

## Modern technical methods in criminal evidence

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**Abstract---**This study addresses modern technical methods in criminal evidence. The use of modern scientific methods in proving crime has brought about a scientific revolution in the field of criminal evidence, which has made it necessary indeed imperative for criminal investigation officers to employ such methods in order to carry out the tasks entrusted to them in the best possible manner. Criminal investigation and the collection of evidence are among the foremost security activities aimed at confronting or eliminating newly emerging crimes, through the development of modern methods and means, as well as by equipping investigators with contemporary scientific and technological knowledge. Consequently, these technical methods have received growing attention from all nations. The Algerian state, like other countries around the world, has worked to adopt these modern technical methods in criminal evidence.

**Keywords---**means, evidence, criminal, modern, rights.

### Introduction

Scientific evidence is considered the most effective means of reaching the truth and establishing rights before the judiciary. This has rendered it a technique grounded in stable scientific foundations, and its use has led to a major scientific and technological revolution in the field of criminal evidence. As a result, it has left its imprint on all aspects of contemporary life, including the criminal sphere.

In light of this development, numerous risks and problems have emerged concerning the legality of using these modern technical means. Given the divergence of opinions on this issue, and the lack of clarity surrounding it, it has become necessary to examine the views of jurists and scholarly researchers regarding the legitimacy of using such means, in order to ascertain the purpose achieved through their use in criminal evidence and the effects resulting therefrom.

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Among the most significant of these means are those that infringe upon the psychological and physical integrity of individuals, which are used openly and directly affect the material and psychological being of the human person. These include hypnosis, the polygraph (lie detector), and fingerprints in their various forms. Added to these are electronic surveillance methods that are employed covertly and lead to the disclosure of individuals' private lives and the violation of their personal secrets, such as the interception of correspondence, audio recording devices, and photographic capture.

The use of these means also constitutes a clear violation of the sanctity of private life and an infringement upon individuals' rights and freedoms as enshrined in various constitutions around the world and in international conventions. This necessitates the formulation of the following problem statement: To what extent do modern technical methods that infringe upon individuals' private lives affect criminal evidence?

In light of the foregoing, this study adopts the analytical method, as it is the most appropriate for addressing this issue, within a methodological plan divided into two sections. The first section examines recording and surveillance devices and the extent of their legality, addressing the concept of recording and surveillance devices in the first requirement, and their legal legitimacy in the second requirement. The second section addresses fingerprints and their legality, by discussing their concept in the first requirement and the extent of their legality in the second requirement.

### **Section One: Recording and Surveillance Devices and the Extent of Their Legitimacy**

The emergence of recording and surveillance devices has given rise to significant controversy, particularly regarding the legality of the evidence obtained through them in criminal proceedings. Legal scholarship has thus been divided between proponents and opponents of their use. Contemporary legislation, however, has addressed this issue by regulating and organizing such practices. Before examining the legality of using these means, it is first necessary to clarify their concept (First Requirement), followed by an examination of their legal legitimacy (Second Requirement).

#### **First Requirement: The Concept of Recording and Surveillance Devices**

In this requirement, we seek to clarify the concept of recording and surveillance devices, focusing in particular on the interception of correspondence and audio recording devices.

##### **First Branch: The Concept of Interception of Correspondence**

By referring to the Code of Criminal Procedure, it becomes evident that the Algerian legislator did not provide a specific definition of the interception of correspondence<sup>1</sup>, but rather confined itself to regulating this process. Such regulation concerns the interception, recording, or copying of correspondence carried out through wired and wireless means of communication. These correspondences consist of data capable of production, distribution, storage, reception, and display<sup>2</sup>.

However, despite the effectiveness and importance of this procedure in uncovering offenders, it clashes with considerations related to the preservation of individuals' personal freedom and the protection of people's secrets and privacy. This is due to the intrusive nature of such practices into the private lives of persons subject to surveillance and the consequent violation of the human right to the confidentiality of correspondence. In this regard, the Algerian Constitution, in Article 39, stipulates that no measure may infringe upon the private life of the citizen<sup>3</sup>.

##### **Second Branch: Audio Recording Devices**

Audio recording<sup>4</sup> constitutes a covert procedure that infringes upon one of the fundamental rights of individuals, much like the interception of correspondence. Considerable debate has arisen regarding the legality of secretly recording individuals without their knowledge. This practice refers to the recording of sounds through devices used to capture audio on tapes or other media that can later be listened to at any time.

The wiretapping<sup>5</sup> of private conversations and their recording without the knowledge of the person concerned entails a particular violation of human privacy. Accordingly, many constitutions and international legislations have guaranteed protection against such practices. The use of this modern technical means also raises certain technical problems. From a technical standpoint, audio recordings may not accurately reflect reality due to possible distortion or falsification of the truth, whether through deletion, addition, or alteration of word placement, as well as manipulation of recorded material (commonly referred to as the editing or “montage” process). Moreover, other problems may arise, such as the inefficiency or inaccuracy of the recording device used, or conducting recordings in crowded environments, which may lead to the mixing of voices and difficulty in distinguishing them accurately. Added to this is the possibility of voice similarity, deliberate imitation of voices, or intentional alteration of vocal tone. Beyond these technical difficulties, and even the prospects of overcoming them, the issue has long sparked unresolved legal controversy regarding the legality of such procedures and the admissibility of their results before the courts<sup>6</sup>.

This process may involve placing recording surveillance on the suspect’s telephone or installing highly sensitive listening devices in locations frequently visited by the suspect. After subjecting such recordings to analysis, voiceprints can be distinguished, as in the science of phonetics, since the likelihood of two individuals possessing identical voiceprints is extremely remote<sup>7</sup>.

Similarly, the devices used for image capture in the modern era have become highly precise in producing images that clearly and accurately depict an incident, a person, or a behavior presented before the judge. Such images are considered strong presumptive evidence; were it not for human intervention in the process of photography and the potential for forgery and manipulation, they would constitute conclusive evidence establishing certainty in proof. This is particularly because they are subject to scrutiny and examination by specialists to verify their authenticity<sup>8</sup>.

Nevertheless, the significant advancement in the field of photography, in its various forms and purposes, has come to entail serious risks, most notably the violation of human privacy through the use of one’s image<sup>9</sup>. This has led to the search for legal protection of individuals against visual intrusion into their private lives. Consequently, some comparative legislations have criminalized photography carried out without the consent of the person concerned or outside the cases expressly permitted by law.

### **Second Requirement: The Legality of Recording and Surveillance Devices**

In order to prevent any threat to the internal or external security and safety of the State, or to uncover the perpetrators of crimes, the national laws of various countries have authorized public authorities, through competent officials, to intercept conversations, private or confidential calls, or to take photographs without such acts constituting any offense against them. This inevitably leads to the following question: to what extent is the legality of this employed technique established?

Doctrinal and judicial opinions have diverged regarding the legality of using these means, given that they are carried out covertly and infringe upon individuals’ privacy, particularly in private places. In what follows, we shall address this issue as outlined below.

### **First Branch: The Legality of Interception of Correspondence**

With regard to the legality of this method, jurists’ opinions have varied between supporters and opponents<sup>10</sup>. American legal doctrine, in particular, has been divided on this issue. One trend opposes this method, prioritizing the individual’s interest in protecting privacy over the interest of society, on the grounds of fear of abuse by security authorities when exercising the powers vested in them to conduct surveillance. Another trend supports surveillance, but within the framework of balancing the right to confidentiality on the one hand and society’s right to uncover and prove crimes on the other. This approach is guided by certain criteria and safeguards when lifting confidentiality, foremost among which are the seriousness of the situation itself, the genuine necessity of resorting to such a measure,

and the degree of trust in the results it yields criteria that, in most cases, do not depart from those enshrined in American legislation<sup>11</sup>.

As for French law, it criminalizes acts that constitute an infringement of private life through listening, recording, or transmission by means of any device whatsoever without the consent of the person concerned while present<sup>12</sup>. However, this approach has been criticized by some French legal scholars with regard to the criterion adopted for determining what constitutes private conversations. In response to such criticism, certain amendments were introduced to this law criminalizing such acts, particularly concerning the constituent elements of these crimes<sup>13</sup>.

In Italian law, the new Italian Code of Criminal Procedure No. 447, issued on 16 February 1998, devoted an entire chapter to this matter namely Chapter Four of Title Three of Book Three (Articles 266 to 271), which entered into force on 24 October 1989. Article 266 thereof specifies five cases in which recourse to the interception of telephone calls and communications, or any other form of communication, is permitted. Three of these cases had already been provided for under the previous law of 1930, as amended by Law No. 517 of 18 June 1955, relating to drug and psychotropic substance offenses, weapons and explosives offenses, and smuggling crimes. The remaining cases are as follows:

- a) Intentional crimes punishable by life imprisonment or by a term of imprisonment whose maximum exceeds five years.
- b) Crimes against public administration for which the law prescribes a maximum penalty exceeding five years' imprisonment, whereby the interception and recording of telephone conversations is permitted in accordance with specific rules and guarantees<sup>14</sup>.

With regard to Arab legislation, some Arab legal systems have regulated procedures relating to the monitoring of telephone communications within their criminal procedure laws. Among these, by way of example and not limitation, are the Egyptian<sup>15</sup>, Libyan, Syrian, Kuwaiti, and Jordanian legislations. Conversely, other legislations have remained silent on this matter, neither addressing nor regulating it, such as the Moroccan, Saudi, Lebanese, Tunisian, and Iraqi legislations<sup>16</sup>.

As for the Algerian legislator, it has criminalized all acts infringing upon the sanctity of private life under the Algerian Penal Code, and has upheld the inviolability of the secrecy of correspondence and private communications pursuant to Article 39 of the current Algerian Constitution. However, in light of the enormous technological development in the field of crime, it became incumbent upon the Algerian legislator to strike a balance between the requirements of combating crime on the one hand, and respect for the sanctity of private life and the confidentiality of correspondence and communications on the other. This balance is reflected in Articles 114 to 119 of the Algerian Code of Criminal Procedure, which regulate correspondence, audio recording, and image capture.

### **Second Branch: The Legality of Audio Recording**

In this regard, jurists have differed in their opinions on this issue, dividing between supporters and opponents of the use of audio recording for the purpose of obtaining evidence, each relying on its own arguments and justifications, although the latter view is generally regarded as the prevailing one. In France, legal scholarship has been divided into two trends. One trend argues that the general rule is freedom of proof, whereby the criminal judge enjoys the freedom to form his or her conviction based on any means that inspires confidence. Accordingly, it is not permissible to exclude evidence derived from audio recordings so long as such recordings are not prohibited by law. They may thus be relied upon whenever the recorded statements or conversations were made of the speaker's own free will and without any form of influence<sup>17</sup>.

Conversely, proponents of the opposing view argue that this method constitutes a means involving deception and fraud, which necessitates prohibiting reliance on statements derived therefrom as

independent evidence. Such recordings may only be regarded as mere indicia that reinforce other elements of proof<sup>18</sup>.

With respect to contemporary legislation, only a limited number of legal systems have definitively resolved this issue through clear and explicit provisions, as was the case with the interception of correspondence or what is known as the monitoring of telephone communications in certain countries. Comparative criminal laws have likewise diverged on this matter. In French law, the French government responded by approving the Intelligence Bill on 19 March 2015, aimed at strengthening counter-terrorism efforts, following mounting calls for the enactment of legislation authorizing intelligence services to employ the necessary means to confront terrorist threats. This resulted in the enactment of Law No. 2015-922 on Intelligence, comprising 27 articles, which introduced several amendments, including the abolition of judicial authorization and its replacement with administrative authorization in operations involving the interception of correspondence and surveillance through imaging<sup>19</sup>.

In Italian law, no explicit provision exists regarding this method. Nevertheless, Article 189 of the new Italian Code of Criminal Procedure permits the judge to rely on evidence not expressly regulated by law, provided that it is suitable for ensuring the verification of facts and does not affect the freedom of will<sup>20</sup>.

As for English law, prior to the issuance of the United Kingdom's Interception of Communications Act of 1985, electronic eavesdropping was not punishable, as it did not constitute a crime per se, provided that it was not associated with the commission of another offense, such as the violation of the inviolability of the home, for example<sup>21</sup>.

In American law, upon the enactment of Law No. 18 of 1970 concerning communications, it was stipulated that surveillance or wiretapping of oral, telephone, or telegraphic communications could not be carried out without a reasoned order issued by the judicial authority. This was permitted only where there existed grounds indicating that a crime was about to be committed or had already been committed and could not be uncovered except through recourse to such means, and where other means were ineffective or futile<sup>22</sup>.

As for the Moroccan and Libyan legislators, they did not address this issue through clear statutory provisions, in contrast to the Egyptian legislator, who enacted Law No. 37 of 1972 concerning the protection of individual liberty. This law introduced amendments to certain provisions of the Penal Code and the Code of Criminal Procedure, and classified the recording of conversations conducted in private places or via telephone as a criminal offense punishable by law when carried out outside the cases permitted by law and without the consent of the victim, in accordance with Articles 309 bis and 309 bis (A). Amendments were also introduced to Articles 95 and 206 of the Code of Criminal Procedure, making it possible for investigative authorities to record conversations under the same conditions and guarantees applicable to the monitoring of wired and wireless communications<sup>23</sup>.

As for the Algerian legislator, it has adopted the same position applied with respect to the interception of correspondence.

## **Section Two: Fingerprints and the Extent of Their Legitimacy**

Forensic science is concerned with the scientific study of physical evidence, and it primarily focuses on the manner in which a crime scene is processed through the proper collection of evidence. No matter how professional or experienced a criminal may be, traces or material evidence are often left behind at the crime scene through which the truth or at least part of it may be uncovered. Among such evidence are fingerprints in their various forms. Given the multiplicity of fingerprint types, this study will focus on only two of the most common and effective forms in criminal evidence: fingerprints and DNA profiling.

### **First Branch: Fingerprints**

At present, fingerprints<sup>24</sup> have become one of the most important forms of evidence in the field of criminal proof, owing to their possession of several fundamental and essential characteristics. Consequently, states have adopted their use within various legal systems, prompting courts to rely on fingerprints as evidence forming the basis for acquittal or conviction in criminal cases brought before them. It is from this standpoint that fingerprints have acquired particular significance within legal science<sup>25</sup>.

Fingerprints, in their various forms, are considered among the most important material traces left by an offender at the crime scene. They are distinguished by their conclusive evidentiary value, as they rest upon stable scientific foundations, and they possess technical significance in criminal investigation and other security-related fields. Fingerprints are regarded as a means of verifying the identity of their owner and determining his or her individuality with certainty, identifying the perpetrator and the number of offenders present at the crime scene, as well as the locations accessed by the offender and the place of the incident itself<sup>26</sup>.

### **Second Branch: DNA Profiling**

This technique is considered one of the most important methods relied upon in criminal investigation. It was unknown in earlier times, which explains the diversity of definitions associated with this concept. Despite its relative novelty, it has proven its effectiveness in certain cases where traditional forensic methods failed to provide solutions.

Among the most significant definitions of this method is that it refers to the genetic material present in the cells of all living organisms, which indicates the identity of each individual in particular. According to the scientists Watson and Crick in 1953, a segment of deoxyribonucleic acid (DNA) consists of two strands that coil around each other in the form of a helical ladder. This segment contains sequences of phosphates and sugars, while the rungs of the ladder are formed by the pairing of four chemical bases known as adenine (A), thymine (T), cytosine (C), and guanine (G). In humans, this segment consists of approximately three and a half billion bases<sup>27</sup>.

Dr. Abdullah Ghanem has defined DNA profiling as follows: “DNA profiling is an image of the structure of the carrier material, meaning that the genetic fingerprint is a statement of hereditary characteristics and traits that allow for the identification of the individual; it resembles a personal identity card”<sup>28</sup>.

DNA profiling is used in several applications related to research on human health and the human body. It can be obtained from all cells of the human body (blood, semen, hair roots, bone, saliva, ovum cells, sweat, teeth, mucus, etc.). At present, it has become indispensable for uncovering crimes in which conventional evidence is lacking. Given the tangible (material) nature of its results and its precision in identifying offenders, it provides reassurance to the judge’s conscience when rendering judgment<sup>29</sup>. There are also other scientific methods used in the search for evidence, including narcotic analysis, blood testing, fingerprints, police dogs, and other investigative techniques.

### **Second Requirement: The Legitimacy of Fingerprints**

For the result derived from fingerprint analysis to be admissible, the means by which it was obtained must be legally legitimate. If the evidence reaches the judiciary through an unlawful means, it is devoid of any legal value. Accordingly, the procedures followed in obtaining the evidence must conform to those prescribed by law.

### **First Branch: The Legality of Fingerprints**

Fingerprints possess significant probative value in criminal evidence, as they constitute conclusive proof of the presence of their owner at the crime scene. Accordingly, the majority of jurists have advocated

their adoption as a means of establishing fingerprints in criminal proof, considering this type of evidence to be decisive and to enjoy full evidentiary authority in criminal proceedings. However, a controversy has arisen among jurists regarding the permissibility of taking fingerprints from the accused against his will. In this respect, some scholars maintain that the accused may be compelled to provide fingerprints under specific conditions expressly stipulated by law. Although this procedure affects the bodily integrity of individuals, it is justified by the overriding interest of society and the public interest in uncovering crime<sup>30</sup>.

In this regard, the Algerian legislator has not aligned itself explicitly with other legal systems, as it did not expressly regulate this method. Nevertheless, it made implicit reference to it, as reflected in Article 73, paragraph 2, of the Algerian Code of Criminal Procedure<sup>31</sup>, which obliges the judicial police officer, upon proceeding to the crime scene, to preserve traces that may be at risk of disappearing and to seize anything that may be useful in revealing the truth.

Fingerprints thus play a crucial role in criminal evidence, as they reveal the material traces left by the offender at the place where the crime was committed.

### **Second Branch: The Legality of DNA Profiling**

The majority of legal doctrine and judicial practice in criminal evidence has endorsed the necessity of relying on DNA profiling, given that the results obtained through it are decisive and not subject to the slightest doubt. The possibility of identical DNA profiles occurring between two individuals is virtually nonexistent, except in the case of identical twins originating from the same ovum and sperm. Through the use of deoxyribonucleic acid (DNA), evidence is obtained in a scientifically conclusive and definitive manner, attributing crimes to a specific individual. This form of evidence does not admit debate, dispute, or doubt, and may be relied upon by the judge as a convincing basis for judicial rulings.

Moreover, the use of DNA technology contributes more effectively to clarifying the circumstances of crimes, particularly those committed by a single offender using a consistent method, or through varying criminal methods over extended periods. This facilitates the achievement of criminal justice, which seeks to reach accurate and reliable results through sound and lawful methods that inspire confidence and reassurance in the derived evidence. Consequently, crimes can be attributed to specific individuals for purposes of accountability and punishment. From another perspective, the use of DNA evidence may contribute to reducing the commission of crimes, as potential offenders may hesitate repeatedly before committing an offense out of fear of exposure through DNA analysis and crime detection<sup>32</sup>. In addition, DNA profiling provides the justice system with the sole means of establishing prosecution in certain serious and complex cases, and is indispensable for uncovering such crimes, particularly in the absence of other evidence.

Despite the justifications underlying this technique, there exists an opposing view that rejects its use, arguing that it conflicts with the principle of bodily inviolability, which is among the most fundamental rights enjoyed by individuals and must be respected and safeguarded in accordance with human dignity. From this perspective, it is neither legally nor morally permissible to conduct medical experiments on a human being for therapeutic purposes or purely scientific research without the consent of the person subjected to the scientific procedure and the authorization of the legal system.

As for the Algerian legislator, it has expressly provided for the use of DNA profiling in judicial proceedings pursuant to Law No. 16-03 of 19 June 2016, concerning the use of DNA profiling in judicial procedures and the identification of missing persons and persons of unknown identity<sup>33</sup>.

What highlights the role of DNA profiling in the criminal field is its evidentiary authority in establishing certain intractable crimes, including crimes against life in all their forms, such as homicide and assault leading to death, various forms of suicide, crimes against honor and sexual integrity, sodomy, adultery, rape, and indecent assault, among others.

## Conclusion

Evidence derived from scientific methods that are used overtly affects the physical integrity of the individual, as is evident in recording and surveillance devices as well as DNA profiling, which directly impact the material aspect of the human person.

By contrast, evidence derived from scientific methods employed covertly constitutes a clear infringement upon the rights and freedoms of individuals guaranteed by constitutions and international conventions, and violates the sanctity of their private lives.

Nevertheless, in light of the tremendous technological development of crime, the difficulty of proving it, and the seriousness of its threat to society, certain legislations have permitted reliance on evidence derived from modern scientific methods, given the dangerous nature of such crimes.

The necessity of resorting to these methods in certain serious crimes where evidence is otherwise lacking requires the existence of adequate legal safeguards and guarantees to ensure that individuals' rights and freedoms are not violated and that the sanctity of private life is respected.

Based on the foregoing, the following recommendations are proposed:

The need to pay greater attention to the training of specialists and experts in the use of scientific methods, in order to reduce the potential margin of error and to bring factual truth as close as possible to judicial truth.

The necessity, as far as possible, to limit recourse to modern methods that infringe upon the physical and mental integrity of the accused, particularly those that negate free will.

The need to enact specific legislation governing the use of modern scientific and technical methods, and to establish clear mechanisms for resorting to them, in order to safeguard individuals' rights and freedoms.

The necessity of equipping laboratories established for this purpose with modern, high-quality equipment to ensure accurate and reliable results.

## Sources and References

### First: Laws

#### A. The Constitution

Presidential Decree No. 96-438 of 7 December 1996, relating to the promulgation of the text amending the Constitution, approved by referendum on 28 November 1996, Official Gazette No. 76, issued on 08 December 1996; as amended and supplemented by Law No. 16-01 of 06 March 2016, relating to the constitutional amendment, Official Gazette No. 14, issued on 07 March 2016; and as further amended and supplemented by Presidential Decree No. 20-442 of 30 December 2020, relating to the promulgation of the constitutional amendment approved by referendum on 1 November 2020, Official Gazette No. 82, issued on 30 December 2020.

#### B. Legislative Texts

Law No. 16-03 of 19 June 2016, relating to the use of DNA profiling in judicial procedures and the identification of persons, Official Gazette No. 37, issued on 22 June 2016.

Law No. 25-14 of 03 August 2025, containing the Code of Criminal Procedure, Official Gazette No. 54, issued on 13 August 2025.

Executive Decree No. 17-277 of 09 October 2017, specifying the conditions and modalities for the organization and functioning of the Central Service for DNA Profiling, Official Gazette No. 60, issued on 19 October 2017.

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- Mohamed Taher Rahal, "Proof through Scientific Presumptions in Criminal Matters," *Al-Tawasul Journal of Economics, Management, and Law*, Badji Mokhtar University, Annaba, Algeria, Vol. 25, No. 03, 2019.

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<sup>1</sup> This does not mean that the legislator should be described as deficient, since the task of providing definitions does not fall within the legislator's function, but is rather a matter left to legal doctrine.

<sup>2</sup> Articles 114 to 119 of Law No. 25-14 of 03 August 2025, containing the Code of Criminal Procedure, Official Gazette No. 54, issued on 13 August 2025. According to the text of Article 114, the interception of correspondence refers to the interception, recording, or copying of correspondence carried out through wired and wireless means of communication.

<sup>3</sup> Article 39 of Presidential Decree No. 96-438 of 7 December 1996, relating to the promulgation of the constitutional amendment approved by referendum on 28 November 1996, Official Gazette No. 76, issued on 08 December 1996, as amended and supplemented by Law No. 16-01 of 06 March 2016 relating to the constitutional amendment, Official Gazette No. 14, issued on 07 March 2016, and as further amended and supplemented by Presidential Decree No. 20-442 of 30 December 2020 relating to the promulgation of the constitutional amendment approved by referendum on 1 November 2020, Official Gazette No. 82, issued on 30 December 2020: "The sanctity of the private life of the citizen and the sanctity of his honor may not be violated; they are protected by law."

<sup>4</sup> Audio recording refers to the recording of the statements of the accused and his accomplices concerning a specific incident among those provided for under the aforementioned Code of Criminal Procedure.

<sup>5</sup> Wiretapping refers to the surreptitious listening to, recording, or transmission of conversations to another location by a third party. Wiretapping may be carried out by individuals among themselves, and often the person engaging in wiretapping works for a communications service and intercepts calls for personal benefit or for the benefit of another person, with or without compensation. It is criminalized by law due to its infringement upon private life and the confidentiality of personal

communications. There is also judicial wiretapping, which is carried out pursuant to a judicial order and under judicial supervision for the purpose of obtaining criminal evidence.

- <sup>6</sup> Moussa Massoud Arhouma, *The Admissibility of Scientific Evidence before the Criminal Judiciary (A Comparative Study)*, Publications of the University of Garyounis, 1st edition, Benghazi, 1999, pp. 419–420.
- <sup>7</sup> Abdullah bin Abdulaziz Al-Fahham, *Rulings on the Use of Modern Investigative Methods*, Doctoral dissertation, Imam Muhammad ibn Saud Islamic University, Kingdom of Saudi Arabia, 2010, p. 25.
- <sup>8</sup> Moussa Massoud Arhouma, *op. cit.*, p. 484.
- <sup>9</sup> Mohamed Ali Skiker, *Criminal Evidence (In Light of Legislation, Doctrine, and Jurisprudence)*, New University Publishing House, Egypt, 2011, p. 353.
- <sup>10</sup> One trend has permitted this method and affirmed the legality of the evidence obtained through it, arguing that modern scientific means are effective tools in combating crime. If criminals have benefited from technological development and refined their methods of committing crimes, it would be unreasonable to disregard recording techniques in legal procedures. If the law does not recognize such measures, it risks stagnation. Even if recording is considered objectionable or undesirable, it is less objectionable than the crime itself.  
Another trend, however, considers recording to be a deceptive and fraudulent method contrary to morals and ethics, undermining the foundations of trust upon which social relations are built. It transfers investigative authority from judicial bodies into the hands of hired spies, agents of discord, and dealers in intrigue a situation more dangerous to society than all crimes punishable by law. Moreover, it constitutes a genuine violation of human privacy, and allowing the accused to escape punishment is deemed less harmful than resorting to such an unlawful method. See in this regard: Mohamed Tawfiq Al-Shawi, *The Sanctity of Private Life and the Theory of Search*, (Al-Ma'arif Establishment), Alexandria, 1st edition, 2006, p. 239; and Mohamed Al-Shahawi, *Criminal Protection of the Sanctity of Private Life*, Dar Al-Nahda Al-Arabia, Egypt, 2005, p. 416.
- <sup>11</sup> Moussa Massoud Arhouma, *op. cit.*, p. 308.
- <sup>12</sup> Law No. 70-643 of 17 July 1970, Articles 368 to 372. This criterion was later abolished by the legislator pursuant to the new Penal Code, Law No. 92-684 of 22 July 1992, which introduced certain amendments regarding the adopted criterion.
- <sup>13</sup> Tayeb Amour Mohamed, *The Evidentiary Authority of Contemporary Criminal Presumptions: A Comparative Study between Sharia and Algerian Law*, Doctoral dissertation, Faculty of Islamic Sciences, University of Algiers 1, Algeria, 2015, p. 257.
- <sup>14</sup> Moussa Massoud Arhouma, *op. cit.*, p. 325.
- <sup>15</sup> A significant doctrinal debate arose among Egyptian legal scholars concerning the legality of recording private conversations, and this debate continued until 1972 with the amendment of the Penal Code and the Code of Criminal Procedure. The legislator added Article 309 bis to the Penal Code, criminalizing the recording of private personal conversations without the consent of the person concerned or without judicial authorization. Law No. 37 of 1972 was also enacted, amending the Code of Criminal Procedure by adding Article 95, which grants the investigating judge the right to record private conversations whenever this serves the discovery of the truth. The Egyptian legislator did not specify the types of crimes justifying the monitoring of telephone conversations, but rather adopted the severity of the penalty as a criterion for the seriousness of the crime. See Tayeb Amour Mohamed, *op. cit.*, p. 257.
- <sup>16</sup> Moussa Massoud Arhouma, *op. cit.*, p. 368.
- <sup>17</sup> Moussa Massoud Arhouma, *op. cit.*, p. 369.
- <sup>18</sup> Moussa Massoud Arhouma, *ibid.*, pp. 421–423.
- <sup>19</sup> Tayeb Amour Mohamed, *op. cit.*, p. 231.
- <sup>20</sup> Moussa Massoud Arhouma, *op. cit.*, p. 428.
- <sup>21</sup> Abiza Mounira, "Audio Recording as Evidence," *Tibna Journal of Academic Scientific Studies*, Si El-Hawas University Center, Barika, Algeria, Vol. 6, No. 01, 2023, p. 1610.
- <sup>22</sup> Moussa Massoud Arhouma, *op. cit.*, p. 441.
- <sup>23</sup> Moussa Massoud Arhouma, *ibid.*, pp. 463–464.
- <sup>24</sup> A fingerprint consists of the raised ridges accompanied by depressed grooves that form various patterns on the skin of the fingers and palms on the inner side, as well as on the toes and soles of the feet. These ridges are relatively uniform in thickness. Since they are constantly moist due to sweat secretions spread across their surface, they leave impressions on any object they touch. These secretions increase during psychological agitation, and there is no doubt that the moment of committing a crime is among the most emotionally charged moments for offenders.
- <sup>25</sup> Mohamed Taher Rahal, "Proof through Scientific Presumptions in Criminal Matters," *Al-Tawasul Journal of Economics, Management, and Law*, Badji Mokhtar University, Annaba, Algeria, Vol. 25, No. 03, 2019, p. 90.
- <sup>26</sup> Jamal Qattal, *The Role of Presumptions in Criminal Evidence: A Comparative Study between Islamic Jurisprudence and Criminal Law*, Master's thesis, Mohamed Khider University, Biskra, 2007, p. 64.
- <sup>27</sup> Hossam Al-Ahmad, *DNA Profiling: Its Evidentiary Value in Criminal Proof and Lineage*, Al-Halabi Legal Publications, 1st edition, 2010, p. 22.

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- <sup>28</sup> Mohamed Ahmed Ghanem, *Legal and Sharia Aspects of Criminal Evidence through Genetic Coding*, New University House, 2008, p. 6.
- <sup>29</sup> Nesreen Abdel Salam Othman Idris, *The Criminal Significance of DNA Profiling at the Crime Scene*, Master's thesis, Faculty of Graduate Studies and Scientific Research, University of National Ribat, Khartoum, 2015, p. 36.
- <sup>30</sup> Mohamed Taher Rahal, *op. cit.*, p. 93.
- <sup>31</sup> Article 73 of Law No. 25-14 of 03 August 2024, previously cited: "The judicial police officer who is notified of a felony in flagrante delicto must immediately inform the Public Prosecutor and then proceed without delay to the scene of the felony and undertake all necessary investigations. He must ensure the preservation of traces that may be at risk of disappearance..."
- <sup>32</sup> Hossam Al-Ahmad, *op. cit.*, pp. 148–149.
- <sup>33</sup> Law No. 16-03 of 19 June 2016, relating to the use of DNA profiling in judicial procedures and the identification of persons, Official Gazette No. 37, issued on 22 June 2016; as well as Executive Decree No. 17-277 of 09 October 2017, specifying the conditions and modalities for the organization and functioning of the Central Service for DNA Profiling, Official Gazette No. 60, issued on 19 October 2017.