

INTERNATIONAL AND REGIONAL PROTECTION OF THE RIGHT TO INVIOABILITY HOUSING: COMPARATIVE LEGAL STUDY

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Abstract

The international community has expressed its efforts in the field of protecting human rights and various freedoms through international conventions and regional and Arab pacts. Countries have made great efforts to develop the justice system over the past decades. International and local efforts in the Gulf countries in general and in the United Arab Emirates and Saudi Arabia in particular focus on providing a legal and just environment that works to guarantee the rights of every person in general. Everyone is equal before the law. The regulatory and technical authorities in both countries, through Visions 2030, have worked to raise the level of coordination and cooperation between the criminal justice and security sectors in legal, organizational, executive, and judicial terms; to develop the judicial sector in both countries and the security sector in particular; and to prepare and train their men to preserve human rights during the exercise of their work. They wrote this protection into the texts of their rules and laws, which made it easier for them to work faster and cut down on the time it took to find out the truth about the crime they were looking into. They also made sure that people's physical and moral freedoms were protected during housing inspections. An inspection is one of the most important and most dangerous criminal procedures that security men can carry out, and its content is a violation of human rights. It is also one of the most important and urgent investigation procedures, whether it is on the person of the accused, or in his residence, with the aim of revealing the truth of the crime that actually occurred and is not probable, and the search and careful investigation of its evidence that may prove or may deny the conviction of the person of the accused or the accused who have been ordered to search, or those previously ordered to arrest them. The problem of the study here is the question of the adequacy of international and regional legal texts with regard to judicial inspection, which is capable of protecting the human right to preserve the sanctity of his home or not. As a result, the study intends to examine international and regional legal texts in both the Saudi system and UAE law, as well as discuss their statutory authority in protecting the human right to the sanctity of their private lives during home inspections. The study revealed the inadequacy of international and regional texts in protecting human rights to the sanctity of their private lives. It appears to be law enforcement officials carrying out the procedure in the manner in which they adhere to the sanctity of the home, and the Saudi system corrects the evidence for it despite the invalidity of the procedure. Because of this, it is important to change some texts to protect the right to the sanctity of the home.

Keywords: *International Conventions, Inspection, Sanctity of the Home, Human Rights*

1. INTRODUCTION

International and regional covenants related to human rights and state constitutions and laws have been keen to stipulate the right to the inviolability of the home and personal freedom and have prohibited its violation in any form (Lixinski, 2017). However, there is an objective framework that is excluded from that which is related to the enforcement of the law in order to reveal the truth. Hence, it becomes clear to us that the search differs from entering the dwelling, which may be in the case of necessity or in the case of distress. For example, it's clear that getting into the building doesn't have to follow the same rules and restrictions as the inspection.

The sanctity of the home is one of the most important elements of the right to freedom of housing, as it is the place where a person feels calm, calm, and safe. Private life has no value unless it includes

a home for a person who is safe in himself, away from the eyes and ears of others (Lixinski, 2014). Inspection is one of the most serious measures affecting human rights as it relates to the freedom and tranquility of the individual. In fact, we do not deny that a person cannot feel freedom if he becomes threatened with his secret and sanctity, so the right of a person to keep his secret and the sanctity of his home is the principle, and therefore, what is responded to is considered an exception, and hence the seriousness of these restrictions in that they grant judicial authority rights exercised in the face of individuals who have no resistance to them.

2. PROBLEM STATEMENT

The purpose of stipulating the competence of the investigation authority to conduct a home inspection as one of the investigation procedures was to ensure that it was making every effort to uncover the truth. In the event that it delegates the control officers to carry out the inspection, they shall also abide by what the investigation authority is originally committed to in order to preserve the sanctity of the residences. However, what has appeared on the ground is a violation of the sanctity of the home. And the sanctity of homes stems from being the secret of man and the source of his security, so violating it is a taboo, but what about when someone has legal authority? It is a greater violation that requires careful and repeated research into the adequacy of the available legal texts to protect the sanctity of homes. Accordingly, the research problem crystallizes into the following main question:

How well do international and regional laws protect the sacredness of housing in international law, Saudi law, and UAE law?

3. RESEARCH QUESTIONS

The current research seeks to answer the following questions:

1. Does international and regional law guarantee the sanctity of the home for humans?
2. Where is the sanctity of the human home realized in international and regional laws?
3. What are the conditions of the house that keep it from being inspected as part of an investigation?
4. How do the Saudi and UAE regimes control the guarantees of a home inspection as an investigation procedure that affects the sanctity of the home?

4. RESEARCH OBJECTIVES

The current research aims to achieve the following:

1. To clarify the limits of the sanctity of the home for human beings in international and regional laws.
2. To determine the spatial framework for the sanctity of the home for human beings in international and regional laws.
3. To analyze the conditions of the dwelling being inspected as an investigation procedure.
4. To discuss the guarantees of housing inspection as an investigation process that affects the sanctity of the home in both the Saudi and UAE systems.

5. RESEARCH SIGNIFICANCE

The significance of the research is highlighted in several points as follows:

- The sanctity of homes was guaranteed by religions from the past, so how after these eras is it in the wind and with legal permission?
- The link between the research topic and the reality in which we live.
- Infringement of sanctities by the law enforcement authorities, although their duty is to protect them and not the other way around.

6. INTERNATIONAL PROTECTION OF THE RIGHT TO THE INVIOABILITY OF DWELLINGS

Every person has the right to housing, and the right to freedom of housing in terms of shape and location; the practice of daily life activities; and the preservation of the privacy in which he lives



with whomever he wants (Al-Khatib, 2010; Rakha, 2006). It is one of the legitimate international rights which has received the attention of the international community and the United Nations with its powers of declaration without waiting for the completion of an international agreement. Accordingly, it issued the first Universal Declaration of Human Rights that preserved the right to housing and the freedom to live in privacy in 1948; according to its first article, it states: "All people are born free and equal in dignity and rights." They are endowed with reason and conscience, and they should act towards one another in a spirit of brotherhood. "

And adhered to by all the parties of the international community that placed the Declaration in the ranks of binding legislation until the enactment of their constitutions, which are based on the foundations of legal protection and respect for human rights and the criminalization of infringement on them (Qahmous, 2021). One of the first of those countries was the Kingdom of Saudi Arabia, which adopted and even grew up on this idea of protecting rights and freedoms, basing its system and constitution on the legitimate foundations of the true religion, which does not conflict with any of the international obligations, and what contradicts it has reservations and does not accept its opposition to any of the provisions of the noble Sharia.

In view of the foundations of the Universal Declaration of Human Rights that emphasize adherence to Islamic legislation, all Arab and Islamic countries, and especially the Kingdom of Saudi Arabia, have worked to include the foundations of the Universal Declaration of Human Rights in the texts of their systems and to codify procedures and measures that protect human rights, especially the right to housing, and to criminalize violating them due to the international protection established by the Declaration. Accordingly, it is not permissible for any authority to touch it, even if it is a public authority when its men carry out their security duties. According to the text of the first paragraph of Article 25: "

1-Every person has the right to a standard of living sufficient to ensure the health and well-being of himself and his family, especially in terms of food, clothing, housing, medical care, and necessary social services." Unemployment, sickness, disability, widowhood, old age, or any other circumstance beyond his control and which causes him to lose his means of subsistence. "

2- The public authority may not interfere with the exercise of this right except in accordance with the law and as dictated by necessity in a democratic society in the interests of national security, public safety, or the economic prosperity of society, the maintenance of order and the prevention of crime, the protection of public health and morals, or the protection of the rights and freedoms of others."

Then came the International Covenant on Civil and Political Rights in 1966, and the start of its implementation in 1976, which detailed the aforementioned declaration by the adoption by states of a set of principles and values that guarantee human rights, civilly and politically, the most important of which here is human dignity, which is the origin from which the right to exercise its activities emerges. The journal is confidential and secure without any prejudice, even if it is in accordance with the statutory text. This includes what is stated under Article 17 of the International Covenant: "Everyone has the right to the protection of the law against such interference or prejudice."

In 1976, the Vancouver Conference on Human Settlements was held in Canada, which issued the "Vancouver Declaration on Human Settlements", which affirmed in the eighth paragraph of Part Three of it: "Housing and adequate services are a basic human right that imposes on governments the duty to ensure that all people have access to them, beginning with direct assistance to the less fortunate through targeted, self-reliant programs. Governments should endeavor to remove all obstacles to achieving these goals. "

To complement the international legal reference to protect the sanctity of the home, the American Convention on Human Rights was concluded in 1969, and its implementation began in 1978, it included many human rights and the duties of states to protect them. The agreement also put a lot of attention on the right to housing. Article Eleven, which says:

"1. Every person has the right to have his honor and dignity respected and kept."

2- No one may be subjected to arbitrary or arbitrary interference in his private life, family, home, or correspondence affairs, nor to unlawful attacks on his honor or reputation.



3- Every person has the right to be protected by the law from such interference or attacks.

And if, in 1993, the World Conference on Human Rights was held in Vienna, and it issued the Vienna Declaration and Program of Action, which renewed the call to adhere to the provision of housing and living for every human being; because it was mentioned in the second part of the nineteenth paragraph, which confirms the urgent desire to provide and preserve rights; as: "The World Conference on Human Rights calls on states to refrain from taking any unilateral measures to provide housing and living for every human being." At the World Conference on Human Rights, food should not be used as a tool for political pressure.

The housing also includes the privacy of the individual in the practice of his daily activities, which may be prejudiced by the security men when inspecting, because the inspection of the dwelling includes searching and searching for evidence of a crime, whether it is evidence of innocence or evidence of indictment. It is one of the internationally guaranteed rights as well to violate the confidentiality of the individual who does not see him or who does not enter the home without prior knowledge or permission, which is what was meant by Article Twelve of the Universal Declaration of Human Rights, which stated that (Li, 2022): "No one is subjected to arbitrary interference in his private life, family, residence, correspondence, or attacks on his honor and reputation, and every person has the right to protection."

In summary, the international community has prohibited interference in the private affairs of an individual by any person with the concept of aggression. Therefore, we see in the concept of violation that if this intervention is necessary and aims to protect rights and freedoms and repel aggression, especially if it comes to an important criminal procedure for the investigation stage, which is the inspection of the dwelling, and in view of its connection to the individual's secret, it is permissible if the person conducting the procedure adheres to the limits of the procedure and his goal is to reveal the truth of the crime, especially as we have already stated that he must choose the appropriate method to carry out the tasks of his job owner's secrets.

This was confirmed by the Arab Charter on Human Rights in accordance with the text of Article Twenty-one (Hassan, 2017):

"1- No person may be subjected to arbitrary or unlawful interference with his privacy, correspondence, family affairs, or home, or defamation of his honor or reputation."

2- It is the right of every person to be protected by the law from such interference or prejudice."


Likewise, the Cairo Declaration of Human Rights in Islam under Article 18 affirmed that: "A-Every person has the right to live in safety for himself, his religion, his family, his honor and his money."

B - A person has the right to be independent in his private life affairs in his home, family, money, and communications. It is not permissible to spy on him, censor him, or harm his reputation. He must be protected from any arbitrary interference.

C- The dwelling has inviolability in all cases, and it may not be entered without the permission of its people or illegally. It may not be demolished, confiscated, or displaced from it. "

It is worth noting that it is difficult to define a specific concept of privacy due to the different conditions among the people of the international community in terms of customs, traditions, cultures, and social and economic climate. Since it is the social environment for each individual that defines the conceptual framework for each term, it is not possible to separate the individual from his social environment, which includes public rights and freedoms that can be interfered with, as mentioned above, in order to preserve the public interest.

Many conferences were held that dealt with the discussion and analysis of individual rights and the right to housing and its protection from any form of prejudice (Al-Shahawi, 2005). The most important of these conferences is the 1979 Hamburg Conference, which was organized by the International Association of Penal Law; it was the twelfth international conference on the protection of human rights in criminal procedure law in Hamburg, Germany, in the period between 16-22 September 1979; and the Madrid Conference of 1984. The seventh international conference of the International Center for Social, Criminal, and Correctional Studies and Research, which was held It was held in Madrid,



Spain, from October 3 to 13, 1984, and its aim was to prepare and qualify policemen to investigate legal facts and protect human rights.

7. TERRITORIAL PROTECTION OF THE SANCTITY OF THE HOME

The home is the secret place for every individual in the state. Therefore, the criminal policy of the Kingdom of Saudi Arabia is based on strong pillars that represent the objectives of the noble Sharia, the most important of which is the preservation of the soul and money, which complete the freedom of the individual to enjoy if one of the most important interests is achieved, represented by the right to housing. And not only that, but also the protection of this dwelling and no prejudice to its legal and constitutional immunity, which was established in the text of Article thirty-seven of the Basic Law of Government that: "Homes are inviolable, and they may not be entered without the permission of their owner, nor may they be searched, except in the cases indicated by the system." We find the text of Article 36 of the UAE Constitution, which was written in 1971 AD and says, "This confirms the constitutionality of the right to housing." This means that the right to housing is protected by the law (Luis, 2018).

A dwelling is a closed private space in which one or more individuals reside or engage in a specific activity, and citizens are usually prohibited from entering without the possessor's permission. On the basis of timing or permanence, it is a safe sanctuary that no one else is permitted to enter without his permission, and it includes the garden as it is attached to it. It suffices that it is intended for this, or intended for it, but it is not actually inhabited (Myhill, 2019). Accordingly, the homes of the accused may be multiple, whether in the same country or in more than one country, and the duration of their stay is irrelevant. Defining the concept of housing, since the purpose of the home inspection does not infringe on the protection of these homes because they are the natural and usual security for a person's secrets; Based on this, it makes no difference whether the accused owns the house or not. Since inspection rules don't protect property, the house can be owned by actual possession, whether it's a rental, an easement, a tolerance, or a usufruct (Othman, 2009).

The search is one of the investigation procedures whose objective is determined by obtaining evidence of the crime. As the search for evidence, and dwellings have a sanctity that may not be violated with the aim of obtaining evidence; Since its inviolability represents the legal immunity before the security forces and the public authorities, it is prevented from infringing upon it. This is stated in the text of Article 41 of the Saudi Procedures Law of 1435: "Persons, their homes, offices, and vehicles are inviolable and must be maintained."

By reviewing the UAE law, we did not find a specific text to limit the housing, offices, and vehicles, as the Saudi regulator explained (Dhabi-UAE, 2019). This indicates the accuracy of the Saudi regulator and its keenness to establish protection, and its objective and procedural commitment to it (Pietenpol et al., 2018). The UAE coder also calls for the addition of a text similar to the Saudi text. Accordingly, the judicial officer may not prejudice the sanctity of the home except with causal judicial permission, or a legal or statutory requirement such as a distress call from inside the house, or in the event of disasters and emergency circumstances such as fire and demolition, or to chase an aggressor with the aim of arresting him (Galagan et al., 2021); According to what was stated in the text of Article 42 of the Law of Criminal Procedures: "A criminal investigation officer may not enter or search any inhabited place except in the cases stipulated by law and by a reasoned order from the Bureau of Investigation and Public Prosecution." If the owner or person living in the house won't let the criminal investigation officer in or fights him when he tries to get in, the officer may use any legal means necessary to get in, such as fire, a similar event, or the entry of a suspect while he is chasing him to arrest him.

On the other hand, the UAE Code of Criminal Procedure specified the house of the accused, heading for the provision to search it without clarifying any place, or the purpose of residence, although it is united with the Saudi text in the permission that grants the seizure officer the authority to search the accused's house, although before he searched, there is also what was mentioned in the Saudi text about entering, which is a previous procedure that the control officer may illegally take, so the procedure is illegal, and the consequences thereof are void.



Also, the UAE law in question did not mention any state of emergency that allows the control officer to enter the home in a state other than in flagrante delicto, although it dealt with the inspection of the house in the case of flagrante delicto for those who were under surveillance, which we see as natural and guaranteed protection, but the UAE statutory should have dealt with the case Also, the distress that justifies the criminal investigation officer's entering the house, even if it is for someone other than the accused (Duffy & Alkazemi, 2017); The UAE coder restricted the text to the inspection directly, whose purpose is to enter into the original, which he should have organized first, which showed that his behavior seemed to be narrowing the framework of the right to protection, especially in the event of an emergency, and also narrowed the powers of the control officer by not providing for those cases of fire demolition and distress from inside the dwelling, even if it is a matter related to public order and at the heart of their actions, as a matter of deduction through the provisions of the Procedures Law. However, the UAE legalist should have amended the text or added a new text that includes these cases and deals with them more clearly, as the Saudi regulator did, which means he has his way in it.

Protection of the dwelling is included in flagrante delicto, where the guarantees of the search are required to be a valid procedure that not only clears signs to the control officer but also that they are strong, from which the control officer derives evidence to reveal the truth of the crime committed in the dwelling. In a case of flagrante delicto, it is permissible for a criminal investigation officer to search the residence of the accused and seize the assets in it that are useful in revealing the truth, if it becomes clear from strong indications that they are present in the residence. The same meaning becomes clear to us by analyzing the content of Article 53 of the UAE Code of Criminal Procedure, where it is stated that: "Judicial control matters may not search the home of the accused without written permission from the Public Prosecution unless the crime was flagrante delicto and there are strong indications that the accused is hiding things or papers in his home that reveal the truth." As this law says, all parts of the house, its outbuildings, and its contents must be searched for items and papers that need to be taken.

However, we do not permit reviewing these documents subject to seizure except based on the official permission to seize them and their necessity in revealing the truth of the crime, as they remain under the authority of the authorities for a temporary period only to view information that helps in uncovering the truth of the crime and without infringing on the sanctity of the secret contained in these papers.

The protection of the dwelling includes any place where the accused lives permanently or temporarily, the inhabited place or the place set up for housing, and any of its annexes as long as they are connected to it, no matter what kind of place it is.

7.1 Conditions that must be fulfilled in the dwelling subject of the inspection in order to preserve the sanctity of the dwelling

If entry to the dwelling is prohibited without permission in any case, unless there is a legal justification and a text is also available, it is forbidden to enter houses in order to preserve their sanctity, except under the following conditions:

1-Appointment:

In order to protect rights and freedoms, the inspection must be carried out in a predetermined place, even if the address is wrong, and in general, the location of any procedure must be specified so that there is no unjustified violation of freedoms. The search includes the accessories of the house, even if this is not specified by permission, and even if there is a private car inside the house.

Determining the location is one of the guarantees of the validity of the procedure and its conditions. From an analysis of what was mentioned in the text of Article 44 of the aforementioned system of procedures, we may be able to deduce that: As it was stated in it that the investigation officer searches the residence of the accused; As we see that this limitation and its importance have been confirmed by the executive regulations of the system of procedures according to the third paragraph of the text of Article 33 thereof; Where it said: "The search report must include, in addition to what is said in Article (48) of the system, a description of the place that was thoroughly searched, a

description of the things that were found, where they were found, and the circumstances of their discovery, as well as any other information that may help prove or disprove the accusation.

The UAE and Saudi texts agree in this regard, as stated under Article 61: "Judicial officers may seize the things that may have been used in the commission of the crime or resulted from its commission, or that the crime may have been committed, as well as everything that is useful in revealing. These things are described and presented to the accused, and a report is drawn up to this effect, signed by the accused or in which he states his refusal to sign."

2-Legality of the shop:

Because of the sanctity of the house and the fact that it is not violated during the search, the place must be one that may be searched without infringement, as in the protection of diplomatic immunity; Whereas, if the accused enjoys diplomatic immunity stipulated in the Vienna Convention of 18/4/1961 in Articles (21, 22, 24, 30) to protect members of diplomatic missions, their places of residence, work and members of their families, except for those who are citizens of the host country to protect the international action from any action that obstructs it. The police officer has no role, even in flagrante delicto. The immunity includes the role of the mission, so it is not compromised. Since breaking the secret gives the owner the right to complain, it is illegal to enter the house in any other way than the one that is allowed by law.

7.2 Home inspection guarantees

Entering the house may be based on the permission of the law or the permission of the person concerned. In the first case, the legislator establishes several guarantees in Articles 42-55 of the Code of Criminal Procedures and in Articles (51-64) of the UAE Code of Criminal Procedures to protect the sanctity of the house and the sanctity of the secret contained in it; they require a number of guarantees, which we analyze as follows:

1-The crime actually occurred.

2-Issuance of a court order

3-That the matter is reasoned and written.

There is a legitimate justification.

5-The consent of the accused

6-Timing.

1-The fact that a crime has occurred

In accordance with the text of Article 42 of the Law of Criminal Procedures, it is stated that, in principle, the sanctity of residences may not be violated except with a legal justification, and the most important legal justification is the actual occurrence of a crime, not probable. As it states: "The criminal investigation officer may not enter or search any inhabited place except in the cases stipulated by law."

Article 53 of the UAE Code of Procedure stipulates the same meaning: "The judicial officer may not search the home of the accused without written permission from the Public Prosecution unless the crime was flagrante delicto and there are strong indications that the accused is hiding things or papers in his home that reveal the truth." The house of the accused will be searched and items and papers seized in the manner specified in this law. Also, items and papers required to be seized are searched in all parts of the house, its annexes, and contents.

Through the text of Article forty-four of the Law of Criminal Procedure and Article fifty-three of the UAE Code of Procedure, it becomes clear to us that it protects the right of confidentiality and the sanctity of the home for the accused who lives inside his home, so the barrier of that confidentiality is not broken unless the owner of this right has already committed an act that the law considers a crime and punishable by it. This is not correct if the occurrence of the act is probable, and therefore the sanctity of the home is not affected by a future crime. Rather, it focused on mentioning the case of flagrante delicto as a justification for that; otherwise, the search would be void, and the court could set aside what resulted from it and rely on other evidence.

This is what was expressed by the UAE judiciary: The facts of the case-as indicated in the contested judgment and other papers-are that the Public Prosecution assigned the appellant because on December 20, 2014, at the Sharjah Department, he entered with the intent of trafficking a narcotic



substance (heroin). In cases other than those authorized by law, the provisions of Islamic Sharia and Articles 1, 6/1, and requested that he be punished as a felony in accordance with 17, 48/2, 56, 63 of Federal Law No. 14 of 1995 regarding combating narcotics and psychotropic substances and Clause No. 49 of the first schedule attached to the aforementioned law. On the 6/1/2016 session, the Court of First Instance in attendance sentenced the accused to ten years imprisonment and fined him fifty thousand Derham for the charge against him after it was amended to unintentionally bringing narcotic substances (heroin) to the Federal Supreme Court and ordered their deportation from the state. After the execution of the penalty and the confiscation of the narcotic substance and the seized amount, The convict appealed this ruling by Appeal No. 160/2016. On 26/4/2016, the Federal Court of Appeal decided to accept the appeal as a form in the matter by rejecting it and upholding the appealed judgment. This judgment was not accepted by the appellant. He stabbed him with a similar stabbing. The Public Prosecution submitted a memorandum of its opinion requesting the rejection of the appeal. And since the appellant complains about the contested judgment, the violation of law, error in the application of the law, corruption in reasoning, and breach of the right of defense, because the contested judgment supported the judiciary of the court of the first instance and referred to him, and that the judiciary of the court of the first degree came lacking in the reasons on which it was built, in addition to that the appellant maintained the invalidity of the arrest and search, as he was not in a state of flagrante delicto and the consequent nullity of the field procedures; and that the appellant decided that he did not know the nature and truth of the materials he was forced to buy in return for his urgent need for money.

The judgment achieves this defense and decides to support the conviction. Since the obituary is not correct, it is decided-in the judiciary of this court-that the court may rely on evidence not derived from the seizure and the invalid search, because the invalidity of the arrest and search does not preclude the judge from taking other elements of evidence independent of him and leading to the result of the seizure and search, including a confession. The subsequent and independent accused publicly declares this procedure and the obituary for nullity is unproductive. And it is also established and based on what has been settled by the judiciary of this court that the Court of Appeal, if it finds support for the appealed judgment for the reasons on which it was based, does not have the law that obliges it to mention those reasons in its judgment. Rather, it suffices to refer to it since the reference to the reasons takes the place of its inclusion and indicates that the court considered it to be from it. And since both this and the contested judgment have referred to the reasons for the first-degree judgment, and both the first-degree judgments have been imitated between the facts of the case and what is available to guarantee the elements of the crime with which the appellant has been condemned after modifying the registration and description to the unintentionally fetching what was intended to prove it against him, Evidence derived from his confession to the Public Prosecution investigation that he brought narcotics.

The accused brought the heroin from Pakistan and brought it into the UAE; he was hiding it in his guts; and it was taken out of him in the hospital, which is a clear and frank confession that the court is assured of and has responded to his defense by not knowing what it was narcotics for justifiable reasons because his hiding the capsules inside his guts is a conclusive presumption that he knew what it was containing narcotic substances, and this information was received by the Major...and what he testified by..... in the investigations and before the court was that the accused took out the capsules from his guts, and all this was confirmed by the forensic medical report that the seized substance was heroin. From all the foregoing, the primary judgment supporting its reasons in the contested judgment ended in convicting the appellant of the crime ascribed to him after amending the record and description and punishing him with the legally prescribed penalty. The appellant complains that he was forced to swallow these capsules because of his need for money. It was a statement sent disgracefully away from the evidence of its authenticity. The law must be rejected because it is not based on reality.

2- Issuance of an order from the competent authority

In accordance with the provisions of Article 42 of the Code of Criminal Procedure and Article 53 of the Code of Criminal Procedure, it appears to us that the law does not require a specific form of



permission, but it requires entry to the residence based on the order of the law to issue the required order from the competent authority in accordance with the text of the law, and the police officer must comply with the content of an order since it does not include infringement of sanctities. As it states, "and by a reasoned order from the Bureau of Investigation and Public Prosecution, and except for homes, it is sufficient to search them with reasoned permission from the investigator." The legally necessary means to enter the dwelling, as the case may require.

"It is permissible to enter the dwelling in the event of a request for assistance from the inside, or a demolition, drowning, fire, etc., or the entry of an aggressor during his pursuit to arrest him." For inspection only after permission from the owner, concerned about the sanctity of the residence.

3- Causing and writing:

The Saudi regulator stipulated, according to what was stated in Article 42 of the inspection order, that it be a cause and that there was no need to mention its source and occupational competence. It is enough that there are strong signs that the accused is hiding things that could help figure out what happened, so the reason is not invalid. The text of the law says, "by a reasoned order from the Bureau of Investigation and Public Prosecution, and except for dwellings, it is sufficient to search them with a reasoned permission from the investigator..."

From this, we conclude that the matter here does not require a reason unless it is written; where the criminal investigation officer may not be delegated to do any of the acts orally, the system does not require that the investigator's order be justified. Also, writing and writing in general are among the principles that give the procedure strength in the evidence it produces that is useful in revealing the truth of the crime.

On the other hand, the UAE coder followed a more detailed approach as he clarified the necessity of the written order issued by the competent authority, which is the Public Prosecution, to the judicial officer before performing any of the procedures that affect the rights and public liberties, in particular, the conduct of the inspection; because it affects the freedom of the home and the sanctity and secrecy of the home as well; in this, he neglected the reasoning despite his text on writing; and the reasoning is stronger in expressing the restriction on writing, in contrast to the position of the Saudi regulator. This is evident from what is stated in Article 53 of the UAE Code of Procedure: "The judicial police officer may not search the home of the accused without written permission from the truth will be revealed, and the suspect's house will be searched and items and papers seized in the manner specified in this law." All parts of the house, its outbuildings, and its contents are searched for the items and papers that need to be taken.

Accordingly, it becomes clear to us that the position of the Saudi regulator and that of the UAE regulator are somewhat weak on this point. Whereas the Saudi text neglected the writing and focused on causation despite its strength. The UAE legalist neglected causation despite its text on writing, which is weaker than causation; it is expected that causation includes writing, but it is a weak possibility that the writing includes causation, as is the position of the UAE coder. So, we think that both texts should be changed so that the UAE text (Part 53) says "without a written order from the Bureau of Investigation and Public Prosecution" and the Saudi text (Part 42) says "and by a written order from the Bureau of Investigation and Public Prosecution."

4- Justification

The sanctity of the home is the right of every individual to enjoy the privacy of their home away from publicity, not only in their family relations but in the comprehensiveness of their personal secrets, including all that is not entitled to others to see without the permission of the person concerned (Fomina, 2016). Hence, there is no breach of the fence of its sanctity except for a justification approved by the organizer, because the inspection involves the elements of compulsion and coercion, as it is a restriction on the sanctity of the home and a violation of the right to its confidentiality. Accordingly, the justification must be in the interest of the investigation by searching for evidence of the crime and its tools, or persons, and all that is useful in revealing its truth. This is according to what was stated in the text of Article 46: "It is not permissible to search except to search for things related to the crime about which information is being collected, or to investigate it. In another crime, the criminal investigation officer must seize it and record it in the search report.



As stated in Article 55 of the UAE Code of Criminal Procedure, which says:

The house of the accused may not be searched except to search for things related to the crime for which evidence is being collected or investigated. Accordingly, we see the accuracy and comprehensiveness of the Saudi text, just as the Saudi text enjoyed legal acumen when it required the criminal investigation officer to prove everything that was done through the inspection procedure, even if it was accidental.

5- Presence of the concerned person:

In the interest of comprehensiveness to organize and protect the sanctity of housing, the Saudi regulator decided to protect it from any aggression, even if it was from the authorities, even if it was for the benefit of the community, and stipulated the presence of the owner of the house in general, and did not specify a criterion for knowing the concept of the owner of the house. Does it mean possession, or means ownership? However, let us elicit the purpose of the organizer through the same text; He explained that there is a possibility in the presence of a representative of the owner of the dwelling, or one of his family members, provided that he is fully qualified in order to be responsible for agreeing to the inspection and towards the consequent infringement of the rights of the original owner of the dwelling, and in particular that he is residing at that time in the dwelling. He also stated that the mayor of the neighborhood or the like, or two witnesses could be present, which means that the right subject to satisfaction is the right of housing, or housing and usufruct, and that it is not required to establish the right of ownership. In order to ensure the protection of the dwelling and to ensure the safety of the police officers' procedures, the organizer enjoined the dwelling owner to have access to the search warrant, coupled with a time limit and a record of that in the inspection report. This is by virtue of the text of Article forty-seven of the Law of Criminal Procedures, in which it is stated: "The house search shall be in the presence of its owner, his representative, or a member of his fully qualified family residing with him, or two witnesses, and the owner of the dwelling or his representative may have access to the search warrant, and this is recorded in the minutes."

Article 59 of the UAE Code of Criminal Procedure states that: "The search shall be conducted in the presence of the accused or his representative whenever possible." That's on record. "


Accordingly, we see that the Saudi text investigated the accuracy of the request for attendance, starting from the accuser to the furthest from the accuser, including the mayor of the neighborhood. Nevertheless, we see that this text is under consideration. As a result, we propose amending the text by removing the phrase (or two witnesses) and replacing it with the following: (The home inspection shall be conducted in the presence of the owner, his representative, or a fully qualified family member residing with him. Or whoever is the same, and the owner of the dwelling or his representative is able to see the search warrant and this is recorded in the minutes).

6- Timing:

The arresting officers shall not have the right to enter the residence of the accused by day or night, or to enter any other residence in which the judicial arrest officer believes that the accused is present, except in accordance with the reasoned judicial order and with the specified purpose and at the appropriate time, which is the day unless the procedures are extended to the night; This is according to what is stated in the text of Article 52 that: "The search must be conducted during the day from sunrise to sunset within the limits of the authority authorized by the system, and the search can continue until night as long as its conduct is continuous." "It is not okay to break into people's homes at night unless they are doing something very wrong."

On the other hand, the UAE coder has made it clear and beautiful with regard to timing in prohibiting advertising at specific times and allowing it at specific times as well as by the hour; According to the text of Article Twenty-eight after 300 of the Code of Criminal Procedure, it is stated that: "No announcement may be made before seven o'clock in the morning or after six o'clock in the evening, nor may it be made on official holidays except with permission from the competent judge in cases of necessity." The origin of the advertisement

As a result, it appears to us how cautious the Saudi system's text is on sanctities; it requires that the search not begin at night in order to preserve public security and public peace and quiet. Because of



this entry at night of terrorizing the souls of the accused, whether children, patients, the elderly or women, Accordingly, we suggest adding a text in the UAE law that has the same meaning as the Saudi text (the fifty-second AD).

It is worth noting that these guarantees provide protection for the dwelling and the life secrets it contains, as well as postal correspondence, telegrams, telephone conversations, and other means of communication. It was decided that the investigation authority's role would be to order the seizure of all letters, newspapers, publications, and parcels at post offices and all telegrams at telegraph offices, as well as to order the monitoring of wired and wireless conversations and the recording of conversations that took place in a private place whenever it was useful in revealing the truth of the crime. In all cases, the seizure, inspection, monitoring, or recording must be based on a reasoned order. As stated in the text of Article 56: "Postage, telegrams, telephone conversations, and other means of communication are sanctified, and they may not be viewed or monitored except by a reasoned order and for a specified period, in accordance with what is stipulated in this system." The same meaning is also stated under the text of Article 75 of the UAE Code of Criminal Procedure: "A member of the Public Prosecution may search the accused, and he may not search anyone other than the accused or a house other than his home unless it is clear from strong emirates that he is in possession of things related to the crime." The general may, with the consent of the representative, seize at post offices all correspondence, letters, newspapers, publications, and parcels; and at telegraph offices all telegrams; and monitor and record conversations, including wired and wireless, whenever the requirements of the investigation necessitate that.

In view of the particularity of these matters, it is not permissible to touch them, even if it is with the permission of the competent authority, unless that is helpful in revealing the truth of the crime in accordance with what it decided on the same UAE approach. The Saudi Code of Criminal Procedure states: "The head of the Bureau of Investigation and Public Prosecution may order the seizure of letters, publications, and parcels. He may also authorize the monitoring and recording of telephone conversations, whenever this is useful in revealing the truth in a crime that has occurred, provided that the order or permission is justified and specified for a period not exceeding ten days, renewable in accordance with the requirements of the investigation."

In sum, human rights should not be violated, even if it is by the public authorities and with the permission of the regulator in accordance with a legal or legal text, unless there is a commitment to a legal and regular way to implement orders or perform functional tasks.

8. CONCLUSION

The research revealed the legal and regulatory framework for the United Arab Emirates and the Kingdom of Saudi Arabia to protect human rights during criminal investigations. It also emerged from the texts of both systems that there is a codified strategy to guarantee human rights in line with the international situation. It's important to note that comparing and analyzing the texts has shown that there are many ways in which the two countries are alike and some ways in which they are different.


9. RESULTS

The main results of the current research can be summarized as follows:

- 1-Insufficient international treaties to achieve comprehensive security or criminal protection
- 2-The fact that international texts don't do enough to protect the privacy of the home, even though the international community says it's against the law for anyone to get involved in someone else's private life.
- 3-Human rights shouldn't be violated, even if it's by the government and with the regulator's permission according to a legal or legal text, unless there's a promise to follow a legal and regular way to carry out orders or do work tasks.

10. RECOMMENDATIONS

Based on the findings and the understanding of the researcher towards the current topic, the researcher recommends the following:

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1. Emphasis on monitoring the spatial inspection procedure for its importance in obtaining the correct or fabricated evidence.
 2. The Code of Conduct for Law Enforcement Officials is a set of rules that all law enforcement officials should follow.
 3. The Kingdom has to put out a general code that is in line with the Saudi criminal justice system and covers all the duties of law enforcement officials.
 4. Updating the Saudi criminal procedure system and the UAE criminal procedure law in line with the vision of the Kingdom of Saudi Arabia 2030 as well as the vision of the United Arab Emirates 2030 in line with the technical development in the modern technology devices that are used in criminal proof, even as a matter of criminal evidence.

11. The proposals to amend and reformulate as stated in the text, justify each of the following

1- Article 53 of the UAE Code of Procedures, we suggest that it be in the following wording to be more accurate: "The judicial police officer may not search the home of the accused without a reasoned written permission from the Public Prosecution unless the crime is flagrante delicto and there are strong indications that the accused is hiding things in his home." Or papers that show the truth, and the accused's house is searched and things and papers are taken as this law says.

2- Article 42 of the Saudi Code of Criminal Procedure We think it would be better if the sentence was changed only to: (by a written order from the Bureau of Investigation and Public Prosecution that explains why).


3- The text of Article 47 of the Saudi Procedures Law: We consider amending the text by deleting the phrase (or two witnesses) from the text, provided that it is as follows: (The inspection of the dwelling shall be in the presence of its owner, his representative, or one of his fully qualified family members residing with him. In his ruling, the owner of the dwelling or his representative is able to see the search warrant, and this is recorded in the minutes).

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