

An Examination of the Role of Judicial Case-Law Analysis in Enhancing a Legal System: A Comparative Study of England and France

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Abstract

Although judicial case law is not formally recognized as an official source of law in the Iranian legal system, it plays a fundamental role in practice by resolving ambiguities, filling legislative gaps, and enhancing the predictability of judicial decisions. Adopting a comparative approach, this study examines the status and function of judicial precedent in Iran alongside two prominent legal systems: France, representing the civil-law tradition, and England, representing the common-law tradition. In France, judicial decisions, despite lacking an explicit legislative function, contribute substantially to the development of legal rules through creative and abstract interpretation. In contrast, in England, the common-law system is built upon the doctrine of precedent, and judicial decisions constitute the primary foundation upon which legal rules are formed—a feature that ensures a high degree of predictability. The findings indicate that Iran, in order to improve the effectiveness of its legal system, must strengthen the institution of judicial opinion critique, increase transparency in the publication of decisions, and acknowledge the practical role of case law in statutory interpretation. The comparative analysis further suggests that systematic engagement with case law can enhance legal coherence, improve the quality of judicial rulings, and foster greater public trust.

Keywords: Judicial case law, Iranian law, French law, English common law, Comparative study

Extended Abstract

The role of judicial precedent occupies a complex and multifaceted position within modern legal systems, particularly when examined through a comparative lens that contrasts the civil-law tradition of France, the common-law tradition of England, and the predominantly codified system of Iran. Although Iranian law does not formally recognize case law as a binding or autonomous source of legal norms, judicial precedent increasingly functions as a practical and interpretive instrument that shapes adjudication, harmonizes judicial decisions, and contributes to the predictability and coherence of the legal order. The growing weight of case-based

reasoning in Iran highlights a structural tension between the theoretical centrality of statutory law and the empirical necessity of judicial interpretation in the administration of justice. This extended abstract explores these dynamics by situating the Iranian experience within a broader comparative framework, drawing on the historical development of the English common law, the evolving jurisprudential function of courts in France, and the methodological practices associated with the critique and analysis of judicial decisions. The analysis demonstrates that while the doctrinal foundations of the three systems differ significantly, each reveals a model of interaction between legislation, judicial interpretation, and legal scholarship that ultimately converges on the need for an informed, transparent, and methodologically rigorous engagement with judicial reasoning.

In England, the common-law system emerged from the post-1066 institutionalization of royal justice and the gradual consolidation of diverse local customs into a unified body of judge-made law. Over centuries, the doctrine of precedent—particularly the binding effect of decisions by higher courts—became the backbone of legal stability and continuity. Courts do not simply apply statutes but actively participate in shaping legal rules through the incremental development of case law. When no precedent exists, judges craft new principles through analogical reasoning and normative justification, a practice that has endowed the English system with exceptional flexibility and responsiveness to evolving social realities. Even in the contemporary era of extensive legislative intervention, the judiciary continues to exercise interpretive creativity, ensuring coherence between statutory provisions and the underlying fabric of common-law principles. The English experience illustrates a legal culture in which transparent publication of decisions, methodological emphasis on *ratio decidendi*, and academic-judicial dialogue have combined to elevate judicial reasoning as a central pillar of the legal system.

France, by contrast, historically grounded its legal identity in the primacy of statutory law and the apparent prohibition of general binding precedents under Article 5 of the Civil Code. Nonetheless, modern French jurisprudence reveals a far more nuanced relationship between courts and legislation. The Cour de cassation, through its interpretive authority, effectively generates general legal propositions that function similarly to precedents even if they are not labeled as such. Unlike the case-specific and incremental style of common-law reasoning, French judicial decisions tend to articulate abstract and generalized formulations of legal principles,

aligning their structure more closely with legislative rules. As a result, French case law—though theoretically subordinate to statutes—exerts significant normative influence by clarifying ambiguities, adapting rigid statutory formulations to contemporary conditions, and fostering uniformity in judicial outcomes. The methodological traditions of French legal academia, especially the highly developed genre of case commentary (*commentaire d'arrêt*), have played an important role in reinforcing the intellectual coherence and doctrinal depth of jurisprudence. This tradition has helped cultivate a culture of rigorous judicial reasoning that, while not binding formally, carries persuasive weight and contributes meaningfully to the evolution of the legal system. In this respect, France illustrates how a civil-law system can integrate the functional benefits of precedent without formally abandoning its codified structure.

Iran, occupying a distinctive position influenced by Islamic jurisprudence, civil-law codification, and modern judicial structures, faces unique challenges and opportunities in defining the role of judicial precedent. While statutory law remains the primary and formal source of legal authority, Iranian courts frequently rely on case law in practice to fill interpretive gaps, address inconsistencies, and navigate complex or novel factual situations. Decisions of the Supreme Court, particularly those issued as binding unification opinions under Article 471 of the Criminal Procedure Code, exemplify an institutional mechanism through which case law can achieve *de facto* legal status. Beyond these binding rulings, however, a broader body of judicial practice informs the everyday functioning of courts and provides litigants with an increasingly predictable legal environment. This practical reliance on judicial reasoning underscores the need for a more explicit recognition of the interpretive role of courts within the Iranian legal framework. Without transparent publication of decisions and systematic methodologies for analyzing judicial reasoning, the benefits of precedent—such as legal certainty, uniformity, and doctrinal coherence—remain underdeveloped.

A crucial aspect linking all three systems is the importance of critical engagement with judicial decisions. England's common law relies heavily on the scholarly and professional culture of analyzing, distinguishing, and synthesizing cases, which is essential for determining the scope of precedents and guiding future judicial reasoning. France has institutionalized the practice of detailed case critiques within its legal education, fostering an intellectual environment where judicial decisions undergo rigorous examination. This process enhances doctrinal development, improves judicial reasoning, and strengthens the relationship between courts and the

academic community. In Iran, although scholars such as Dr. Nasser Katouzian and dedicated judicial research institutions have contributed significantly to the field of case analysis, the practice has not yet achieved the systemic density observed in France and England. Limited access to judicial decisions, insufficient pedagogical emphasis on case critique, and the absence of comprehensive reporting systems hinder the emergence of a robust jurisprudential culture.

The comparative study reveals that despite structural and historical differences, the functional imperatives of modern legal systems push toward a convergence in recognizing the value of judicial precedent and analytical critique. England exemplifies a model where judicial decisions are explicit sources of law; France illustrates how courts can indirectly shape legal doctrine even when statutes remain formally supreme; and Iran demonstrates the practical necessity of jurisprudence despite theoretical constraints. Strengthening case-law analysis in Iran would not only advance doctrinal clarity but also enhance the institutional competence of the judiciary, improve the quality of judgments, and increase public trust in legal processes. To achieve this, reforms should focus on expanding access to judicial decisions, integrating systematic case-analysis methodologies into legal education, and establishing platforms for scholarly-judicial dialogue. Such developments would align Iran more closely with global best practices while preserving the foundational principles of its legal system.

In conclusion, the interplay between formal legal sources and judicial reasoning is an unavoidable and essential dimension of effective adjudication. The experiences of France and England demonstrate that whether through binding precedent or interpretive authority, case law serves as a vital mechanism for adapting abstract legal norms to concrete social realities. Iran's legal system, standing at a crossroads between statutory primacy and practical interpretive needs, can benefit significantly from embracing structured jurisprudential analysis. A mature and transparent culture of case critique would enhance doctrinal coherence, reduce inconsistency in judicial decisions, and ultimately strengthen the legitimacy and functionality of the legal system. The comparative analysis underscores that judicial precedent—whether binding, persuasive, or interpretive—is indispensable to the evolution of law in contemporary societies. By learning from both the civil-law and common-law traditions, Iran can forge a balanced and contextually appropriate approach that leverages the strengths of precedent while respecting the foundational role of statutory law.

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