

Received ...24/08/2023

Accepted 08/01/2024

The presumption of innocence and burdens of proof in Algerian criminal law

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Abstract

Presuming innocence is a fundamental principle for the accused. Committing a crime departs from this, yet the presumption holds until final conviction. Legal rules, including the 2020 constitutional amendment and Criminal Procedure Code, explicitly establish it for a fair trial, a standard for legitimacy. While affecting criminal case proceedings, it predominantly shapes the burden of the proof system. Its primary aim is to respect the accused's innocence. The prosecution, representing society, enforces authority and bears the proof burden, per justice requirements, except specified by law. In doubt, the trier of fact leans toward acquittal.

Keywords: Presumption of innocence, burden of proof, constitutional legitimacy, public prosecution, evidence, benefit of doubt in favor of the accused.

ملخص:

إن افتراض البراءة أصل في المتهم، وارتكاب الجريمة هو الخروج عن هذا الأصل، ويبقى لهذا الافتراض قوته وكامل تأثيره حتى صدور حكم بات يقرر إدانته، وقد تضمنت معظم القواعد القانونية النص على هاته القرينة كأساس للمحاكمة العادلة لا سيما منها التعديل الدستوري لسنة 2020 وقانون الإجراءات الجزائية، وبهذا فهي تعد معياراً للشرعية الدستورية. فإذا كان مبدأ قرينة البراءة يؤثر على كل إجراءات الدعوى الجزائية بصورة عامة، فإنه يؤثر على نظام الإثبات الجنائي بصفة خاصة، باعتبار أن الهدف الأساسي للمبدأ هو ضرورة احترام براءة المتهم، ولما كانت النيابة العامة تنوب عن المجتمع في إقرار سلطة الدولة في العقاب وتملك من الوسائل ما يساعدها على ذلك فإن مقتضيات العدالة تستوجب أن من يملك السلطة، هو من يقع عليه عبء الإثبات، ماعدا ما تم النص عليه في بعض القوانين الخاصة، وفي حال حصول لبس أو شك كأن يكون الدليل الذي قدمته النيابة العامة غير كاف، تعيّن على قاضي الموضوع أن يرجّح الشك لصالح المتهم ويحكم ببراءته. **كلمات مفتاحية:** قرينة البراءة، عبء الإثبات، الشرعية الدستورية، نيابة عامة، دليل، الشك يفسر لصالح المتهم.

1. Introduction:

The presumption of innocence regarding suspicion or charges is a crucial feature of a fair trial and is one of the core foundations of criminal justice theory. This idea stems from the legality of crimes and penalties, which states that persons must be treated fairly at all levels of criminal proceedings until a final verdict establishes otherwise.

As a result, this concept protects individuals against arbitrary actions or interference with their rights and personal safety. It should be highlighted that another essential that properly balances this concept is the state's power to impose penalties on people who conduct activities that are adverse to the public interest and constitute crimes deserving of punishment for their offenders.

Algerian legislation, for its part, has expressly and firmly recognized the presumption of innocence as a fundamental concept, as outlined in the Criminal Procedure Law.

This legislation has several measures that ensure preserving the accused's rights and freedoms by the presumption of innocent. Simultaneously, it does not ignore society's right to seek and punish criminal culprits, striking a balance between protecting individual and communal rights.

As a result, in order to strike a balance between the protection of individual rights and the rights of the community, this principle is seen as essential in the development of evidence theory within the field of criminal law. It is crucial to decide the burden of proof when establishing facts.

In this regard, the following issue might be raised: **How does the presumption of innocence affect the evidence system in Algerian criminal law?** To address this issue and to explore the critical points highlighted by this topic, we used the analytical technique and, on occasion, the inductive method, applying the following essential elements:

2. The Nature of the Presumption of Innocence

Given the importance of the presumption of innocent in establishing who bears the criminal burden of proof, it was critical to comprehend its actual meaning. This includes defining the concept's meaning in the first demand and the assumption as a right and obligation to be followed in the second condition, as detailed below.

2.1 The Meaning of the Presumption of Innocence.

Safeguarding personal freedom, human dignity for the accused, respecting the rights of defence, and the obligation imposed by conviction judgments based on the legality of evidence all constitute legal principles. Foremost among these principles, the constitution and the law, protected primarily by the judiciary, protect the presumption of innocence. Thus, we will delve into the meaning of this principle and its legal nature as follows:

2.1.1 The Meaning of the Presumption of Innocence as a Legal Presumption.

There is minimal disagreement among criminal law judges about what constitutes innocent. As a result, their definitions are similar or identical, as seen below:

"The premise of innocence is that an individual is not condemned for an act ascribed to them unless a judgment of punishment is made against them by an institution with legal authority," one legal group characterized it.

This definition, however, needs to be revised since it confines the effect of innocence simply to the lack of punishment as a penalty. It fails to recognize that the ideal of innocence applies to punishment and process, including both the judge and the prosecuting authorities. This is

because the concept of innocence necessitates that personal liberty not be infringed upon at any point in the proceedings. It also involves abstaining from imposing penalties until a judgment is rendered by a competent judicial authority, with the finality of such ruling being required rather than only upon its issuance, as implied by the definition above.

According to another group of jurists, "the consequence of the concept of innocence is that any individual accused of a crime, whatever of its seriousness, must be treated as an innocent person until a definitive legal verdict confirms their guilt."

This meaning varies from the first in that it relates to therapy rather than punishment and applies to all phases of the proceedings. This definition must be revised despite its clarity because it singles out the accused while excluding others.

Another group of jurists stated, "The essence of the presumption of innocence dictates that every individual, whether a suspect or accused, must be treated as innocent at all stages of proceedings and regardless of the gravity of the crime attributed to them, until their guilt is proven by a final judicial judgment, by the guarantees established by the law for the person at various stages."

These definitions present several principles, which are, in reality, outcomes of applying the principle. They allocate the burden of proof to the prosecuting authority, exempting the accused from proving their innocence.¹

This allows the accused to sense that they possess full rights as they are deemed innocent, unimpaired by suspicions against them. Nonetheless, this theoretical standpoint may not be achieved in practice due to the impact of numerous precautionary measures on the accused's freedom.²

The presumption of innocence is a principle within the accused, and committing a crime deviates from this principle. This assumption retains its strength and complete effect until a definitive judgment declares a person who might be innocent as guilty. Society, just as it seeks to prove the guilt of every criminal, also seeks to prove the innocence of every innocent person. This requires the authorities to act towards the accused impartially and not take a stance against them. Their objective is to reach the truth, whether against the accused or in their favour.

2.1.2 Characteristics of the Presumption of Innocence

The presumption of innocence constitutes an essential guarantee enjoyed by all individuals. Acknowledgement of this guarantee does not depend on explicit textual reference but is acknowledged due to its foundational and established nature. It possesses the following characteristics:

1. The presumption of innocence is characterized by its continuity. Disproving it through a final judicial judgment does not result in its vanishing or collapse. Instead, the effect suspends the principle regarding the specific incident subject to the judgment; condemnation does not extend beyond its scope.³

2. The presumption of innocence is a binding legal principle for judges. They must adhere to it whenever there is doubt about the accused's involvement in the alleged incident. Suppose a judge contravenes the presumption of innocence and considers the incident subject to doubt as established in the accused's favour, rendering a conviction judgment. In that case, that judgment is null and void. Appeals against it are permissible based on this premise. Moreover, the court is bound to apply the presumption of innocence even if the accused remains silent unless the prosecution provides irrefutable evidence that undermines the presumption of innocence.⁴

3. Treating the accused as innocent, even without explicit textual provision, does not necessitate it. Just as civil matters rely on the principle "the creditor bears the burden of proving the obligation," it is all the more necessary that, in criminal matters, if the principle dictates that the burden of proving the occurrence of the crime and attributing it to the accused rests on the prosecution, it also dictates "the debtor bears the burden of proving discharge." However, this is feasible in civil matters because when a debtor fulfils their obligation, they request that the creditor provide them with a discharge document from the debt. In criminal matters, this is challenging, as it is illogical to expect the accused to prove that they did not commit the crime.⁵

2.2 The Foundation and Legal Nature of the Presumption of Innocence.

Jurists and legal commentators have used the term "presumption of innocence," although some have objected to this designation because "presumption" implies an inference from the unknown to the known. This does not apply to the presumption of innocence derived from the known, as it is a matter of fact. Moreover, in law, "presumption" refers to a piece of evidence, while innocence is not just evidence; it is a guarantee and a principle of justice. However, the effectiveness of this principle and its assurance of protection are only determined through its codification in the law. Some laws have enshrined this principle in their constitutions, making it constitutionally recognized, while others have addressed it in their criminal procedural laws. This is a result of the nature of the legal system of each state. Thus, presuming the accused's innocence has become a recognized legal principle in most legislation. It has become firmly entrenched in statutory laws as a guarantee of fair trial and a protector of individuals' rights, whether suspects or accused individuals. It is presumed that they are innocent throughout all stages of criminal proceedings and in all procedures undertaken therein. It is imperative for all parties, whether investigative, accusatory, or adjudicative, to respect this principle. This has been the result of juristic efforts that have been practically embodied. This is what we will attempt to clarify through the following points:

2.2.1 The Foundation of the Presumption of Innocence

Most constitutions worldwide, including the Algerian Constitution, have explicitly and clearly enshrined the principle of the presumption of innocence explicitly and clearly, emphasizing its importance by expressly recognizing it in their texts. In Algeria, this principle has been recognized implicitly in the 1963 Constitution, which did not explicitly state that the presumption of innocence is guaranteed and exercised within the framework of the law. Instead, it affirmed the requirement that no person be arrested or prosecuted except in cases and under the conditions and procedures prescribed by law.

However, the 1976 Constitution explicitly recognized this principle, alongside maintaining the implicit recognition from the 1963 Constitution. As a result, every individual is considered innocent in the eyes of the law until proven guilty by a competent judicial authority through a fair trial that guarantees the necessary defence safeguards. This principle was reaffirmed in 1989, 1996, and the latest amendment to the Constitution in 2020⁶, in Article 41, which states: "Every individual is considered innocent until proven guilty by a competent judicial authority, within the framework of a fair trial that ensures the necessary guarantees for their defence." This aligns with international agreements and the Universal Declaration of Human Rights. Analyzing the wording of this article, we can conclude that:

it pertains to criminal proceedings and the status of the accused person subject to prosecution. Throughout the proceedings, this individual is considered innocent as long as they have not been convicted by a competent judicial authority and a final judgment has been issued against

them while being granted all the legal guarantees. The individual subject to criminal prosecution is thus endowed with the presumption of innocence⁷.

Algeria's criminal procedural law is a constitution of individual liberties. It guarantees that an individual's freedom is not restricted or violated except within the limits defined explicitly by the law. It establishes boundaries for the authority authorized to restrict rights and freedoms, defines restrictions and conditions that public authorities must respect, and protects these rights from abuses of power. No person may be convicted except under specific rules and before a competent specialized court.

The Algerian criminal procedural law is based on a fundamental principle: every person is considered innocent and must be treated as such. Suspects or individuals accused of crimes must be treated as innocent, regardless of the gravity or nature of the offence.

"The Algerian legislator has ensured the protection of a set of rights in Articles 107 to 111⁸ of its law, which prohibit any infringement upon the rights established for the protection of the accused, including the application of the principle of the presumption of innocence. These provisions include :

- a. The accused or the public prosecutor may request temporary release from the investigating judge. The judge must decide on the request within 10 days. After respecting this period, the request is referred to the Chamber of Accusation, which decides within 30 days.
- b. If the deadline is not respected, the accused must be released automatically.
- c. Temporary release of a foreign accused person may be granted with a guarantee if not provided for by law (Article 132 of the Criminal Procedure Code).
- d. The law grants temporary release if the legal conditions for pretrial detention are not met.
- e. Generally, the accused in pretrial detention is housed in the same institutions as convicted individuals but in separate sections. They are not subject to the same treatment imposed on convicted individuals (work, clothing, visits, correspondence, etc.).
- f. The accused in pretrial detention cannot be compensated except in exceptional cases such as arbitrary detention. This compensation is through a criminal judgment condemning the responsible party for this measure (attached error). From the preceding, it becomes evident that the Algerian legislator has embraced the presumption of innocence as a constitutional principle, regulating it through the provisions of the Criminal Procedure Code, which includes several measures to protect the rights and fundamental freedoms of the accused."

This principle is further emphasized by the law's provisions concerning pre-trial detention and other procedures aimed at protecting the rights and fundamental freedoms of the accused. In conclusion, Algeria's criminal procedural law has unequivocally embraced the presumption of innocence as a constitutional principle. This principle is reinforced by numerous provisions that ensure the protection of the rights and freedoms of the accused, and it has been enshrined as a cornerstone of the legitimacy of criminal proceedings. Furthermore, the presumption of innocence principle is closely tied to the principle of legality—the notion that no act, crime, or penalty can be applied except as provided for by law. These principles are two sides of the same coin, working harmoniously to safeguard justice and human rights.

2.2.2 The Legal Nature of the Presumption of Innocence

The presumption of innocence has gained significant importance to the extent that it has risen to the status of a fundamental principle in criminal law. Legal scholars have debated the nature

of the presumption of innocence in the accused, with differing opinions. Some view it as a simple legal presumption, while others consider it an inherent human right. A third perspective considers it a legal artifice. Let us explore these viewpoints:

- a. **Presumption as a Simple Legal Presumption:** Most legal scholars consider the presumption of innocence as a simple legal presumption sourced directly from the law itself. In this view, it is not a judicial presumption drawn by the judge during the trial. Instead, it is a legal presumption explicitly stipulated in the constitutions and laws of many countries. Proponents argue that a presumption is an unknown inference from a known fact, and the known fact is that in the absence of a judicial ruling and based on a legal provision, the presumption is innocence. This legal presumption continues until a final judicial ruling of guilt is issued. The final judgment is the only factor capable of overturning this legal presumption.⁹
- b. **Presumption as an Inherent Human Right:** Some legal scholars believe that the presumption of innocence is not merely a simple legal presumption. Instead, they argue that it is an inherent right closely tied to a person's identity. This right is granted to every individual in society regardless of any other consideration. It remains with them since birth and throughout their life. Therefore, criminal charges, whether during pre-trial or trial stages, do not alter the presumption. It is considered an inherent right and cannot be dismantled except by a definitive guilty verdict.¹⁰
- c. **Presumption as a Legal Artifice:** Another perspective characterizes the presumption of innocence as a legal artifice within criminal proceedings. Supporters of this view assert that the law masks the accused with a veil of innocence, regardless of the charges and evidence presented, to achieve specific legal outcomes.¹¹

This outcome is particularly evident in preserving the personal freedom of the accused during criminal proceedings. This perspective suggests that the presumption of innocence is not an inherent right but a legal construct designed to achieve specific legal consequences.¹²

In reality, the latter perspective is often refuted. The presumption of innocence is a fundamental human right rooted in the natural order rather than an artificial construct. It is a principle that aligns with the nature of things. The starting point for humans is innocence, and individuals should be treated as such. This innocence is only extinguished when a person moves from the sphere of innocence to the sphere of guilt through a definitive judicial verdict. In summary, the presumption of innocence is based on two foundations: a logical one derived from sound reasoning and legal logic and a legal foundation built upon legislative provisions. This principle is also supported by crucial justifications, including balancing the rights of the accused to preserve their freedom and safety and the prosecution's authority to seek truth and uncover criminals. This principle is essential for maintaining procedural legitimacy. Without it, the accused would be treated as criminals from the outset, which would inevitably lead to the erosion of their individual freedom and human dignity. Therefore, the presumption of innocence must be upheld throughout various stages of the legal process until a final verdict of guilt is issued.

3. The Impact of the Presumption of Innocence on Criminal Proof

If the principle of the presumption of innocence affects all aspects of criminal proceedings in a general sense, it mainly influences the system of criminal proof. This is because the primary objective of the presumption is to respect the accused's innocence until the truth of the alleged offence is established. This can happen either through the establishment of guilt or through further affirming the presumed innocence. This is the essence of the proof process. Given that

the public prosecutor represents society in asserting the state's authority in punishment and has various means to investigate and inquire into the crime, the requirement of justice dictates that the party with authority must bear the burden of proof.

The trial phase poses a danger to the presumption of innocence as it determines the accused's status either by maintaining the presumed innocence or by overturning this principle through a verdict of guilt. Therefore, enhancing protection for the presumption of innocence requires ensuring a fair trial for those accused and respecting all guarantees provided by international agreements and domestic legislation. We will explore this through the following:

3.1 The Accused Does Not Bear the Burden of Proof

Procedural legitimacy in criminal proof ensures the accused's right not to be burdened with disproving allegations against them. If someone alleges something against the accused, the accuser will prove their claim. The presumption is that the individual does not violate the law, and the claimant must prove the opposite.¹³

Procedural legitimacy thus treats the accused—even in the most severe cases of crime—as innocent until proven guilty by a final judicial verdict. It is essential to exempt them from proving their innocence. The burden of proving the crime in all its elements lies on the prosecution as they claim the contrary to the accused's innocence. Any violation of this principle directly infringes on the presumption of innocence and breaches procedural legitimacy.¹⁴

3.1.1 The Burden of Proof Rests with the Prosecution

As a general principle, the burden of proof falls upon the prosecution (public prosecutor). It is the prosecution's responsibility to establish the elements of the crime. If the accused denies committing the criminal act, they are not required to provide any evidence to counter this denial. They have the right to remain silent, essential to their legal protection. The legislator aimed to safeguard the personal freedom of those pointed at by allegations, and thus, the burden of proof was lifted from the accused and placed on the prosecution.

The principle of innocence is assumed, and there is no need to prove it. The focus is on determining whether sufficient evidence exists to refute this presumption. This responsibility lies with the prosecution because those who claim an exception must prove it. Those who rely on the principle are not obliged to do anything beyond discussing the evidence of proof to challenge or sow doubt without being obligated to prove their innocence actively. As a result, the prosecution must establish the alleged offence's occurrence and the accused's responsibility for it.¹⁵

To reach this stage, the prosecution must prove that the committed act is criminal behaviour, known as proving the legal element. They must also prove the material aspects of the crime, known as proving the material element. Furthermore, they need to establish that the crime was committed intentionally, known as proving the moral element. The Court of Cassation, in its decision dated 29-10-1985, emphasized that the burden of proof is on the prosecution, stating that "judges should affirm their decision by confirming that the accused committed the acts attributed to him, without contenting themselves with what was mentioned in the initial judgment, which wrongly burdened the accused with proving his innocence. The principle is that the accused is innocent until proven guilty, and the burden of proof rests on the party initiating the public prosecution, i.e., the prosecution itself."¹⁶

Hence, the burden of proof falls on the prosecution¹⁷, who is responsible for proving the evidence of guilt as the opposing party to the principle of innocence. However, this principle is not absolute, as legislation has included exceptions. These exceptions imply shifting roles

and placing the burden of proving some facts onto the accused. In other words, the accused is considered guilty until proven innocent. This concept is referred to in jurisprudence as the "presumption of guilt," we will explore it further in the following study.

3.1.2 Exceptions to the Accused Bearing the Burden of Proof

Placing the burden of proving innocence on the accused imposes the obligation on them to prove their non-commitment to the criminal act. This situation clearly violates the presumption of innocence because such presumptions empty the principle of its content. If the accused cannot prove their innocence, they may be convicted based on the assumption of their guilt, thereby undermining the principle. Applying the presumption of innocence has two effects: a negative one, exempting the accused from presenting evidence of their innocence, and a positive one, shifting the burden of proving guilt onto the prosecution. Some legal scholars criticize the existence of such presumptions, as it contradicts the accused's lack of obligation to prove their innocence.¹⁸

Nevertheless, Algerian legislation includes such presumptions in some provisions of the Penal Code and special laws. For example, Article 87 of the Penal Code "imposes a prison sentence of ten to 20 years on individuals belonging to criminal gangs who do not hold any leadership positions¹⁹". The legislator considered membership in a gang itself as the basis for the crime, implying collective responsibility for all members without delving into the specific actions each individual may have committed. This presumption shifts the burden onto the accused to prove their non-membership in the gang to avoid criminal liability.²⁰

Similarly, Article 343 of the Algerian Penal Code presumes the accused's commission of the crime of living off prostitution. If a person's financial resources do not match their apparent lifestyle, they are presumed to have committed the crime unless they can prove the legitimacy of their resources. This indicates an expansion of the presumption of guilt, suggesting that it is not just living with a prostitute that leads to presumption but having a habitual relationship with anyone engaged in prostitution.

Regarding special laws, it is essential to note that presumptions of guilt cannot be found in all of them. As an illustrative example, we will briefly discuss the presumption of guilt in customs law.

The Algerian Customs Law No. 79/07, amended by Law No. 98/10, contains provisions favouring the prosecution. Article 286 states, "In any case related to seizure, the burden of proof rests on the claimant to prove the non-commitment of the violation on the seized goods." This means that any goods found in the customs area without proper authorization or legal permission for importation or passage are considered to be smuggled. Here, the presumed accused must prove their innocence of the smuggling charge.

It is important to note that Article 286 is not an exception but the foundation of customs law. All customs offences are related to goods, and seizure is the basis for pursuing such cases. This is a natural outcome of the authority granted by the law to customs officials, as mentioned in Article 254.²¹

Additionally, Article 324 of the same law considers any violation of Article 226 as smuggling. This extends to a court decision: "Judges in customs cases cannot exercise discretionary authority unless counter-evidence is presented against the authenticity of the customs record. Only then can they rule based on the accused's confession, as the observations in the customs record remain valid until counter-evidence is presented against them, which has not been done in this case."²²

In conclusion, presumptions of guilt are applied mainly in special laws, distinct from the general Penal Code. These presumptions are characterized by being narrow and not absolute,

accepting counter-evidence through various means of proof. This is evident from the phrase "until counter-evidence is presented" found in legal texts that establish the presumption of guilt.

3.2 Safeguards for Preserving the Presumption of Innocence

While the state exercises its right through the judiciary to impose penalties on criminals, it is constitutionally obligated to protect every citizen's rights and fundamental freedoms. This protection extends even to those under criminal prosecution as long as they have not yet been proven guilty by a judicial decision issued by a legitimate judicial authority. This protection necessitates the provision of all legal and judicial guarantees that strengthen the presumption of innocence. Suppose the judiciary fails to reach certainty based on the gathered evidence, and there needs to be clarity or doubt, such as when the evidence presented by the prosecution is insufficient. In that case, the judge must lean in favour of the accused and rule for their acquittal. Thus, protection of the presumption of innocence within criminal evidence dictates that the accused should not be convicted unless judicial certainty is present. Moreover, the judge must interpret any doubt favouring the accused's interest.

3.2.1 Judicial Freedom in Believing in the Proof

The judge's objective in criminal proceedings is to establish the judicial truth. Mere suspicion and possibility are insufficient to reach this truth since suspicions do not lead to facts but rather assumptions that can be true or false. Therefore, the judge must be convinced of the validity of the evidence and that it reveals the judicial truth. In this regard, the presumption of innocence is a guiding principle. If the judge harbours doubt about the credibility of the evidence of guilt, they should turn away from it and have the presumption of innocence confirmed. Conversely, if the judge evaluates the evidence of guilt and finds it well-supported and convincing, they can rule in favour of conviction and dismiss the presumption of innocence.

The criminal judge has the authority to assess and balance the evidence based on their conviction, and the principle of presumed innocence in the accused mandates that the judge base their decision on certainty and conviction. This is because the judge's goal is to arrive at the truth. The judge's absolute conviction is the only thing that can undermine the presumption of innocence. As a result, this conviction can only be refuted by evidence with the same level of convincing power. To achieve this, the judge's conviction must come from someone with a strong personality, allowing them to make accurate assessments and differentiations unaffected by the nature of the crime or the circumstances of the accused.

Article 107 of the Criminal Procedure Law ²³emphasizes this by stating that judges are not required to justify how they arrived at their convictions. However, they must silently reflect and sincerely consider their consciences regarding the impact of the presented evidence and the defence's arguments on their perception. The law does not give judges specific rules or guidelines; it only asks them one question: "Do you have personal conviction?"²⁴

The legislator also grants judges the discretionary authority to assess the value of the evidence, determine its strength, and ascertain its significance for proving or disproving the charge. This is outlined in Article 212 of the Criminal Procedure Law.²⁵

A guarantee for the judge's conviction is the necessity for them to explain the judgment they issue. This is a manifestation of judges fulfilling their duty to reach the truth they seek. Through this, they protect themselves from arbitrary decisions and despotism. This guarantee's value is derived from the presumption of innocence, which can only be refuted by irrefutable evidence that the court has conclusively derived. The 2020 Constitution further

enforces this principle in Article 169 by emphasizing the need for judgments to be "reasoned." This principle had already been indicated in the Criminal Procedure Law in Article 379, which requires that every judgment specify the parties' identities, their presence or absence during the verdict, and include reasons and a verdict. The reasons are the basis of the judgment. In conclusion, the requirement for reasoned judgments is one of the most important safeguards for the accused. It allows them to understand the reasons behind the judge's decision and empowers the Supreme Court to monitor the proper application of the law.

3.2.2 The Principle of Doubt Favors the Accused as a Guarantee

The presumption of innocence is not eliminated merely by referring the accused to trial; it is only extinguished upon issuing a final conviction verdict. As such, it is required that such a verdict be built upon conclusive arguments that affirm certainty and conviction. In cases where there is doubt about the assessment of the presented evidence, it is incumbent upon the judge to apply the principle of interpreting doubt in favour of the accused. This is because, returning to the fundamental principle, innocence is paramount.²⁶

Through its interpretation of the presumption of innocence, the judiciary has established another principle that stems from this foundation: the sufficiency of doubt for the judge to rule in favour of innocence. This principle has been elevated to constitutional principles and cannot be violated by criminal legislation without contravening the boundaries set by the Constitution. Judgments must be based on certainty and conviction because of the presumption of innocence. When the judge is not convinced of the proven charge or the presented evidence is insufficient, doubt arises. In such cases, the judge must interpret in favour of the accused.

Applying this principle requires the criminal judge to provide the reasons on which their judgment is based. This applies to the final judgment in criminal proceedings and extends to petitions and defences submitted by the parties. Including reasons in criminal judgments is an essential guarantee to reinforce trust in the judiciary, facilitate judgment oversight, and allow for the higher court's assessment of the proper application of the law.²⁷

Providing reasons allows the appellate authority to monitor the judgment's accuracy in properly grasping the facts and applying the law. For the higher court, being the guardian of the law, providing reasons enables it to oversee the correct application of the law and the integrity of the procedures followed. As a result, a judgment becomes defective if the stated reasons do not lead to the conclusions reached. This aligns with the presumed presumption of innocence since, as long as the default state of a person is innocent, a judgment of acquittal does not require the same conditions established for a conviction verdict. It is sufficient for the acquittal judgment to include legal and objective justifications that rationally and logically lead to its conclusions.²⁸

From all that has been discussed, interpreting doubt in favour of the accused is a fundamental safeguard of individual freedom. It reduces the risks of wrongful conviction and is a natural consequence of the presumption of innocence. Going against the principles of this rule constitutes an attack on the presumption of innocence and a violation of constitutional legitimacy in criminal procedures.

4. Conclusion:

In conclusion, after this study, it can be stated that the issue of the burden of proof in criminal law, given its uniqueness and distinct characteristics, is based on a fundamental principle that forms one of the pillars of the general theory of criminal evidence. This principle is

constitutionally enshrined and revolves around the presumption of innocence. This principle regulates the allocation of the burden of proof and dictates that the accused should not be tasked with proving their innocence, as innocence is the default state. It is the responsibility of those claiming otherwise to provide proof, and since the prosecuting party in criminal proceedings is the prosecution itself, the burden of proof falls on them. If they fail to establish the guilt of the accused, then the accused must be acquitted by law.

Consequently, the following conclusions have been reached:

- a. The presumption of innocence forms the foundation of procedural legitimacy as a constitutional principle that dominates all procedural rules. Legislators must rely on it as the basis when enacting any procedural rules.
- b. The presumption of innocence is a personal right for every individual in society as a human being. This right is protected through guarantees provided by national constitutions and criminal procedure laws.
- c. The accused benefits from a fundamental principle that safeguards their freedom and ensures a fair trial: the presumption of innocence.
- d. The presumption of innocence aims to protect the personal freedom and rights of the accused. It interprets the burden of proving the veracity of the charged offence's elements and components as the prosecution's responsibility.
- e. Safeguarding the presumption of innocence necessitates placing the burden of proving guilt on the prosecution. The assessment of evidence rests with the criminal judge, who must build their judgment on certainty and conviction.
- f. The burden of proof cannot be separated from the judicial judgment process and the public lawsuit. From the initial stages of proceedings to the issuance of a final verdict, the absence, insufficiency, or failure of the proof to convince the judge inevitably leads to the acquittal or discharge of the accused as long as there is no evidence proving the charge against them, relying on the original presumption of innocence.

Through these conclusions, it becomes evident that the Algerian legislator has made significant progress in protecting personal freedom through various provisions outlined in the Criminal Procedure Code. This has minimized the idea of the prosecution as a strong adversary in public lawsuits, as the accused, being a weaker party, needs more resources from the prosecution. To further bolster this protection, serious steps should be taken to safeguard the presumption of innocence, which every individual possesses as a constitutional principle and a fundamental basis. As previously discussed, this can be achieved by establishing detailed regulations and provisions that fill the gaps and resolve jurisprudential, legal, and judicial disputes. This includes formulating a general theory of the burden of proof in criminal matters and distributing the burden through explicit legal texts that consider each party's position in criminal proceedings.

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