

OPEN PEER REVIEW

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

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1. Round 1

1.1. Reviewer 1

Reviewer:

The sentence “this paper meticulously examines this matter from the perspective of Iran’s legislative system and the United States Federal Rules of Evidence” lacks clarity on the scope of comparison. It would benefit from elaborating on the specific methodologies or areas of law to be compared.

The phrase “the resolution of disputes has long been recognized as one of the most important responsibilities of courts” seems too broad. Consider specifying which courts (e.g., civil, criminal) or legal systems you are focusing on to narrow down the scope.

When discussing the role of judges in the common law system, the article states, “judges typically acted as protectors of individuals against the abuse of power by rulers.” This claim is significant but lacks sufficient citation of historical cases or legal scholars supporting this interpretation.

The sentence “a presumption is a legal inference that must be drawn based on specific facts” is accurate but should be followed by a more specific discussion of key U.S. cases where such presumptions were applied, such as *Holland v. United States*.

The explanation of circumstantial evidence is sound, but it could benefit from referencing specific federal cases where circumstantial evidence played a decisive role to enhance credibility.

The influence of French legal traditions on Iran's legal system is presented briefly, but the argument could be strengthened by providing examples of specific French legal codes or principles integrated into Iran's legal structure.

In discussing the Déclaration des Droits de l'Homme et du Citoyen, the transition to judicial limitations is abrupt. A smoother connection is needed to explain how this declaration influenced both legal systems compared in the article.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

You mention that "various perspectives have emerged in the legislative texts of each country." This claim could be strengthened by providing specific examples from both Iran and the U.S. to illustrate the diversity of these perspectives.

Section B: In discussing the differences between legal and judicial presumptions, the sentence "the judge has discretion in relying on judicial presumption" needs further clarification. How does this discretion compare between the two systems in practice?

The historical context provided for legal reforms in Iran is informative, but it would benefit from citations to primary sources or legal texts that substantiate the claim about changes in judicial presumptions after the 1982 and 1991 reforms.

You mention that "legislative limitations on the use of circumstantial evidence and presumptions could hinder fair adjudication." Please expand on this with specific examples or case law demonstrating such hindrances.

The sentence "in Shi'a Islam the development of judicial authority followed a different path due to theological differences" would benefit from a more detailed explanation of how these theological differences directly influence legal structures compared to Sunni traditions.

The section mentions the "absence of specific legal restrictions" in Iran's criminal law, but it does not clarify whether this is an advantage or a limitation for the judicial system. Expanding on this would add depth to the argument.

The sentence "judicial presumption is not merely connected to the structure of laws" needs further clarification. How does this compare in terms of the broader legislative frameworks? This could be enriched with practical examples from both legal systems.

The phrase "effort to create a social structure above any individual" when discussing common law is intriguing but could be enhanced with references to constitutional principles or key cases that illustrate this balance between social order and individual rights.

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2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.