

# Blocking the Pretexts for Investigation Confidentiality in the Saudi Criminal Procedure Code

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## ABSTRACT

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The confidentiality of investigations is a fundamental principle of criminal procedure, distinct from the public nature of trials. While public trials promote transparency and fairness, public investigations can hinder the proper collection and evaluation of evidence. This study explores the role of confidentiality in investigations within the legal principle of blocking pretexts, emphasizing that confidentiality prevents the loss of innocence and justice, as well as the potential tampering with evidence. The Saudi legal system maintains the confidentiality of investigations to protect defendants from defamation, prevent obstruction of justice, and ensure the integrity of proceedings.

By analyzing key provisions of the Saudi Criminal Procedure Code, this study highlights how legislative safeguards mitigate risks such as tampering with evidence, witness intimidation, and undue influence on investigators. Ultimately, the study asserts that maintaining the confidentiality of investigations is essential to achieving justice and preserving the integrity of the legal process. The study adopts a descriptive approach, including an introduction and definitions of investigation confidentiality. It then turns to the main section, which addresses the blocking pretexts for investigation confidentiality within the Saudi Code of Criminal Procedure. The study concludes with a conclusion containing findings and recommendations.

**Keywords:** Blocking Pretexts, Criminal Procedure, Confidentiality of Investigations, Evidence Integrity, Justice Preservation, Legal Safeguards, Saudi Criminal Law, Witness Protection.

## INTRODUCTION

Investigation confidentiality is one of the fundamental principles that judicial regulations are keen to implement, due to its profound impact on achieving justice and preserving rights. In the Kingdom of Saudi Arabia, the principle of investigation confidentiality is established in the Criminal Procedure Code based on the objectives of Islamic Sharia, which aim to achieve justice, prevent corruption, and preserve the dignity of individuals. One of the most prominent jurisprudential rules supporting investigation confidentiality is the principle of blocking the pretext, which means preventing pretext that may lead to corruption or injustice, even if they are permissible in nature. Based on this premise, the Saudi Criminal Procedure Code emphasizes the necessity of confidentiality during the investigation phase, to protect the accused from defamation, preserve the rights of witnesses and victims, and ensure the integrity of the course of justice without external influences that may harm the truth or exploit the proceedings for personal or political purposes.

The principle of confidentiality of investigations is not limited to preventing the publication of details of the cases under consideration. It extends to preventing unauthorized persons from accessing the facts of the investigation, protecting evidence from tampering or manipulation, and restricting the media's or uninvolved individuals' access to the proceedings. Certain parties, such as the investigator, the judge, and the defendant's attorney, are exempt from this confidentiality to ensure a balance between confidentiality and the right to a legitimate defense. The

confidentiality of investigations also contributes to preventing negative influence on witnesses and protecting the defendant's reputation until a final judicial ruling is issued, thus achieving justice in accordance with Sharia and regulatory standards.

From a jurisprudential perspective, blocking the pretext to evil represents one of the principles upon which Islamic jurisprudence relies in legislation. It is a principle that indicates caution and precaution against the negative consequences that may arise from certain actions. Sharia scholars have recognized that blocking the pretext to evil is a respected principle in Islamic jurisprudence and is applied in various cases that may lead to harm to society or individuals, including criminal cases and investigations. Therefore, applying this principle of confidentiality to investigations aims to prevent any leaks that might affect the integrity of justice or be exploited to harm the accused or other parties in the case.

To this end, the Saudi regulation has defined the scope of confidentiality of investigations and the penalties for disclosing them, in accordance with the provisions of Islamic Sharia and modern regulations. This study analyzes the principle of confidentiality of investigations in light of the principle of blocking pretexts, reviewing the relevant legal provisions in the Kingdom of Saudi Arabia, and highlighting the protections the regulation provides to ensure the fairness of procedures and investigations. Given the importance of this topic, we have chosen to discuss it under the title "Blocking Pretexts in Investigation Confidentiality from the Saudi Procedures Law."

### **Reasons for choosing this research**

The most prominent reasons are as follows:

1. Establishing the relationship between legislation in the Kingdom of Saudi Arabia and fundamentalist principles.
2. Defending Saudi Arabian legislation amidst a wave of attacks by hostile circles.
3. Proving the innocence of Saudi Arabian legislation in investigating allegations of human rights violations.

### **Importance of the Research**

The research derives its importance from its relationship to the Criminal Procedure Code and its relationship to fundamentalist principles. Its importance also lies in the fact that it is the only study that addresses the code from this perspective, and it will serve as an important reference for students of the code and its relationship to Islamic law and the principles of jurisprudence.

### **OBJECTIVES**

Among the objectives we hope to achieve through this research are the following:

1. Demonstrating the relationship between the Criminal Procedure Code and fundamentalist principles.
2. Demonstrating the regulator's commitment to protecting the rights of the accused at all stages of the investigation.
3. Demonstrating the regulator's reliance on the principle of blocking pretexts for confidentiality of investigations.

### **Research Limits**

The research is limited to the Criminal Procedure Law No. (M/2 of 1435 AH regarding Criminal Procedures) and its implementing regulations, specifically Chapter Four of the Law, except for what was necessary and related to the investigation from other chapters. It will be limited to the most important issues in the investigation, which we realized as significantly affecting and related to the rule of blocking pretexts. The purpose of the research is representative, not exhaustive.

### **METHODS**

The issue will be presented at the beginning of the research by presenting its meanings and legal framework and providing evidence for it. The legal texts included therein will then be traced and compiled. Given the many examples that are applicable, addressing them all increases the scope of the research. Therefore, we will limit myself to five

examples for each of the study's topics. These will be selected according to their order in the Law whenever possible, and analyzed and linked to the rule of blocking pretexts to illustrate the organizer's purpose in developing the text. Therefore, the study's texts will total twenty, with any additional texts needed for the context of the study. Research Plan:

Based on the availability of scientific material, we decided to divide the research into an introduction, two chapters, and a conclusion, as follows:

Introduction: This includes the reasons for and importance of the topic, its boundaries, its plan, and the research methodology.

### Theoretical Framework

Includes a definition of the most important research terms, explaining the difference between the confidentiality of investigations and the confidentiality of trials.

### Definition of the principle of blocking the pretext:

Linguistically, the base means a foundation, whether material or moral, and what others are built upon" (Ibn Manthoor, 1994, p. 361). This includes the Almighty's statement: saying: ﴿وَإِذْ يَرْفَعُ إِبْرَاهِيمُ الْقَوَاعِدَ مِنَ الْبَيْتِ وَإِسْمَاعِيلُ﴾ "And (remember) when Ibrahim (Abraham) and (his son) Ismail (Ishmael) were raising the foundations of the House (the Kabah at Makkah)" (Al-Hilali et al., 1997, p. 25, verse 127 of Surat Al-Baqarah). It is "a general proposition applicable to all its details" (Al-Jurjani, 1983, p. 171). In scholarly terminology, the term "principle" is synonymous with "origin," "law," "issue," "control," and "objective." It is defined as a general matter that applies to all its particulars when its rulings are identified from it (Al-Tahnawi, 1996, p. 1295, vol. 2). The meaning of 'blocking' سَدَّ in linguistics is to fill something and make it fit together. Ibn Faris and Al-Fayyumi define it as 'closing a defect and plugging a gap' (Ibn Faris, 1979, p. 66, vol. 3; Al-Fayyumi, 2020, p. 270).

Pretexts (*thara'i* ذرائع) in the language is the plural of a pretext (*thar'i'ah* ذريعة), which originally referred to the she-camel used by the hunter to cover himself against prey. It is also called *thar'i'ah* and *thhar'i'*. It has since been used as a metaphor for anything that is closer to something and nearer to it. Metaphorically, a pretext is a means or cause of something (Ibn Faris, 1979, p. 66, vol. 3; Al-Jawhari, 1987, p. 1211). In addition, pretext, in terminology, are means or a path to something (Ibn Taymiyyah, 1987, p. 172, vol. 6). Furthermore, "pretexts, technically speaking, are what is meant by a means and a path to something, whether it is for benefit or harm (Hakami et al., 2024a; 2024b; Ibn Al-Gayyim, 1991, p. 109). Thus, "blocking the pretext" can be defined as eliminating the pretext of corruption in order to prevent it (Al-Garafi, 1998, p. 32).

Similarly, when an action free from corruption is a means to corruption, we are prohibited from that action. While it is commonly understood that blocking the pretext is a form of evidence, the reason for using the term "rule" to describe blocking the pretext is evident from what the scholars of jurisprudence (origins) use to describe certain types of evidence, such as approval (*istihsan* استحسان), interest (*maslahah* مصلحة), and others. They use these terms synonymously. For this reason, Imam Al-Shatibi, in Al-Muwafaqat, called it a "rule" (Al-Shatibi, 1997, p. 564).

### Definition of the Criminal Procedure regulation:

Linguistically, the term "regulation" (نظام) is derived from the word (*nathāma* نَظَّمَ) which means to compose and combine one thing with another. The verb "*nathmāmtu*" (نَظَّمْتُ) means "to organize the matter so that it is organized and straightened out." It follows a single system, i.e., a consistent approach. Regulation is a gift and a way of life (Al-Fayrouzabadi, 2005, p. 1162). As a term, it is "a set of binding rules that govern the behavior and relationships of individuals within society" (Al-Saddah, 1998, p. 11). Legal scholars define criminal procedures as "a set of legal and regulatory rules that regulate the detection of crimes by appointing competent authorities to conduct these procedures, defining their jurisdiction, investigating them, and prosecuting perpetrators by imposing the prescribed punishment upon their conviction" (Aal-thafir, 2013, p. 2; Al-Harqan, 2021, p. 9). In the kingdom, it is the Code of Criminal Procedure issued by Royal Decree No. (M/2) of 1435 AH by the Custodian of the Two Holy Mosques, King Abdullah ibn Abdulaziz Aal Saud, King of the Kingdom of Saudi Arabia. It consists of two hundred and twenty-two

articles distributed over ten chapters, and its amendments, by Royal Decree No. M/125 dated 09/14/1441 AH, the articles referring to the Investigation Authority; the amendment by Royal Decree No. M/18 dated 01/15/1442 AH and the amendment by Royal Decree No. M/28 dated 03/29/1443 AH.

Investigation in language is like the saying of linguists, 'he/she investigated the matter and verified it,' meaning the person was certain, or made it fixed and necessary, and the reality of a thing is its end and its origin that it includes. He verified his saying and thought it verified, meaning he believed it. In addition 'he/she investigated the matter', meaning 'he/she was certain of it, and he/she investigated the news and stood on its truth' (Ibn Faris, 1979, p. 19; Al-Jawhari, 1987, p. 146; Ibn Manthoor, 1994, p. 96; Al-Fayoumi, p. 143). As terminology, it is "a set of criminal procedures undertaken by the investigating authority within the framework drawn by the regulation with the aim of searching and digging for evidence that helps uncover the truth in a crime that has occurred and verifying its validity" (Omar, 2008, p. 373). This means that it is a field for applying the texts that the Saudi legislator has set in the aforementioned Criminal Procedures regulation in Chapter Four and what supported it.

### **The Difference between Investigative Confidentiality and Trial Confidentiality**

Confidentiality is an essential principle in judicial procedures, but it takes on different dimensions when applied during the investigation and trial phases. While investigation confidentiality aims to protect the course of justice and prevent negative influence on the case during the collection of evidence and interrogating parties, trial confidentiality is applied in some special cases to maintain public order or protect victims and witnesses. The following are the most prominent differences between the two:

1. Regarding the procedural phase, investigation confidentiality applies during the preliminary investigation and evidence collection phase, while trial confidentiality applies during court hearings.
2. Regarding the objectives and basis of confidentiality, investigation confidentiality aims to protect the investigation process, prevent external influences, and safeguard the rights of the parties involved. Trial confidentiality, on the other hand, aims to protect public order or preserve the privacy of certain sensitive cases.

Investigation confidentiality is based on Sharia principles, such as blocking pretexts, and on penal codes that emphasize the need to prevent defamation of the accused or influencing witnesses. Trial secrecy is an exception to the principle of publicity, and is imposed only in specific cases specified by the law, such as juvenile, family, and national security cases ('Awda, 2001). This is the view adopted by the Saudi legislator, who stipulated in Article 154 that court sessions are public. The court may, as an exception, hear all or part of the case in closed sessions, or prohibit certain groups from attending, for security reasons, to maintain public morals, or if this is necessary to reveal the truth (Saudi Criminal Procedure Law, 2013).

4. Regarding those permitted to attend and the penalties for violators, the secrecy of the investigation is limited to the investigating judge, the parties to the case (the investigator, the accused, his lawyer, and witnesses), and the competent authorities. The confidentiality of the trial, however, allows the public to attend public sessions, but in closed trials, the judge determines which parties are permitted to attend (Sorour, 2016, p. 337). In a confidential investigation, the penalty is imposed on anyone who discloses information, whether an investigator, a witness, or any other party privy to the investigation. In a confidential trial, legal action is taken against anyone who violates the confidentiality decision. Penalties may include disciplinary or criminal measures, in accordance with applicable regulations.

## **RESULTS**

### **Blocking the Excuses of Confidential Investigation**

Some researchers confuse the confidentiality of investigations with the confidentiality of trials. Therefore, some argue for public investigations, citing the legislature's provisions for public trials. The correct view is that public investigations often harm their conduct, while public trials benefit their conduct. There is a difference between the two issues, as previously mentioned. Therefore, it can be said that the basic principle of investigations is confidentiality, and the exception is publicity. The basic principle of trials is publicity, and confidentiality is an exception (Obeid, 2003). Therefore, the correct view is that confidentiality is one of the characteristics of

investigations (Abdul-Baqi, 2015, p. 181). This is because its confidentiality blocks many potential avenues that might be opened if the investigations were made public. Therefore, criminal legislation is committed to the confidentiality of investigations, and investigations are only made public to a minimum extent and to the best of their ability to serve the course of justice (Zaghloul, 2016). If we invoke the principle of blocking pretexts in the matter of investigation secrecy, we find that the secrecy of the investigation blocks the following pretexts:

1. Blocking pretexts for the loss of innocence: There is a fundamental principle, namely, predicate innocence, which is also a legal principle. The accused is innocent until proven guilty. The basic principle of investigation is that it leads to one of two outcomes: either innocence or conviction. Therefore, the public nature of the investigation may block the path to innocence, and publicity may be a pretext for the loss of evidence that would otherwise acquit the accused (Obeid, 2003, p. 179).

2. Blocking pretexts for the loss of justice: Just as publicity is a pretext for the loss of innocence, it is also a pretext for the loss of justice and the verification of the crime. The purpose of the investigation is to prove the crime by gathering all the evidence and leads that prove it and establish the criminal's connection to it. In a public setting, criminals may be keen to conceal or erase evidence, which could lead to the loss of justice, which is the ultimate goal of the investigation. The confidentiality of the investigation blocks the pretexts criminals may use to obscure or erase evidence of the crime due to the leakage of investigators' requests. Leakage prevents the leakage of these requests, thus preventing justice from being obtained (Al-Rashoudi, 2006, p. 84).

3. Preventing defamation: The accused is innocent until proven guilty. Therefore, the confidentiality of the investigation preserves their rights and prevents defamation.

4. Preventing the pretexts that enable defendants to obstruct the investigation: There are some crimes for which time is crucial. Therefore, procrastination in responding to investigation requests negatively influences their proof. For this reason, the Code of Criminal Procedure has enacted a provision regulating requests from agents, lawyers, or litigants if the court deems them to be procrastinating. Article 163 stipulates that each litigant may request the hearing of any witnesses they deem appropriate and the examination of the evidence they present.

Moreover, to request a specific investigative measure. The court may reject the request if it deems its purpose to be procrastinating, malicious, or misleading, or if there is no benefit in granting the request. This principle applies to investigations based on the concept of consent. The investigation cannot be obstructed confidentially due to the lack of awareness of loopholes that allow criminals to obstruct it. This is because confidentiality prevents the leaking of investigation requests. Neither the criminal nor those behind them know what the investigation requests are nor when they will be conducted. The investigation proceeds smoothly, unlike in a public setting. Therefore, we find many criminals only speak in the presence of a lawyer. The presence of a lawyer with the accused is a right guaranteed by constitutions and laws.

However, if the investigator is experienced, he will place the lawyer's role within its natural framework. Otherwise, the investigation may be derailed, especially by some lawyers who seek the acquittal of their clients, regardless of their right to do so. This is something the Saudi law did not overlook, as it stipulated in Article 70 that the investigator may not, during the investigation, separate the accused from his representative or lawyer present with him. The agent or attorney may not interfere in the investigation without the permission of the investigator. In all cases, the attorney may submit a written memorandum of his observations to the investigator, and the investigator must attach this memorandum to the case file.

The Saudi regulator has referred in more than one text to the issue of investigation confidentiality, which we will list in the following examples:

#### **1. Article Sixty Eight:**

The investigation procedures themselves and the results they yield are considered secrets that investigators and their assistants—including clerks, experts, and others connected to or attending the investigation due to their job or profession—must not disclose. Anyone who violates this must be held accountable. This text initially emphasizes that the investigation procedures and results are secrets that must be preserved. It then identifies the parties who must preserve these secrets, namely those involved in the investigation, both in terms of procedure and attendance, by virtue of their work, profession, and experience. The text then follows with a threat of legal accountability in the event of disclosure (Al-Rashudi, 2006, p. 22).

If we examine the text and its objectives closely, we find that it blocks a number of pretexts that could be opened up and caused by the disclosure of investigation secrets and therefore requires blocking them. These include:

- Blocking the pretext for tampering with evidence. There are loopholes that criminals may exploit when the investigation is public. The crime scene may be tampered with, so all avenues leading to these loopholes must be blocked.

- Blocking the pretext for influencing the investigating judge. The public nature of the investigation opens the way for targeting the investigating investigator, whether through threats, enticement, seduction, or even liquidation. This is because removing the investigator from the case, especially if the investigator is experienced, contributes to the lack of leads they possess. They may be manipulated into changing the investigation records by a single word or letter, thereby shifting the course of the case from conviction to acquittal and vice versa. Therefore, the regulator blocks these pretexts to preserve the investigation, achieve justice, and deliver rights to their rightful owners.

- It opens the way for attracting and wooing experts and stakeholders present at the investigation. This could alter the course of the case. Therefore, the Saudi regulator is keen to block this pretext.

## **2. Article Ninety-Eight:**

The investigator shall hear each witness separately, and he may confront witnesses with each other and with the opposing parties. This text contains two types or forms of investigation and evidence gathering. One involves confidentiality, while the other is public. The first involves hearing each witness separately, which is the norm. The second involves confronting witnesses with each other or witnesses with the opposing parties to the incident. This is an exceptional matter undertaken by the investigator when the investigation requires it.

It is well known that the first is based on protecting investigative information. Legal studies have paid great attention to it, and researchers have researched, analyzed, and theorized about it, given the positive and negative impact of testimony on the course of criminal proceedings (Al-Gaisi, 2016, p. 9; Shaksi, 2015).

By way of allusion, we realize that questioning a witness alone, away from the opposing parties and other witnesses, falls within the framework of the confidentiality of the investigation and the preservation of investigative procedures. If we examine the purpose of isolating a witness and taking his or her testimony alone, we find that it blocks a number of pretexts that might arise if the witness is questioned in the presence of the opposing parties or other witnesses.

- Preventing the possibility of targeting witnesses with threats, intimidation, or temptation, given that knowledge of a witness's testimony may influence them negatively or positively.

How many cases have been jeopardized by the disclosure of witness testimony or the alteration of their testimonies until their contradictions become apparent and are subsequently dropped?

- Preventing the possibility of influence through verbal interference by other witnesses or by adversaries.

A witness or adversary may verbally interfere during a witness's testimony, altering their testimony for or against it.

- Preventing the possibility of influence through body language.

Body language has a profound impact on the recipient. Therefore, other witnesses or adversaries may make physical movements during the interview with the witness that alters the course of the testimony, either positively or negatively.

There is no doubt that one of the objectives sought by the investigator when interviewing adversaries with witnesses, or witnesses interviewing each other, is to leverage verbal interference and body language to prove hypotheses the investigator may have hypothesized and seek to verify based on verbal interference or body language. Therefore, it must be carefully considered, codified, and serve the investigation. So the organizer made it exceptional, and the text made the choice clear to the investigator.

## **3: Article Hundred and Nineteen:**

The investigator may, in all cases, order that the accused not have contact with other prisoners or detainees and that no one visit him for a period not exceeding sixty days if the interest of the investigation so requires, without prejudice to the accused's right to contact his representative or attorney.

Preventing the accused from communicating with other prisoners or detainees and preventing visits falls under the authority of the investigating judge, who in this case is the member of the public prosecution charged with the case file. The Saudi legislator here clearly outlines the purpose of this procedure (isolation), which is to serve the interests of the investigation. The text then adds an exception for the representative or attorney, also as required by the interests of the investigation and with the investigator's knowledge, as stipulated in the second paragraph of Article 82 of the regulations. One of the most important objectives of isolation is to exert psychological pressure on the accused and force him to confess and reflect. The use of codified programming that compels the accused to confess or provide information that serves the investigation and the use of what is called in psychology 'brainwashing' (Al-

Ayoubi et al., 2017, p. 135), whereby the accused is exposed to a positive or negative environment that promotes the investigator's desired goal. When examining the text according to the principle of blocking pretexts and in accordance with the secrecy of the investigation, which is understood by allusion, we find that the organizer stipulated this procedure for the following purposes:

- Blocking the pretext for the transfer of expertise and experience that may be transmitted through interaction with other accused persons. When the accused interacts with prisoners or detainees, he may gain experience that enables him to evade the investigator. This results in the loss of important information needed by the investigator. Alternatively, the information possessed by the accused may be misused, potentially altering the course of the case.
- Blocking the pretext for leaking criminal proceedings undertaken by the investigator following the secrecy of the investigation. The information that may be transmitted to the accused serves him, and he takes precautions that may dilute the case or withhold information needed for the investigation.
- Preventing the accused from gaining the courage to confess or provide information that would serve the investigation. This would prevent him from confessing or providing information that would serve the investigation. This could also prevent him from repenting, which is likely to occur during isolation.
- Preventing the possibility of collusion or conspiracy: The organizer ensures that the investigator listens to each witness individually, preventing the possibility of collusion and agreement on a specific testimony. It is even more important for the organizer to isolate the interested party so that they do not agree to provide unified information that would not serve the case. Investigators are usually keen to obtain as much information as possible to help uncover the circumstances of the crime and grasp its threads. Therefore, they take the measure of isolating the accused to prevent him from interacting with others and to prevent collusion and agreement on specific information, thus depriving the investigator of information that could be useful.

#### **4: Article Hundred and Twenty:**

The investigator in charge of the case may, at any time, whether of his own motion or at the request of the accused, order the release of the accused if he finds that his detention is unjustified. That his release will not harm the investigation and that there is no fear of his escape or disappearance, provided that the accused pledges to appear if requested.

This statutory provision outlines several issues within the discretionary authority of the investigating judge. The most useful example of this provision, in the context of this study, is the provision that release will not harm the investigation. This section concerns the investigation, the potential consequences of it, and its confidentiality. Although the provision does not stipulate the confidentiality of the investigation, it is understood by implication that one of the purposes of the regulator is to ensure the confidentiality of the investigation. This is because the regulator's objective in regulating investigation procedures is to ascertain the truth, which is the path to achieving justice. One of the most important means of attaining the truth is to maintain the confidentiality of investigative information. If the investigating judge is convinced that the investigation will not be harmed by the release of the accused, he may release the accused in accordance with the procedures and conditions outlined in the provision. When the rule of blocking pretexts is invoked to investigate this point, we find the following:

- Blocking pretexts that could disrupt the investigation and ensuring its progress in a manner that leads to the truth.

#### **5. Article Fifty-Eight:**

The investigator alone has the right to review seized letters, messages, papers, and other items. He may listen to recordings and, according to the requirements of the investigation, order them or copies thereof to be included in the case file or order their return to the person in whose possession or address they were sent.

It is well known that correspondence, letters, and recordings are private matters, and the privacy of every individual is respected. They may not be violated in any way and are guaranteed by divine scriptures and international conventions (Al-Shay'a, 2006, p. 37; Majadi, 2019, p. 22). However, if the matter relates to a crime, all letters, messages, recordings, photographs, films, and financial reports pertaining to the accused in question may be disclosed and reviewed, along with their contents, by the investigator alone. It is permissible to include what he deems appropriate in the case file. Here, the organizer breaks the prohibition against violating privacy out of necessity and

within the narrowest limits, following the rule that necessity permits prohibitions (Al-Zuhayli, 2006, p. 290). Invoking the rule of blocking pretexts, the organizer is keen to:

- Blocking the pretext of violating the privacy respected in Islamic Sharia and the Basic Law of Governance. Article 37 states that no person may be detained or imprisoned except in prisons or detention centers designated for that purpose by law. The administration of any prison or detention center may not accept any person except by virtue of a reasoned, time-limited order signed by the competent authority. The person must not be detained beyond the period specified in such an order. Article 39 also stipulates that every prisoner or detainee has the right to submit, at any time, to the director of the prison or detention center a written or oral complaint, requesting that the complaint be forwarded to a member of the Bureau of Investigation and Public Prosecution. The director must accept the complaint and forward it immediately after recording it in a register prepared for that purpose and providing the complainant with proof of receipt. The prison or detention center administration must allocate an independent office for the competent member of the body to follow up on the conditions of prisoners or detainees. Article 40 also stipulates that anyone who learns of the presence of a person imprisoned or detained illegally or in a place not designated for imprisonment or detention must inform the Bureau of Investigation and Public Prosecution. The competent body member, upon learning of this, must immediately go to the location where the prisoner or detainee is being held. He must conduct an investigation and order their release if their imprisonment or detention was unlawful. He must also prepare a report and submit it to the competent authority to enforce the regulations against those responsible. Therefore, the Saudi regulator has permitted the investigator to review the information out of necessity.

- Preventing the leakage of investigative information in the event of multiple informants.

- Preventing the disappearance of evidence of the crime. If the regulator prevents the investigator from reviewing it, the investigation may lose important information that could lead to uncovering the truth.

- Attaching any information he deems appropriate to the case file to prevent the possibility of its destruction or negative disposal, thereby derailing the investigation.

### **CONCLUSION**

The research concluded with valuable findings and recommendations, as follows:

The research reached several conclusions, the most important of which are:

1. Clarifying the difference between the confidentiality of investigations and the confidentiality of trials will protect the course of justice and the integrity of investigations and trials.
2. Blocking the pretext of original innocence. The provisions of the law leave no room for improvised interpretations uncontrolled by clear rules that preserve rights and achieve justice.
3. Blocking the pretext of the loss of justice. The purpose of the confidentiality of investigations is to prove the crime by gathering all the evidence and leads that prove it and the criminal's connection to it. In cases of publicity, criminals may be keen to conceal some evidence or erase its traces, which could lead to the loss of the desired justice from the investigation.
4. Blocking the pretext of defamation, thus preserving the rights of the accused until proven guilty.
5. Blocking the pretexts that enable defendants to obstruct the investigation. There are several crimes for which time is crucial to prove. Therefore, the regulator has included a provision regulating requests from agents, lawyers, or litigants if the court deems them to be procrastination.

### **RECOMMENDATIONS**

Linking regulations to fundamental principles is a very important task with significant scientific and applied goals and objectives that satisfy the nation's just minds. Therefore, we recommend that those concerned undertake this in all aspects of life and study all regulations according to this approach, including:

- 1- Understand the remaining provisions of the regulations and study them according to the principle of blocking pretexts. This can be developed into a master's thesis or doctoral dissertation.

2- Study the Code of Criminal Procedure according to the rules of semantics.

3- Study the Code of Criminal Procedure according to the principle of balancing benefits and harms.

## REFERENCES

- [1] Aal-Thafir, S. (2013). General Principles of Criminal Procedure in the Kingdom of Saudi Arabia in the Evidence and Investigation Stages and the Theory of Nullity, a Jurisprudential and Legal Regular Study, Riyadh: King Fahd National Library Cataloging at Publication.
- [2] Abdul-Baqi, M. (2015). Explanation of the Palestinian Criminal Procedure Law No. (3) of 2003, College of Law, Birzeit University: Palestine.
- [3] Al-Fayrouzabadi, M. (2005). Al-Qamus Al-Muhit (Al-Risala Edition), edited by: Muhammad Naim Al-Arqasousi, Al-Risala Foundation.
- [4] Al-Fayyumi, A. (2020). Al-Misbah Al-Munir, Beirut: Al-Maktaba Al-Ilmiyyah.
- [5] Al-Gaisi, M. (2016). Secret Criminal Investigation, Cairo: National Center for Publications.
- [6] Al-Garafi, A. I. (1998). Al-Furuq, Part 2, Cairo: Alam Al-Kutub.
- [7] Al-Harqan, A. (2021). Explanation of the Criminal Procedure Law, by Dr. Abdul-Hamid Abdullah Al-Harqan, Riyadh, Cataloging of the King Fahd National Library.
- [8] Al-Hilali M.T., Khan M.M. (1997). The Noble Qur'an: English Translation of the Meanings and Commentary, Madinah, Saudi Arabia: King Fahd Complex for the Printing of the Holy Qur'an.
- [9] Al-Jawhari, I. (1987). Al-Sahah Taj Al-Lughah, vol. 3, Beirut, Dar Al-Ilm Lil-Malayin.
- [10] Al-Jurjani, A. (1983). Definitions, Lebanon, Beirut: Dar Al-Kutub Al-Ilmiyyah.
- [11] Al-Rashoudi, K. (2006). Criminal Liability for Disclosing Investigation Secrets, Master's Thesis, Riyadh, Naif Arab University for Security Sciences, Kingdom of Saudi Arabia.
- [12] Al-Saddah, A. (1998). Principles of Law, Dar Al-Nahda Al-Arabiya for Printing, Publishing, and Distribution.
- [13] Al-Shatibi, I. (1997). Al-Muwafaqat, vol. 3, Cairo: Dar Ibn 'Affan for Publication and Distribution.
- [14] Al-Shay'a, I. (2006). The Right to Privacy in Islamic Jurisprudence, Master's Thesis, Riyadh: Higher Institute of the Judiciary, Imam Muhammad ibn Saud Islamic University, Kingdom of Saudi Arabia.
- [15] Al-Tahnawi, M. (1996). Encyclopedia of Index of Terms in Arts and Sciences, Beirut: Maktabat Lubnan Publishers.
- [16] Al-Zuhayli, M. (2006). The Principles of Jurisprudence, Damascus: Dar Al-Fikr.
- [17] 'Awda, A. (2001). Islamic Criminal Legislation Compared to Positive Law, Beirut: Dar Al-Kateb Al-Arabi.
- [18] Hakami, A., and Dahami, Y. (2024a). Inference by pretexts in contemporary industries: 1) inference in blocking the excuses. *International Journal of Religion*, 5(7), 463-474. <https://doi.org/10.61707/te3oe857>
- [19] Hakami, A., and Dahami, Y. (2024b). Inference by pretexts in contemporary industries: 2) inference in opening the excuses, *International Journal of Religion*, 5(7), 316-327. <https://doi.org/10.61707/5yb6g584>
- [20] Ibn Faris, A. (1979) Dictionary of Language Standards Volume 3, edited by: Abdul Salam Muhammad Haroun, Dar Al Fikr.
- [21] Ibn Manthoor, M. (1994). Lisan Al-Arab, vol. 3, Beirut: Dar Sadir.
- [22] Ibn Taymiyyah, A. (1987). Al-Fatawa Al-Kubra, Beirut: Dar Al-Kutub Al-Ilmiyyah.
- [23] Majadi, N. (2019). The Right to Privacy between Criminal Protection and Procedural Controls, PhD Thesis, Faculty of Law and Political Science, Djilali Liabes University, Sidi Bel Abbes, Algeria.
- [24] Obeid, M. (2003). Confidentiality of Criminal Investigations and the Rights of Defense, PhD Thesis, College of Law, University of Baghdad, Iraq.
- [25] Omar, A. M. (2008). Dictionary of Contemporary Arabic, Alam Al-Kutub.
- [26] Shaksi, S. S. and Salim, S. H. (2015). The Role of the Witness in Resolving Criminal Cases, *Journal of the Faculty of Law for Legal and Political Sciences, University of Kirkuk*, Volume 4, Issue 13, pp. 325-377. [https://jclaps.uokirkuk.edu.iq/issue\\_11489\\_6297.html?lang=ar](https://jclaps.uokirkuk.edu.iq/issue_11489_6297.html?lang=ar)
- [27] Zaghloul, B. S. (2016). Confidentiality of Preliminary Investigation, Cairo University, Faculty of Law, *Journal of Law and Economics*, Issue (89), pp. 235-416. <https://doi.org/10.21608/mle.2016.110002>
- [28] Al-Ayoubi, S. and Abdul-Qader Issa. (2017). Brainwashing: The Science of Controlling Thought, Riyadh, Obeikan Library.
- [29] Sorour, A. (2016). Al-Wasit in the Criminal Procedure Law, Cairo: Dar Al-Nahda Al-Arabiya.