


The Presumption of Innocence in the Context of International Legal Instruments on Human Rights

 ¹ Khalilov Yunis Farman oglu,  ² Mirzazade Yusif Emin oglu
<https://doi.org/10.69760/aghel.025002118>

Keywords	Abstract
The presumption of innocence crime human rights United Nations International legal documents proof	The article was dedicated to the identification of the presumption of innocence in international law on human rights. The article analyzes the text of the presumption of innocence in several international legal acts adopted in the continents of Europe, American and Africa. In the end, it is concluded that the presumption of innocence established in the international legal documents on human rights is one of the important human rights, and the text of the presumption of innocence reflected in many international legal acts adopted in Europe, America and Africa has an almost similar content.

The idea of human rights, as ancient as humanity itself, has consistently been one of the key issues driving the process of societal development throughout history. It is no coincidence that the issue of human rights remains at the forefront today, serving as the subject of significant scientific research, the focus of pressing debates in both domestic and foreign policy, the foundational principle of nearly all democratic constitutions (*Article 12 of the Constitution of the Republic of Azerbaijan enshrines a progressive provision, stating that ensuring the rights and freedoms of individuals and citizens is the supreme objective of the state*), and the central essence of international documents on peace and security.

Regrettably, it must be acknowledged that various misunderstandings, complex and contradictory issues, as well as diverse forms of discontent within certain countries and international tensions related to human rights, persist in our contemporary era.

By analyzing significant socio-political and legal processes in society, one can conclude that the systematic development of the philosophical foundations of the idea of human rights—an idea arguably as old as humanity itself—and the effective struggle for its realization are achievements primarily of the last three centuries.

¹ Khalilov, Y. F. Lecturer, Department of General Law, Nakhchivan State University. Address: Nakhchivan City, University Campus. Email: yunisxelilov@ndu.edu.az. ORCID: <https://orcid.org/0009-0004-3521-1913>.

² Mirzazade, Y. E. Law Student, Nakhchivan State University. Address: Nakhchivan City, University Campus. Email: yusifmirzazade@ndu.edu.az. ORCID: <https://orcid.org/0009-0008-7818-1805>



In the 18th century, as a result of revolutions in Europe, achieved at the cost of great human sacrifice, inalienable rights such as the right to life, liberty, and others were secured, along with fundamental civil rights. A century later, in the 19th century, we witness the emergence of political rights, including the right to vote, the right to participate in the political life of society and the state, and the right to partake in governance. In the 20th century, these rights were further expanded to include social rights, such as the right to social security, the right to work, and the right to education. However, during the same century, the challenges surrounding the procedures for implementing these rights in practice and the extent to which they were guaranteed began to manifest more prominently.

Thus, the modern level of the human rights idea, which aligns with contemporary international standards, began to take shape during the years of the Second World War and in the early years following the war—an era that not only caused global upheaval and major disasters but also left a dark stain on the history of humanity.

For instance, in 1945, the United Nations Charter reflected that one of the primary objectives of the UN is to assist in the protection of human rights. A little later, more specifically in 1948, the majority of human rights began to be enshrined in the UN's Universal Declaration of Human Rights and in a number of other international treaties and agreements (International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, etc.) derived from this declaration.

Since that time, the idea of human rights and the issue of its realization in practice have gradually spread to nearly all countries of the world, becoming an integral part of the constitutions of civil, democratic states, as well as their domestic legal frameworks.

Among human rights, the presumption of innocence holds significant legal importance, and this right is enshrined in several international legal instruments on human rights.

The first written provision regarding the presumption of innocence in Europe is found in Article 39 of the famous document known as the “Magna Carta” (It means “Great Charter” in Latin.) or “Magna Carta Libertatum” (It means “Great Charter of Freedoms” in Latin), which was signed in England on June 19, 1215: “No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land” (8).

It can be stated that the idea of the presumption of innocence gained official recognition for the first time in England, through the aforementioned document, which held significant importance for the masses at that time.

The principle of the presumption of innocence was officially declared as a right during the French Revolution (6, pg. 95).

Article 9 of the Declaration of the Rights of Man and of the Citizen, adopted during that period, stated that: “As all persons are held innocent until they shall have been declared guilty, if arrest shall be deemed



indispensable, all harshness not essential to the securing of the prisoner's person shall be severely repressed by law" (1, pg. 80).

Later, this principle was incorporated into the texts of several international legal instruments and the legislation of most civil and democratic states as an essential attribute of the rule of law.

Provisions related to the presumption of innocence have been included in international legal documents adopted by the Council of Europe and the European Union.

Thus, Article 6.2 (Right to a fair trial) of the "European Convention for the Protection of Human Rights and Fundamental Freedoms", signed on November 4, 1950, and entering into force on September 3, 1953, states: "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law" (9).

In Article 48.1 of the "Charter of Fundamental Rights of the European Union", adopted in 2000, under the section titled "Justice", the provision regarding the presumption of innocence is stated as follows: "Everyone who has been charged shall be presumed innocent until proved guilty according to law" (10).

The presumption of innocence is also addressed in Article 31 § 1 of the Corpus Juris draft text, prepared by the European Commission in 2000. This text, which envisions the establishment of the European Public Prosecutor's Office with extensive powers, aims to protect the financial interests of the European Union through criminal law.

This includes references to the right to remain silent, limitations on the obligation to produce documents, and protection from being compelled to accuse one's close relatives (5, pg.113-114).

In the United States, this principle was first enshrined at the constitutional level as a separate article in the Constitution of Rhode Island.

Rhode Island, the first colony to declare its independence (1776), joined the United States in 1790, becoming one of the 13 founding colonies of the U.S. Its first constitution was adopted in 1842 and came into force in 1843. Article 14 of its current constitution, in effect since 1987, is dedicated to the presumption of innocence (4, pg. 42).

Article 8 of the Virginia Declaration of Rights, dated June 12, 1776, stated: "That in all capital or criminal prosecutions a man has a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land or the judgment of his peers" (7).

As can be seen, this article, which encompasses several procedural rights, also refers to elements of the presumption of innocence, such as "not being considered guilty until convicted" and "not being compelled to provide evidence against oneself".



Article 26 of the American Declaration of the Rights and Duties of Man, dated May 2, 1948, stipulates that “Every person accused of an offense is presumed innocent until proven guilty”.

Additionally, Article 8.2 of the American Convention on Human Rights, dated November 22, 1969, establishes that “Every person accused of a criminal offense has the right to be presumed innocent until legally proven guilty.”

As for the African continent, it is worth noting that Article 7.1(b) of the African Charter on Human and Peoples' Rights, adopted by the Organization of African Unity on June 27, 1981, and entering into force on October 21, 1986, states: “Every individual shall have the right to be presumed innocent until proven guilty by a competent court.”

According to Article 17.2(c) of the African Charter on the Rights and Welfare of the Child, adopted by the Organization of African Unity in 1990 and entering into force on November 29, 1999, “Any child who is alleged to have violated the criminal law shall be presumed innocent until proven guilty according to the law”.

The presumption of innocence is also included in several other international legal documents adopted by the United Nations. For example, Article 11.1 of the Universal Declaration of Human Rights, dated December 10, 1948, states: “Everyone charged with a penal offense has the right to be presumed innocent until proven guilty according to law in a public trial with all guarantees necessary for his defense”.

According to Article 14.2 of the International Covenant on Civil and Political Rights, adopted by the United Nations on December 16, 1966, and entering into force on March 23, 1976, “Everyone charged with a criminal offense shall have the right to be presumed innocent until proven guilty according to law” (*II*).

In the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the United Nations on December 9, 1988, it is stated: “Any person who is suspected of or charged with a criminal offense... shall be presumed innocent until proven guilty, and shall be treated accordingly”.

Furthermore, Article 40 (2) (b) (i) of the Convention on the Rights of the Child, adopted by the United Nations on November 20, 1989, and entering into force on September 2, 1990, establishes the child's right to be presumed innocent until proven guilty in accordance with the law (*12*).

The presumption of innocence has also been established in other international instruments. For instance, this principle was the subject of discussion at the 1953 VI Vienna Congress of the International Association of Penal Law (*2, pg. 26*).

Provisions regarding the presumption of innocence have also been incorporated into Article 20(3) of the International Criminal Tribunal for Rwanda and Article 66 (1) of the Statute of the International Criminal Court. Furthermore, this principle has been included in numerous international legal instruments adopted by international organizations (*3, pg. 21*).



Thus, to summarize what has been discussed, it can be concluded that the presumption of innocence, enshrined in international legal documents concerning human rights, is one of the fundamental human rights. The text of the presumption of innocence, reflected in a number of international legal acts adopted in Europe, the Americas, and Africa, is almost identical in nature.

References

Abortion: In the Context of the Legislation of Foreign Countries and the Republic of Azerbaijan. *Acta Globalis Humanitatis et Linguarum*: Vol. 2, No.1 (Veris 2025)

<https://doi.org/10.69760/aghel.02500101>

Khalilov Yunis Farman, & Mirzazade Yusif Emin. (2024). THE IMPACT OF DETENTION AND ARREST ON THE PRESUMPTION OF INNOCENCE IN THE CONTEXT OF EUROPEAN COURT JUDGMENTS. *World Scientific Reports*, (8). Retrieved from

<https://ojs.scipub.de/index.php/WSR/article/view/4803>

Khalilov Yunis Farman, & Mirzazade Yusif Emin. (2025).

Khalilov Yunis Farman. (2024) THE PROHIBITION OF THE USE OF ILLEGAL EVIDENCE AT THE LEVEL OF DECISIONS OF THE EUROPEAN COURT AND THE PRESUMPTION OF INNOCENCE. *German International Journal of Modern Science*. 10.5281/zenodo.10673819

Khalilov Yunus Farman. (2024). CONSIDERATIONS ON THE POSITION OF THE EUROPEAN COURT OF HUMAN RIGHTS ON THE PRESUMPTION OF INNOCENCE. *Slovak international scientific journal*.

Mumcu, A. (1994) *İnsan hakları kamu özgürlükleri* Savaş Yayınları

Şahinkaya, Y. (2008) *İnsan hakları Avrupa Mahkemesi kararlarında ve Türk hukukunda suçsuzluk karinesi* Seçkin

Uluslararası Af Örgütü (2000) *Adil yargılanma hakkı* (F. A. Tamer & E. Kaplan, Çev.) İletişim Yayıncılık

Üzülmez, İ. (2005) Türk hukukunda suçsuzluk karinesi ve sonuçları *Türkiye Barolar Birliği Dergisi*, 18(58), Mayıs-Haziran

Weigend, T. (2004) *Avropa iki ağızlımı danışır* (V. Ö. Özbek, Çev.)

Yusif Emin Mirzazade. (2024). LEGAL REGULATION OF ANIMAL ORGAN TRANSPLANTATION INTO HUMAN ORGANISM: LEGAL-THEORETICAL APPROACHES AND RISKS.

Academics and Science Reviews Materials, (8). Retrieved from

<https://ojs.scipub.de/index.php/ASCRM/article/view/4783>

Орлов, Ю. К. (2001) *Основы теории доказательств в уголовном процессе* Проспект



Internet Resources

European Court of Human Rights (n.d.) *Convention for the Protection of Human Rights and Fundamental Freedoms* Retrieved from https://www.echr.coe.int/documents/d/echr/convention_ENG

European Parliament (n.d.) *Charter of Fundamental Rights of the European Union* Retrieved from https://www.europarl.europa.eu/charter/pdf/text_en.pdf

Office of the High Commissioner for Human Rights (n.d.) *Convention on the Rights of the Child* Retrieved from <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Office of the High Commissioner for Human Rights (n.d.) *International Covenant on Civil and Political Rights* Retrieved from <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Wikipedia (n.d.) *Constitution of Virginia* Retrieved from http://en.wikipedia.org/wiki/Constitution_of_Virginia

Wikisource (n.d.) *Magna Carta Libertatum* Retrieved from http://tr.wikisource.org/wiki/Magna_Carta_Libertatum

Received: 03.07.2025

Revised: 03.12.2025

Accepted: 03.15.2025

Published: 03.18.2025



This is an open access article under the
Creative Commons Attribution-
NonCommercial 4.0 International License

Acta Globalis Humanitatis et Linguarum
ISSN 3030-1718