

## PROSECUTORIAL RESPONSIBILITY AND THE PRESUMPTION OF INNOCENCE IN THE LEGAL PHILOSOPHY OF THE MODERN RULE OF LAW STATE

[A RESPONSABILIDADE ACUSATÓRIA E A PRESUNÇÃO DE INOCÊNCIA NA FILOSOFIA DO  
DIREITO DO ESTADO DE DIREITO MODERNO]

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**ABSTRACT:** The principle of presumption of innocence constitutes one of the fundamental pillars of a democratic justice system and reflects the humanistic and rule of law values underlying modern legal philosophy. It expresses the idea that state power in criminal justice must be limited by legal norms in order to protect human dignity and fundamental rights. In the context of judicial reform and the transition toward a modern judicial model in Vietnam, ensuring the effective implementation of this principle raises new institutional and professional requirements for the People's Procuracy in exercising prosecutorial power and supervising judicial activities. This article examines the philosophical, theoretical, and legal foundations of the presumption of innocence and analyzes the responsibilities of the People's Procuracy in ensuring the implementation of this principle throughout different stages of criminal proceedings. On that basis, the study clarifies the scope and content of prosecutorial responsibility in protecting procedural fairness and preventing wrongful convictions. The article also proposes directions for institutional, procedural, and professional reforms aimed at strengthening prosecutorial accountability and contributing to the development of a professional, fair, strict, and integrity based justice system in the era of modern justice.

**KEYWORDS:** Presumption of innocence; rule of law state; legal philosophy; prosecutorial responsibility; People's Procuracy.

de inocência constitui um dos pilares fundamentais de um sistema de justiça democrático e reflete os valores humanísticos e do Estado de direito subjacentes à filosofia jurídica moderna. Ele expressa a ideia de que o poder do Estado na justiça criminal deve ser limitado por normas legais, a fim de proteger a dignidade humana e os direitos fundamentais. No contexto da reforma judicial e da transição para um modelo judicial moderno no Vietnã, garantir a implementação efetiva deste princípio traz novos requisitos institucionais e profissionais para a Procuradoria Popular no exercício do poder de acusação e na supervisão das atividades judiciais. Este artigo examina os fundamentos filosóficos, teóricos e jurídicos da presunção de inocência e analisa as responsabilidades da Procuradoria Popular em assegurar a implementação deste princípio ao longo das diferentes fases do processo penal. Com base nisso, o artigo esclarece o escopo e o conteúdo da responsabilidade da acusação na proteção da equidade processual e na prevenção de condenações injustas. O artigo também propõe diretrizes para reformas institucionais, processuais e profissionais que visam fortalecer a responsabilidade da acusação e contribuir para o desenvolvimento de um sistema de justiça profissional, justo, rigoroso e baseado na integridade na era da justiça moderna.

**PALAVRAS-CHAVE:** Presunção de inocência; Estado de direito; filosofia do direito; responsabilidade acusatória; Procuradoria Popular.

**RESUMO:** O princípio da presunção

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## 1. INTRODUCTION

The principle of presumption of innocence is not merely a legal norm of criminal procedure but also has deep roots in modern political philosophy and legal philosophy. In essence, this principle reflects a foundational conception of the rule-of-law state: state power must be limited by legal norms in order to protect human freedom and dignity. In the history of Western political–legal thought, the idea of presumption of innocence is closely associated with the development of the theory of the rule of law and the protection of human rights. Thinkers such as Cesare Beccaria and Montesquieu strongly criticized the arbitrary punitive judicial models of feudal states, in which accused persons were often treated as criminals even before a final judgment had been rendered. Beccaria argued that no one can be regarded as guilty before a court has issued a lawful conviction, because punishment may only be imposed when the crime has been proven through a fair judicial process. This view laid the intellectual foundation for the presumption of innocence as a moral–legal standard of a civilized justice system.

From the perspective of political philosophy, the principle of presumption of innocence is also closely related to the issue of the legitimacy of state power. According to modern legal philosophy, public power is considered legitimate only when it is exercised within the framework of the law and aimed at protecting fundamental human rights. In the field of criminal justice, this means that the state cannot arbitrarily deprive individuals of their liberty based merely on suspicion or presumption. The burden of proof lies with the prosecuting authorities, while the accused must be protected from the abuse of state power. This principle also reflects a humanistic conception of the individual in legal philosophy. In modern intellectual traditions, the individual is regarded as a subject possessing inherent dignity and fundamental rights and therefore cannot be treated merely as a means for the exercise of state authority. Consequently, within criminal proceedings, ensuring the presumption of innocence serves as a mechanism to safeguard individual dignity against the potential abuse of power by public institutions.

Within the context of the socialist rule-of-law state in Vietnam, the presumption of innocence is also associated with the requirement to control state power and ensure justice. State authority, particularly in criminal proceedings, always contains the risk of creating an imbalance between the power of public authorities and the rights of individuals. Therefore, the establishment of principles such as presumption of innocence, the right to defense, and the principle of adversarial proceedings serves as mechanisms to maintain this balance. In the Vietnamese criminal justice system, the People’s Procuracy plays a distinctive role in exercising prosecutorial power and supervising judicial activities. From the philosophical perspective of responsibility in the exercise of power, this function does not merely involve the authority to prosecute but also encompasses the responsibility to ensure that prosecution is conducted in accordance with the principles of

justice and the rule of law. In other words, prosecutorial power is not simply a form of authority but also a moral–legal responsibility of the state toward society and toward individuals.

From this perspective, the responsibility of the People’s Procuracy in ensuring the presumption of innocence does not merely involve compliance with procedural rules but also requires the exercise of power in a cautious, objective manner that respects human rights. This requires prosecutorial authorities to prioritize the protection of justice over the mere pursuit of conviction or the achievement of high conviction rates. A modern justice system should not be evaluated based on the number of convictions but on its capacity to protect human rights and prevent wrongful convictions. Thus, from the standpoint of legal philosophy, the presumption of innocence may be understood as an expression of the idea of limiting state power and protecting human dignity within a rule-of-law state. Clarifying the responsibility of the People’s Procuracy in ensuring this principle is therefore not only a matter of legal technique but also a fundamental requirement of a fair and humane justice system.

The presumption of innocence constitutes a pillar for ensuring justice in criminal proceedings and is consistently recognized in major international legal instruments such as the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). In Vietnam, it is recognized in Article 31 of the 2013 Constitution and further elaborated in Article 13 of the Criminal Procedure Code of 2015. This principle not only affirms the human right to be considered innocent until proven guilty by a legally effective court judgment but also serves as an important legal limit on the state’s prosecutorial power exercised by the People’s Procuracy.

Judicial reform in the new phase, as emphasized in Resolution No. 27-NQ/TW dated November 9, 2022, adopted at the Sixth Plenum of the 13th Central Committee of the Communist Party of Vietnam, requires the state to effectively ensure and protect human rights (Central Committee of the Communist Party of Vietnam, 2022). This requirement places new demands on the exercise of the state’s power to prosecute in relation to the effective implementation of the presumption of innocence. In particular, in the era of modern justice characterized by electronic justice systems, digital data, and information transparency, new challenges arise for the exercise of prosecutorial power and the supervision of judicial activities by the People’s Procuracy. Therefore, research on the responsibility of the People’s Procuracy in ensuring the presumption of innocence has not only theoretical and legal significance but also profound practical value for the development of a fair, integrity-based, and modern justice system in Vietnam today.

## **2. THEORETICAL AND LEGAL FOUNDATIONS OF THE PRINCIPLE OF PRESUMPTION OF INNOCENCE**

## 2.1. Theoretical foundations

The principle of presumption of innocence is a fundamental principle of modern criminal procedure law, originating from the philosophical idea of protecting human dignity in classical legal philosophy and from the need to control state power in judicial activities. It has been further strengthened through the development of international criminal justice standards.

The emergence of the presumption of innocence in the history of criminal procedure is the result of a long process of legal and intellectual development. During the feudal period, judicial systems were strongly influenced by the ideology of harsh legalism, and individuals accused of crimes were often presumed guilty unless they could prove their innocence. However, the earliest conceptual seeds of the presumption of innocence can be traced back to Roman law. Roman legal thought recognized the maxim “*ei incumbit probatio qui dicit, non qui negat*”, meaning that the burden of proof lies on the person who asserts a claim, not on the person who denies it.

During the European Enlightenment, strong criticism emerged against the torture-based and authoritarian judicial practices of feudal regimes. Enlightenment thinkers such as Cesare Beccaria, in his work *Dei delitti e delle pene* (1764), argued that no person could be regarded as guilty before being convicted by a lawful judgment. Similarly, Voltaire and Montesquieu criticized arbitrary prosecutorial mechanisms and emphasized the principle that doubt must be interpreted in favor of the accused. These intellectual developments constituted important theoretical foundations for the modern legal principle of presumption of innocence.

During the nineteenth and twentieth centuries, the presumption of innocence gradually became incorporated into modern legal systems. For example, the French Code of Criminal Procedure of 1808 was among the earliest legislative documents to reflect this principle within investigative, prosecutorial, and adjudicative processes. In the Anglo-American legal tradition, the presumption of innocence evolved together with related safeguards such as the right to remain silent, the right to legal counsel, and the privilege against self-incrimination. In the Soviet Union, despite the influence of socialist ideology, the 1958 Soviet Criminal Procedure Code also recognized the presumption of innocence in order to safeguard citizens' rights and prevent wrongful convictions.

At the international level, the Universal Declaration of Human Rights (Article 11, 1948) and the International Covenant on Civil and Political Rights (Article 14(2), 1966) formally recognized the principle that every person accused of a criminal offense has the right to be presumed innocent until proven guilty according to law. These instruments established a universal legal standard applicable to national legal systems.

According to the scholar R. A. Duff (2013), the presumption of innocence represents a symbol of a fair justice system in which human rights serve as both the starting point and the limit of state power. From the

perspective of the sociology of law, however, the presumption of innocence is not merely a technical rule of criminal procedure but also reflects society's trust in justice: no individual should be treated as guilty unless lawful evidence proves otherwise. The United Nations Office on Drugs and Crime also emphasizes that the presumption of innocence constitutes "the cornerstone of a fair criminal justice system aimed at preventing abuse of power and ensuring fairness between prosecution and defense" (United Nations Office on Drugs and Crime, 2021). Vietnamese scholar Trinh Tien Viet similarly argues that the presumption of innocence is a fundamental principle for safeguarding justice and requires a transformation in prosecutorial thinking among criminal justice authorities, particularly the People's Procuracy, which plays a central role in protecting human rights and limiting the criminal power of the state (Trinh, 2022).

From a theoretical perspective, the principle of presumption of innocence embodies three fundamental values. First, the value of human rights: the principle reflects respect for the right of individuals to be considered innocent until legally convicted. Second, the value of the rule of law: the principle limits the state's prosecutorial power by requiring that the proof of guilt must follow lawful procedures and rely on lawful evidence. Third, the value of fair justice: the principle ensures procedural safeguards that balance the rights and obligations of the parties involved, particularly between the prosecution and the defense. These safeguards include judicial impartiality, access to evidence, the right to legal counsel, and the right to a fair interpretation of the law. Such guarantees are rooted in international human rights law and are incorporated into Article 26 of the Criminal Procedure Code of 2015, which provides that investigators, prosecutors, defense counsel, and other participants in criminal proceedings have equal rights to present and evaluate evidence and to make requests aimed at clarifying the objective truth of the case.

## ***2.2. International and domestic Legal foundations***

### ***a) International law***

The principle of presumption of innocence is recognized in numerous international human rights treaties, thereby establishing a common normative framework for national legal systems. Article 11(1) of the Universal Declaration of Human Rights (1948) states that everyone charged with a penal offense has the right to be presumed innocent until proven guilty according to law in a public trial where all guarantees necessary for defense are ensured. Similarly, Article 14(2) of the International Covenant on Civil and Political Rights (1966) affirms that everyone charged with a

criminal offense has the right to be presumed innocent until proven guilty according to law. Vietnam acceded to this Covenant in 1982, and therefore the principle has binding legal value within the national legal system. In addition, international professional standards governing prosecutorial conduct also emphasize respect for the presumption of innocence. The standards adopted by the International Association of Prosecutors provide that prosecutors must respect the presumption of innocence and initiate prosecution only when sufficient reliable evidence exists (International Association of Prosecutors, 1999).

### *b) Vietnamese law*

In Vietnam, prior to the August Revolution of 1945, the colonial judicial system influenced by French law referred to the presumption of innocence but did not implement it substantively. After 1945, the spirit of the principle appeared indirectly in legal documents such as Decree No. 33/SL of September 13, 1945, which reflected the idea that no one should be considered guilty without a lawful judgment. The presumption of innocence was clearly affirmed in Vietnamese constitutional law beginning with the 1992 Constitution. Article 72 of the 1992 Constitution provided that no person may be considered guilty or subject to punishment without a legally effective court judgment. This principle was subsequently codified in Article 10 of the Criminal Procedure Code of 1998 and Article 9 of the Criminal Procedure Code of 2003.

The principle was further strengthened in Article 31 of the 2013 Constitution and concretized in Article 13 of the Criminal Procedure Code of 2015, which stipulates that a person accused of a crime shall be presumed innocent until proven guilty according to the procedures prescribed by law and until a legally effective judgment of conviction has been issued by a court. In addition, the principle is reflected in numerous other provisions of the Criminal Procedure Code of 2015 governing evidence, proof, and procedural guarantees.

Thus, the theoretical and legal foundations of the presumption of innocence have been firmly established at both international and national levels. It is a principle grounded in human rights, the rule of law, and fair justice, and it serves as a mandatory normative standard guiding all activities of procedural authorities in the resolution of criminal cases. Proper understanding and application of this principle constitute an important prerequisite for institutional reform of procedural authorities in the era of modern justice, aiming to protect justice and human rights within criminal proceedings.

### **3. RESPONSIBILITIES OF THE PEOPLE'S PROCURACY IN ENSURING THE IMPLEMENTATION OF THE PRINCIPLE OF PRESUMPTION OF INNOCENCE**

#### ***3.1. Legal–political foundations***

The People's Procuracy constitutes an important link and an independent system of state agencies within the structure of the state apparatus, performing the functions of exercising prosecutorial power and supervising judicial activities (National Assembly of the Socialist Republic of Vietnam, 2013). In criminal proceedings, the People's Procuracy exercises prosecutorial power and supervises compliance with criminal procedural law, makes decisions on prosecution, and detects violations of the law in order to ensure that all criminal acts, offenders, and offending legal entities are detected and handled promptly and strictly; that the initiation, investigation, prosecution, adjudication, and execution of judgments are conducted in accordance with the law; that no crimes or offenders are overlooked; and that innocent persons are not wrongfully convicted (National Assembly of the Socialist Republic of Vietnam, 2015). Thus, the People's Procuracy plays a decisive role in the exercise of the state's prosecutorial power toward offenders, while also occupying a central position in supervising compliance with the law by agencies and participants involved in criminal proceedings.

In exercising prosecutorial power and supervising judicial activities, the People's Procuracy is not only responsible for proving criminal offenses but also for eliminating the possibility of wrongful accusations and convictions. It must ensure that evidence is collected lawfully, objectively, and comprehensively, including both incriminating and exculpatory evidence for the benefit of suspects, defendants, and accused persons. Accordingly, the People's Procuracy has the responsibility to fully apply the principle of presumption of innocence and other provisions of the Criminal Procedure Code of 2015 when exercising the state's prosecutorial power against offenders. This includes ensuring that innocent persons are not wrongfully convicted, that offenders are not allowed to escape criminal liability, that all procedural activities, initiation, investigation, prosecution, trial, and execution of judgments, are conducted in accordance with the presumption of innocence and other legal provisions, that the rights of the accused are respected and protected during the handling of criminal cases, and that any violation of the presumption of innocence or other procedural rules is promptly detected and strictly handled.

In the current phase of development, Resolution No. 27-NQ/TW identifies the central objective of building a professional, modern, fair, strict, and integrity-based judiciary that serves the nation and the people. In this context, the People's Procuracy is required to reform its institutional framework to effectively perform its functions of prosecutorial power and

supervision of judicial activities, thereby contributing to the protection of justice, human rights, civil rights, the socialist regime, and the legitimate rights and interests of organizations and individuals (Central Committee of the Communist Party of Vietnam, 2022). In the era of modern justice, the objective of prosecutorial activities is shifting from a purely accusatory model toward a model that protects justice. Therefore, the role of the People's Procuracy extends beyond merely proving criminal conduct to ensuring that the presumption of innocence is respected throughout the entire criminal process. A report presented by the Procurator General before the National Assembly emphasized that justice must not only be reflected in court judgments but must be guaranteed throughout the entire judicial process. Prosecutorial supervision must contribute to the realization of justice rather than merely ensuring procedural compliance (Vietnam Government Portal, 2025). This perspective provides an important legal and political foundation for defining the responsibility of the People's Procuracy in ensuring the presumption of innocence.

International standards governing prosecutorial conduct also reinforce this responsibility. The United Nations Guidelines on the Role of Prosecutors (1990) emphasize the duty of prosecutors to ensure fair trial rights and respect the presumption of innocence (United Nations, 1990). Similarly, the professional standards adopted by the International Association of Prosecutors stress that prosecutors must act objectively, refrain from prosecution when insufficient grounds exist, and protect the fairness of judicial proceedings (International Association of Prosecutors, 1999). According to UNODC (United Nations Office on Drugs and Crime), a modern prosecutorial institution should serve as a guardian of justice rather than an institution seeking convictions at any cost (United Nations Office on Drugs and Crime, 2021). These international standards highlight the responsibility of prosecutorial authorities to ensure procedural fairness consistent with the presumption of innocence throughout all stages of criminal proceedings.

### ***3.2. Content of the responsibilities of the People's Procuracy in ensuring the presumption of innocence***

#### ***a) Responsibility for ensuring evidentiary thresholds in prosecution***

With regard to evidence and proof in criminal cases, the People's Procuracy must ensure that both incriminating and exculpatory evidence are lawful and comprehensive, and that the evidentiary threshold required for initiating or prosecuting a criminal case is properly evaluated, thereby preventing premature prosecutorial assumptions.

During the stage of initiating and investigating criminal cases, the

People's Procuracy must exercise its powers under the Criminal Procedure Code to ensure that evidence collection and preservation comply with legal procedures and that the evidence used as grounds for initiating criminal cases or prosecuting defendants is sufficient and capable of eliminating reasonable doubts regarding the innocence of suspects or accused persons. It must also ensure that investigative activities are conducted lawfully and that no individual is subjected to torture, cruel treatment, or degrading punishment during the investigative process. With respect to exculpatory evidence, the People's Procuracy must ensure balanced investigation by directly conducting investigative activities when necessary or by issuing investigative requests that seek both incriminating and exculpatory evidence. If sufficient grounds for prosecution are lacking, the People's Procuracy must request or directly decide to annul decisions initiating criminal cases or prosecuting defendants.

During the prosecution stage, the People's Procuracy may issue an indictment only when sufficient legal grounds and convincing evidence exist, and when no reasonable doubt remains. If evidentiary gaps remain, the People's Procuracy may conduct additional investigative activities, return the case file to investigative authorities for supplementary investigation, or suspend the case when appropriate under the Criminal Procedure Code of 2015. In proving criminal liability or grounds for excluding criminal responsibility, prosecutorial authorities must not infringe upon the rights of the accused, including the right to remain silent, the right to defense, and the privilege against self-incrimination.

At the trial stage, the People's Procuracy must ensure that convictions are not based on assumptions or speculation. Court judgments must be grounded in objective and comprehensive evaluation of evidence and the results of adversarial proceedings at trial. Prosecutors must present arguments based on lawful evidence and must refrain from reversing the burden of proof by requiring defendants to prove their innocence. Prosecutorial arguments must rely on lawful evidence, and prosecutors must refuse to rely on statements obtained through coercion or unlawful means. If violations in evidence collection are discovered, prosecutors must request their exclusion to preserve procedural integrity. Before the trial begins, prosecutors may withdraw the indictment and propose the suspension of the case if the evidence is insufficient. During the trial, prosecutors must act objectively and respect the principle of adversarial proceedings. If the evidence presented at trial fails to establish guilt, prosecutors must withdraw the indictment and request that the court declare the defendant not guilty. Such actions represent direct manifestations of the presumption of innocence and prosecutorial objectivity. After the first-instance trial, the People's Procuracy also has the responsibility to file appeals or protests against court judgments when wrongful convictions occur, when crimes or offenders are overlooked, or when serious procedural violations are identified.

### ***b) Responsibility for ensuring lawful application of preventive measures and procedural coercive measures***

The presumption of innocence opposes the idea of punishment before conviction. Therefore, when deciding upon or approving preventive measures such as arrest, detention, or other coercive measures, the People's Procuracy must carefully evaluate their legality, necessity, proportionality, and the requirement that they represent the least restrictive alternative. The People's Procuracy must ensure that no person is arrested, detained, or otherwise restricted in their rights unlawfully (United Nations Office on Drugs and Crime, 2021) . At the same time, it must ensure that detention conditions and procedural safeguards are consistent with legal requirements and that the human rights and lawful interests of detained individuals are respected. Prosecutorial authorities must regularly review the legality and necessity of detention measures and promptly revoke or modify them if they are unlawful or no longer necessary. The presumption of innocence also requires caution in public communication regarding criminal cases. Prosecutorial authorities must avoid statements that imply guilt before a court judgment has been rendered.

### ***3.3. Responsibilities of the People's procuracy in the new era***

In the era of digital transformation and international integration, the presumption of innocence must be implemented on the basis of technological development, transparency, and accountability. The responsibilities of the People's Procuracy therefore expand to address several emerging challenges. (Supreme People's Procuracy of Vietnam, 2024)

First, digital transformation in the justice system requires prosecutors to ensure the integrity of digital evidence, including the management of electronic evidence chains, digital metadata, cloud-based data, and other forms of technological evidence. Prosecutors must ensure that digital evidence meets standards of authenticity, integrity, and legality, and must exclude or independently verify evidence that fails to meet such standards. Second, prosecutors must maintain responsible communication practices in the digital media environment. Information released to the public should describe procedural developments without implying guilt before trial, and safeguards must be adopted to prevent the social stigmatization of suspects or defendants. Third, judicial reform under Resolution No. 27-NQ/TW requires the People's Procuracy to standardize prosecutorial decision-making processes based on evidentiary assessment and human rights considerations. Institutional reforms should include professional training in prosecutorial ethics and the application of international standards such as the IAP Standards, reinforcing the concept that prosecutors serve as guardians of justice rather than agents seeking conviction rates at all costs.

## 4. CONCLUSION

The presumption of innocence represents a symbol of democratic justice and serves as a measure of the integrity of the justice system. In the era of modern justice, the responsibility of the People's Procuracy extends beyond ensuring lawful prosecution to serving as a guardian of justice who ensures that human rights and civil rights are respected throughout every stage of criminal proceedings. To effectively realize this principle, prosecutorial responsibility must be institutionalized through clear procedural standards: prosecutions should only proceed when the evidentiary threshold beyond reasonable doubt is met; both incriminating and exculpatory evidence must be thoroughly examined; preventive measures must be strictly supervised; adversarial proceedings must rely on lawful evidence; unlawfully obtained evidence must be excluded; public communication must be conducted cautiously; and prosecutors must be prepared to request acquittal when guilt cannot be proven. Every prosecutorial decision and supervisory action must ultimately aim at protecting justice, preventing wrongful convictions, avoiding impunity for offenders, and strengthening public trust in a fair, integrity-based, and modern justice system. Ensuring the presumption of innocence is therefore not merely a legal requirement but also a political commitment of the People's Procuracy within the broader process of building the socialist rule-of-law state in Vietnam, where justice is realized not only through judicial decisions but throughout the entire criminal process.

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