

The role of the Public Prosecution in protecting human rights in the preliminary investigation stage

By

Rania Muhammad Ayash Al-Shabaki

Supervisor

Dr . Ali Awad Al Jabra

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Abstract

Criminal procedural laws aim to ensure a fair trial, by providing a guarantee to the defendant that ensures respect for human rights. Criminal procedural laws are the true mirror of the extent of the state's respect for human rights during the stages of the criminal case. Accordingly, human rights are considered sacred matters that must be protected and guarantees for the freedom of individuals must be provided. From the state's control and tyranny, it is a group of rights that cannot be renounced, as it preserves a person's humanity and preserves his dignity. However Criminal procedures, which are considered one of the state's tools, and human rights may clash, as criminal procedures may disrupt the individual's exercise of his basic rights with the aim of preserving the security of society and its entity and preventing the occurrence of crimes. The procedures of arrest, detention, inspection, seizing items related to the crime, interrogation, and monitoring correspondence and communications all affect human rights in general. It goes without saying that the prosecution The Public Prosecution undertakes the task of prosecution, as it is an adversary to the accused. It carries out its duties as one of the state agencies and also initiates investigation procedures. This study aims to shed light on the role of the Public Prosecution in protecting human rights in the preliminary investigation stage and to explain the guarantees guaranteed by the legislator in the law and compare it with comparative legislation in some aspects. This study relied on the descriptive analytical approach and the comparative approach in some aspects, and this study reached the following results: The Public Prosecution is the competent authority to charge and investigate all crimes except the investigation of violations. In Jordanian law, the Public Prosecution combines the powers of accusation and investigation. It is the competent authority to initiate investigation procedures and charge the defendant, as well as file a public lawsuit. The right to defense is considered a human right, as the legislator has guaranteed, through legal texts, that the defendant can be able to defend himself. Himself and to exercise this right by presenting his defenses before the public prosecutor. The researcher has reached a set of recommendations, perhaps the most prominent of which are: the necessity of separating the functions of accusation and investigation, by making Accusation is the jurisdiction of the Public Prosecution, and investigation is the jurisdiction of a judge who is assigned to conduct the preliminary investigation, who is the investigating judge, because combining the two authorities in one hand affects the integrity of the investigation and weakens the defendant's guarantees. It also reached the necessity of limiting the detention of the defendant except in circumstances that require that.

Keywords: Public Prosecution, Jordanian Code of Criminal Procedure, preliminary investigation, defendant, human rights.