

Assessing validity and legitimacy of Evidence gathered in Law Enforcement Operations

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Abstract

Background and Goal: although Gathering of Evidence is among Court Obligations, nevertheless, Police Role in Detection of Crime, preservation of Evidence and Execution of judicial Orders to achieve material Truth is Important due to The Accompaniment with Security and social and personal Right. Security-oriented or policial Approaches with emphasis on Increasing Detection of Crimes may remove Law Enforcements from Accused Rights or fair Trial Principles and Challenging validity of Evidence gathered by them.

Methodology: this Paper is an applied Research type and is a descriptive-analytical study through written resources trying to explain legality of evidence gathering of Law Enforcement and assess of validity of Evidence in Performance of them.

Findings: freeness of Evidence gathering is not mean Arbitrary and irregular evidence gathering by judicial Police in course of Detection of Crime, investigation and Evidence Gathering, but due to observe defensive Rights of Accused in fair Trial Proses and preserve privacy of individuals require legal Procedure for Evidence gathering that interpreted to the Principle of legality of Evidence Gathering. Guaranties such as Cancellation of Evidences obtained illegitimate method and Punishment of violator of the Principle resulted from this rule.

Conclusion: Despite recognition the Principle of legality of Evidence Gathering in Doctrine, legal Systems have not same Approach to Law Enforcement Actions and even with acceptance of the Principle, approve Entrapment, Unauthorized wiretapping and wide-spreading surveillance in cases such as Detection of certain organized Crimes and Crimes against Security and ignore the principle or at least with preservation of affirmative effect of evidence gathered from this way, Confine to punish wrongdoer of the Rule. In Iran's legal System, this Principle is not recognized explicitly and only certain sights of the Principle such as invalidity of confession obtained from torture or evidence obtained by non-judicial Officer.

Keywords

criminal evidence, judicial Officers, evidence gathering, Entrapment, legality of Evidence.

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