

**Ladies and Gentlemen,**

**In the beginning, I would like to emphasize that all international conventions, constitutions and national legislation have given great importance to personal rights and liberties in general, and to the accused's guarantees during the criminal proceedings in particular.**

**They have laid down the rules and provisions to guarantee rights protection. The States have translated their concern for human rights, respect for dignity, through the adoption of international conventions, conferences and declarations. States have established these rights in their internal constitutions by binding norms which must be applied. They are fundamental and may not be waived.**

**The criminal, civil, and bar association laws also maintain the confidentiality of the relationship with the client. The lawyer's testimony is not accepted against his client, nor is he entitled to disclose any information, whether classified or any information that may work against his client's interests.**

**Knowing that the exchange of information between lawyers is within the interests of the parties**

**Hence, Can investigations be conducted without prejudice to the principle of confidentiality?**

**Does any foreign investigator have the capacity to gain such information across the border?**

**The principle of the right of information for any citizen is guaranteed by law, and this is regulated internationally by conventions and treaties. However, many countries have set restrictions and regulations for the purpose of**

**protecting confidential data as a right; in addition to not harming any of the parties; whether they are individuals or companies. Revealing confidential information is usually by judicial sentence.**

**Therefore, the need to find the balance between the respect and protection of human rights and the anti-corruption process creates many challenges. The most important Challenges are:**

- 1. How to achieve the desired balance between the government's agenda to protect human rights and its agenda to take the necessary actions in anti-corruption process.**
- 2. How to balance national legislative measures against corruption with international human rights standards and values.**
- 3. The anti-corruption standards are likely to harm marginalized groups and prevent them or impede access to essential services.**

**Therefore, I suggest the following recommendations in case confidential information are requested between states:**

- 1. organize agreements between States to determine the mechanisms of cooperation in this field.**
- 2. Judicial cooperation between States without prejudice to rights**
- 3. Work with local offices to organize investigations.**

السادة الحضور :

في البداية ارغب بالتاكيد على ان كل الاتفاقيات الدولية والدساتير والتشريعات الداخلية اولت أهميه بالغه للحقوق والحريات الشخصية بشكل عام، وضمانات المتهم أثناء إجراءات الدعوى الجزائية بشكل خاص، وقامت بإرساء القواعد والأحكام الخاصة بضماتها وكفالتها، وقد ترجمت الدول اهتمامها بحقوق الإنسان ، واحترام كرامته ، وحقوقه والحفاظ عليها، من خلال إقرار الاتفاقيات والمؤتمرات والإعلانات العالمية، ورسخت الدول تلك الحقوق في دساتيرها الداخلية بقواعد أمره يتوجب تطبيقها ولا يجوز التنازل عنها لتعلقها بالنظام العام .

كما ونصت التشريعات الجزائية ، وكذلك المدنية وقانون نقابة المحامين على ضرورة الحفاظ على سرية العلاقة مع الموكل (العميل) ولا تقبل شهادة المحامي ضد موكله كما لا يجوز له الإفصاح عن اية معلومات سواء كانت بيانات سرية او اية معلومات تضر بمصلحة موكله .

مع العلم ان تبادل المعلومات بين المحامين ضمن حدود مصلحة الاطراف

وهنا يطرح هل يمكن اجراء تحقيقات دون الاخلال بمبدأ السرية ؟

وهل يملك أي محقق اجنبي ذلك عبر الحدود ؟

ان مبدا الحق في الحصول على البيانات لاي مواطن مكفول بموجب القانون وهذا الامر منظم دوليا بموجب اتفاقيات ومعاهدات .الا ان العديد من الدول وضعت قيود وضوابط لذلك بهدف حماية البيانات السرية كحق من الحقوق بالاضافة لعدم الحاق اضرار بالاطراف سواء كانوا اشخاصا طبيعيين او اعتباريين .وفي الغالب تكون بامر قضائي .

وهنا نرى بضرورة الموازنة بين احترام وحماية حقوق الانسان ومكافحة الفساد، تخلق العديد من التحديات لعل من أهمها :1.كيفية تحقيق التوازن المنشود بين أجندة الحكومة لحماية حقوق الإنسان وأجندتها لمكافحة الفساد .2. كيفية تحقيق التوازن بين التدابير التشريعية الوطنية لمكافحة الفساد، ومعايير وقيم حقوق الانسان الدولية .3. احتمالية أن تضر معايير مكافحة الفساد بالفئات المهمشة، وتمنعهم أو تعيق وصولهم إلى الخدمات الضرورية .

لكل ذلك ارى بضرورة :1- بتنظيم اتفاقيات بين الدول لتحديد اليات التعاون في هذا المجال.

2- التعاون القضائي بين الدول دون المساس بالحقوق

3- العمل مع مكاتب محلية لتنظيم عمليات التحقيق .

**International conventions**, constitutions and domestic legislation have given great importance to personal rights and freedoms in general and to the accused's guarantees during criminal proceedings in particular, and have established rules and provisions for their guarantee and protection. The adoption of international conventions, conferences and declarations. States have established these rights in their internal constitutions by peremptory norms which must be applied and may not be waived in relation to public order.

These include the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, and many other conventions such as the 1950 European Convention for the Protection of Human Rights. These agreements have had a significant impact on many if not all countries through their domestic legislation, The protection of public and private rights and freedoms is a legal and moral requirement Here, we affirm that the Palestinian National Authority has declared its recognition and support for these agreements and embodied them in its legislation, whether by the Palestinian Basic Law (Constitution) or other legislations and the rights affirmed by it:

The Palestinian legislations have been consistent and compatible with international and regional conventions, charters and treaties to serve the rights and freedoms, including the accused. According to the Code of Criminal Procedures and related laws, the accused:

The defendant is innocent until proven guilty

\* No one may be arrested except in accordance with the provisions of the law

1. The right of the accused to remain silent and not to answer (A. 97)
2. The right to use a lawyer during the investigation (A.102, 123)
- 3- The right to protect the lawyer's relationship with his client and to protect his secrets
4. Confidentiality of the investigation (prohibition of disclosure of investigation procedures or results)
5. Protection of the sources of press information (No. 7) of the Press and Publication Law No. 9 of 1995
6. Protection of Banking Data (Article 32, 46) Banking Law No. 9 of 2010
7. Protection of witnesses, experts, legal and personal informants and their confidential statements (p.18) Anti-corruption law
8. Protection of secrets by professionals (lawyers, agents, doctors) (Article 76)

Finally, the Palestinian legislator organized the draft law on the right to information as other countries

The right to private life and the protection of his confidential data

Every person has an inner feeling of his right to privacy and the exercise of part of his activities and his life in a secret that is not seen by the intruder and not invaded by the state, to enjoy reassurance and dignity. It is a right no less important than any other human right. It is one of the most important rights and guarantees of citizens in democratic and civilized societies. It is a right that is relevant to freedom. "Private life is the essence of the enjoyment of freedom in the modern state" and the preservation of the dignity of citizens. Human in isolation and autonomy for part of time materially or morally an inherent need associated with the right to life and existence itself. With the development and complexities of life, the protection of this special space from snooping, curiosity, defamation, blackmail and threats is a necessary necessity for the tyranny of the public sphere, the mechanisms of the state and the media, and the intrusion and harassment of natural individuals. The international community had warned early on the seriousness of the violation of this right and decided in article 12 of the Universal Declaration of Human Rights: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks affecting his honor and reputation." Article 8 of the European Convention on Human Rights states: "Everyone has the right to respect for his or her private and family life, housing and correspondence." Article 17 of the International Covenant on Civil and Political Rights states: "No one shall be subjected to Arbitrarily or unlawfully, to interfere in his or her privacy, family, home or correspondence, nor to any unlawful campaigns affecting his honor or reputation and the right of every person to be protected by the law against such interference or prejudice. "

Jurists and lawmakers did not agree on one definition of what is meant by private life or privacy to be protected in terms of objective, spatial and personal criteria. But from the jurisprudential group, we can say that the right to private life is "that particular framework or area in which a person feels safe and secure away from the eyes and ears of others and is free from their interference or control, where he enjoys the familiarity and tranquility. his ear. and ensure that no penetration of others to his secrets and private intervention in the details of his personal life and access to confidential and intimate statements. and the right to be respected by third parties all considered privacy, whether physical or moral or related to their freedoms. and not to prosecute others to him in his own life and perturbing described. and the protection of S And his honor and considered correspondence and contacts, and his career and family and all that would influence his personal life. Included in the concept of private life information delivered in his house and include his phone number "and enter the data here.

Most of the recent studies on newly established crimes have called for the need for the criminal justice system to respond to development, human rights and the desired social justice. Although there are some views on corruption crimes and the measures taken to combat them and their relationship to human rights in the period in which the UN Convention against Corruption 2000 and thereafter, but

this was not reflected explicitly and clearly in the articles of the Convention. The reason for this seems to be the deepening of the talk of terrorism following the bombing of a number of aircraft in some of the famous buildings in the United States of America in September 2001, and thus the reluctance of the countries of the world to devise and discuss texts in the Convention. Corruption, money laundering and terrorism at the expense of safeguarding human rights and public freedoms

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