УДК 658

Kimsanov Bahodirjon son of Kosimjon
Independent researcher
Namangan, Uzbekistan

HISTORY OF THE FORMATION OF THE CONCEPT OF THE PRESUMPTION OF INNOCENCE

Abstract: *This article provides information on the history of the formation of the concept of the presumption of innocence. The article discusses the history of the application of this concept in developed countries.*

Key words: *person, right, innocence, criminal law, law*

Аннотация: *В данной статье представлена информация об истории формирования концепции презумпции невиновности. В статье рассматривается история применения данной концепции в развитых странах.*

Ключевые слова: *лицо, право, невиновность, уголовный закон, закон*

The presumption of innocence is one of the important principles of criminal law. According to him, a suspect, accused or defendant is presumed innocent until his guilt in a crime is proved in the manner prescribed by law and determined by a court judgment that has entered into force. Another important feature of this principle is that the suspect, accused or defendant does not have to prove his innocence.

The presumption of innocence is enshrined in international law and in our national legislation. In particular, Article 11 of the Universal Declaration of Human Rights stipulates that it is an inalienable right granted to everyone: “Everyone charged with a criminal offense shall have the right to protection by public hearings. he has the right to be presumed innocent until proven guilty. ”

It is also worth noting that this principle is enshrined in the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

According to Article 26 of the Constitution of the Republic of Uzbekistan, “Everyone charged with a criminal offense shall not be presumed guilty until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. The accused will be provided with all the conditions to defend himself in court. "

Although many lawyers agree on the importance and application of the presumption of innocence, there are still controversial issues in its interpretation. Let us first consider the history of this principle.

As mentioned above, the presumption of innocence has been formally adopted in many countries as a basic rule of criminal and constitutional law. But not everyone who has been convicted in the recent past has been able to take full advantage of his protection.

Scholars say that the first signs of the presumption of innocence were in ancient Jewish law. Some have also linked it to ancient Roman law, arguing that the presumption of innocence was officially enforced in 12th-century Italian law. The use of the presumption of innocence during this period was not as widespread as we interpret it today. That is, not everyone was able to exercise this right. This form of presumption is called the presumption of choice. It can only be used by people who have lived an honorable, exemplary life and are known for their good behavior, especially those who are respected in society. This limited function of the presumption of choice was formed in the Continental European School. In contrast, the theory that the presumption of innocence should be equal for all has emerged in canonical law. Representatives of this school based their views on the fact that man is inherently innocent, so the presumption should be applied to all.

By the 15th century, the presumption of innocence had begun to be recognized in Italy as a universal principle.

At the same time, the presumption of innocence developed in parallel at the Anglo-American School of Law.

The present form of the presumption of innocence took shape only in the Renaissance. It was first expressed as a legal principle in the 1789 French Declaration of Human Rights. In the second half of the 18th century, the presumption of innocence was fully recognized as a fundamental constitutional right guaranteed to everyone. It was firmly established in modern legal systems in the 19th century. But even in the twentieth century, when human rights were fully recognized on all fronts, there were systems and states that denied the presumption of innocence. For example, the fascist dictatorship that ruled Italy and Germany in the 1930s officially rejected this principle. It is a historical fact that millions of people were executed without trial in these countries during World War II.

The principle of the presumption of innocence was enshrined in U.S.A law in 1894 by the U.S.A Supreme Court in The U.S. A. Coffins came in through the case. It was then established that the lower court had not instructed the jury to acquit the accused until the guilt was proved. The U.S.A Supreme Court's ruling in the case provides for the presumption of innocence:

"The law presupposes persons accused of committing a crime until they are found guilty by concrete facts."

Although the presumption of innocence is not recognized by special articles in the U.S. AConstitution, Appendices 5, 6, and 14 stipulate that this principle applies.

The presumption of innocence in Britain was made after the British Civil War. During this period, the need to develop special protections for prisoners of war led to the formation of the presumption of innocence. In practice, however, only the wealthy have been able to take advantage of these safeguards.

In the eighteenth and nineteenth centuries, the presumption of innocence for ordinary peasants, workers, and poor prisoners in England was a myth. In local courts, crimes were mostly committed by coercion, and in trials that lasted less than half an hour, detainees could easily be sentenced to flogging,

deportation, and even hanging. During the nineteenth century, in response to the political opposition of the working class, the British government introduced a strong police regime and a prison system. However, formal tribunals have been set up, which include procedures such as serious investigations, summoning witnesses, and questioning of police investigations.

But by the end of the 19th century, and even into the 20th century, cases of falsification of evidence, intimidation of witnesses, and coercion of defendants did not decrease.

All this, of course, was completely contrary to the requirements of the presumption of innocence.

The judicial system in Australia, including the principle of the presumption of innocence, came directly from England. Therefore, the formation of the presumption of innocence took place here, as in England. The impoverished stratum of the Australian population was initially unable to enjoy the protection of the presumption of innocence. The application of this principle has faced serious obstacles, even in the last quarter of the twentieth century. According to a New South Wales court study, in the early 1980s, 96 percent of criminal cases were committed by coercive police. Investigations have also shown that in other Australian states in the 1980s and 1990s, investigations used false evidence and forced confessions.

Governments have in various cases interpreted the responsibility to prove guilt contrary to the presumption of innocence. However, the responsibility to prove the guilt of the police as a matter of course has not changed. According to the famous Woolmington case in England in 1935, which was accepted as the “golden rule,” it was the duty of the prosecutors to prove the prisoner’s guilt. Doubts were required to charge the prisoner.

The presumption of innocence in the Republic of Uzbekistan is first of all enshrined in Article 26 of the Constitution of the Republic of Uzbekistan. Also, for the first time since independence, the newly developed Criminal Procedure

Code of the Republic of Uzbekistan has strengthened the principles of criminal procedure in accordance with international law: the presumption of innocence, the fact that the trial is based on dispute, the right to defense and others. The new Code of Criminal Procedure not only proclaims the right to protection, but also ensures that it is exercised from the earliest stage of the trial, when a person is suspected of having committed a crime and arrested. The role of the prosecutor in criminal proceedings has also changed. According to the adversarial principle, the prosecutor became one of the equal parties in the process and was relieved of the duty of supervising the court. Now, according to the CPC, the prosecutor is empowered to prosecute the prosecution in criminal cases.

Thus, the presumption of innocence is firmly established in the norms of international law and national legislation of our country, which are now recognized as an important principle of criminal law. This principle, which has evolved over the centuries, is aimed at preventing unjust punishment and, most importantly, at establishing a balance of justice in society.

Although the presumption of innocence has been fully formed, the debate over its interpretation is still ongoing. Some lawyers believe that there are also criminals in society whose guilt is very difficult to prove in practice, i.e. the application of the presumption of innocence in such cases is useless, even when there is strong suspicion. In their view, the presumption of guilt should be applied in such cases. That is, a person accused of a crime must prove his innocence. Some civil rights activists argue that this principle should be applied to crimes such as drug abuse, sexual violence, racial discrimination, and terrorism.

Indeed, a violation of the presumption of innocence can have even more tragic consequences, especially if it is committed through the media. This is because the media should not be misleading the public with their information. Misrepresentation by the media about persons who have not been formally

convicted by a court verdict can also be assessed as an influence on the case. This is prohibited by Article 236 of the Criminal Code of the Republic of Uzbekistan and Article 6, Part 3 of the Law "On Mass Media". Such an action could also lead to criminal charges.

Unfortunately, in some media outlets there are cases of reporting such as "a fraudster has been caught," "a bribe-taker has been arrested," and "a crime has been exposed." In fact, the TV shows portray specific individuals and read the TV journalist's own "judgment" about a criminal case that has not yet been investigated.

Inquiries, investigators, and even prosecutors, who are supposed to uphold the rule of law in their official duties, sometimes appear on radio, television, and in the press to openly say that the accused is "inevitable." However, it is completely wrong and illegal to make such a statement without a court verdict on a person's guilt. Because in this case, the presumption of open innocence is violated. An editorial staff member has the right to express his or her personal opinion on a particular event or circumstance in the media, and, if the investigation of the incident or circumstance has not been completed, to publish the journalistic assumptions as a personal opinion after the court decision or verdict enters into force. But it is not fair to write about the guilt of a person who abuses freedom of speech and press. Maybe it's illegal and inhumane. After all, a person cannot be found guilty in the press until a court verdict is issued and it enters into force. But in practice, there are cases of violation of these principles. For example, before the investigation began, the judge of the Dostlik Interdistrict Civil Court, F. Kadyrov, was declared a bribe-taker on Uzbek television. However, the preliminary investigation body will not be able to charge Kadyrov with bribery after the investigation.

It is mainly due to their legal illiteracy that journalists report suspects, accused or defendants in the media as criminals before a verdict is handed down.

Even judges sometimes express their views on unfinished cases.

For example, the tragic events of February 16, 1999 in Tashkent provoked the anger of our people. There were articles, broadcasts, and shows in the media that reflected people's hatred of criminal elements. After all, the crimes committed deserved it. But in this case, we think it's a bit controversial that the judges also express their views. Lawyer G. Namozov states the following:

"… Supreme Court judges have also expressed their hatred on television. In fact, the Supreme Court team has made official statements. In such a situation, in my opinion, the judges should have remained silent. After all, how can judges who have previously officially declared their hatred of religious extremism and bigotry judge those criminals? Judges should refrain from reacting to events because of the nature of the task assigned to them by the country and the people, that is, because they are entrusted with the administration of justice. "

Indeed, the presumption of innocence also applies to the judges hearing the case. That is, they, too, must abide by the presumption of innocence until the case of the accused is heard in a lawful, transparent manner and his guilt is established.

The European Commission's comments on the European Convention for the Protection of Human Rights and Fundamental Freedoms state:

"If a person's guilt has not been proven by law, public officials should still adhere to the principle of the presumption of innocence. It follows that officials are prohibited from making statements about the guilt of pre-trial suspects. The commission explains that this rule also applies to public prosecutors. Nevertheless, the Commission informs the public that government officials are aware of the progress of criminal investigations, that a person is suspected of having committed a crime, and that this or that person has confessed to a crime. thinks it is possible. However, these officials must also state that the case must first be heard in court, so that this is not a violation of

Article 6 § 2 of the Convention (the principle of the presumption of innocence - B.M.). ”

The analysis shows that the European Convention on Human Rights, in accordance with Article 6 (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, consistently protects a person accused of a crime from being found guilty by a public official before trial. does. This protection also applies to the prosecutor, who may publicly accuse the defendant only during the trial, but not publicly before the trial begins.

It is known that the presumption of innocence is aimed at preventing possible injustices that can be inflicted on a person. The application of the presumption of guilt to serious crimes, as some lawyers claim, is not widely interpreted because of the risk of unjust punishment of innocent people, even if it is sometimes justified. True, the presumption of innocence may apply, and some perpetrators may go unpunished. But the presumption of guilt runs the risk of punishing the innocent. The state must not endanger the lives of the innocent in order to punish all the guilty. Instead, its main goal should be to find and protect the innocent who may be among the culprits. That is why the presumption of innocence is an inviolable right of every person.

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