

A comparative study of the criminalization scale in Iran's criminal law with European law

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ABSTRACT

Contrary to legal affairs, the purpose of which is to achieve either formal justice or the criterion of the balance of probabilities, in criminal affairs, it is a criterion for the discovery of the absolute material and material truth that the judge was accused of by evaluating the form and substance of evidence and, in the light of the principle of education, the reason was beyond doubt. A reasonable doubt is the truth of the event. Since the criterion of proof of guilty and innocent in Iran's rights with European rights is different from that of the ruling legal systems, we have tried to provide a thorough analysis of the concept and nature of the assessment of the evidence and the methods of obtaining the courtesy of the judge in the Romani German law. And by examining a positive criterion beyond reasonable doubt as a component of the criminal lawsuit in the system and comparing it with the rights of Iran, the means of their differentiation and their mutuality's are revealed.

Keywords: Proof, Validation of Evidence, Judgment Consciousness, Criminal Law

Introduction

The system of proofing the criminal cases in Iran's criminal law, which is a combination of legal and customary rules, has led to the establishment of a system of evidentiary evidence based on the judgment of the judge's conscientiousness (in the case of evidence) and in the legal crimes of the system of legal or tacit proof (the subject matter of the evidence) To rule In European law, the countries that are subordinate to the Roman-Germanic system, the criterion for proving the cause is absolutely dependent on the system of reasoning and the courtesy of the judge's conscience, which the judge is free to judge in the examination and analysis of the positive value of each of the presented arguments. In truth, the value of positive evidence is measured and evaluated positively by the legislator. Therefore, the positive value of the reasons will never be determined by the legislator. And for persuasive office reason, the necessity of

judge's impartiality and the legitimacy of studying the reason have been drafted in order to confront tyranny. Evaluating evidence in countries that are subject to the regime is based on the rule (proof beyond reasonable doubt). And despite the historical roots of this principle in my law, there is no clear definition of it, such as how doubts are doubtful? And is proof beyond a reasonable doubt the same certainty or ordinary science?

1. Concepts

In this section we will refer to the concept of the assessment of reason, the conviction of the judge's conscience and ordinary science.

1.1. Concept of Reason Assessment

Evaluations are meant to judge the value or merit of phenomena. In the process of judgment, the necessary data on the phenomenon and the subject of the discussion are arranged, and then the situation is compared with the desired situation. Therefore, the judge evaluates the reasons for assessing the positive value of each of them in the context of the claimed claim. So the purpose of the assessment of the reason is the psychological response that the judge declares what the claimant has convinced him about the incident ^[1].

Evaluating the nature of the reason is to carefully examine the reason for the effectiveness or non-existence of the reason based on the nature of the reason and how it is presented and the declaration of acceptance or rejection of the reason for the

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conscientious objection. After evaluating the form, it turns out that the qualitative or qualitative evaluation of the evidence is the same as the weighting of the reason for the weight of the reason.

1.2. The Concept of Judge Conscious Consultation

Persuasion means persuading and satisfying, and conscientiousness, from the point of view of the word, means the power of the person's inner being, which informs him of good and bad deeds. As a result, the conviction of the judge's conscience is believed to be the judgment of the judge and as a form of material assessment of evidence. What constitutes a judgment of the judge's conscience is to obtain the uncertainty or ordinary or customary knowledge that is created in the judge [2].

1.3. Normal science as the axis of the world of judgment

The mental and perceptual states of humans, which are the same degrees of exploration of proof of affairs, may be discontinued, suspicious or doubtful. Since the achievement of discontinuity and certainty is rarely achieved in judicial affairs and, according to some, is impossible and impossible, therefore, ordinary science or conventional discontinuity, from which it has been interpreted as customary or assertive, and the common spirit is evidence of a claim. It will be judged [3].

2. Proof

The criterion for proving evidence in Iranian law is different from that of the European Union, which we will refer to in the future.

2.1. Proof of crime in Iranian criminal law

In Iranian law, the criterion of guilty and innocent proof based on Islamic law is different for crimes. In the sanctions imposed by the law, the two criteria have been applied to prove "discontinuity" and "special suspicion". On the one hand, in Article 211 of the Islamic Penal Code, adopted in 2013, he considers science as a proven certainty and, on the other hand, on the basis of Articles 161, 171, 187 of this law, he considers confession and martyrdom as probative for certain reasons, and in some exceptional crimes, the taxpayer has established the criterion of proof as "a kind of suspicion" that has been realized in proving the deliberate murder by the Nut and leads to the execution of Qasmah, since the recent benchmark is an exceptional part as long as the trader declares the criterion of proof to be " "Which has been made to prove the murder deliberately by the Nut and lead to Qasma's execution [4].

Since the recent benchmark has an exceptional aspect, it does not have any credible power until it has been specified in a crime. In cases of doubt, according to the rule of thumb, the preference for pardoning punishment and other principles of action, such as the principle of innocence, harassment, and veracity, should have been brought against the accused.

2.2. The Proof of Crime in European Criminal Law

In European law, the criterion of proof of guilty and innocent is different according to the rules of the law and the written rights, which we will refer to each one [5].

2.2.1. in common law

Countries that are subject to the customary system, such as England, are the criterion of proof in civil matters based on the balance of probabilities or the overriding evidence, and the criterion of proof in criminal proceedings is reasonable for the prosecutor and the voter. For example, in 1974, in the lawsuit of Lord in the Egyptian case against the Director General of Social Security, a clear explanation of this criterion was given. Therefore, in a criminal case it is not necessary for the judge to be fully and definitely charged with criminal misconduct, but the probability limit is necessary [6]. Proof and rationale A skepticism means no proof of doubt. If the reasons for a person are so strong that only a very weak probability is in his favor, a voter makes a reasonable doubt about it and, if it is reasonable to reason, he must have been sentenced to death.

2.2.2. In the Roman Germans

In the rights of the writer, which is at the head of French law, Article 1215, as well as Articles 1241-1248 of the Civil Code, specify the various types of evidence and weight of evidence of each class of evidence in civil proceedings. While Articles 353, 427 and 536 of the Code of Criminal Procedure provide for the verdict of a judge, and Determines that judges are not accountable for why they value more for one reason than another. In accordance with the provisions of the French law on the proof of evidence in the criminal trials of the jury or the court is not required to issue a conviction in the event of a certain type of or a certain amount of evidence in the case, and therefore, it is definitely referred to personally. And if a suspect is found guilty of an offender's guilt or innocence, he should be charged with the guilty plea of innocence [7].

Conclusion

Evidence of claims through Evidence and Evidence is evident. In legal affairs, the goal is to achieve legal justice that has a formal aspect, and the criterion is the overriding reason, and the evidence is relevant. In criminal affairs, the purpose is to discover the material truth, and the judge will lead to the real truth by assessing the form and substance of evidence. The criterion of proving a crime in Iran's law is to dismantle the Islamic law in the punishment of punishment, and in certain religious offenses, a specific suspicion is due to the religious law. In European law, the function of the law of the United Kingdom, like the English Penal Code, is beyond the reasonable doubt, and in a written law, such as French criminal law, is also the personal judgment of a judge. On the other hand, if the parameters mentioned in the proof of conviction do not exist in each of the systems, the court and the jury are required to issue a verdict of innocence.

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