

“Instruction Préparatoire” in French Criminal Procedure

Chen Chwen-Wen

Abstract

There is a general agreement that the period before judgment in criminal procedure is the most important period for the right of the accused. For more than 500 years proper articulation of the public order and the human rights has been the central preoccupation of criminal policy, both in practice and in legal thought. In this point of view, the French's "preparatory investigation" has its distinguishable characteristics. The essential points here are two: one is that Western legislations have provided for criminal procedure a certain model of criminal institution for comparative and illustrative purpose. The method employed here will be a spectrum-wide view, an "ecumenical" approach. We study the common law as well as the Continental system in its origins, its development and its circumstance. The other center of attention will be the contemporary "preparatory investigation" in French criminal procedure. All positive legislations will be introduced, both in their institutional and operational aspects. Briefly, the public order is the martial advantage of a broad and undefined group of people, as opposed to personal liberty, which is a material advantage confined to particular and specifiable individuals. The balance between the public order and the human rights is the final aim of all human societies.