and the necessity of its inclusion in legislation, is a point in the law that reflects the qualitative, rather than just the quantitative,

diversity of cases in contrast to the firmly codified tradition of civil law. On the other hand, this issue does not exist in the common law system, which has given rise to other critiques. In the common law system, with its primary focus on the judge's discretionary power, which can extend even to a form of lawmaking, judicial presumption and the judge's inferences from evidence have a much broader scope. However, this discretion is not unlimited, as evidence must also pass through the scrutiny of the jury, and the scope of what the court may accept as evidence is defined in the law by general and conditional descriptions, which the court is obligated to determine in each case. In contrast, in Iran's civil law system, the law attempts to take control over the evaluation of potential evidence and addresses it in detailed descriptions in the relevant articles, a similarity that might only be found in a close examination of some U.S. state laws. This divergence again traces back to the fundamental differences in how the two systems view the general role of the court.

## 8. Conclusion

From the discussions presented, it can be concluded that in the Roman-Germanic or civil law tradition, the judge and the legal process are seen merely as tools for applying a general, comprehensive, and uniform framework to all cases. In contrast, the common law system recognizes the judge as a lawmaker, and the legal process as a form of lawmaking for specific cases. As seen, judicial presumption is not merely connected to the structure of laws and legislative terminology but is deeply rooted in realities that compel every legal system to acknowledge it in some form. The diversity of cases, the specificity of each case, and the various arguments and evidence presented by the parties are realities that occur in any society, driven by the diversity of individuals and their actions. Considering the historical roots of this concept, we observed that in Iran's legal system, to maintain a fair and uniform framework throughout society, the Civil and Penal Codes have defined the types of evidence and implicitly categorized permissible procedures. The judge is given an executive role in determining variables and evaluating evidence. In contrast, in the United States legal system, the judge is regarded as a lawmaker, and each case is considered an opportunity for the judge to enact a law regarding the specific details of that case, which may sometimes take

on a broader form. The takeaway from these two legal systems is that, in the common law tradition, the effort to create a social structure above any individual in order to establish and preserve justice has been deemed necessary. This has avoided expanding the authority of the judge as an individual because, in this view, the judge is merely an executor of the law, which is above the individual. However, in the civil law tradition, the general neglect of the specific aspects of each case and the consideration of judicial presumption in legal articles have been designed to address this issue. On the other hand, in the common law system, the emphasis on the specific conditions, motives, and arguments of each case has elevated the judge to the role of a lawmaker. This approach grants the judge broad authority to review and assess all evidence while ensuring the higher courts oversee lower court decisions to maintain justice.

Over time, however, Iranian lawmakers have expanded the scope of judicial presumption, reflecting an effort to address the dichotomy between the individual and the system, which requires further detailed study. Ultimately, from this comparative study, it can be concluded that the legal systems of the United States and the Islamic Republic of Iran differ significantly in their treatment of judicial presumption due to the fundamental connection between the concept of judicial presumption, judicial authority, the legal process, and the overall approach to evidence. These differences stem from the foundational elements of Iran's Roman-Germanic legal system and the United States' common law system.

## Authors' Contributions

Authors contributed equally to this article.

## Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

## Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

## Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

### Declaration of Interest

The authors report no conflict of interest.

### Funding

According to the authors, this article has no financial support.

### Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

### References

- Arjomand, S. A. (1988). *The Turban for the Crown: The Islamic Revolution in Iran*. Oxford University Press.
- Baker, J. H. (1979). *An Introduction to English Legal History*. Butterworths.
- Bell v. Wolfish, (1979).
- Caenegem, R. C. v. (1988). *The Birth of the English Common Law*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511607974>
- Coulson, N. J. (1964). *A History of Islamic Law*. Edinburgh University Press.
- Déclaration des Droits de l'Homme et du Citoyen*. (1789).
- Donoghue v Stevenson, (1932).
- Entick v. Carrington, (1765).
- Hallaq, W. B. (2009). *An Introduction to Islamic Law*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511801044>
- Holland v. United States, (1954).
- Islamic Research Center*. (1999).
- Katouzian, N. (2003). *Evidence and Proof*. Mizan Publications.
- Khomeini, R. (1981). *Velayat-e Faqih (Guardianship of the Jurist)*. Institute for Compilation and Publication of Imam Khomeini's Works.
- Laughlin, J. (1953). *Perspectives U.S.A*. Intercultural Publications.
- Madelung, W. (1997). *The Succession to Muhammad: A Study of the Early Caliphate*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511582042>
- McCormick, C. T. (1972). *McCormick's Handbook of the Law of Evidence*. West Publishing Co.
- Merriam-Webster. (1996). *Merriam-Webster's Dictionary of Law*. Merriam-Webster, Incorporated.
- Momen, M. (1985). *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*. Yale University Press.
- Mottahedeh, R. (1985). *The Mantle of the Prophet: Religion and Politics in Iran*. Pantheon Books.
- Qarajehloo, A. Judicial Presumptions in Iranian and English Criminal Law. *Legal Research Journal*(49), 461-512.
- Sachedina, A. (1988). *The Just Ruler in Shi'ite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence*. Oxford University Press.
- Saleh Ahmadi, S. (2013). *Evidence and Tools of Proof in the Current Legal System*. Gam-e Haq Institute.
- Shams, A. (2013). *Evidence of Proof (Substantive and Procedural Law)*. Derak Publications.
- Tabatabaei, S. M. H. (1995). *Shi'a in Islam*. Al-Ghadir.
- U.S. Constitution*. (1992).
- U.S. Federal Rules of Evidence*. (2023).
- United States v. Jackson, (1970).
- Zera'at, A., & Hajizadeh, H. (2011). *Evidence of Proof*. Ghanonmadar Publications.