

حق السرعة في إجراءات الدعوى الجزائية

اشراف

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الطالب

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In the name of Allah the Beneficent the Merciful

(ABSTRACT) :

The desire of achievement of speed in judicial lawsuit measures is not of the day thoughts or recent time one. The internal legislations of states have regulated numerous means that aims to simplify the judicial measures, but in different ways, according to political, economical and social circumstances that have no doubt, reflected in criminal law through its two parts, the objective and executive parts. It is so difficult to say that the speed of judicial measures was not the aim that had been put by legislators within the legislation of different executed bases, because the judicial measure carries two fundamental concepts. The first one is constitutional based on spiritual basis to protect human rights and his freedom. The second is a practical concept supported by philosophy that based on the activity and speed to achieve a decisive confrontation to the criminal phenomenon. Both concepts have their own special importance and entity. They represent interests well to be kept and interested without neglection, but the achievement of convenience should be occurred between them. The success of judicial law measures is gauged through its reconciliation between the two concepts in any country. This is to achieve legislative philosophy that aims to control criminal phenomena and to achieve security into the society.

But the frequent economic, social and practical developments, sometimes lead to incapability to achieve the balance between the two mentioned axis. So, from one hand, a new conception for judicial justice based on conversion from defeat justice to acceptable one should be found, and the speed in criminal measures from the other hand. This will achieve the interest of society, victim and accused person. It is not convenient to talk about security and the achievement of different interests unless, the guarantee of speed right is achieved, that is, the speed right is the most important right for accused person. It is the highest duty of authorities that are responsible of inquiry. This

achievement will finally lead to control the increase of criminal phenomena and provide a suitable environment in order to assist a wide base of individuals to achieve its freedom and enjoy its rights, so, this the aim of judicial measure is.

It is incorrect to say that there is a contradictory between the activity of measure and its speed and the protection of accused person rights. It is also incorrect to what is said that the speed of measures deprives the accused person from preparing his defense, because the criminal measures guarantee the activity of measure and its speed (interest purpose) and also guarantee (the spiritual purpose), that is, the protection of the accused person rights and give him the adequate time to prepare his defense. These legislations aim to achieve the right of measures speed and consequently, this will achieve a speed judgment to an accused person and not quick judgment that deprives him from his fundamental rights. This is the right which protects the innocence of human through the reduction of the period of detention or (provisional detention) and of great psychological and physical damages. These damages would be occurred if the judicial suit law measures prolonged.

The subject of the study:

The justice achievement in the society is the highest elements of life and deepest props of its own. It is as ancient work as human beings that felt in need of it to complete the security and assurance in the souls. It is used to stop the difficulties and oppression. The theme of the study is specialized to the right of speed in judicial lawsuit in all its stages where this right tightly connects with the activity of measure. It cannot be achieved in a legal state unless; the convenience between it and protection of human rights is done. Protection of human rights should not be viewed because it is considered as an obstacle before the activity of measure, but it should be considered as a part of active measure. The theme of the study is also specialized in showing the legislative means

that achieves the speed (alternatives of judicial lawsuit) such as reconciliation, criminal mediation and judicial order, with distinction the problems facing the right of speed and how to treat them by putting legislative texts which are convenient to practical requires and economic and social development in present time. These alternatives will reduce the mistakes done by authorities that are responsible of inquiry. The theme of the study also treat the legal trace of the speed right.

The importance of the study :

The justice achievement needs to active rules and constitutions that work to achieve the texts of law quickly. The control of the crime is not actively adequate if the legislator ensures the legislation of the criminal actions texts and imposes punishments to them. The incrimination texts whatever are just and tight, they are not adequate in itself to achieve the complete required protection to the system of the society and to keep individuals rights.

The legislator has to put executive bases side by side with the incrimination texts that enable the specialized authorities to discover the crime and to catch the criminal to sentence him quickly. This will achieve the justice in the society through the achievement of different interests for the society, victim and the accused person, then to achieve the purposes of punishment in general and special determent and criminal justice.

The Plan Of The Study:

The study is divided into three chapters beginning with abstract and ending with conclusion. The first chapter shows the legal origin of the speed right. The second chapter shows the problems that face speed right and how to treat them. The third chapter shows the distinction of legal trace of this right. I terminate this study with a distinction of the most prominent achievements, conclusion and recommendations.