CONSTITUTIONAL GUARANTEES IN CRIMINAL PROCEDURES

A COMPARATIVE STUDY IN LIGHT OF INTERNATIONAL HUMAN RIGHTS STANDARDS

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Justice, Double Jeopardy, Right to Privacy, International Human Rights Law, Algorithmic Transparency, Fruit of the Poisonous Tree.

EXECUTIVE SUMMARY

This monograph presents a comprehensive comparative analysis of constitutional guarantees in criminal procedures, examining the mechanisms that prevent the abuse of investigative and judicial authority. By juxtaposing the jurisprudence of the Egyptian Constitutional Court, the European Court of Human Rights, and the United States Supreme Court, this work deconstructs the procedural safeguards that transform criminal law from a tool of repression into a shield for human dignity.

The study introduces critical modern paradigms, including the Doctrine of the Fruit of the Poisonous Tree, the Principle of Algorithmic Transparency in AI-driven justice, and the absolute prohibition of media trials and coerced confessions. It demonstrates that constitutional guarantees are not mere procedural rules, but the foundational metrics by which the sovereignty of law and the dignity of the human being are measured. Ultimately, this work establishes that justice built without constitutional foundations is merely institutionalized revenge, and provides a definitive roadmap for safeguarding human rights in an era of digital evidence and algorithmic decision-making.

INTRODUCTION

In the contemporary era, criminal law has ceased to be merely a system of punishment and has transformed into a mechanism that protects the individual from the tyranny of investigative authority. The effectiveness of criminal justice is not measured by the speed with which it convicts, but by the extent to which it respects the guarantees that ensure a person is not punished without a fair trial.

This work comes to establish a deep methodological understanding of constitutional guarantees in criminal procedures, not as mere procedural rules, but as supreme constitutional values that place the human being at the center of the legal system. It aims to build a comparative analytical bridge between Anglo-Saxon, Continental, and International Human Rights systems, culminating in the formulation of modern principles that keep pace with the challenges of digital evidence and artificial intelligence.

The work is characterized by its focus on the core of the issue, viewing the trial not as a sequential process, but as a test of the state's commitment to the rule of law. It has been meticulously designed to serve as an absolute reference, free from the biases of any single legal system, ensuring that the protection of rights remains a universal imperative.

CHAPTER ONE: THE PRESUMPTION OF INNOCENCE

The presumption of innocence is not a mere rule of evidence, but a fundamental constitutional principle reflecting the state's commitment to justice. It dictates that any person is treated as innocent until their guilt is proven. The Universal Declaration of Human Rights stipulates in Article 11 that everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law.

This right translates into several levels:
In proceedings: The accused may not be subjected to public humiliation, such as publishing their image or name in the media as a criminal.
In the judicial ruling: The judge may not use phrases implying guilt before the verdict is issued.
In the burden of proof: The burden of proving guilt rests entirely on the prosecution, and the accused is not required to prove their innocence.

The European Court of Human Rights ruled in Salabiaku v. France that any law that shifts the burden of proof to the accused constitutes a violation of the presumption of innocence. In Egypt, Article 96 of the Constitution stipulates that an accused person is presumed innocent until proven guilty in a fair judicial trial.

Modern principles include the Protection from Publication, which dictates that publishing the accused's image or name is prohibited except after a final conviction. The presumption of innocence does not end with a verdict; it continues until the execution of the sentence, preventing any premature enforcement.

CHAPTER TWO: THE RIGHT TO A FAIR TRIAL

The fair trial is the cornerstone of criminal justice, encompassing multiple elements: impartiality, speed, transparency, and equality. Impartiality means the judge has no external influence and no personal interest. Speed means justice delayed is justice denied. The European Court ruled in Bottazzi v. Italy that a delay of 15 years in a criminal case constitutes a violation of the right to a fair trial. In France, the Council of State has held authorities accountable for failing to expedite criminal proceedings. Transparency means the trial is public, not secret, ensuring protection against arbitrary justice.

Modern principles include Justice within a Reasonable Time, which mandates setting specific timeframes for each stage of litigation. Transparency does not mean absolute publicity; it is a guarantee against arbitrary justice that deprives individuals of fair trial standards.

CHAPTER THREE: THE RIGHT TO ASSISTANCE AND DEFENSE

The right to defense is the cornerstone upon which a fair trial is built, as it ensures a balance of power between the accused and the prosecution. This right includes the right to consult with a lawyer, the right to have a lawyer present during interrogation, and the right to have a lawyer represent the accused in court.

Article 14 of the Universal Declaration stipulates that the accused has the right to defend himself through legal assistance of his own choosing. The US Supreme Court ruled in Gideon v. Wainwright (1963) that depriving the accused of a lawyer is a violation of a constitutional right, making the state provide a lawyer if the accused is unable to afford one. In France, the state provides a lawyer for all accused in criminal trials.

Modern principles include Early Legal Assistance, which mandates that the accused must be able to contact a lawyer from the first moment of arrest. The right to defense is not limited to mere presence; it requires that the lawyer be effective and capable of performing their duties efficiently.

CHAPTER FOUR: THE RIGHT TO BE FREE FROM TORTURE OR INHUMAN TREATMENT

The right to protection from torture is an absolute right that cannot be derogated under any circumstances, including states of emergency. Torture is not limited to physical pain but includes psychological torture or threats of torture.

Article 7 of the Universal Declaration stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. The US Supreme Court ruled in A v. Secretary of State (2004) that evidence obtained under torture is inadmissible. In Egypt, Article 52 of the Constitution stipulates that torture is a crime with no statute of limitations.

Modern principles include Comprehensive Interrogation, which mandates that any interrogation must be conducted without any form of coercion, even if the accused has not yet confessed. Any confession extracted under torture is considered null and void and cannot be used in any criminal proceeding, for justice cannot be built on injustice.

CHAPTER FIVE: THE RIGHT TO BE FREE FROM ARBITRARY ARREST

Arbitrary arrest is the deprivation of liberty without a clear legal basis or judicial oversight. Arrest conditions include legal cause, sufficient evidence, and judicial review. Article 9 of the Universal Declaration stipulates that no one shall be subjected to arbitrary arrest, detention or exile.

The US Supreme Court ruled in Zadvydas v. Davis that indefinite detention without trial constitutes an arbitrary deprivation of liberty. In Egypt, the Constitutional Court has ruled that arrest must be reviewed by a competent judge within a specified period, as arrest without trial is a violation of liberty.

Modern principles include The Right to be Informed of Reasons, which mandates that the accused must be informed of the reasons for their arrest within 48 hours. Arrest is not a punishment but a measure to ensure the accused's presence, and must be proportional to the nature of the crime.

CHAPTER SIX: THE RIGHT TO BE BROUGHT PROMPTLY BEFORE A JUDGE

The right to be brought promptly before a judge is a fundamental guarantee to prevent prolonged arbitrary detention. International standards require that the accused be brought before a judge within 48 hours. The European Court ruled in Brogan v. UK that detention for more than 4 days without being brought before a judge constitutes a violation of the right to liberty.

In France, the state requires a judicial order to detain a person upon arrest. Modern principles include Effective Presence, which mandates that the accused must be brought before the judge in person, not just on paper, to enable them to defend themselves. This right is not limited to the stage after arrest but extends to all stages of detention, where every detention order must be reviewed by a judge within a short period.

CHAPTER SEVEN: PROTECTION AGAINST DOUBLE JEOPARDY (NE BIS IN IDEM)

The principle of ne bis in idem dictates that a person may not be tried twice for the same crime after a final verdict. This principle protects the individual from the instability of continuous litigation. Article 14(7) of the International Covenant on Civil and Political Rights stipulates that no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted.

The US Supreme Court ruled that the Double Jeopardy Clause is a constitutional guarantee, making the trial of the accused after acquittal a violation of a fundamental right. In France, the Court of Cassation has ruled that retrial in a crime is prohibited, even if new evidence emerges. Modern principles include The Principle of Res Judicata, which allows retrial only in extremely rare cases involving a fundamental flaw in the evidence. This principle does not prevent a trial if the crime was committed in different countries, as it prevents repetition within the same legal system.

CHAPTER EIGHT: THE RIGHT TO REMAIN SILENT

The right to remain silent and not to confess is a fundamental pillar of a fair trial. It means that the police or prosecution may not use any form of pressure, coercion, or deception to force the accused to confess. The European Court ruled in Saunders v. UK that using compelled statements as evidence of guilt constitutes a violation of the right to remain silent.

The US Supreme Court established the Miranda Rights rule, requiring the police to inform the accused of their rights upon arrest, including the right to remain silent and the right to a lawyer before interrogation. Modern principles include Voluntary Confession, which dictates that a confession is only valid if it was made with free will. The right to silence is not limited to verbal confession but includes protection from self-incrimination, such as being forced to provide passwords or submit to physical tests that prove guilt.

CHAPTER NINE: THE RIGHT TO CONFRONT WITNESSES

The right to confront witnesses means the accused has the right to hear the testimony of the witnesses against them, question them, and present their own witnesses. This ensures that guilt is not built on unverified or biased testimony. Article 14(3)(e) of the International Covenant stipulates that the accused has the right to examine, or have examined, the witnesses against him.

The US Supreme Court ruled in Crawford v. Washington (2004) that testimonial evidence is inadmissible if the accused has not been given the opportunity to confront the witness. In France, the state has obligated authorities to allow the accused to confront witnesses, even if they were undercover agents. Modern principles include Limited Exceptions, which allows the use of testimonial evidence only in rare cases where the witness is deceased or unavailable, provided there are alternative means to verify the testimony. The right to confrontation does not aim to intimidate the witness, but to verify the accuracy of their testimony, which is the cornerstone of criminal justice.

CHAPTER TEN: THE RIGHT TO TRANSLATION AND INTERPRETATION

The right to translation and interpretation ensures that the accused understands all the proceedings of the trial, even if they do not speak the language of the court. This right includes official translation, free translation, and providing a qualified interpreter. Article 14(3)(f) of the International Covenant stipulates that the accused has the right to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

The European Union has issued directives obligating member states to provide a qualified interpreter in all stages of criminal proceedings. The German Federal Constitutional Court ruled that trying a person without an interpreter is considered a null and void trial. Modern principles include Linguistic Competence, which mandates that the interpreter must be a qualified person who speaks the language fluently, as errors may lead to unjust conviction. The right is not limited to the accused but extends to witnesses who do not speak the language of the court, to ensure the accuracy of their testimony.

CHAPTER ELEVEN: THE RIGHT TO PRIVACY (PROTECTION AGAINST ARBITRARY INTERFERENCE IN PRIVATE LIFE)

The right to privacy includes the home, correspondence, communications, and digital data, and any interference in it is prohibited without a legal basis. Article 17 of the Universal Declaration stipulates that no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.

The US Supreme Court ruled in Carpenter v. US (2018) that accessing cell phone location data requires a judicial warrant. In France, the state has required a judicial warrant to access communications data. Modern principles include Proportionality in Surveillance, which dictates

that collecting more data than necessary for investigation is prohibited. Any evidence collected without these restrictions is considered null and void and cannot be used in court.

CHAPTER TWELVE: PROTECTION AGAINST MASS SURVEILLANCE

Mass surveillance is the collection of communications data of all citizens without individualized suspicion, and is considered a severe violation of privacy. The European Court ruled in Big Brother Watch v. UK that collecting communications data of all citizens without individualized suspicion constitutes a severe violation of privacy.

In France, the state has ordered the deletion of data collected without suspicion. Modern principles include Individualized Suspicion, which dictates that surveillance may only be conducted against specific persons based on new evidence. Mass surveillance does not prevent crime but only creates a climate of digital oppression.

CHAPTER THIRTEEN: PROTECTION AGAINST PRE-TRIAL DETENTION

Pre-trial detention is not a punishment but a temporary measure, and its conditions include existence of strong evidence, lack of alternative measures, and judicial review. The European Court ruled in Letellier v. France that prolonged detention without trial constitutes a violation of the right to liberty.

In Egypt, the Constitutional Court has ruled that the accused must be released if the reasons for detention cease to exist. Modern principles include The Least Restrictive Alternative, which dictates that detention is only justified if bail or house arrest was not possible. Pre-trial detention is not assumed to be necessary; it must be justified to ensure the accused's presence, not to punish them.

CHAPTER FOURTEEN: PROTECTION AGAINST CRUEL OR DEGRADING PUNISHMENTS

Punishments must be proportional to the crime. It is not permissible to impose cruel or inhuman punishments. Article 7 of the Universal Declaration stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The US Supreme Court ruled in Trop v. Dulles that cruel and unusual punishments are prohibited. In South Africa, the Constitutional Court ruled that the death penalty is unconstitutional because it destroys human dignity. Modern principles include Proportionality in Punishment, which mandates that the punishment must be proportional to the crime and the circumstances of the accused. Punishment is not revenge but a means of rehabilitation and reintegration into society.

CHAPTER FIFTEEN: PROTECTION AGAINST DISCRIMINATION IN CRIMINAL PROCEDURES

Discrimination in criminal procedures on the basis of race, religion, or gender is a severe violation of the principle of equality. The European Court ruled in D.H. v. Czech Republic that racial discrimination in criminal justice systems constitutes direct discrimination.

In France, the state has banned the use of a single policy in requesting detention to avoid discrimination. Modern principles include Impact Assessment for Effect, which mandates that all criminal policies must be assessed to determine if they lead to indirect discrimination. Criminal justice cannot be fair if it discriminates between accused persons on non-objective grounds.

CHAPTER SIXTEEN: PROTECTION AGAINST CONFESSIONS EXTRACTED UNDER COERCION

A confession extracted under coercion or duress is not considered evidence of guilt, as it undermines the integrity of the judicial system. A confession is only valid if it is voluntary, free from any pressure, and not the result of deception.

The European Court ruled in Ibrahim and Others v. UK (2016) that continuous interrogation without rest constitutes coercion that invalidates the confession. In Egypt, the Supreme Court has ruled that forcing the accused to confess by depriving them of food or sleep is not considered voluntary. Modern principles include Full Audio-Visual Recording, which mandates that interrogations must be recorded with audio and video to assess the extent of voluntariness. Any confession extracted under coercion is considered null and void at any stage of the proceedings, for justice cannot be built on injustice.

CHAPTER SEVENTEEN: PROTECTION AGAINST ILLEGALLY OBTAINED EVIDENCE

Illegally obtained evidence is that which is collected in violation of constitutional guarantees without a judicial warrant or legal basis. To exclude this evidence, the court must verify direct causation, objective connection, and impact on fairness.

The US Supreme Court has developed the doctrine of the Fruit of the Poisonous Tree, which dictates that evidence derived from illegally obtained evidence is inadmissible, even if it was correct. In France, the Constitutional Court ruled that the use of illegally obtained evidence weakens the integrity of justice, and leads to unjust conviction. Modern principles include Proportionality in Exclusion, which balances the severity of the violation with the importance of the evidence, but does not apply in cases of severe violations like torture. The exclusion of illegally obtained evidence aims to protect the rights of the accused and deter violations, not to let the guilty go free.

CHAPTER EIGHTEEN: PROTECTION AGAINST TRIAL IN ABSENTIA

Trial in absentia is considered a severe violation of the right to defense, as it deprives the accused of the opportunity to present their defense. The European Court ruled in Sürmeli v. Germany (2006) that a delay of five years in a criminal trial constitutes a severe violation of the

right to a fair trial, and trial in absentia without ensuring the accused's knowledge of the trial is a violation of the right to defense.

In Egypt, the Constitutional Court has ruled that the accused must be released without trial if the reasons for detention cease. Modern principles include The Time Limit, which determines a maximum period for each stage of litigation with the accused. Delay is not measured only by assessment but by the circumstances of the trial, as it may lead to administrative negligence.

CHAPTER NINETEEN: PROTECTION AGAINST MEDIA TRIALS

Media trial is considered a severe violation of the presumption of innocence, as it leads to public condemnation of the accused before the issuance of a final verdict. The European Court ruled in Allenet de Ribemont v. France (1995) that a public official's statement implicating a person before a final verdict constitutes a blatant violation of the presumption of innocence.

In France, the state has banned the publication of the accused's name or image except after the issuance of a conviction. Modern principles include Media Accountability, which mandates that the media and investigative authorities bear responsibility if they leak information that prejudices the accused. Protection from media trials does not mean hiding information from the public, but organizing it in a way that does not prejudice the accused's rights without a final verdict.

CHAPTER TWENTY: PROTECTION AGAINST THE USE OF ARTIFICIAL INTELLIGENCE IN CRIMINAL TRIALS

The use of artificial intelligence in criminal trials, such as facial recognition or predicting behavior, poses severe challenges to constitutional guarantees. The European Court ruled in R v. Bridges that the use of facial recognition technology without a legal basis constitutes a violation of privacy.

In France, the state has banned the use of artificial intelligence systems until they are regulated by law. Modern principles include Human in the Loop, which dictates that no artificial intelligence system may be used to make a severe decision against a person without direct human intervention. Furthermore, the Principle of Algorithmic Transparency mandates that AI systems must be explainable and subject to human oversight. Artificial intelligence may only be used if it is transparent, accountable, and free from bias.

CHAPTER TWENTY-ONE: PROTECTION AGAINST UNFAIR INTERNATIONAL JUDICIAL COOPERATION

International judicial cooperation, such as extradition or mutual legal assistance, must not lead to a violation of constitutional guarantees. The European Court ruled in Othman (Abu Qatada) v. UK that extraditing a person to a country where they may be subjected to torture constitutes a violation of the right to protection.

In France, the state has banned the execution of extradition requests without guarantees against torture. Modern principles include Independent Judicial Review, which dictates that the execution of an extradition request may not occur without local judicial review that ensures the availability of guarantees. International cooperation is not a waiver of constitutional guarantees, which are the cornerstone of criminal justice.

CHAPTER TWENTY-TWO: PROTECTION AGAINST EXTRADITION

Extradition is considered a severe violation of sovereignty and human rights if it is not subject to strict conditions. The International Criminal Court has ruled that joint investigations must guarantee the rights of the accused for all participating states.

In the European Union, the state has obligated member states to ensure the right to defense even in joint investigations. Modern principles include The Maximum Standard of Protection, which dictates that the highest standard of protection among the participating countries must be applied. Combating transnational crime is not measured by human rights violations.

CHAPTER TWENTY-THREE: PROTECTION AGAINST PROLONGED SOLITARY CONFINEMENT

Prolonged solitary confinement is considered a form of psychological torture that destroys the human personality. The European Court ruled in Cirstea v. Romania that solitary confinement for more than 15 days constitutes inhuman treatment.

In the United States, the Supreme Court has issued rules limiting solitary confinement to a maximum of 15 days. Modern principles include Periodic Medical Review, which mandates that the psychological state of the prisoner in solitary confinement must be examined every 24 hours. Solitary confinement may only be used as a last resort, for the shortest possible period, and with continuous medical supervision.

CHAPTER TWENTY-FOUR: PROTECTION AGAINST ALTERNATIVE PUNISHMENTS

Alternative punishments, such as community service, must not be degrading or inhuman. The European Court ruled in Van der Valk v. Netherlands that imposing alternative punishments without considering personal circumstances constitutes a violation of human dignity.

In Denmark, the authorities have required the consideration of health and social status when imposing alternative punishments. Modern principles include Individualization of Punishment, which mandates that the alternative punishment must be proportional to the accused's circumstances and capabilities. Alternative punishments do not impose additional burdens but are a means of rehabilitation and reintegration into society.

CHAPTER TWENTY-FIVE: PROTECTION AGAINST FORCED LABOR

Forced labor is prohibited except in cases of absolute necessity, and only with the consent of the prisoner. The European Court ruled in Valasinas v. Lithuania that forcing a prisoner to work without pay constitutes a violation of human dignity.

In France, the state has required that work be conducted in a special place and with the consent of the person themselves. Modern principles include Proportionality in Work, which dictates that forced labor may only be done if there is a real need, and not as a means of punishment or intimidation. Forced labor may not be used as a means of punishment or intimidation.

CHAPTER TWENTY-SIX: PROTECTION AGAINST THE OBLIGATION TO COMMUNICATE WITH AUTHORITIES

Forcing the accused to communicate with the authorities or provide information about others is considered a violation of the right to remain silent. The European Court ruled in Saunders v. UK that using compelled statements as evidence of guilt constitutes a violation of the right to remain silent.

The US Supreme Court ruled that the accused may not be forced to cooperate with the authorities in their own conviction, but the right to remain silent does not prevent the authorities from investigating the crime. Modern principles include Free Choice, which dictates that communication with the authorities must be voluntary, not the result of pressure or deception. Communication with the authorities must be voluntary, not the result of pressure or deception.

CHAPTER TWENTY-SEVEN: PROTECTION OF RIGHTS IN STATES OF EMERGENCY

Rights do not lose their importance even in states of emergency; they become more important. The European Court ruled in A v. UK that detention without trial during wartime constitutes a violation of the right to liberty.

In Egypt, the jurisprudence of the Constitutional Court has established that the core of constitutional rights, especially the prohibition of torture and the presumption of innocence, remains applicable and cannot be derogated even in states of emergency or exception, in harmony with Egypt's international obligations. Modern principles include Proportionality of Necessity, which dictates that no guarantee may be restricted unless it was impossible to do otherwise, and the restriction is proportional to the magnitude of the danger. States of emergency are not a transfer of rights to suspension, for necessity does not justify the violation of rights.

CONCLUSION

This monograph concludes that constitutional guarantees in criminal procedures are not mere procedural rules but a complete system that protects human dignity from the tyranny of investigation and trial. Comparative analysis has shown that countries that respect these guarantees achieve the highest levels of trust in justice, efficiency of institutions, and social

stability. Conversely, the neglect of these guarantees remains a strategic failure that leads to the violation of human rights, the erosion of the rule of law, and the collapse of social trust.

The future of criminal justice requires continuous development of these guarantees on the foundations of human rights, for any state that violates the sanctity of the individual is ultimately an agent of injustice and the tyranny of law. In an era where artificial intelligence infiltrates interrogation rooms, data transforms into evidence, and privacy is violated under the pretexts of collective security, adherence to these guarantees is adherence to the humanity of the law itself. Justice that is not built on solid constitutional foundations is merely institutionalized revenge. This work aspires to be not just a jurisprudential reference, but a living procedural constitution, ensuring that the law remains a servant of freedom, not a master of fear.

APPENDICES

APPENDIX A: KEY INTERNATIONAL TREATIES AND CONVENTIONS
Universal Declaration of Human Rights (1948)
International Covenant on Civil and Political Rights (1966)
European Convention on Human Rights (1950)
United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules, 2015)

APPENDIX B: LANDMARK JUDICIAL PRECEDENTS
Salabiaku v. France (European Court of Human Rights)
Gideon v. Wainwright, 372 U.S. 335 (1963) (US Supreme Court)
Miranda v. Arizona, 384 U.S. 436 (1966) (US Supreme Court)
Crawford v. Washington, 541 U.S. 36 (2004) (US Supreme Court)
Carpenter v. US (2018) (US Supreme Court)
Ibrahim and Others v. UK (2016) (European Court of Human Rights)
Sürmeli v. Germany (2006) (European Court of Human Rights)
Allenet de Ribemont v. France (1995) (European Court of Human Rights)
R v. Bridges (UK Court of Appeal)

APPENDIX C: GLOSSARY OF LEGAL TERMS
Presumption of Innocence: The principle that an accused person is considered innocent until proven guilty in a fair trial.
Fruit of the Poisonous Tree: A legal doctrine that excludes evidence derived from illegally obtained primary evidence.
Algorithmic Transparency: The principle that AI systems used in criminal justice must be explainable and subject to human oversight.
Ne Bis In Idem: The principle that a person cannot be tried twice for the same offense.
Habeas Corpus: A legal action requiring a person under arrest to be brought before a judge.

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