

Assessment of evidence and standards of proof: a functional connection

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Abstract

There is a persistent confusion in legal literature (on the Continent at least). It concerns evidence assessment and standards of proof, which are frequently treated as if they were the same thing. I will claim that, on the one hand, we need to keep them distinct, and that, on the other, we need to see their functional connection. More precisely, I will address three main questions. First: Why do some scholars and decision-makers take assessment methods as standards of proof and vice versa? My answer stresses that some legal systems are more concerned with assessment and others with standards; so jurists tend to emphasize what they are more familiar with, and to assimilate to it what they are less familiar with. Second: Why do systems differ in those respects? Here the answer stems from the historical differences that explain why some systems are more concerned with evidence assessment and others with standards of proof. Third: How can a system work if practitioners neglect one of these things? Here a comparative analysis supports the functional connection claim, which explains how systems operate notwithstanding that sort of neglect or confusion.

About the speaker

Giovanni Tuzet is Full Professor of Philosophy of Law at Bocconi University in Milan. He studied law and philosophy in Turin and Paris and wrote his Ph.D. dissertation on C.S. Peirce's theory of inference. His areas of interest include evidence, epistemology, pragmatism, argumentation theory, philosophy of law, and economic analysis of law. Giovanni is presently a member of the steering committee of the SIFA (Italian Society for Analytic Philosophy) and of the SIDE/ISLE (Italian Society of Law and Economics). He is also one of the editors of *Philosophical Foundations of Evidence Law* (Oxford University Press, 2021).