



## BACKGROUND INFORMATION

### PART I:

Europe and America have two different legal systems and two different views even to this day. Review the information in the image below of the differences between the two.

Right to Effective Counsel	
Adversarial	Inquisitorial
<ul style="list-style-type: none"><li>• At trial, presumed innocent</li><li>• Possesses other legal rights:<ul style="list-style-type: none"><li>○ Against self-incrimination</li><li>○ Habeas Corpus (must know charges)</li><li>○ Right to cross-examination</li></ul></li><li>• Burden is on the government to prove guilty</li><li>• Judge does not generally intervene</li></ul> 	<ul style="list-style-type: none"><li>• At trial, presumed guilty</li><li>• Judge is an active pre-trial investigator</li><li>• If not enough evidence to go to trial, charges dropped</li><li>• If goes to trial, person will generally be convicted</li></ul> 

### PART II:

During the Enlightenment Era in France, rights and protections of a person accused of a crime were based on their class and gender. Here are the rights and protections:

#### 1. Presumption of Guilt

- Before the French Revolution (1789), the legal system often assumed a person was guilty once accused, especially if the accusation came from someone of higher status.
- There was no right to remain silent; refusal to answer questions could be seen as proof of guilt.

#### 2. Torture

- Authorities were allowed to use judicial torture, torture by a person of authority in the government, to get confessions. This was especially common in serious crimes.
- Torture wasn't officially abolished until 1788, just before the Revolution.

#### 3. No Right to Legal Representation

- A person accused of a crime, known as a "defendant," did not have the right to a lawyer during investigations.
- Trials were conducted in writing, and many accused could not read or write, making it difficult to defend themselves.

#### 4. Limited Appeal Process

- Appeals were rare and not guaranteed. Once sentenced, especially in murder cases, there wasn't much a person could do.

#### 5. Public Trials and Executions

- Executions were public and often brutal, meant to serve as a warning. The way people were killed was based on class. For example, a person in the lower class was either hanged, burned at the stake or could experience "La Roue," which was when their limbs were tied to a wheel and then shattered with an iron bar. Those of the upper class were beheaded quickly and with an effort to make it painless.
- Trials were not always open to the public, and procedures varied by region.

#### Women Faced Additional Disadvantages

- Women were seen as less rational and more emotional.
- Courts often viewed women—especially poor or unmarried women—as more suspicious, particularly in cases of witchcraft, poisoning, or infanticide.
- Midwives and healers were regularly accused of crimes involving the body, childbirth, or death, and their knowledge was treated with suspicion.

#### Punishment Was Gendered

- **Execution:** women were often burned alive for certain crimes, while men might be hanged or broken on the wheel.
- **Honor and reputation:** These two details played a large role in women's cases. An accused woman was often punished more harshly, even for lesser crimes, based on their reputation or how honorable their community thought they were.