

The Impact of Blocking Pretexts on the Relationship between the Investigator and the Judiciary and Investigation Results from the Saudi Criminal Procedure Law

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ABSTRACT

This research paper examines the impact of pretext blocking within the Saudi Criminal Procedure Law, with a particular focus on its effects on the relationship between investigators and the judiciary, as well as the outcomes of investigations. The study highlights the development of the judicial system in the Kingdom of Saudi Arabia, emphasizing the integration of the investigative and prosecutorial functions within the Public Prosecution. It also highlights the importance of the pretext blocking principle, which aims to protect the rights of defendants while ensuring the integrity of the investigation process. By analyzing the key provisions of the Criminal Procedure Law, the paper demonstrates how these regulations work to prevent abuse, protect judicial authority, and maintain the coherence of the legal system. Finally, the study argues that adherence to pretext blocking promotes a more just and equitable legal environment, which enhances the overall effectiveness of the criminal justice system in the Kingdom of Saudi Arabia.

Keywords: bureau of investigation, Criminal Justice System, investigation outcomes, Jurisprudence, Law, legal framework, pretext blocking, public prosecution, rights of the accused, Saudi Criminal Procedure Judiciary.

INTRODUCTION

The judiciary is one of the most important aspects of life. Humans realized this fact early on, as human relationships are fraught with many disputes related to material rights. Therefore, humans needed a neutral person to adjudicate between disputants. This led to the invention of the independent judiciary. This formula evolved from the general judge to the judicial specialization it has today: civil judiciary, military judiciary, and criminal judiciary. Given that criminal justice requires investigation, seizure, proof, and prosecution, the investigating judge or prosecutor branched out from it, developing into its current form.

The Public Prosecution is headed by a person called the Public Prosecutor. The prevailing trend in some criminal systems was to separate investigation and prosecution. However, the prevailing trend today is to combine investigation and prosecution, as the investigator is the prosecutor. The criminal system in the kingdom previously referred to the Bureau of Investigation and Public Prosecution as the name of the entity entrusted with investigation, proof, and prosecution. Its previous name in the kingdom was the Bureau of Investigation and Public Prosecution. It was then amended by Royal Decree No. (A/240) of 1438 AH, changing its name to the Public Prosecution. Article 1, as amended by Royal Decree No. (M/125) dated 14/9/1441 AH, states, "The Public Prosecution is part of the judicial

authority, enjoys complete independence, is organizationally linked to the King, and no one may interfere in its work." Its head is the Attorney General, whose appointment is issued by royal decree.

The Attorney General is a member of the Supreme Judicial Council. Investigation is one of the key components of criminal justice, as it is responsible for the main and important preliminaries of the court's ruling. Without investigation, a judge cannot rule. Therefore, an investigating judge requires extensive skills, both personal and cognitive. Therefore, an investigating judge possesses the experience of a judge, a lawyer, and a security officer. His legal capacity is that of a judge; if he deviates from this, he loses his authority. Therefore, the Saudi regulator, in the Code of Criminal Procedure, is keen to grant the investigating judge and regulate it systematically. Therefore, the researchers seek to demonstrate the impact of jurisprudence on the criminal procedure system through this research study. They have been careful to approach the subject from a comparative, applied, and legal-fundamental approach.

Reasons for Choosing the Research

1. To demonstrate the relationship between legislation in the Kingdom of Saudi Arabia and the principles of jurisprudence.
2. To defend the legislation of the Kingdom of Saudi Arabia amidst the wave of attacks against it by hostile circles.
3. To demonstrate the innocence of the legislation of the Kingdom of Saudi Arabia in investigating charges of neglecting human rights.

Importance of the Research:

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

OBJECTIVES

1. To demonstrate the legislator's commitment to protecting the rights of the accused at all stages of the investigation.
2. To demonstrate the legislator's reliance on the principle of blocking pretexts in most investigation materials.

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 under it will then be traced and compiled. Given the many applicable examples, addressing all of them will expand the scope of the research. Therefore, I will limit myself to five examples at most for each topic, analyzing them and linking them to the principle of blocking the means to illustrate the author's purpose in compiling the text, along with any additional texts needed for the context of the study.

The research plan includes an introduction, which covers the reasons and importance of the topic, its boundaries and plan, the research methodology, and three components. The first part, which is the theoretical framework, is followed by the second part, which addresses blocking the means in the relationship between the investigator and the judiciary. The third part focuses on blocking the means to preserve the results of the investigation. This research effort concludes with a conclusion.

Linguistically, the term "base" denotes a foundational element, be it material or moral, upon which other constructs are established" (Ibn Manthoor, 1994, p. 361). It is characterized as a universal proposition pertinent to all its specifics (Al-Jurjani, 1983, p. 171). In the realm of academia, the term "principle" is interchangeable with "origin," "law," "issue," "control," and "objective." It is articulated as a general matter that is applicable to all its particulars when its legal rulings are derived from it (Al-Tahnawi, 1996, p. 1295). The term 'blocking' "سدّ" in linguistic discourse is defined as the act of filling a void and ensuring cohesion. Ibn Faris and Al-Fayyumi explicate it as 'sealing a flaw and bridging a gap' (Hakami et al., 2025; Al-Fayyumi, 2020, p. 270; Ibn Faris, 1979, p. 66).

The term "pretexts" (*thara'i* ذرائع) in the Arabic language constitutes the plural form of a pretext (*thar'i'ah* ذريعة), which originally denoted the she-camel employed by hunters for concealment during the pursuit of prey. It is also

referred to as *thar'i'ah* and *thhar'i'*. This term has since evolved into a metaphorical expression for anything that possesses proximity to another entity. Metaphorically speaking, a pretext functions as a means or rationale for a particular outcome (Ibn Faris, 1979, p. 66, vol. 3; Al-Jawhari, 1987, p. 1211). Moreover, pretexts, in a terminological context, represent means or pathways to achieving an objective (Ibn Taymiyyah, 1987, p. 172). Furthermore, "pretexts, in a technical sense, refer to what is understood as a means and a pathway to a specific end, whether that end is beneficial or detrimental (Hakami et al., 2024a; 2024b; Ibn Al-Gayyim, 1991, p. 109). Consequently, "blocking the pretext" may be articulated as the eradication of corrupt pretexts to avert corruption (Al-Garafi, 1998, p. 32).

In a similar vein, when an action devoid of corruption serves as a conduit to corruption, such action is deemed impermissible. Although it is generally acknowledged that blocking the pretext constitutes a form of evidentiary support, the rationale for employing the term "rule" to delineate the act of blocking the pretext is evident from the terminologies utilized by scholars of jurisprudence (origins) to describe specific forms of evidence, such as approval (*istihsan* استحسان), interest (*maslahah* مصلحة), among others. These terms are utilized synonymously. For this reason, Imam Al-Shatibi, in his work *Al-Muwafaqat*, referred to it as a "rule" (Al-Shatibi, 1997, p. 564).

RESULTS

Blocking Pretexts in the Relationship between the Investigator and the Judiciary

When the Saudi legislator linked the investigation to the judiciary, he was keen to block a number of pretexts. This is understood by invoking the rule of blocking pretexts to clarify the relationship between investigation and the judiciary, as follows:

- 1- Blocking the pretext of the police nature that exists among the police, as they are predominantly military in nature based on their training in security colleges, which rely on firmness and harshness. This is in contrast to the environment in which investigating judges are trained. This is a purely civilian environment, and therefore, the prosecutor is a neutral adversary. The foundation of his positions and investigations is integrity.
2. Blocking the pretext of adopting the nature of criminals. Even if we assume that the investigating judge is far removed from the judiciary, he will eventually acquire the characteristics of those he sits with. Therefore, linking investigation to the judiciary places the investigating judge in a positive equation that grants him judicial characteristics and provides him with immunity.

In this section of the research, the researchers attempt to present the texts contained in the Code of Criminal Procedure that tightly link investigation to the judiciary. We draw from each text the rule of blocking pretexts. There are several texts applying the principle of blocking pretexts, but we will suffice with five examples as follows:

1. Article Fifteen:

The Public Prosecution, in accordance with its statute, is competent to file criminal cases and pursue them before the competent courts. This text specifies the body responsible, namely the Public Prosecution, for filing criminal cases and pursuing them before the competent courts. It carries within it the concept of transgression, namely that nobody has any jurisdiction to file criminal cases before the court. This is the organic link between the judiciary and the public prosecution. If we interpret the text in accordance with the principle of blocking pretexts, we conclude the following:

- Blocking pretexts for initiating criminal cases by anyone other than the Public Prosecution. This prevents the security agencies, which collect evidence, from taking any action that does not conform to the Public Prosecution's directives, as it is the body authorized to decide whether to initiate a case.
- Blocking pretexts for deviation that may occur on the part of some members of the Public Prosecution, given that they are subject to the oversight of the court before which the case will be filed. Thus, the Public Prosecution is committed to filing cases transparently and is certain that any action that contravenes the court's directives will be refuted.

2. Article 114:

Detention shall end after five days, unless the investigator decides to extend the detention period. Before the expiration of the period, the investigator shall submit the documents to the head of the Bureau of Investigation and

Public Prosecution branch, or his designated representative from the heads of the departments within his jurisdiction, to issue an order to release the accused or extend the detention period for a period or successive periods, not exceeding a total of forty days from the date of arrest. In cases requiring a longer detention period, the matter shall be referred to the head of the Bureau of Investigation and Public Prosecution or his designated deputy, who shall issue an order extending the detention period for a period or successive periods, each of which shall not exceed thirty days. The total shall not exceed one hundred and eighty days from the date of arrest. The accused shall then be immediately referred to the competent court or released.

In exceptional cases requiring a longer detention period, the court may approve the request to extend the detention for a period or successive periods, as it deems appropriate, and shall issue a reasoned judicial order in this regard. This text sets the scope of the investigative judge's discretionary power to detain the accused beyond the five days specified by law at the beginning of the article and the text of Article 113, which specifies the grounds for detention. The statute stipulates that if, after interrogating the accused, or in the event of his escape, there is sufficient evidence against him for a major crime, or if the interests of the investigation require his detention, the investigator must issue an order for his detention for a period not exceeding five days from the date of his arrest. This text reflects the normal situation and demonstrates the discretionary power of the investigative judge alone. However, if the interests of the investigation require extending the detention, the discretionary power is transferred from him to a higher authority. In all cases, the discretionary power lies with the public prosecution as a whole, according to degrees indicated in the text, which allows it to extend the detention for a total number of days not exceeding 180 days. This number sets the ceiling for the public prosecution, and it is bound by it. The court then assumes its discretionary power to extend or reject the detention in exceptional cases it deems appropriate. The court issues a reasoned judicial order for detention, clearly stating the relationship between the investigation and the judiciary. When interpreting the text according to the principle of blocking pretexts, we conclude that the Saudi legislator's objectives in this text are evident in the following:

- Blocking pretexts for individualization, as the collective image emerges. The prosecution, with all its components, is united, subject to court oversight, along with the presence of judicial inspection, as indicated by the text. The fact that the court's order is reasoned means that someone will review that reasoning and evaluate it, both positively and negatively. All of this achieves justice in its most sublime form.
- Blocking pretexts for encroachment on jurisdiction. The legislator defined the powers of the prosecution and specified its time limit for detention, as well as the jurisdiction of the judge. With this text, each party remains within the limits of its jurisdiction.
- Blocking pretexts for arbitrariness. The text set a limit for the investigating judge at five days and set a limit for the Public Prosecution, according to the gradations indicated in the text, within the investigation area, usually the administrative area, at 180 days. The judge's order was then made reasoned.

3. Article 126:

If, after the investigation is completed, the Bureau of Investigation and Public Prosecution determines that there is sufficient evidence against the accused, it shall refer the case to the competent court and summon the accused to appear before it. The Bureau of Investigation and Public Prosecution shall notify the parties of the order referring the case to court within five days of its issuance. This provision clarifies where the role of the investigating judge ends and clarifies the organic relationship between the prosecution and the court. With this provision, the entire case is in the hands of the court, and the investigative role of the prosecution ends. It is clear from this provision that the penal system in the Kingdom of Saudi Arabia has adopted a system of combining the investigative and prosecutorial powers into a single entity, the Public Prosecution. This trend is prevailing in many countries (Rawabhi, 2021, p. 14; Brahimi, 2018, pp. 684-698). Its role is to prosecute before the court. The role of the investigator before the court is that of the public prosecutor, following Article 156, which states that 'The public prosecutor must attend court sessions in public matters.' This applies to crimes specified in the regulations of this law. The court shall hear his statements and adjudicate them.

4. Article 127:

If the investigation involves multiple related crimes within the jurisdiction of courts of similar jurisdiction, all of them shall be referred by a single order to the court with local jurisdiction over one of them. If the crimes fall within the jurisdiction of courts of different jurisdictions, they shall be referred to the court with the largest jurisdiction.

5. Article 147:

'Anyone harmed by a crime, and his heirs after him, may claim his private right before the court before which the public criminal case is being heard, at any stage of the case, even if his request is not accepted during the investigation.' This provision regulates the claim of a private right. The Saudi Code stipulates that the claimant of the private right submit their claim to the Public Prosecution, which may accept or reject it. However, the claim does not lapse, as the final authority for acceptance or rejection rests with the competent court. The Code stipulates that a private right does not lapse even with the lapse of the public case, as in Article (22) of this Code, which outlines the cases in which the public criminal case lapses. The article at the end states, 'this does not prevent the continuation of a private right lawsuit' even after the expiration of the public lawsuit. This text clarifies the relationship between the judiciary and the investigation. Despite the extensive powers of the investigating judge under this system, his relationship with the court, its oversight of him, and the review of his decisions are inseparable because, ultimately, everyone is a body, the body of justice.

When interpreting the text according to the principle of blocking pretexts, we deduce the objectives of the Saudi law as follows:

- To block the pretext for despair that may creep into the souls of litigants who fear the loss of their private right. If the discretionary power of the investigating judge fails to respond to their requests, there is a higher authority whose discretion is more understandable.
- To block the pretext for the arbitrary actions of the investigating judge, who is aware that if he makes an error in judgment, someone will deter him and overturn his decision.

Blocking pretexts to preserve the results of the investigation.

A common legal term is "preserving investigation results" or "preserving investigations." Similar terms include "ordering that there is no basis" and "ordering the papers to be preserved" (Hajouri, 2018, p. 9). Preserving a case also refers to certain stages of a criminal case. In any case, these terms are all pre-trial and are part of the prosecution's duties (Saadi, 2013, p. 25). They all occur before the case is filed ('Allam, 1991, p. 266; Al-Shawafi, 2020, pp. 1089-1185) and before it reaches the judge. This is because whatever reaches the judge requires a ruling. It is as if the contemporary judiciary is interpreting the words of the Prophet (peace and blessings be upon him): "Forgive one another for the prescribed punishments for whatever I hear of has already been prescribed" (Abo Dawood, n.d., p. 133). The public prosecution represents the citizen, and the court represents the state. The public prosecution's authority is to gather evidence and all the details of the case until it is complete, then present it to the judge for a ruling (Najm, 2012, pp. 1-16). The public prosecution has the authority to dismiss, close, or halt the case in accordance with the specific texts (Al-'Arabi, 1920, p. 246; Al-Mutairi, 2011, p. 90). If we examine the public prosecution's authority to close or dismiss a case (Al-'Awlaki, 2009, pp. 1-25) before referring it to the judge, we find that the legislator's purpose in doing so is to:

1. Prevent the proliferation of cases before the judge and limit it to those with complete details. Thus, the public prosecution is granted the authority to refine the case and dismiss or close any case that has not reached criminal completion for the judge to consider, thus lightening the burden on the judge and reducing the number of cases brought before him.
2. Blocking the Pretext for Publicity

It is well known that trial sessions are by default public (Al-Rashoudi, 2006, p. 76). Consequently, this opens the door for everyone to attend the trial. This means that news of the trial will spread and become public. However, limiting publicity to a limited number of cases preserves honor and related reputations. Keeping papers or suspending the

case in the halls of the Public Prosecution Office, which is by default confidential (Zarrougi, 2020, p. 6), is a social virtue. Most people are concerned about their reputation, even when their innocence has been proven.

Based on the above, we will present examples of texts in which the legislator stipulates the preservation of the case by applying the rule of blocking pretexts, as follows:

1- Article Sixty-Three:

If the investigator deems that there is no basis for proceeding with the case, he may recommend that the documents be shelved. The head of the department to which the investigator is affiliated may order their shelving. This provision clearly demonstrates the investigator's authority and power, as the statute stipulates that he may recommend the shelving of documents. This is an administrative procedure that takes place before any investigative action is taken, and the prosecution may revoke it at any time. As is evident from the regulations, the literal text indicates that the final decision to shelve documents rests with the head of the department. There are many reasons why the prosecution may issue an order to shelve documents, including lack of relevance, the law not applying to the accused, lack of evidence, lack of responsibility, and other formal and substantive reasons. When interpreting the text in accordance with the principle of blocking pretexts, the objectives of the Saudi statute can be discerned as follows:

- Blocking pretexts for overlapping powers. The text clearly distinguishes the powers of the investigator and the head of the department. The investigator recommends, and the head of the department decides.
- Blocking pretexts for wasting time, as the criminal time of the prosecution staff is precious. Therefore, the regulator is very careful about this. Therefore, the decision to continue the case or not rests with the investigator's ability to understand all its aspects and determine its suitability for continuation. He then submits a proposal to the head of the department to close the case and file the papers.

2. Article 64:

If an order to close the case is issued, the investigator must notify the victim and the claimant of their private right. In the event of the death of either of them, notification shall be made to all their heirs at the deceased's place of residence.

This text indicates a subsequent procedure, a procedure following the issuance of the order to close the case, file the papers, or issue a nullity order. The text clearly indicates the separation between public and private lawsuits, given that a personal right does not lapse with the lapse of the public lawsuit (Ghath, 2004, p. 97; Al-Sheikh, 2003, p. 103). The Saudi regulator's purpose in notifying the claimant of the private right is to establish their right or waive it. This is also clarified by Article 124, which states, "The order shall be notified to the claimant of the private right, and they have the right to claim the private right before the competent court." When the text is examined using the principle of blocking pretexts, the following emerges:

- It blocks the pretext for keeping the accused in a state of limbo. The fact that he is not informed of the matter will leave him in constant apprehension. This constitutes an injustice to his rights and a restriction of his freedom, which contradicts the very principle of freedom and the principle of original innocence (Surur, 2016, p. 133; Habtoor, 2015, pp. 191-217).
- It blocks the pretext for the loss of rights. Notifying the plaintiff of the private right guarantees his financial rights, even if the general criminal case is discontinued.

3. Article 124:

1. If, after the investigation is complete, the investigator determines that the evidence is insufficient or that there is no basis for filing a case, the head of the department shall recommend that the case be dismissed and the detained accused be released, unless he is detained for another reason. The head of the department's order upholding this order shall be valid, except in cases of major crimes, such as prescribed punishments, *Al-Hudud* (الحدود) punishment crimes, punishable by death or amputation, premeditated or semi-premeditated murder, crimes against national security, and others. The order shall not be valid unless ratified by the Attorney General or his representative.

The order to dismiss the case must include the grounds upon which it is based, and the order shall be communicated to the claimant with the private right. He has the right to claim a private right before the competent court under Article 16 of this law. If the claimant has died, notification shall be served on all of his heirs at his place of residence. The aforementioned notification shall be made according to a form prepared for this purpose and signed by the investigator and the head of the department. A certified copy shall be delivered to the claimant with the private right or his heirs, after signing the original acknowledgment of receipt, for submission to the competent court. This also applies to the order to shelve the papers stipulated in Article 64 of this law.

It is well known that the investigation proceeds through several steps, beginning with receiving the report and ending with the formation of a file, which is then submitted to the court after the investigating judge has completed the investigation procedures and gathered evidence. There are then two options: either submitting the case to the judge per Article 126, which states, if, after the investigation is complete, the Public Prosecution determines that there is sufficient evidence against the accused, it shall refer the case to the competent court and summon the accused to appear before it. The Public Prosecution shall notify the parties of the order referring the case to the court within five days from the date of its issuance.

Another option is to shelve the case due to insufficient evidence or the absence of grounds for filing the case. This means the content of the crime and its details do not match the defendant's facts and legal status. In fact, the criminal is not the criminal. In legal terms, the criminal is not liable, meaning there is no basis for the crime. In legal terms, the article contradicts the facts. The order that there is no basis for the crime does not mean that the crime or any related private rights are dropped, meaning that they are nonexistent, but rather that there is no basis for them. Therefore, the Public Prosecution is concerned that whenever the content matches the subject matter, the case will be re-initiated, except in the case of acts that are subject to the statute of limitations (Al-Mazmoumi, p. 49; Al-Marsafawi, 1982, p. 445). This is the text and essence of this article. It is followed by other texts, such as the procedures that necessitate a filing order.

Consequently, the regulator did not neglect to restrict the powers of the investigating judge and the head of the sub-prosecution, but rather limited the authority to crimes other than major crimes, making the enforcement of the order contingent upon the approval of the public prosecutor. This has a regulatory purpose, which we will cite in applying the rule of blocking pretexts. It is important to emphasize that the Saudi regulator did not leave the matter entirely to the Public Prosecution. It is not sufficient for the investigating judge to have a sound conscience; the order must be justified. The regulator then stipulated the status of the plaintiff in the private right and, by implication, indicated the need to prepare notification forms. It then stipulated that a certified copy of the order be delivered to the plaintiff in the private right or his heirs for submission to the competent court, in accordance with Article 16 of this law. By examining the text based on the principle of blocking pretexts, the objectives of the regulator can be discerned as follows:

- To block the pretext for prolonging proceedings and restricting citizens' freedom beyond the period specified by law. The regulator ensures the integrity of procedures in accordance with the time limits specified in the law, ensuring that the investigating judge takes the action specified in the text.
- To block the pretext for arbitrariness that may occur on the part of some investigating judges. The legislator placed the procedures within the scope of oversight, such that if the investigating judge delays the time limits specified in this law, he may be subject to accountability, as indicated by the reference in the text of the regulator. The order to dismiss the case must include the reasons upon which it is based. This indicates that there is someone who will review the decision and hold accountable those who violate the law.
- To block the pretext for leniency, negligence, laxity, or complicity that may occur on the part of the sub-prosecution. The regulator stipulates the separation of crimes and subjects orders related to major crimes to the approval of the public prosecutor for oversight and precaution.
- Preventing improvisation in orders and notifications. The legislator ensures that orders and notifications are prepared following pre-prepared templates to avoid contradictions and conflicts that could lead to the loss or forfeiture of rights.
- Preventing the loss of rights. Notifying the plaintiff of the right related to the order and documenting the papers for submission to the court clearly indicates the preservation of rights.

- Preventing the distinction between the order to dismiss the case and the order to dismiss the papers stipulated in Article 63. What applies to the former also applies to the latter.

4. Article 125:

The decision to dismiss the case does not prevent the case from being reopened and reinvestigated if new evidence emerges that would strengthen the accusation against the defendant. New evidence includes witness testimony, records, and other documents not previously presented to the investigator.

Dismissing the case under the Saudi system does not mean the accused is innocent, as innocence is only achieved by a final judicial ruling. Dismissing the case, however, means a return to the original innocence, while the charge remains weak, as if it had never existed. If new evidence emerges, the accusation is strengthened. Even an order to dismiss the case or dismiss the documents does not prevent the case from being reopened. The system stipulates that the case file may be reopened with new evidence. The implication of this approval is that new evidence builds on old evidence, meaning that previous evidence is valid and cannot be ignored, as it may provide a clue to the new evidence. The Saudi regulator opened the door to any new evidence that would reopen the case file and strengthen the accusation. He emphasized two types of evidence: witness testimony and any records or documents that the investigating judge had not previously reviewed. These records may be new or complementary to what the investigator has reviewed. Similarly, documents are also included. By examining the text based on the principle of blocking pretexts, we can deduce several of the aims of the legislator of this text, as follows:

- Blocking pretexts for the loss of public rights, given that neglecting evidence that strengthens the accusation leads to the loss of rights and the distortion of justice.

- Blocking pretexts for improvisation in neglecting old evidence, given that old evidence has its impact, even if it does not prove the crime the first time, but it will play a role with new evidence. The legislator was careful to include new evidence, based on the concept of approving old evidence, given that the case file is a single entity, with new and old elements inseparable (Tawfiq, 2015, 487).

5. Article Ninety-One:

When an order is issued to dismiss the case, the disposition of seized items must be determined. This also applies when ruling on the case if a claim for their return is made before the court. This final text was adopted by the Saudi legislator in two cases: the prosecution's work, when the case is filed, the papers are filed, or a ruling is issued that there is no basis for it, and the second: after the court issues a ruling in the case. However, the Saudi legislator linked the disposal of seized items to a request to return them to the court. Seized items in criminal cases fall into three categories:

First: Respected property (Awda, 2001, p. 544), which *Al-Shari'ah* (الشريعة) has permitted to own (Hamad, 2008, p. 390), develop, and bequeath to one's successor. This is inviolable property, the protection of which *Al-Shari'ah* has urged, prohibiting any form of transgression. It has prescribed punishments, *Al-Hudud* punishments such as theft, and discretionary punishments, such as flogging, exile, fines, and imprisonment, for transgressing against it or failing to protect it. It also requires compensation for its destruction, which can be either private property, which individuals own by virtue of legal capacity, or public property, which is designated for public use (Al-Tayeb, 2001, p. 23). This may be controlled in criminal cases, and it is normal for the money to be returned to its owners or to be returned to the state if it is not related to the case.

Second: Disrespectful money, which is money whose ownership is prohibited by the Sharia or whose consumption or use, is punishable (Al-Baz, 1997, p. 38).

Third: Money with two faces, which is subject to disagreement regarding permissibility and prohibition. It is permissible according to one opinion and forbidden according to another, such as the consumption of *qat* and tobacco. This type of money is subject to the regulator's opinion. If the regulator chooses prohibition, it is added to the second type, thus becoming disrespectful money. If the regulator chooses permissibility, it is respected according to the rule "The opinion of the imam resolves disagreement" (Al-Zarkashi, 1984, p. 69). If there is no legislation, it is subject to the judge's discretion (Al-Habsi, 2018, p. 58).

Accordingly, the actions of the prosecution in the Kingdom of Saudi Arabia are based on this classification, given that the reference for codification (regulation) is Islamic Sharia and Islamic jurisprudence. The Saudi regulator has set out a mechanism for disposing of seized items in Article 61 of the regulation, which stipulates that if the seized items are prohibited from possession by law or regulation or are subject to confiscation, the investigator must take the necessary measures to destroy them or demand their confiscation, as appropriate. Articles 93 and 94 of the regulations also set out mechanisms for disposing of seized items.

By interpreting the text according to the principle of blocking pretexts, we conclude that there are several objectives the Saudi regulator seeks to achieve through this regulation, the most important of which are:

- Blocking pretexts for the loss of rights. The fate of the seized items in a case must be decided, both positively and negatively. This is because remaining in the custody of the prosecution prevents the owners from benefiting from their rights. The Saudi regulator also outlines mechanisms for disposing of seized items that have not been claimed by their owners.

- Blocking the pretext of encroachment on jurisdiction, as the regulator obligated the Public Prosecution to stipulate how to dispose of the seized items. This is indicated by the implication (obligation) that this falls within its jurisdiction. Meanwhile, the disposal of the seized items was restricted upon issuance of a judgment by requesting their return before the court. This means that disposing of the seized items falls within the jurisdiction of the Public Prosecution. The regulator recognized this jurisdiction and added it to the court by restricting the request.

CONCLUSION

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

First, the results: The research concluded with several findings, the most important of which are:

1. Preventing the proliferation of cases by granting the prosecution the authority to drop or file cases that have not reached criminal completion.
3. Preventing the spread of cases to preserve honor and related reputations, as preserving documents in the prosecution office is a social virtue.
4. Preventing the loss of public rights by not neglecting any evidence that strengthens the accusation.
5. Preventing the improvisational neglect of old evidence.

Recommendations

Linking regulations to fundamental principles is a very important task with significant applied scientific goals and objectives that will satisfy the nation's just minds. Therefore, I recommend that those concerned undertake this task 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 the means. 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] Abo Dawood, Suleiman. (n.d.). Sunan Abo Dawood (سُنَنُ أَبُو دَاوُود), vol. 4, Beirut, Al-Asriya Library.
- [2] 'Allam, Hassan (1991), Criminal Procedure Code and the Law of Cases and Procedures for Appeal in Cassation, with a Jurisprudential Commentary, vol. 1, Cairo: Lawyer's Library.
- [3] Al-'Arabi, Ali Zaki (1920). Basic Principles of Investigations, vol. 1, Cairo, Al-E'timad Press.
- [4] Al-'Awlaki, Hussein (2009), The Public Prosecution's Action to Dismiss Evidence and Order That There Is No Grounds for Filing a Criminal Case, Yemen, University of Aden, College of Law.
- [5] Al-Baz, Abbas, (1997). Provisions on Illicit Money and Controls for its Use and Disposal in Islamic Jurisprudence, Amman, Jordan: Dar Al-Nafayes.

- [6] Al-Fayyumi, A. (2020). *Al-Misbah Al-Munir*, Beirut: Al-Maktaba Al-Ilmiyyah.
- [7] Al-Garafi, A. I. (1998). *Al-Furuq*, Part 2, Cairo: Alam Al-Kutub.
- [8] Al-Habsi, Khadija, (2018). *The Discretionary Power of the Public Prosecution in Exercising Criminal Procedures in the UAE Criminal Procedure Code*, United Arab Emirates University, Faculty of Law.
- [9] Al-Jawhari, Ismail, (1987), *Al-Sahah Taj Al-Lughah*, Beirut, Dar Al-Ilm Lil-Malayan.
- [10] Al-Jurjani, A. (1983). *Definitions*, Lebanon, Beirut: Dar Al-Kutub Al-Ilmiyyah.
- [11] Al-Marsafawi, Hussein, (1982). *Principles of Criminal Procedure*, Vol. 2, Alexandria, Dar Al-Maaref.
- [12] Al-Mazmoumi, M. H. (n.d.). *The mediator in explaining the Saudi criminal procedure regulation*, King Abdulaziz University, Faculty of Law, unpublished manuscript.
- [13] Al-Mutairi, Badr (2011). *Initiating a Criminal Case in Public Law*, Saudi Arabia, Master's Thesis, Imam Muhammad ibn Saud University, Higher Institute of the Judiciary.
- [14] Al-Rashoudi, Khaled (2006). *Criminal liability for Disclosing Investigation Secrets*, Master's Thesis, Riyadh, Naif Arab University for Security Sciences.
- [15] Al-Shatibi, I. (1997). *Al-Muwafaqat*, vol. 3, Cairo: Dar Ibn 'Affan for Publication and Distribution.
- [16] Al-Shawafi, Ahmed. (2020), *New Evidence as a Reason for Cancelling the Order of No Grounds for Filing a Criminal Case*, Faculty of Law, Mansoura University, Volume (10), Issue (72). https://mjle.journals.ekb.eg/issue_22842_22895.html
- [17] Al-Sheikh, Adel, (2003), *Claiming Private Rights in Islamic Sharia and the Criminal Procedure System*, Saudi Arabia, Naif Arab University for Security Sciences.
- [18] Al-Tahnawi, M. (1996). *Encyclopedia of Index of Terms in Arts and Sciences*, vol. 2, Beirut: Maktabat Lubnan Publishers.
- [19] Al-Tayeb, Nadhir (2001). *Protection of Property in Islamic Jurisprudence*, Riyadh, Naif Arab Academy for Security Sciences.
- [20] Al-Zarkashi, Muhammad (1984). *Scattered in the rules of jurisprudence (Al-manthoor fi al-gawa'id al-fiqhiyya)*, vol. 2, Kuwait: Kuwaiti Ministry of Endowments.
- [21] 'Awda, A. (2001). *Islamic Criminal Legislation Compared to Positive Law*, vol. 2, Beirut: Dar Al-Kateb Al-Arabi.
- [22] Brahimi, Samiha (2018), *The Principle of Separation of the Powers of Prosecution and Investigation*, Naama, Algeria, Institute of Law and Political Science at the University Center, Salhi Ahmed.
- [23] Ghaoth, T. (2004). *Public prosecution and its rulings*, Riyadh: Kunuz Ashbilia.
- [24] Habtoor, Fahd (2015). *The Presumption of Innocence and Its Consequences in Criminal Law*, Riyadh, King Saud University Journal.
- [25] Hajouri, Ghania, (2018), *The Discretionary Power of the Public Prosecution to Dispose of the Results of Investigation and Research*, Master's Thesis, Algeria, Faculty of Law and Political Science, Akli Mohand Oulhadj University.
- [26] Hakami, A. A. M. O., Dahami, Y. S. H., Hakami, L. A. O. (2025). *Blocking the Pretexts for Investigation Confidentiality in the Saudi Criminal Procedure Code*, *Journal of Information Systems Engineering and Management*, 10(40s), pp. 525-533. <https://doi.org/10.52783/jisem.v10i40s.7323>.
- [27] 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/te30e857>
- [28] 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>
- [29] Hamad, Nazih Kamal (2008), *Dictionary of Financial and Economic Terms*, Damascus, Dar Al-Qalam.
- [30] Ibn Al-Gayyim M.A. (1991) *Information of the Signatories ('ielam almawqieini)*, first edition, Beirut: Dar al-Kutub al-Ilmiyyah
- [31] Ibn Faris, A. (1979) *Dictionary of Language Standards Volume 3*, edited by: Abdul Salam Muhammad Haroun, Dar Al Fikr.
- [32] Ibn Manthoor, M. (1994). *Lisan Al-Arab*, vol. 3, Beirut: Dar Sadir.
- [33] Ibn Taymiyyah, Ahmad, (1987). *Al-Fatawa Al-Kubra*, vol. 6, Beirut: Dar Al-Kutub Al-Ilmiyyah.
- [34] Najm, Muhammad, (2012). *The Power of the Public Prosecution to Conduct Preliminary Investigations in the Jordanian Code of Criminal Procedure: An Analytical Study*, University of Jordan, *Journal of Studies in Sharia and Law Sciences*, Volume (39), Issue (1).

- [35] Rawabhi, Ibrahim (2021), The Principle of Separation of the Powers of Prosecution and Investigation in Algerian Legislation, Tebessa, Algeria, Arab University, Master's Thesis in Criminal Law.
- [36] Saadi, Mugdad (2013). The Validity of the Decision to Close a Criminal Case at the Preliminary Investigation Stage: A Comparative Study, Republic of Iraq, College of Law, University of Nahrain.
- [37] Surur, Ahmed (2016). The Intermediate in the Criminal Procedure Code, vol. 1, Cairo: Dar Al-Nahthah Al-Arabiya.
- [38] Tawfiq, Ashraf, (2015), Explanation of the (Egyptian) Criminal Procedure Code.
- [39] Zarrougi, Shaib. (2020). The Impact of the Media on the Course of Judicial Investigations, Republic of Algeria, Master's Thesis, Faculty of Law and Political Science.