

# Globalization of Criminal Procedure and the Enhancement of Human Rights Standards in Iranian Law and the European Union with a Focus on the Principles of Legality and Equality

1. Mehdi Yousefalizadeh<sup>✉</sup>: PhD Student in Criminal Law and Criminology, Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran

2. Abbas Sheikholeslami<sup>✉\*</sup>: Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran

3. Farshad Shahidi<sup>✉</sup>: Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran

\*Correspondence: abbassheikholeslami@iau.ac.ir

## Abstract

Globalization, as a transformative driving force, has profoundly reshaped the field of criminal procedure, with its most significant manifestation being the enhancement of human rights standards within judicial processes. This study, focusing on the two fundamental principles of equality and legality, conducts a comparative examination of the impact of globalization on criminal proceedings in the legal systems of Iran and the European Union. The necessity of this research arises from the fact that understanding the nature and extent of convergence between national legal systems and transnational standards—under the influence of globalization-induced pressures and exchanges—can illuminate both the challenges and opportunities associated with the realization of fair trial guarantees. The principal objective is to analyze how globalization, and through which mechanisms, has strengthened the status of these principles as human rights benchmarks within the two examined legal systems. The research adopts a descriptive-analytical methodology within a comparative legal framework. The findings indicate that globalization, through obligations derived from international and regional legal instruments, has facilitated a relative convergence of both systems toward global standards. Within the European Union, the European Court of Human Rights, through dynamic interpretation of Article 6 of the European Convention on Human Rights, has institutionalized the practical guarantees of the principles of equality and legality. In Iran, the influence of this global legal discourse is observable in legislative developments such as the Criminal Procedure Code enacted in 2013. Nevertheless, the depth and quality of convergence have not been uniform and remain subject to distinct challenges. In the Iranian legal system, limitations such as restrictions on the right to freely choose legal counsel in national security offenses and deficiencies in witness protection mechanisms affect the full realization of the principle of equality. By contrast, the primary challenge within the European Union lies in the lack of uniform coordination and consistent interpretation of standards among its diverse member states. Although the globalization of criminal procedure has created an unprecedented opportunity for the advancement of human rights standards, it simultaneously underscores the necessity of intelligently adapting these standards to the institutional capacities and socio-legal realities of each legal system.

**Keywords:** Equality; Globalization; Criminal Procedure; Legality; European Convention on Human Rights.

Received: 13 November 2025

Revised: 25 February 2026

Accepted: 27 February 2026

Initial Publication 27 February 2026

Final Publication 01 July 2026



**Copyright:** © 2026 by the authors. Published under the terms and conditions of Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) License.

**Citation:** Yousefalizadeh, M., Sheikholeslami, A., & Shahidi, F. (2026). Globalization of Criminal Procedure and the Enhancement of Human Rights Standards in Iranian Law and the European Union with a Focus on the Principles of Legality and Equality. *Legal Studies in Digital Age*, 5(4), 1-11.

## 1. Introduction

Criminal procedure constitutes a complex and sensitive domain in which the seemingly conflicting imperatives of “maintaining public order and security” and “protecting individual rights and freedoms” converge. This process, which encompasses judicial institutions, organizations, and structures as well as their modes of adjudication, forms the core of every criminal justice system (Rostami et al., 2020). The fundamental characteristic of this process lies in its subjection to a set of formal and substantive requirements collectively known as “criminal procedural law” and the “principles of criminal procedure.” These principles function as firm safeguards preventing deviation from the path of justice and are grounded in the protection of human dignity (Brems & Lavrysen, 2013). Observance of these principles not only guarantees citizens’ rights and liberties but also reinforces social defense and the consolidation of public order. Among these strategic principles, the principles of equality and legality occupy a central and indispensable position. Rooted in natural law philosophy and in the belief in the inherent dignity shared by all human beings, these principles have, in light of numerous regional and international instruments, come to be recognized as accepted human rights standards (Sabahi Geraghani et al., 2021). In criminal proceedings, the principle of equality—particularly in the form of “equality of arms”—ensures that the accused is not placed in a disadvantaged position vis-à-vis the prosecution, which benefits from the full resources of the state (Ashouri et al., 2017). This principle is manifested in the right of access to counsel, the right to be informed of the evidence and case file, and the right to summon and examine witnesses (Taghipour, 2011; Tavassoli Naini et al., 2016). Conversely, the principle of legality in criminal procedure, as a cornerstone of the rule of law, requires that all institutions, jurisdictions, powers, and procedural mechanisms be expressly prescribed by law and that arbitrary actions outside the legal framework be prevented (Mohseni & Farajpour Asl Marandi, 2013; Rabbani et al., 2018). Acceptance of this principle necessitates the provision of effective remedies, such as the nullification of measures that violate its requirements (Goldoust Juybari & Bagherinejad, 2013). In the contemporary era, the phenomenon of globalization has emerged as a transformative force reshaping criminal procedure. Through facilitating the exchange of experiences, disseminating dominant human rights discourse, and strengthening transnational supervisory institutions, globalization has transcended national judicial boundaries and directed them toward convergence with minimum fair trial standards (Arsan, 2018; Babayirad & Malmir, 2020). Within this framework, a fundamental question arises: how has the globalization of criminal procedure influenced the elevation and consolidation of these principles as human rights standards within different legal systems? A comparative analysis of two legal systems with distinct historical and structural foundations—Iranian law and the European Union—can illuminate the various dimensions of this influence and the challenges ahead. The European Union, relying on the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights, has established an advanced and relatively coherent framework for safeguarding equality and legality in criminal proceedings (Brems & Lavrysen, 2013). In contrast, the Iranian legal system, combining Islamic jurisprudential teachings with responsiveness to international developments, has in recent years taken steps toward institutionalizing these principles (Fazayeli, 2014; Khaleghi, 2020). Nevertheless, the extent of convergence with global standards, the structural and cultural obstacles involved, and the role of globalization-driven mechanisms in strengthening or weakening this process require deeper examination. This study therefore seeks, through a descriptive-analytical method within a comparative framework, to examine the impact of globalization on enhancing the status of the principles of equality and legality in criminal procedure within the legal systems of Iran and the European Union. It is hypothesized that globalization, through transnational pressures and the circulation of standards, has strengthened these principles in both systems; however, the speed, depth, and quality of convergence have not been identical and are influenced by the internal dynamics of each system.

## 2. Literature Review

**A) Bedar, Mohammad Alouh (2024), “Legal Pluralism, Cultural Defenses, and the Islamic Legal Tradition: Towards a Truly Global International Criminal Court” (Research Article):** In this article, Bedar examines the impact of cultural diversity and national legal traditions on international criminal systems (Bedar, 2024). The objective of the research is to assess how, in the context of the globalization of criminal procedure, fundamental principles such as legality and equality may be

reconciled between domestic procedural systems and transnational norms. The study adopts a textual-interpretive and comparative methodology. By analyzing judicial decisions of international criminal tribunals, including the International Criminal Court and ad hoc international criminal tribunals, as well as relevant legal documents and theoretical foundations, Bedar elaborates on the challenges and potential solutions. His findings indicate that although international criminal law emphasizes uniform standards—such as strict legality and equality of arms—the full realization of these principles is complicated by cultural diversity. He argues that while harmonizing international norms concerning legality and equality of arms are significant, criminal law should not always be implemented uniformly; rather than imposing identical justice in all contexts, relevant domestic legal rules should also be taken into account (Bedar, 2024). Accordingly, Bedar concludes that in the process of globalizing criminal procedure, while universal principles must be preserved, space should also be provided for the consideration of domestic norms—such as sentencing rules, cultural defenses, and exemptions—so that international jurists remain attentive to both the culpability of offenders and local conditions, thereby preserving legitimacy and acceptance. In essence, through a descriptive-analytical approach, he demonstrates that legality and equality of arms must be applied in tandem with legal pluralism. He ultimately proposes the development of transnational guidelines ensuring that definitions of international crimes are implemented flexibly yet consistently with human rights standards (Bedar, 2024).

**B) Babayirad, Valiollah & Malmir, Mahmoud (2020), “Criminal Policy Governing the Globalization of Criminal Procedure” (Research Article):** In this study, the authors analyze the impact of globalization on the foundational principles of criminal procedure within domestic regulations (Babayirad & Malmir, 2020). Employing a descriptive-analytical method and examining jurisprudential, legal, and international sources, they identify common frameworks emerging from globalization. The findings suggest that the globalization of formal criminal law has led to a relative unification of certain criminal procedural principles across many national systems. Principles such as fair trial guarantees and the protection of the right of defense—widely emphasized in numerous legal systems—have converged due to international agreements and human rights instruments (Babayirad & Malmir, 2020). This development reflects a growing global inclination toward shared understandings of concepts such as legality in criminalization (Saghian & Mousavi, 2020). Nevertheless, the authors note that traditional domestic regulations continue to impede full harmonization, as foundational national norms sometimes restrict the complete integration of global criminal standards. In sum, the study underscores that judicial globalization has promoted greater coordination of procedural principles—such as adherence to written law and relative justice—while national legal structures continue to play a moderating role.

**C) Arsan, Parmita (2018), “The Globalization of Criminal Procedure and the Human Rights Enigma” (Article):** Arsan examines the impact of globalization on the realization of human rights within criminal justice systems (Arsan, 2018). Her objective is to demonstrate how expanding international coordination and procedural standards may generate tensions with fundamental rights in domestic systems. Employing a descriptive-interpretive approach with comparative elements—particularly focusing on China’s criminal justice system—she finds that while globalization has influenced criminal policy reforms, ideological considerations have often prevailed. For instance, she highlights historical periods in which even elementary principles such as equality before the law lacked recognition. Arsan argues that the denial of equality and related human rights principles in such contexts invites critical reassessment under the pressures of globalization. As international criminal cooperation expands and transnational crimes become more prominent, pressure increases on national judicial systems to adhere strictly to legality and equality standards (Arsan, 2018). Without embracing these principles, she contends, the legitimacy of global criminal justice efforts will be undermined. Ultimately, her research demonstrates that globalization presents a dual challenge: it enhances legal harmonization while simultaneously exposing tensions between security objectives and equal protection of rights.

**D) Nicholson, Joanna (2017), “Enhancing the Effectiveness of International Criminal Law through the Principle of Legality” (Research Article):** Nicholson analyzes the function of the principle of legality in international criminal law (Nicholson, 2017). The purpose of her article is to assess how adherence to legality can strengthen both the legitimacy and effectiveness of global criminal justice. Through a descriptive-interpretive review of the jurisprudence of the International Criminal Court and other tribunals, she emphasizes that legality is essential both for prosecuting offenders and safeguarding defendants’ rights. Her findings reveal that while international crimes—such as crimes against humanity and genocide—are generally defined in founding statutes, the application of legality in sentencing and procedural practice may be less consistent.

Nicholson maintains that for international criminal justice to gain acceptance, prosecutions and penalties must be firmly grounded in clearly articulated law, ensuring that individuals are not subjected to unforeseeable liability (Nicholson, 2017). She recommends drafting international criminal norms in accordance with strict construction principles and the prohibition of retroactivity, thereby reinforcing fair trial guarantees and equality before the law. Her conclusions indicate that fidelity to legality not only protects defendants' rights but also enhances public acceptance of judicial decisions.

### 3. Methodology

This research has been conducted using a descriptive-analytical method within a comparative framework. Data collection was carried out through library-based research, relying on primary sources including constitutional and statutory provisions, international and regional instruments, and scholarly writings of jurists and legal scholars. The analysis was undertaken with the objective of systematically comparing the status, guarantees, and challenges related to the principles of equality and legality in the legal systems of Iran and the European Union in light of globalization mechanisms.

### 4. Findings

In this section, the study analyzes the enhancement of human rights standards—particularly the principles of equality and legality—within the legal systems of Iran and the European Union following the globalization of criminal procedure.

#### 4.1. *Globalization of Criminal Procedure and the Enhancement of the Principle of Equality*

Within the philosophy of law and justice-oriented legal systems, the principle of legal equality has consistently occupied a decisive and foundational position. Rooted in the belief in the shared intrinsic dignity and humanity of all individuals, this principle declares that all human beings, irrespective of unjust distinctions, possess equal status in the enjoyment of fundamental rights (Sabahi Geraghani et al., 2021). Legal equality is not confined solely to civil and political rights; rather, within criminal procedure it assumes a central role as a measurable criterion for evaluating the fairness of judicial proceedings. A proceeding may be regarded as fair only when the principle of equality illuminates all stages of adjudication. Emerging from natural law traditions, this principle operates as a barrier against structural or operational discrimination and ensures that justice is distributed on the basis of shared humanity rather than power or social status. Accordingly, equality in criminal procedure represents not merely a legal rule but an ethical commitment requiring judicial systems to continuously reassess their structures to prevent individuals or groups from being denied access to justice due to social or economic inequalities.

One of the most tangible manifestations of this general principle is equality before the law. This concept may be examined from two perspectives: first, equitable access, which requires that all members of society be able to approach competent judicial authorities without undue obstacles in order to assert rights or defend against accusations; second, equality of position between the parties, meaning the preservation of impartial balance throughout the proceedings (Fazayeli, 2014). Equality before the law therefore encompasses both the general equality of all persons in the application of legal rules—particularly defendants exposed to criminal accusations—and equality of arms between the parties to criminal litigation. Equality of arms, as a vital component of fair trial guarantees, responds to the inherent imbalance between the accused and the prosecution, which operates with the full authority and resources of the state. In practice, this principle presents significant challenges for judicial systems, particularly in societies marked by economic inequality, where low-income defendants may lack access to experienced legal counsel. Such disparities threaten the realization of equality and highlight the necessity of state-supported protective mechanisms.

Equality before the law functions not only as a legal norm but also as an instrument for confronting power structures capable of transforming justice into a mechanism for preserving existing hierarchies. The importance of this principle is reflected in its explicit recognition within international and regional human rights instruments. Judicial interpretation has emphasized that the purpose of equality is to ensure that the accused is not placed at a disadvantage when preparing and presenting a defense against a prosecution supported by state resources (Ashouri et al., 2017). This interpretation operationalizes the theoretical notion of equality of arms within courtroom practice. Consequently, equality constitutes both a universal human rights doctrine and a structural pillar of criminal law. Its prominent status in international instruments demonstrates broad acceptance and establishes

both moral and legal obligations toward its realization. These instruments—formed in response to historical experiences of human rights violations—play a decisive role in standardizing criminal proceedings; nevertheless, their implementation within developing legal systems often encounters cultural and structural obstacles, thereby reinforcing the importance of transnational supervision.

The globalization of criminal procedure acts as a powerful catalyst for strengthening, deepening, and practically guaranteeing the principle of equality at the national level. By facilitating the exchange of successful and unsuccessful experiences, promoting convergence toward minimum fair trial standards, and empowering supranational monitoring institutions, globalization compels states to reconsider traditional practices and improve domestic mechanisms (Arsan, 2018; Babayirad & Malmir, 2020). This process simultaneously disseminates a culture of respect for legal equality and equality of arms while introducing mechanisms of reporting, accountability, and even international consequences for violations of these principles. As a result, globalization exerts constructive pressure on national judicial systems. The reinforcement of equality within criminal proceedings can therefore be regarded as one of the most significant achievements and opportunities generated by the globalization of criminal justice, paving the way toward more inclusive and equitable justice systems.

The incorporation of equality at the core of criminal procedure requires the emergence of concrete obligations for all actors involved in the criminal process, including law enforcement officers, investigating judges, prosecutors, and trial judges. Among the most prominent guarantees reflecting implementation of equality are three essential rights: first, the defendant's right of access to legal counsel; second, the right of the defendant or counsel to access the case file and evidentiary materials, which constitutes a prerequisite for preparing an informed and effective defense; and third, the defendant's right to request the summoning and examination—directly or through counsel—of prosecution witnesses, thereby establishing a necessary balance in the presentation and evaluation of evidence. These guarantees represent practical expressions of equality without which the concept of fair trial would lack substantive meaning.

The right to counsel and the necessity of counsel's effective participation in criminal proceedings represent one of the most fundamental safeguards of equality of arms and the protection of the defendant's right of defense. Beyond assisting the accused in presenting a defense, the presence of counsel signals to judicial authorities—including investigators, prosecutors, and judges—that their actions are subject to legal scrutiny by a trained professional (Hossain, 2000). Consequently, the mandatory participation of defense counsel throughout criminal proceedings has today been accepted in the legislation of most legal systems as a central guarantee of fair trial rights (Jafari et al., 2016).

Historically, recognition of the accused's right to legal assistance during the prosecution stage emerged later than recognition of this right at the trial and sentencing stages. This delay may be attributed to the dominance of inquisitorial systems during the eighteenth and nineteenth centuries. However, contemporary developments—such as the increasingly adversarial character of preliminary investigations, the inability of many defendants to present effective defenses independently, the prevalence of judicial errors, violations of defendants' rights during investigations, and procedural delays—have prompted legislative systems to acknowledge the necessity of counsel's participation even before trial, particularly during preliminary investigations (Tahmasebi, 2015).

Numerous regional and international legal instruments have been adopted to guarantee the right of access to legal counsel, including provisions within global human rights treaties, regional conventions, United Nations standards concerning juvenile justice, the Convention on the Rights of the Child, principles governing the role of lawyers, and the Statute of the International Criminal Court. Collectively, these instruments demonstrate the consolidation of access to counsel as a universally recognized component of fair criminal proceedings and a core operational guarantee of the principle of equality within modern criminal justice systems (Brems & Lavrysen, 2013; Nicholson, 2017).

The principle of equality of arms signifies the recognition of judicial equality. Judicial equality implies that, despite the inherent imbalance in the resources available to the parties to litigation, efforts must be undertaken to establish substantive parity between them. The formulation reflected in Article 14(3) of the International Covenant on Civil and Political Rights and Article 6 of the European Convention on Human Rights refers precisely to this meaning—namely, equality between the parties throughout judicial proceedings (Ebadi, 2013). One of the most essential guarantees for safeguarding equality between the parties in criminal proceedings is the defendant's or defense counsel's right of access to the case file, particularly during the preliminary investigation stage. Accordingly, the accused or counsel must have access to documents, evidence, and materials

relevant to the preparation of a defense, since denial of access deprives counsel of the ability to conduct an effective defense and reduces legal representation to a merely formal presence (Ehsanpour & Gholipour Jomnani, 2019). Access to case materials enhances the adversarial nature of proceedings and diminishes excessive secrecy traditionally associated with preliminary investigations (Tavassoli Naini et al., 2016). In systems that prioritize investigative secrecy, violation of this right may transform justice into an instrument of concealment rather than fairness.

Another important manifestation of equality of arms is the defendant's right to summon and examine witnesses (Taha & Ashrafi, 2010). Parallel to the prosecutor's authority to call witnesses against the accused, equality of arms requires that the defendant enjoy the same procedural opportunity under equivalent conditions. The accused must therefore be able to request the appearance of favorable witnesses, challenge witnesses presented by the prosecution, and contest their testimony, thereby ensuring an equal procedural position vis-à-vis the prosecuting authority (Ashrafi, 2019). Various international instruments explicitly recognize this guarantee. Moreover, under the Statute of the International Criminal Court, the accused has the right to question witnesses introduced against him or her and to present witnesses under the same conditions applicable to the prosecution. Although questioning may occasionally be restricted—for instance, when questions are repetitive or defamatory—the essential requirement remains the equality of the parties before the court and the conduct of genuinely fair proceedings in accordance with equality of arms. International standards also generally regard reliance on anonymous or non-present testimony as incompatible with the defendant's rights, emphasizing the importance of direct examination of witnesses (Taghipour, 2011). These rules demonstrate that the right to summon witnesses operates as a safeguard against judicial bias; nevertheless, in systems subject to political pressures, witnesses may fear participation, thereby undermining the realization of equality.

An examination of the European Convention for the Protection of Human Rights and Fundamental Freedoms reveals that Article 6, which governs the right to a fair trial, strongly emphasizes equality of arms. The provision establishes that every person charged with a criminal offense must have access to adequate facilities for defense under conditions equal to those of the opposing party. Article 6(3) specifically guarantees the accused's right to examine prosecution witnesses and to obtain the attendance of defense witnesses under identical conditions. Furthermore, the Convention affirms the broader principle of equality and non-discrimination in the enjoyment of rights. Through extensive jurisprudence, the European Court of Human Rights has interpreted these guarantees dynamically, transforming them into practical procedural standards (Brems & Lavrysen, 2013). Although this framework represents a highly developed model, variations in legal traditions and cultural practices among European Union member states continue to generate coordination challenges requiring deeper harmonization.

Within the Iranian legal system, Article 35 of the Constitution of the Islamic Republic of Iran guarantees the right of parties to choose legal counsel and obliges authorities to provide legal representation where individuals lack the financial capacity to appoint a lawyer. Legislative measures emphasizing respect for legitimate freedoms and the protection of citizens' rights further require that defendants be informed of their procedural rights, including access to counsel (Khaleghi, 2020). The Law on the Mandatory Presence of Counsel recognizes compulsory legal representation in certain categories of offenses. Article 48 of the Criminal Procedure Code of 2013 formally guarantees access to legal counsel during preliminary investigations; however, its accompanying note—which restricts the selection of counsel in national security offenses to a list approved by the judiciary—has faced significant criticism because it limits equality and transforms the right of defense into a state-controlled mechanism inconsistent with international standards (Jafari et al., 2016; Rabbani et al., 2018). Article 191 of the same law grants the accused or counsel the right to review and obtain copies of case documents, except where investigative secrecy is deemed necessary. Additionally, interpretive implications of Article 352 allow confrontation between defendants and witnesses during trial proceedings. Despite these developments, witness protection mechanisms remain insufficient. Existing legal provisions permit written, audio, or video testimony but provide limited practical guarantees for physical protection of witnesses, potentially discouraging testimony and weakening equality of arms (Esmailzadeh et al., 2016). Consequently, while Iranian law demonstrates movement toward convergence with international standards, structural limitations—particularly restrictions embedded in Article 48—continue to constrain the practical realization of equality and indicate the need for substantive reforms.

Overall, the strengthening of equality within criminal procedure may be regarded as one of the principal human rights outcomes of the globalization of criminal justice in both Iran and the European Union. Through transnational pressures and the

diffusion of standards—manifested in international monitoring mechanisms and supranational judicial jurisprudence—globalization encourages national legal systems toward convergence (Arsan, 2018; Babayirad & Malmir, 2020). In the European Union, implementation of the European Convention on Human Rights and judicial cooperation mechanisms has reinforced equality guarantees. In Iran, despite continuing challenges such as restrictions arising from Article 48, legislative developments including Article 191 of the Criminal Procedure Code and Article 35 of the Constitution reflect the influence of global human rights norms inspired by international instruments. Globalization therefore represents not merely an opportunity but a structural necessity for advancing equality as a human rights standard, even though its full realization depends upon political will and sustained domestic legal reform.

#### 4.2. *Globalization of Criminal Procedure and the Enhancement of the Principle of Legality*

The principle of legality in criminal procedure, as one of the fundamental and central principles of the criminal justice system, not only serves as a key benchmark for assessing the fairness of judicial processes, but—within the framework of contemporary human rights developments and dignity-based approaches—has also attracted significant attention from scholars, jurists, and policymakers in the fields of security and criminal justice. This principle, often referred to as the rule of law, is regarded as one of the prominent indicators of good governance in the modern era (Rabbani et al., 2018) and plays a central role in the exercise of legitimate authority and sound governance (Mohseni & Farajpour Asl Marandi, 2013). Conceptually and normatively, the principle of legality stands in clear opposition to personal rule, authoritarian governance, and arbitrary action, emphasizing adherence to legal frameworks as a safeguard against abuse of power.

Within criminal law, the concept of legality broadly implies that no crime, no punishment, and no prosecution or adjudication can exist outside the authority of law (Rabbani et al., 2018). The manifestation of this principle is evident both in substantive criminal law (Saffari et al., 2021) and in procedural criminal law (Khaleghi, 2020). In substantive criminal law, legality requires precise statutory definitions of crimes and penalties in order to prevent ambiguity and arbitrary interpretation. In procedural criminal law, the focus shifts to institutional structures and judicial mechanisms designed to ensure that the adjudicative process remains free from deviation and abuse.

The principle of legality in criminal procedure specifically requires that judicial institutions, organizational structures, jurisdictional boundaries, and the powers of criminal justice actors all be grounded in law. This principle entails several consequences. First, judicial authorities—including courts, prosecutors' offices, and law enforcement bodies—must be established pursuant to statute, and the scope of their authority must be clearly defined by law in order to prevent the emergence of parallel or unlawful institutions. Second, their procedures and modes of operation must be prescribed by legislation; in cases of statutory silence, interpretation must be guided by the spirit of the law, constitutional principles, and recognized legal sources, while in situations of doubt, principles such as interpretation in favor of the accused and the presumption of innocence must prevail to safeguard individual rights. Finally, all judicial conduct and law enforcement actions must rest upon statutory authority or a reasoned legal interpretation thereof, thereby preventing arbitrary or discretionary practices, reducing judicial error, and reinforcing the importance of procedural norms alongside substantive criminal provisions (Tahmasebi, 2015). The principle of legality in criminal procedure thus functions not merely as a formal legal requirement but as an institutional mechanism designed to prevent misuse of judicial power. In societies with a history of authoritarian governance, it operates as a protective shield against violations of citizens' rights. Prominent legal thinkers have emphasized that the rule of law and legality—particularly within procedural criminal law—constitute essential guarantees of individual liberties and safeguards against criminal injustice (Niazpour, 2014; Saghian & Mousavi, 2020). Rooted in Enlightenment thought, these perspectives underscore that without legality, criminal proceedings risk becoming instruments of repression; hence, strengthening this principle is indispensable to the realization of genuine justice.

International human rights instruments have likewise underscored the importance of legality in criminal adjudication. Global and regional standards consistently stress that criminal liability, prosecution, and judicial procedures must be grounded in law, reflecting a broad international consensus on the indispensability of legality as a condition of fair trial guarantees (Nicholson, 2017). Such instruments reinforce the understanding that legality is not confined to domestic constitutional arrangements but has evolved into a universally recognized human rights norm.

In the contemporary era, globalization—by transcending geographical boundaries and penetrating domestic legal structures—has profoundly transformed criminal procedure. One of the most significant constructive outcomes of this process has been the strengthening and deepening of the principle of legality within national judicial systems. Through the dominant discourse of human rights, the increasing convergence of legal systems, and the obligations associated with participation in the international community, globalization encourages and, in many instances, compels states to revise and harmonize their criminal procedures with global standards (Arsan, 2018; Babayirad & Malmir, 2020). Within this framework, legality is no longer viewed solely as a historical domestic achievement but has emerged as a global benchmark for evaluating legitimacy and fairness in criminal proceedings. Globalization has expanded the scope of “law” within the legality principle, extending it beyond narrow domestic statutes to encompass internationally accepted norms and standards. Furthermore, oversight by international institutions and global civil society mechanisms functions as a contemporary supervisory structure reinforcing compliance with legality at the national level. Nevertheless, this process may generate tensions, particularly where global standards conflict with local traditions or entrenched institutional practices, potentially leading to cultural or political resistance. Accordingly, careful and context-sensitive harmonization of international legality standards with domestic legal realities remains essential to ensure both compliance and legitimacy.

Acceptance of the principle of legality in criminal procedure generates multiple obligations for law enforcement officers, judges, and other actors involved in criminal adjudication, among which the most prominent is the establishment of effective sanctions in response to violations of procedural standards and the invalidation of unlawful measures. Breach of procedural legality, and consequently restriction of fair trial guarantees, may produce extensive material and moral harm, thereby necessitating the adoption of meaningful and deterrent enforcement mechanisms. In other words, safeguarding criminal procedural principles in general—and protecting the principle of legality in particular—cannot be achieved solely through legislative enactment; rather, it requires effective and preventive sanctions. A sanction may be defined as the public authority’s reaction to the violation of a legal rule in order to preserve order and restore rights impaired by that violation (Jafari Langroudi, 2022). Various forms of sanctions may be envisaged to protect procedural legality, including prohibitive sanctions, administrative (disciplinary) sanctions, civil liability (compensation for damages), and criminal penalties. Prohibitive sanctions arise where the legislature expressly forbids non-compliance with fair trial formalities, even if different terminologies are employed to denote prohibition. Administrative sanctions address disciplinary misconduct, which need not always be explicitly enumerated in disciplinary regulations; conduct contrary to professional dignity and integrity may suffice to trigger disciplinary consequences (Goldoust Juybari & Bagherinejad, 2013). Civil liability emerges where an individual is required to repair harm inflicted upon another; for example, if a law enforcement officer arrests a person without a lawful warrant and thereby prevents attendance at a contractual meeting that would reasonably have generated profit, compensation for lost opportunity (*lucrum cessans*) may be claimed. Similarly, unlawful prolongation of detention beyond statutory limits or judicial authorization may give rise to compensable harm (Esmailzadeh et al., 2016). Criminal sanctions, by contrast, impose punitive consequences, restrict individual rights, and may create lasting entries in criminal records; they serve objectives such as retribution, deterrence, and rehabilitation. Importantly, such sanctions must comply with proportionality and justice, since excessive severity may itself amount to a violation of rights.

Comparative review of national legal systems demonstrates that, alongside disciplinary, civil, and criminal sanctions, legislators frequently provide for nullification of actions, investigations, evidence, or proceedings conducted in violation of legal requirements (Goldoust Juybari & Bagherinejad, 2013). The rationale for nullity lies in the restoration of the accused’s rights, which may only be effectively remedied by declaring unlawful measures invalid; disciplinary or criminal punishment of officials alone cannot restore lost procedural rights. Given the broad discretionary powers often vested in investigative authorities and prosecutors, the legislature must adopt appropriate safeguards against violations of fundamental procedural principles. Although it is impossible to prevent every legal violation, lawmakers can neutralize the effects of illegality by declaring unlawfully obtained evidence inadmissible and by prohibiting courts from relying upon evidence secured through unlawful or illegitimate means. Such safeguards should be complemented by independent supervisory mechanisms in order to prevent abuse; otherwise, procedural nullity itself could be manipulated as a means of evading justice.

With respect to adherence to legality, the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) provides a prominent model. Article 7(1) of the Convention enshrines the principle of legality in criminal law

by providing that no one shall be convicted of a criminal offense unless the act constituted a criminal offense under national or international law at the time of its commission. Furthermore, recurring expressions such as “prescribed by law,” “in accordance with law,” and “determined by law” appear throughout the Convention, including in Articles 2 (right to life), 8 (respect for private and family life), 9 (freedom of thought, conscience, and religion), 10 (freedom of expression), and 11 (freedom of assembly and association). These formulations reflect a comprehensive commitment to legality that extends beyond substantive criminal definitions to procedural guarantees. Through its jurisprudence, the European Court of Human Rights has reinforced legality as a bulwark against arbitrariness and has thereby contributed to the establishment of high standards of fairness within the European legal order (Brems & Lavrysen, 2013). Nonetheless, differences in interpretation among member states occasionally generate inconsistencies requiring further harmonization.

Within the Iranian legal system, several constitutional provisions reinforce the principle of legality. Constitutional safeguards require that arrest and detention comply with statutory requirements and that charges be promptly communicated; penalties must be determined by law; and judicial institutions must be established pursuant to statute. Statutory provisions further restrict crimes and punishments to those defined by law and establish that criminal proceedings must be conducted in accordance with statutory rules (Khaleghi, 2020; Rabbani et al., 2018). These provisions indicate that Iranian law, drawing upon both Islamic jurisprudence and human rights principles, formally embraces legality in criminal procedure. Nevertheless, challenges remain, including expansive interpretations of certain legal norms and contextual political constraints that may affect full implementation. These issues underscore the need for continued reform to ensure greater alignment with internationally recognized standards.

In conclusion, the strengthening of the principle of legality in criminal procedure may be assessed as a significant human rights outcome of the globalization of criminal justice in both Iran and the European Union. First, globalization—through international instruments and shared human rights norms—has promoted common standards that reinforce legality across legal systems (Arsan, 2018; Nicholson, 2017). Within the European Union, this development has materialized through the binding force of the European Convention and the supervisory role of the European Court of Human Rights. In Iran, legislative reforms, including the Criminal Procedure Code of 2013, reflect engagement with global procedural standards (Babayirad & Malmir, 2020). Second, convergence driven by globalization has encouraged states to reduce arbitrary practices and to enhance fairness in criminal adjudication. Although implementation faces cultural and political challenges in Iran and coordination complexities within the European Union, globalization has undeniably transformed legality from a purely domestic doctrine into a universal human rights benchmark and a practical instrument for the protection of individual rights at the national level.

## 5. Conclusion

The globalization of criminal procedure, by transcending national borders and creating spaces for legal interaction—and at times confrontation—has exerted an undeniable influence on the enhancement of human rights standards within judicial processes. This comparative study of the legal systems of Iran and the European Union demonstrates that globalization, as an external driving force, has contributed to the strengthening and deepening of the two fundamental principles of equality and legality in criminal proceedings. Nevertheless, the speed, depth, and quality of this convergence have manifested differently, shaped by the internal dynamics, historical trajectories, cultural contexts, and structural characteristics of each legal system.

The research confirms the hypothesis that globalization, through the circulation of standards and the creation of transnational pressures, has encouraged states to align their domestic legal frameworks with internationally recognized norms. Within the European Union, the European Convention on Human Rights has established a binding framework that guarantees the right to a fair trial in considerable detail. The jurisprudence of the European Court of Human Rights has operationalized concepts such as equality of arms and legality, transforming them from abstract principles into enforceable procedural standards. In the field of legality, the Convention has entrenched the principle that criminal liability and punishment must rest upon clear legal foundations, thereby reinforcing protection against arbitrariness.

In the Iranian legal system, the influence of global standards is also evident. Constitutional provisions recognize the right to counsel and access to judicial assistance, while statutory reforms—particularly those introduced in the Criminal Procedure Code of 2013—have taken significant steps toward strengthening procedural guarantees, including access to counsel during preliminary investigations and access to case files. These developments reflect engagement with internationally recognized fair

trial guarantees. However, despite this relative convergence, the challenges confronting each system are distinct. In the European Union, the principal difficulty lies in achieving consistent interpretation and uniform application of shared standards across diverse member states. In Iran, by contrast, the challenges are primarily structural and operational. Restrictions on the free selection of counsel in certain categories of offenses, as well as insufficient practical mechanisms for witness protection, may undermine equality of arms and weaken procedural fairness.

Overall, the globalization of criminal procedure has created an unprecedented opportunity to elevate human rights standards in judicial processes. At the same time, it has generated an unavoidable necessity: the intelligent and context-sensitive adaptation of these standards to domestic legal realities, accompanied by genuine political commitment to their full implementation. Without such commitment, a gap may emerge between normative frameworks and judicial practice—one that risks eroding public trust in the criminal justice system rather than strengthening it. Ultimately, globalization in this field is not a one-directional imposition of standards, but a dynamic and interactive process capable of guiding criminal justice systems—while preserving their legal identities—toward greater respect for human dignity, fairness, and the rule of law. The success of this process depends upon authentic governmental commitment and constructive engagement by the global civil society.

In light of the foregoing findings, the following recommendations are proposed to further advance the objectives of globalization in the field of criminal procedure:

**At the level of the Iranian legal system:**

- **Reform of restrictive provisions:** Reconsideration and amendment of legislative provisions that unduly limit the right to freely select counsel, ensuring that the right of defense is guaranteed in all categories of offenses without unjustified restriction.
- **Strengthening enforcement mechanisms:** Adoption and effective implementation of clear mechanisms for the exclusion of evidence obtained in violation of procedural legality, along with comprehensive systems for compensating victims of procedural rights violations.
- **Practical witness protection:** Enactment of a comprehensive witness and informant protection framework that secures physical and legal protection while simultaneously safeguarding the defendant's right to summon and examine witnesses.
- **Capacity-building for judicial actors:** Continuous professional training for judges, prosecutors, and law enforcement officers concerning fair trial principles and internationally recognized procedural standards.

**At the level of the European Union:**

- **Deepening judicial harmonization:** Further development of common procedural guidelines and interpretative frameworks to reduce disparities in the application of fair trial standards among member states.
- **Strengthening intercultural dialogue:** Promotion of structured dialogue with non-European legal systems, including those grounded in Islamic legal traditions, to foster mutual understanding and enrich global human rights standards.

**At the international level:**

- **Reinforcement of monitoring mechanisms:** Support for international supervisory and reporting mechanisms that evaluate compliance with fair trial standards and encourage transparency and accountability.
- **Exchange of best practices:** Establishment of sustainable platforms for sharing successful experiences in implementing and guaranteeing the principles of equality and legality, particularly for developing legal systems seeking institutional reform.

Through such measures, globalization can continue to function not merely as a normative influence but as a constructive force advancing human dignity, fairness, and the rule of law in criminal justice systems worldwide.

## **Ethical Considerations**

All procedures performed in this study were under the ethical standards.

## **Acknowledgments**

Authors thank all who helped us through this study.

## Conflict of Interest

The authors report no conflict of interest.

## Funding/Financial Support

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

## References

- Arsan, P. (2018). The Globalization of Criminal Procedure and the Human Rights Enigma. *Psychology Research*, 8(10), 483-493.
- Ashouri, M., Mahdavi Sabet, M. A., Razavifard, B., & Saeedi, Y. (2017). Disclosure of Evidence of Charge; A Tool for Strengthening the Principle of Equality of Arms (A Comparative Study of Iranian and French Law and International Judicial Practice). *Quarterly Journal of Private and Criminal Law Research*, 13(4), 11-47.
- Ashrafi, A. (2019). The Principle of Equality of Arms in Iranian Law with Emphasis on the Criminal Procedure Law Approved in 2013. *Fars Law Research Journal Quarterly*(2), 21-43.
- Babayirad, V., & Malmir, M. (2020). Criminal Policy Governing the Globalization of Criminal Procedure. *Scientific Quarterly of Iranian Political Sociology*, 3(3), 469-484.
- Bedar, M. A. (2024). Legal Pluralism, Cultural Defenses, and the Islamic Legal Tradition: Towards a Truly Global International Criminal Court. *Texas International Law Journal*, 59(3), 245-272.
- Brems, E., & Lavrysen, L. (2013). Procedural Justice in Human Rights Adjudication: The European Court of Human Rights. *Human Rights Quarterly*, 35(1), 177-200.
- Ebadi, M. (2013). *The Principle of Equality of Arms in Iranian and English Law with Emphasis on the Disclosure of Evidence* Shahid Beheshti University, Faculty of Law]. Tehran.
- Ehsanpour, S. R., & Gholipour Jomnani, F. (2019). Obstacles, Challenges and Limitations of the Right of Access to Judicial Files. *Quarterly Journal of Economic Jurisprudence Studies*, 1(2), 1-24.
- Esmailzadeh, Y., Taghizadeh, E., & Pishghadam, Y. (2016). Investigation of Civil Liability of Judicial Police Personnel of SAHOFA NAJA. *Police Protection and Security Studies Quarterly*, 11(41), 197-231.
- Fazayeli, M. (2014). Status and Principles of Fair Trial in Human Rights and Islamic Judicial Doctrine. *Quarterly Journal of Comparative Research on Islamic and Western Law*, 1(1), 159-178.
- Goldoust Juybari, R., & Bagherinejad, Z. (2013). Criminal, Civil and Disciplinary Liability of Violators of the Fundamental Principles of Criminal Procedure. *Criminal Law Research Quarterly*, 2(5), 73-92.
- Hossain, K. (2000). *Human Rights Commissions and Ombudsman Offices: National Experiences throughout the World*. Martinus Nijhoff Publishers. <https://doi.org/10.1163/9789004481930>
- Jafari, F., Mousavi, S. R., & Eslamiyeh Hamedani, A. (2016). A Comparative Study of the Right to Counsel in the Prosecution Stage in Iranian Domestic Law and the Documents and Practices of International Criminal Courts. *Comparative Law Research Quarterly*, 20(4), 25-52.
- Jafari Langroudi, M. J. (2022). *Terminology of Law* (36th Edition ed.). Ganje Danesh Publishing.
- Khaleghi, A. (2020). *Notes on the Criminal Procedure Law: Full Text, Comparison and Correction of the "Criminal Procedure Law"* (15th Edition ed.). Shahre Danesh Publishing.
- Mohseni, F., & Farajpour Asl Marandi, A. A. (2013). The Principle of the "Rule of Law" in the Iranian Judicial System. *Islamic Government Quarterly*, 18(2), 91-118.
- Niazpour, A. (2014). *Consensualization of Criminal Procedure* (2nd Edition ed.). Mizan Publishing.
- Nicholson, J. (2017). Enhancing the Effectiveness of International Criminal Law through the Principle of Legality. *International Journal of Criminal Law*, 17(4), 656-681.
- Rabbani, M., Houshyar, M., & Rahgosha, A. (2018). Foundations and Guarantees of the Principle of Legality of Trial in the Iranian Criminal System and the European Convention on Human Rights. *Iran and International Comparative Legal Research Quarterly*, 11(42), 353-380.
- Rostami, V., Rostami, S., & Kabgani, M. H. (2020). Constitutionalization of the Principles of Criminal Procedure Analysis of the Conflicts of the 2013 Criminal Procedure Law with the Constitution. *Journal of Justice Administration Law*, 84(112), 135-155.
- Sabahi Geraghani, M., Ranjbari, A., & Masoud, G. (2021). Reflections on the Concept of Equality in the Iranian Legal System with an Approach to Transnational Documents. *Journal of Islamic Law Research*, 22(1), 275-296.
- Saffari, A., Laki, Z., & Saberi, R. (2021). Degradation of the Status of the Principle of Criminal Legality in Light of the Regulation-Based Nature of the Legal Element of Crimes. *Journal of Justice Administration Law*, 85(115), 157-187.
- Saghian, M. M., & Mousavi, S. P. (2020). Crime Prevention Through the Principle of Legality of Criminal Procedure. *Crime Prevention Approach Quarterly*, 3(4), 13-36.
- Taghipour, A. (2011). Limitations of the Defendant's Right to Question Witnesses in the Rules of Procedure and Judicial Practice of International Criminal Courts. *Scientific-Research Journal of Islamic Jurisprudence and Law*, 1(2), 19-43.
- Taha, F., & Ashrafi, L. (2010). *Fair Trial* (1st Edition ed.). Mizan Publishing.
- Tahmasebi, J. (2015). *Criminal Procedure* (1st Edition ed., Vol. 1). Mizan Publishing.
- Tavassoli Naini, M., Khosrowshahi, G., & Nasrollahi, Z. (2016). The Principle of Equality of Arms in the Preliminary Investigation Stage in the 2013 Criminal Procedure Law and International Human Rights Documents. *Journal of Justice Administration Law*, 80(94), 71-94.