THE EXTENT OF ADHERENCE TO THE INSPECTION STIPULATED IN THE CRIMINAL PROCEDURE LAW BY MEMBERS OF THE JUDICIAL POLICE WITH THE CONSTITUTIONAL TEXTS IN JORDAN

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ABSTRACT

Backgrounds: The Extent of Adherence to the Inspection Stipulated in the Criminal Procedure Law by Members of the Judicial Police with the Constitutional Texts in Jordan

Objective: Identify the legal articles contained in the Jordanian Code of Criminal Procedure, which include inspection procedures

Theoretical framework: The study relied on the descriptive approach, relying on a review of the legal legislation in the Jordanian Code of Criminal Procedure and the extent of its compatibility with the constitutional texts as a guarantee for the preservation of human rights in Jordan.

Method: The study relied on the descriptive approach, relying on many sources and information in addressing the theoretical framework of the study to the main sources

Results and conclusion: Commitment to procedures for searching people and places in accordance with the provisions of the law based on the provisions of the Jordanian Constitution. Commitment to international treaties and conventions that have been signed and which stipulate respect for personal rights related to the inspection of people and places.

Implications of the research: The theoretical importance emerges from the importance of the information added in the research in addition to the importance of the concepts that will be used in this study, and leads to increased researchers’ interest in the concept of the extent of compliance with inspection stipulated in the Jordanian Code of Criminal Procedure by the judicial police with the constitutional texts in Jordan.

Originality/value: Increasing the interest of researchers in the concept of the extent of compliance with the inspection stipulated in the Jordanian Code of Criminal Procedure by the judicial police with the constitutional texts in Jordan.

Keywords: Inspection, Domicile, Dwelling House, Judicial Inspection.

A EXTENSÃO DA ADESÃO À INSPEÇÃO ESTIPULADA NA LEI PROCESSUAL PENAL POR MEMBROS DA POLÍCIA JUDICIÁRIA COM OS TEXTOS CONSTITUCIONAIS NA JORDÂNIA

RESUMO

Antecedentes: O grau de adesão à inspeção prevista na Lei de Processo Penal por membros da Polícia Judiciária com os textos constitucionais na Jordânia

Objetivo: Identificar os artigos jurídicos contidos no Código de Processo Penal da Jordânia, que incluem procedimentos de inspeção

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Referencial teórico: El estudio contó con la abordaje descritiva, apoyándose en la revisión de la legislación jurídica del Código de Proceso Penal de Jordania y en el grado de su compatibilidad con los textos constitucionales como garantía para la preservación de los derechos humanos en Jordania.

Método: El estudio contó con la abordaje descritiva, contando con diversas fuentes e información para abordar el referencial teórico del estudio a las principales fuentes.

Resultados e conclusión: Compromiso con los procedimientos de busca de personas y locales de acuerdo con las disposiciones de la ley con base en disposiciones de la Constitución de Jordania. Compromiso con los tratados y convenios internacionales que fueron suscritos y que estipulan el respeto a los derechos personales relacionados con el inspección de personas y lugares.

Implicaciones de la pesquisa: A importancia teórica emerge de la importancia de las informações agregadas na pesquisa além da importância dos conceitos que serão utilizados neste estudo, e leva ao aumento do interesse dos pesquisadores no conceito de extensão da conformidade com inspeção prevista no Código de Processo Penal da Jordânia pela policía judiciária com os textos constitucionais da Jordânia.

Originalidade/valor: Aumentar o interesse dos investigadores no conceito do grau de conformidade de inspeção estipulada no Código de Proceso Penal da Jordânia pela policía judiciária com os textos constitucionais na Jordânia.


EL GRADO DE CUMPLIMIENTO DE LA INSPECCIÓN ESTIPULADA EN LA LEY DE PROCEDIMIENTO PENAL POR PARTE DE LOS MIEMBROS DE LA POLICÍA JUDICIAL CON LOS TEXTOS CONSTITUCIONALES EN JORDANIA

RESUMEN

Antecedentes: el grado de cumplimiento de la inspección estipulada en la Ley de procedimiento penal por parte de los miembros de la policía judicial con los textos constitucionales en Jordania.

Objetivo: Identificar los artículos legales contenidos en el Código de Procedimiento Penal de Jordania, que incluyen procedimientos de inspección.

Marco teórico: El estudio se basó en un enfoque descriptivo, basándose en una revisión de la legislación jurídica del Código de Procedimiento Penal de Jordania y el grado de su compatibilidad con los textos constitucionales como garantía para la preservación de los derechos humanos en Jordania.

Método: El estudio se basó en el enfoque descriptivo, apoyándose en numerosas fuentes e información para abordar el marco teórico del estudio a las principales fuentes.

Resultados y conclusión: Compromiso con los procedimientos de búsqueda de personas y lugares de acuerdo con las disposiciones de la ley basadas en las disposiciones de la Constitución jordanana. Compromiso con los tratados y convenios internacionales suscritos que estipulan el respeto de los derechos personales relacionados con la inspección de personas y lugares.

Implicaciones de la investigación: La importancia teórica surge de la importancia de la información agregada en la investigación además de la importancia de los conceptos que se utilizarán en este estudio, y conduce a un mayor interés de los investigadores en el concepto del grado de cumplimiento. con la inspección estipulada en el Código de Procedimiento Penal de Jordania por parte de la policía judicial con los textos constitucionales de Jordania.

Originalidad/valor: Aumentar el interés de los investigadores en el concepto del grado de cumplimiento de la inspección estipulada en el Código de Procedimiento Penal de Jordania por parte de la policía judicial con los textos constitucionales de Jordania.

Palabras clave: Inspección, Domicilio, Vivienda, Inspección Judicial.
1 INTRODUCTION

The Jordanian constitution explicitly outlines the rights and freedoms of Jordanians in its second chapter, with one of these rights being the inviolability of the domicile. According to this provision, entry into residences is only permissible by the legal procedures stipulated in the Jordanian Criminal Procedure Law. Any deviation from these procedures by the authorized legal entity responsible for conducting inspections, namely the judicial police, is considered a violation of legal statutes and renders such actions null and void.

The domicile, by its nature, is a private space designated for the individual who resides therein. However, not every private space constitutes a domicile; rather, a domicile is distinguished by its allocation for actual residence, implying that its inhabitant has prepared it for habitation and all aspects of life. The legal protection afforded to the domicile does not extend to private spaces that are no longer used for residency but rather are designated for professional or commercial activities.

Constitutional guarantees for the protection of personal rights in Jordan and worldwide ensure non-interference with individuals' freedoms, in alignment with international treaties, conventions, and the legislation of democratic countries. This is enshrined in the Jordanian constitution, particularly concerning inspections conducted by the legally authorized entity.

Members of the judicial police must obtain inspection authorization through a legally endorsed memorandum signed by the public prosecutor within their jurisdiction. The inspection memorandum must adhere to legal boundaries, and any exceeding of authority constitutes a violation of constitutional provisions, rendering such actions invalid. This approach has been affirmed by a distinguished decision of the Jordanian Court of Cassation, which mandated that inspection authorization must be in writing to be considered a lawful inspection. In a ruling, it was established that if the inspection conducted by the investigative officer is authorized by a written mandate from the public prosecutor and is attended by the deputy of the local mayor, it is deemed a lawful inspection\(^{(3)}\).

The fourth paragraph of the Jordanian National Charter issued in 1991, under the title "Jordanian National Security," emphasizes the development and qualification of national security agencies to fulfill their duties in protecting external state security and ensuring internal security while respecting the dignity, freedom, and constitutional rights of citizens. Additionally, it underscores their ethical responsibility to instill confidence and trust between themselves and the public across all sectors. The Jordanian Criminal Procedure Law delineates procedures to be followed from the commission of a crime, through investigation and sentencing to execution, specifying the authorities empowered to undertake these procedures. Article 9 of the Criminal Procedure Law states that the public prosecutor assists in carrying out the functions of the judicial police.\(^{(4)}\)

1.1 PREVIOUS STUDIES


The study aimed to clarify that the search warrant must be based on a warrant legally signed by the public prosecutor within the jurisdiction, and the search warrant must be within the legal limits, and in the event of an abuse of powers, it will be in violation of the constitutional texts.


The study aimed to show that the court may order, even on its own initiative, during the hearing of the case and at any stage of the trial, to present any evidence and to invite any witness that it deems necessary for the truth to emerge. Accordingly, the court has the right to take all necessary measures to obtain that evidence, including inspection.


The study aimed to show that inspection is one of the most dangerous procedures affecting personal freedom because it represents an obligatory restriction to which a person is subjected, as it is one of the procedures that aims to reach the truth as it is the goal of criminal

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justice in procedural systems. Therefore, contemporary criminal policy seeks to establish a kind of balance between the considerations of achieving Justice, security and guarantees of freedom


The study aimed to clarify the dwelling house as the place designated for residence or any part of a building that the owner, or the resident at that time, has made a residence for himself, his family, guests, servants, or any of them, even if it was not actually inhabited at the time of committing the crime, and it also includes its attached accessories and annexes that are included with it by a single wall.


The study aimed to define housing, as it is considered the place where a person takes shelter and takes it as his headquarters. This concept includes the place in which he “actually” resides. This concept also applies to the place that its owner prepares for his residence, even if he is absent from it during certain periods.

1.2 PROBLEM STATEMENT

The problem of the study lies in examining the extent of compliance with the inspection procedures outlined in the Jordanian Criminal Procedure Law by members of the judicial police, juxtaposed with constitutional provisions in Jordan. This investigation involves referring to legal legislations and assessing the degree of compliance when members of the judicial police conduct inspections, and whether these procedures align with constitutional provisions aimed at safeguarding human rights in Jordan. The practical reality of inspection operations conducted by members of the judicial police, particularly by personnel of the public security forces, indicates a breach of authority. This is evident in their conducting inspections without a legally endorsed memorandum signed by the public prosecutor and failing to adhere to the specified legal procedures mandated by legal texts. Additionally, there is non-compliance with the requirement for the presence of individuals mandated by law during the inspection process, as well as deficiencies in the documentation of inspection reports and records.
1.3 STUDY QUESTIONS

1. Can the legal provisions outlined in the Jordanian Criminal Procedure Law, which encompasses inspection procedures, be studied, and identified?
2. Is it possible to examine the legal provisions in the Penal Code regarding the nullification of inspections in cases of exceeding authority and the penalties incurred for such transgressions?
3. To what extent can we ascertain the rulings of the Court of Cassation that invalidate improper procedures conducted by members of the judicial police?
4. What constitutional provisions safeguard the inviolability of the domicile?

1.4 STUDY OBJECTIVES

1. To identify the legal provisions outlined in the Jordanian Criminal Procedure Law that encompass inspection procedures.
2. To understand the legal provisions in the Penal Code regarding the nullification of inspections in cases of exceeding authority and the penalties incurred for such transgressions.
3. To recognize the rulings of the Court of Cassation that invalidate improper procedures conducted by members of the judicial police.
4. To comprehend the constitutional provisions that safeguard the inviolability of the domicile.

1.5 IMPORTANCE OF THE STUDY

Theoretical Importance: The significance of the study stems from the importance of investigating the extent of compliance with inspection procedures as stipulated in the Jordanian Criminal Procedure Law by the judicial police, in conjunction with constitutional provisions in Jordan. Additionally, the theoretical importance arises from the value of the added information in the research, as well as the significance of the concepts that will be utilized in this study. This contributes to increasing researchers' interest in the concept of compliance

3. Decisions of the Jordanian Court of Cassation.
with inspection procedures outlined in the Jordanian Criminal Procedure Law by the judicial police, aligned with constitutional provisions in Jordan(8)

Practical Importance: The practical importance lies in its contribution to the development of plans and programs that must be undertaken by relevant authorities in the executive branch. This is achieved by focusing on Jordanian legislations that demonstrate legal guarantees and their alignment with constitutional provisions to safeguard human rights.(9)

1.6 STUDY SCOPE

The study focuses on investigating the extent of compliance with inspection procedures as outlined in the Jordanian Criminal Procedure Law by the judicial police, in conjunction with constitutional provisions in Jordan. This is achieved through reviewing the legal legislations in the Jordanian Criminal Procedure Law and assessing their alignment with constitutional provisions aimed at safeguarding human rights in Jordan.

1.7 STUDY METHODOLOGY

A descriptive approach was adopted for this study, relying on various sources and information to develop the theoretical framework. Primary sources such as relevant Arabic books, references, articles, and previous studies addressing the study topic were consulted.(10)

2 FIRST: THE CONCEPT OF INSPECTION IN JORDANIAN LEGISLATION

The Nature of Inspection: Inspection refers to the examination of a place or an individual. The Jordanian legislator departed from the predominant approach in comparative legislations, which did not provide a definition for domicile in their procedural laws. Article 2 of the Jordanian Penal Code defines "domicile" as "the place designated for residence or any part of a building adopted by the owner or the inhabitant as a residence for him, his family, guests, and servants, or for any of them, even if it is not actually inhabited at the time of committing the crime. It also includes its annexes and related attachments enclosed by the same wall." The Quran also emphasizes the security of domiciles, as they are places of comfort and

7. Surah Al-Hijr (15:82).
stability, as stated: "And they used to carve from the mountains, houses, feeling secure" and "Enter it in peace, securely." The Jordanian legislator clarified that any place where a person resides is considered a domicile, even if it is not designated for residence. Thus, any place prepared for residence is considered a domicile, even if it is not inhabited in actuality. Therefore, fundamentally, a domicile is considered the place where a person resides and establishes it as their headquarters. This concept applies to places where one resides "in actuality," as well as to places prepared by their owner for residence, even if they are absent for certain periods.

The definition of inspection is not within the legislator's purview; rather, it falls under the jurisdiction of jurisprudence and the judiciary to address this issue. The Jordanian legislator did not deviate from this framework, leaving this task to jurisprudence and the judiciary. As for the legal nature of judicial inspection, the Jordanian legislator did not delve into elucidating the legal nature of judicial inspection, considering that the Jordanian legislator has regulated the provisions of inspection. The Jordanian legislator did not deem it necessary to explicitly state that inspection is an investigative act. However, this does not preclude the court from undertaking this procedure pursuant to Article (162/2) of the Jordanian Code of Criminal Procedure, which allows the court to order, even ex officio during the proceedings and at any stage of the trial, the presentation of any evidence and the summoning of any witness deemed necessary to ascertain the truth. Therefore, the court has the right to take all necessary measures to obtain such evidence, including inspection. On the other hand, considering the broad powers granted to criminal courts by law to perform this function, ensuring the discovery of truth so that the innocent are not punished or the guilty do not escape, it is imperative that they are not restricted in performing their duties by any constraint not specified in the law.

2.1 CHARACTERISTICS OF INSPECTION

By reviewing the legal texts that stipulate inspection in Jordanian legislation, the characteristics of inspection can be identified as coercion and its nature as a means of searching for material evidence. Inspection shares this aspect with all investigative procedures, as it constitutes a "legal" encroachment on the personal freedom of the accused or the sanctity of their dwelling without their consent and against their will. The law balances the state's right to impose punishment to achieve justice and the individual's right to personal freedom and the
preservation of their secrets. Consequently, inspection is permitted even without the individual's consent when the legal conditions and guarantees prescribed by law are met.\(^{12}\)

Therefore, inspection conducted without considering the consent of the occupant and regardless of their satisfaction does not allow the occupant to resist or object to this procedure. If the occupant does so, the law permits the inspector to take specific steps to make coercion or compulsion a tangible and apparent reality. Article 19 of the Jordanian Code of Criminal Procedure grants the public prosecutor and all judicial officers the authority to directly request the assistance of the armed forces during the performance of their duties. Therefore, inspection does not necessarily imply coercion or compulsion. Accordingly, a search conducted in a dwelling with the consent of its owner, except in cases specified by law, negates the element of coercion, and the action taken in this case is mere observation or examination.\(^{13}\)

Inspection represents a real restriction on individual freedom as it violates the right to secrecy. It intrudes upon the right to privacy as inspection aims to uncover the truth in the repository of secrets.

Regarding the burden of proof falling on the prosecution, the law allows measures that encroach upon the defendant's freedom and right to confidentiality if it serves the interests of society. Therefore, assigning a crime to a specific individual requires establishing evidence of their connection to it. Inspection plays a crucial role in this context, specifically aiming to obtain evidence, especially material evidence, which speaks for itself and influences the judge's conviction.\(^{14}\)

2.2 SECOND: CONCEPT OF DWELLING IN JORDANIAN LEGISLATION

The concept of dwelling is determined based on its connection to the private life of its owner. It encompasses any private place where a person resides permanently or temporarily. Protection under the law is not contingent upon the legal ownership of the home but extends to various forms of occupancy, including ownership, lease, usufruct, or tolerance. Even an intruder or occupant through force or fraud enjoys the same protection as a lawful occupant, as the law cannot protect unlawful situations.\(^{15}\) Preserving the right to dwell in all circumstances means protecting individual freedom and the right to secrecy, regardless of the legitimacy of the

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10. Dr. Mohammed Saeed Nimr, previous reference, p. 355.
12. Dr. Mohammed Saeed Nimr, previous reference, p. 357.
occupancy. Therefore, we do not agree with the juristic opinion that an intruder does not enjoy the protection provided for dwellings, as the legislator aimed to protect private life, regardless of the manner of possession.\(^\text{(16)}\)

It is noteworthy that the nature of the dwelling or the material it is made of, whether it is a house, hut, or tent, and whether it is made of brick, wood, or thatch, is of no consequence. On the contrary, according to Jordanian legislation, the protection is not limited to the dwelling itself but also encompasses its "accessories," defined as everything associated with the dwelling and intended for its occupants' benefit. These accessories may include a garden, storage room, stable, laundry room, or staircase, provided they are enclosed within the same perimeter wall as the dwelling. However, it is not necessary for the accessories to have a direct connection to the dwelling to enjoy criminal protection. Functional dependence, meaning they complement the use of the place for its intended purpose, suffices. The determination of whether certain places fall under the concept of dwelling, thus warranting the protection prescribed by the law for dwellings, poses challenges, requiring consideration of the legal conditions and guarantees in this regard. This applies particularly to places designated for habitation and private spaces.

2.3 THIRDLY: LEGAL PROTECTION OF DWELLINGS

Article 10 of the Jordanian Constitution stipulates, "Dwellings shall be inviolable; no one may enter them except in the cases specified by law and in the manner prescribed therein." This constitutional provision falls under the second chapter (Rights and Freedoms of Jordanians), affirming the individual's right to the sanctity of their dwelling as a domain of their private life. The sanctity of private life holds no value unless it extends to the dwelling where one finds tranquility, lives for oneself, and entrusts their secrets.\(^\text{(17)}\) Without the sanctity of the dwelling, private life becomes threatened and insecure. Inspection is considered one of the most dangerous procedures affecting personal freedom, as it represents a compulsory restriction imposed on individuals. It is one of the procedures aimed at uncovering the truth, viewed as the ultimate goal of criminal justice in procedural systems. Therefore, contemporary criminal policy seeks to establish a balance between considerations of justice, security, and the guarantees of freedom.\(^\text{(18)}\)

\(^{14}\) Dr. Hamed Rashid, "Criminal Protection of the Right to Privacy of the Dwelling," p. 188.
\(^{16}\) Dr. Mohammed Saeed Nimr, Explanation of the Code of Criminal Procedure, p. 356.
The violation of the sanctity of dwellings constitutes a crime in the regulatory legislations of countries. It carries numerous aggravating circumstances, making it a severe offense with enhanced penalties.\(^{(19)}\)

The violation of the sanctity of dwellings occurs when entry is made into dwellings without the owner's permission. This act is treated as a crime, addressed by the Jordanian legislator in the Jordanian Penal Code, where punishment for this offense is as follows\(^{(20)}\):

- Imprisonment for a term not exceeding six months for the simple form of the crime;
- Imprisonment for a term of not less than one month and not exceeding one year if the act occurs at night, or by violence, breaking and entering, use of weapons, or if the violation of the sanctity of the dwelling is committed by several persons collectively.

"Search" means seeking the truth in the repository of secrets by entering homes and searching them to look for anything prohibited or individuals wanted by the judiciary. This action is based on legal regulations stipulated by the Jordanian legislator. These procedures include firstly the signing of a search warrant by the competent legal authority, as specified by the Public Prosecutor.\(^{(21)}\)

The law provides exceptions that allow the Public Prosecutor to delegate one of the judicial police officers to act on their behalf, provided that the warrant is signed by the Public Prosecutor. There are cases where the Public Prosecutor delegates a member of the judicial police to conduct the search, in order to expedite procedures in urgent matters. Upon arriving at the location to be searched, and before entering the house, it is necessary to ensure the presence of the neighborhood headman, with whom there should be a close relationship and mutual cooperation, even at late hours of the night.\(^{(22)}\)

Before entry, a female member of the judicial police is brought in to search women's private quarters and the women themselves if there is suspicion of them concealing items. The homeowner must be present during the search, and entry into the house is not allowed without the homeowner's presence. Subsequently, entry is conducted with respect and the preservation of the confidentiality of the households. Any damage or destruction to the property is prohibited, and those responsible for such actions are held accountable.\(^{(23)}\)

This is to prevent individuals from overstepping boundaries, in accordance with the provisions of the Code of Criminal Procedure. The sole objective is to find prohibited items. If

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18. Article 10 of the Jordanian Constitution.
prohibited items are found, they are seized. Additionally, there are cases where homes can be entered without a warrant or the presence of anyone, based on Article (93) of the Jordanian Code of Criminal Procedure. These cases are limited and include situations such as:

Pursuing a fugitive who enters a house, allowing the police to enter and apprehend the fugitive.

A person present at the scene seeking assistance from the police, with circumstances indicating that a crime is being committed inside the house.\(^{(24)}\)

A resident of the house seeking assistance from the police.

If circumstances indicate that a crime has been recently committed in that house.\(^{(25)}\)

3 THE LEGAL POWERS GRANTED TO MEMBERS OF THE JUDICIAL POLICE REGARDING SEARCHES IN JORDANIAN.

legislation must comply with the provisions of the Jordanian Constitution. The Constitution guarantees the inviolability of homes in the Personal Rights section, as stated in Article 10, which prohibits entry into homes except in circumstances specified by law and in the manner prescribed therein. The exception is the search of homes according to the provisions of the law. Article 83 of the Jordanian Code of Criminal Procedure stipulates the following:

1. Search is conducted in the presence of the accused if detained;
2. If the accused is not detained and refuses to be present, or if it is impossible for them to be present, or if they are detained outside the area where the search is to take place, or if they are absent, the search is conducted in the presence of the neighborhood headman or their representative, or in the presence of two of their relatives or witnesses summoned by the Public Prosecutor.\(^{(26)}\)

Article 93 of the Jordanian Code of Criminal Procedure allows any police officer or gendarme to enter any house or place without a warrant and conduct an investigation:

1. If they have reason to believe that a crime is being committed there or has been committed there recently;
2. If the resident of that place calls for police or gendarmerie assistance;

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3. If someone present at that place calls for police or gendarmerie assistance and there is reason to believe that a crime is being committed there;

4. If they are pursuing a person who has fled to that place lawfully. (27)

Article 94 of the Code of Criminal Procedure prohibits any officer, police officer, or gendarme, except in the cases mentioned above, from entering any place and conducting a search for any person or thing unless accompanied by the neighborhood headman or two persons from the neighborhood. (28)

Article 82 of the Code of Criminal Procedure grants the Public Prosecutor the authority to conduct investigations in all places where there may be items or persons that would help in discovering them or discovering the truth. (29)

Based on the legal provisions outlining the powers of members of the judicial police in conducting searches, strict adherence to the law is required. Otherwise, the search may be deemed invalid. (30)

Moreover, Decision No. 697/1997 issued by the Jordanian Court of Cassation on December 22, 1997, stipulated that Article 327 of the Penal Code imposes stricter penalties for murder if committed against a public official during the performance of their duties or by virtue of their duties. Therefore, considering it impermissible to search homes in the middle of the night without the presence of the neighborhood headman or two of the accused's relatives, as required by the conditions and provisions of Article 85 of the Code of Criminal Procedure, which mandates searches to be conducted pursuant to a warrant according to the provisions of Article 93 of the same law, the search conducted by the General Security personnel in the middle of the night without the presence of the neighborhood headman or any witness and without a warrant from the Public Prosecutor constitutes a violation of the law. (32)

Firstly, the legal procedures that must be followed before entering homes for the purpose of conducting searches involve obtaining a search warrant, which must be presented to the homeowner whose residence is to be searched. The signature on the warrant must be that of the Public Prosecutor, and if signed by anyone else, regardless of their official capacity, it is considered invalid according to Jordanian law. Consequently, any actions based on such a warrant would also be invalid. Although the legislator granted the Public Prosecutor the
authority to delegate a member of the judicial police to act on their behalf, judicial police officers possess sufficient knowledge and understanding of the law due to their ability to control situations and their legal expertise. The majority of judicial police officers hold university degrees, with some even having postgraduate qualifications, demonstrating their legal awareness and understanding, which assists public prosecutors in their duties. The law specifies the individuals who must be present alongside members of the judicial police, including the neighborhood headman, as per Jordanian law, female judicial police officers, and the homeowner. Regarding the fate of any items found during the search, it is the duty of police officers to seize prohibited items wherever they are found. They are obligated to maintain security and seize or report any prohibited items even during their breaks, as they are required to uphold security and seize prohibited items or report them even during official duties. Any prohibited items found during duty must be seized, and even if the purpose of the search differs from these items, legal seizure must be conducted according to the law. The homeowner must be informed of the items found, and designated individuals such as the neighborhood headman must also be notified. Even if nothing is found, a detailed record of the search must be maintained, including the time of arrival at the location, and it must be signed by all participants in the search operation. The search must be conducted with respect and discipline, without resorting to verbal abuse, insults, or violence, as such actions tarnish the reputation of the police force and compromise their duties. All of the aforementioned procedures are in accordance with the law.\(^{(34)}\)

The decision of the Jordanian Court of Cassation numbered (697/1997) dated (22/12/1997) stipulated the following: Article (327) of the Penal Code mandated stricter penalties for murder if committed against a public official while performing their duties or by virtue of their position. Therefore, given that it is impermissible to search homes in the middle of the night without the presence of the local mayor or someone acting on their behalf, or in the presence of two relatives of the accused, in accordance with the conditions and provisions of Article (85) of the Code of Criminal Procedure, which required searches to be conducted based on a warrant according to the provisions of Article (93) of the same law, a search conducted by members of the public security in the middle of the night without the presence of the mayor, witness, or a warrant from the public prosecutor would be considered illegal. The decision of the Court of Cassation indicates that the performance of a search and seizure of drugs by a

\(^{(34)}\) The decision of the Jordanian Court of Cassation numbered (697/1997) dated (22/12/1997) stipulated the following: Article (327) of the Penal Code mandated stricter penalties for murder if committed against a public official while performing their duties or by virtue of their position. Therefore, given that it is impermissible to search homes in the middle of the night without the presence of the local mayor or someone acting on their behalf, or in the presence of two relatives of the accused, in accordance with the conditions and provisions of Article (85) of the Code of Criminal Procedure, which required searches to be conducted based on a warrant according to the provisions of Article (93) of the same law, a search conducted by members of the public security in the middle of the night without the presence of the mayor, witness, or a warrant from the public prosecutor would be considered illegal. The decision of the Court of Cassation indicates that the performance of a search and seizure of drugs by a

member of the public security, regardless of whether they are on duty or off duty, as long as this action falls within their duties, is mandatory at all times.\(^{(35)}\)

**Secondly:** The role of the judge in case of misconduct by inspection officers in any procedure:

The procedures stipulated by law to be null and void include exceeding the bounds of inspection procedures or ignorance of the law. The role of the judge here is to await the appeal against the inspection procedures and any invalid action committed by members of the judicial police. Upon being appealed before the judge, it is incumbent upon the judge, after ensuring the legality of the appeal and that the inspection was not conducted according to legal principles, to rule to annul all these procedures because what is built on an invalid foundation is also invalid. However, if a member of the judicial police commits an invalid action during the inspection and the judge is not aware of the invalidity of this action, the judge is not obliged to issue a ruling to nullify it because they were not aware of the invalidity of this action. This is crucial because the judge did not attend the inspection to independently judge the nullity of the procedures. Instead, there is a legal period during which individuals concerned can lodge objections to the procedures taken during the inspection.\(^{(36)}\)

Article (48) of the Jordanian Code of Criminal Procedure stipulates the following:

1- The public prosecutor, during the performance of official duties under the conditions specified in Articles (42, 29), may delegate to any member of the judicial police, each according to their jurisdiction, a portion of the tasks falling within their duties if deemed necessary, except for interrogating the accused.\(^{(37)}\)

2- In cases other than those specified in paragraph (a) of this article, if the public prosecutor delegates to any member of the judicial police a portion of the tasks falling within their duties, in accordance with the provisions of this law, they must issue a written memorandum including the specific time and place for executing its contents whenever possible.

There are certain procedures that inspection officers are not allowed to undertake, as follows:

It is not permissible to conduct an examination and search in a dwelling inhabited by residents because it constitutes one of the investigative procedures that go beyond the authority

of inspection officers. The term "dwelling" refers to the place where the accused resides and its annexes connected to it, such as the garden, garage, tent, or shed, and any place belonging to the accused, whether for personal use or for safeguarding their money and documents, based on Jordanian Penal Code, Article (2). \(^{(38)}\)

Additionally, no action that infringes upon personal liberty, such as arrest or search, except for the procedures granted by law, is allowed in the case of a flagrant offense and entry into homes, arrest, or delegation by the original investigative authority (the public prosecutor).

There are disciplinary measures against members of the judicial police. Article (22) of the Jordanian Code of Criminal Procedure states the following \(^{(39)}\)

"If the judicial police officers neglect matters within their jurisdiction, the public prosecutor shall issue a warning to them, and he may propose to the competent authority the disciplinary measures necessitated by the situation."\(^{(40)}\)

**Thirdly:** Legal powers granted in comparative legislation:

1. **French Law:** Articles (75, 14) of the French Code of Criminal Procedure provide for the judicial police's powers in the evidence-gathering stage. Article 14 states that the judicial police are responsible for extracting crimes from the criminal law, collecting evidence related to them, and searching for criminals as long as the investigation has not yet been opened. Under Article 75, judicial police officers are authorized to conduct necessary investigations either on their own initiative or based on instructions from the public prosecutor. Thus, French law grants police officers with judicial powers the authority to gather evidence as an original function.\(^{(41)}\)

2. **British Law:** The British law delegates to police officers with judicial status the performance of both stages: evidence gathering and inspection and investigation. Since 1842, investigations have been part of the British police's duties, involving two stages: detecting the criminal and proving the charge by gathering evidence that attributes the crime to the perpetrator. According to the first principle of judicial policing, while attempting to uncover criminals, judicial police officers may question individuals, whether suspects or not. Suspects have the right to refuse to answer. Pre-trial procedures for crimes that do not require formal documentation to initiate proceedings are in the

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hands of the police in England. They evaluate their investigations and decide whether to press charges, often conducting prosecution themselves during the trial.

3. **US Law**: Under the Pre-Trial Procedure Act of 1974, American police exercise the powers of investigation, evidence gathering, inspection, and investigation, both as original functions. The police are granted the authority to stop suspects, arrest them, deal with witnesses, search suspects and vehicles, among other procedures related to evidence gathering and investigation, either as original functions or after obtaining a warrant from a judge for some actions.\(^{(42)}\)

In the practical application of inspection procedures in the Hashemite Kingdom of Jordan, inspection procedures carried out by the judicial police are often invalid and do not comply with the law due to ignorance of the law. This ignorance is primarily on the part of the homeowner, who should ensure that the inspection warrant is legal, signed by the public prosecutor, and valid, specifying the homeowner's name and other details as required by law. Any error, deletion, or alteration should prevent individuals from entering the house by the force of the law, and they should be urged to take the correct legal procedures. These actions demonstrate legal awareness among individuals and lead to the proper application of the law. However, there are often instances where members of the judicial police, despite being knowledgeable about the correct procedures, engage in legal violations, and there is no one knowledgeable in the law to prevent them from taking invalid legal actions. Moreover, there is often ignorance among members of the judicial police, leading to violations even by female officers while performing their duties as stipulated by the law.

**Firstly**: Lodging an appeal against the legality of the inspection by an interested party:

Often, homeowners are unaware that the law allows them to request a legal inspection warrant signed by the public prosecutor and attended by representatives specified by law, such as the neighborhood chief and female officers. Homeowners have the right to appeal within a legal timeframe, and the researcher sees the necessity of raising awareness about these matters, as they concern everyone. Providing educational lectures and awareness sessions to individuals in the community by various local community institutions is essential to safeguarding human rights. Ignorance of the law, especially regarding matters affecting their interests, is common among individuals.\(^{(43)}\)

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42. Jean Pradel, op. cit., no. 263, p. 288.
Inspection is the search for truth in the realm of secrecy, an investigative procedure owned by the investigative authority. It involves specific actions to obtain evidence of the existing crime in preparation for the society's right to punishment. It is a procedural act with legal consequences.

**Secondly:** Public Security Authority's Jurisdiction under the Public Security Law No. (9) of 2004:

Article (4) of Law No. (9) of 2004 on Public Security stipulates the main duties of the Public Security Authority as follows:

1. Maintaining order, security, and protecting lives, honor, and property;
2. Preventing crimes, discovering and tracking them, arresting perpetrators, and bringing them to justice;
3. Managing prisons and guarding prisoners;
4. Implementing laws, regulations, and legitimate official orders, assisting public authorities in performing their functions in accordance with the law;
5. Receiving lost items, unclaimed funds, and disposing of them according to the laws and regulations;
6. Monitoring and regulating transportation on roads;
7. Supervising public gatherings and processions on roads and public places;
8. Undertaking any other duties imposed by the applicable legislation\(^{(44)}\)

Except as provided in Article (4) of the Public Security Law, the legislator in this law did not address the jurisdiction of the General Security Directorate in the field of judicial control. The Directorate's tasks of crime discovery, tracking offenders, arresting them, and referring them to justice, as stated in the Criminal Procedure Code and special laws, are duties of the judicial police. The General Security Directorate adheres to its powers in terms of crime discovery, tracking criminals, arresting them, and referring them to the competent courts for trial under the provisions of the Criminal Procedure Code.\(^{(45)}\)

The judicial jurisdiction outlined by the Public Security Law, along with some provisions related to it, includes the formation and jurisdiction of the Public Prosecution of the General Security Directorate, the Police Court as a special judicial body exercising jurisdiction over General Security Directorate personnel, and referring them to the Military Penal Code for the purpose of its application to Directorate personnel. Additionally, it refers to the provisions

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of the Criminal Procedure Code regarding the procedures followed before the Police Court, according to the Jordanian Public Security Law No. (35) of 1965.\(^{(46)}\)

**4 CONCLUSION**

In His divine scripture, Almighty Allah states, "And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created,\(^{(47)}\) with [definite] preference." (Quran, Surah Al-Isra, 17:70) Thus, Allah has elevated humanity to the highest ranks of life and favored them over other beings. Therefore, the right of humans to live with freedom, dignity, and without subjugation to another individual, relinquishing their rights, or being deprived of them is among the foremost objectives of Islamic law. Furthermore, their right to the sanctity of their dwellings is paramount, as homes are repositories of secrets. Prophetic traditions emphasizing the necessity of seeking permission before entering homes attest to the sanctity of dwellings.

The Holy Quran and the Prophetic traditions affirm the sanctity of dwellings and respect for human rights and freedoms within them. This affirmation aligns with constitutional texts that stipulate the rights and freedoms of citizens, as well as with international treaties and conventions emanating from the United Nations and international organizations concerned with human rights and the sanctity of dwellings, as reflected in the Universal Declaration of Human Rights adopted by the United Nations General Assembly.

The researchers believe that the duty to protect and respect human rights in the first place falls on governments and states, as states and governments, through what has been stipulated in their constitutions, stipulate human rights, including personal rights, and the inviolability of the home \(^{(47)}\), where protection does not stop at this point, but rather Independent institutions affiliated with the state must be established with the aim of strengthening the role of protection for individuals. States are considered the first responsible for protecting people, avoiding illegal measures through the use of power, and avoiding influence on human rights by various state agencies. Accordingly, international constitutions and charters address states and governments In particular; It does not exempt it from responsibility, holding the attacker accountable for the sanctity of the home \(^{(48)}\). Educational institutions must develop knowledge in identifying the legal procedures that must be followed

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44. Dr. Mohammed Saeed Nimr, previous reference, pp. 354-355. Dr. Rouwuf Obeid, previous reference, p. 347. Dr. Mahmoud Al-Shumali, previous reference, p. 52.
before entering homes for the purpose of searching them, and their compatibility with human rights and freedoms in Jordan (49) and compatibility with global developments related to the use of intelligence applications. Artificial intelligence in inspection, (50) where the following results and recommendations were reached (51)

5 RESULTS

1. Article 33 of the Jordanian Code of Criminal Procedure authorizes the Public Prosecutor or his delegate to immediately proceed to the residence of the accused for a search for items that may lead to revealing the truth if it becomes evident from the nature of the crime that the papers and items in possession of the accused could serve as evidence of its commission;

2. The Public Prosecutor is authorized to search a dwelling upon the owner's request in accordance with Article 42 of the Code of Criminal Procedure. Since Jordanian law criminalizes unauthorized entry into dwellings under the Penal Code (Articles 347-181);

3. Merely establishing the commission of a crime does not suffice as a basis for resorting to a search. There must also be sufficient evidence to restrict in uncovering the truth. Article 86/1 of the Code of Criminal Procedure allows the Public Prosecutor to search the accused, and he may also search others if strong indications suggest that they are concealing items that would aid in uncovering the truth;

4. The Jordanian legislator did not require a search warrant for either individuals or dwellings. This stance requires reconsideration by incorporating a fundamental and essential condition, namely, the issuance of a search warrant.

5.1 RECOMMENDATIONS

1. Clearly and explicitly identify the legal texts related to searches;

2. Adhere to search procedures for individuals and places in accordance with the provisions of Jordanian law, based on the texts of the Jordanian Constitution;

3. Adhere to international treaties and conventions that have been signed, which stipulate respect for personal rights related to searches of individuals and places;

4. Conduct training courses and workshops for members of the judiciary police regarding compliance with search laws and regulations;
5. Include a fundamental and important condition requiring the issuance of a search warrant;

6. The relationship between members of the judiciary police and the judiciary is regulated by legal legislation (Code of Criminal Procedure), which requires members of the judiciary police to adhere to these laws. This necessitates coordination and harmony in work and avoiding exceeding legal powers;

7. Involve specialized members of the judiciary police in workshops and seminars held by the Judicial Council to increase knowledge and awareness.

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