

The impact of the declaration of a state of emergency in Jordan due to the Corona pandemic on the right of citizens to work

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Abstract

This study aims to show the extent to which the right of Jordanian citizens to work has been impacted as a result of the spread of the Corona epidemic, which in turn led to the disruption and reduction of this right significantly in light of the issuance of defence orders that came as a direct result of declaring a state of emergency based on the text of Article (124) of the Jordanian Constitution for the year (1952) and its amendments. This article granted the Defense Law the authority to take the necessary measures and procedures, including the power of violating the normal laws of the state by those who have the authority to do so according to the law in order to secure the defense of the homeland. However, the balance between protecting the rights of citizens to work established by a constitutional text and defending the homeland in exceptional circumstances, including epidemics, is a very important and complex matter, especially in light of emergency conditions. This is what leads us to talk about the most important characteristic of human rights, which is the inability of misfeasance, as the state does not have the right to allege not protecting a right or marginalizing it because of any emergency circumstance it is exposed to, as human rights are considered one and indivisible unit.

Keywords: The Jordanian constitution, the state of emergency, the defence orders, the right to work.

Introduction

There is no doubt that there is a jurisprudential and judicial consensus on the importance of protecting human rights at the local and international levels, and perhaps this is the main reason for which the French Revolution took place in (1789). It is also the direct result of the issuance of the Universal Declaration of Human

Rights in 1948, and all that followed from the two international covenants and the Vienna Convention on Human Rights, through all local and international agreements and efforts up to the present time. This is what made the allegation of emergency circumstances to deviate from everything that is within the framework of human rights protection, an obvious violation of the most important principles and foundations that may not be acted upon, as it is a binding duty for states towards their citizens in all circumstances and conditions, and it also enjoys an umbrella of superior international protection. So it's all; We had to address the most important consequences of the issuance of defence laws in light of the Corona epidemic on one of the most important human rights, which is the right to work for Jordanian citizens, and the extent to which preventive legal measures are harmonized to limit the curtailment and protection of this right. In addition to working on a balance between confronting this epidemic and providing the maximum possible protection for the rights of citizens. We are talking here about the protection of the right to work and workers in particular. This justifies the importance of studying the constitutional and judicial guarantees for the protection of human rights in general in all circumstances and conditions, including the protection of the right to work and the reflection of all of this on the realistic side, not just the theory. This is done by explaining the legal nature of the emergency conditions and the basic guarantees surrounding the right to work, which falls within the economic human rights, which requires talking about:

First: The legal and constitutional basis for the right to work and the declaration of a state of emergency.

Second: Defence orders related to the right of Jordanian citizens to work.

Third: The extent to which citizens' right to work is impacted under the declaration of a state of emergency.

First: The legal and constitutional basis for the right to work and the declaration of a state of emergency.

The right to work has evolved from its traditional concept of being a right that empowers the owner to choose the work he wants and not to force him to do a specific job, to become a right guaranteed by the state to all its citizens according to their competencies, capabilities and efforts. Not only that, but this right has expanded and has been surrounded by vigorous international sponsorship, and in the words of one side of jurisprudence, "The value of a person is measured only by work to earn sustenance and preserve human dignity, and it is the duty of the individual so that he does

not resort to illegal means. It is also a right of the state that it must provide for its citizens.” (Makhdama, 2015)

After the world fought its successive battles and revolutions in order to liberate man from ignorance, slavery and injustice that prevailed at the time, it entered a new phase following the success of the French Revolution in (1789) in eliminating the tyrannical regime. And the restoration of the people's dignity inherent in humanity and existing in its existence, as workers were able to obtain their most basic rights established by human nature, starting with periods of rest, weekly holidays, sick leave, obtaining a decent wage that guarantees a decent life, ending with the right to form organized trade unions that protect and care for their rights. Then came the Universal Declaration of Human Rights of (1948) stressing in its preamble that “recognition of the inherent dignity of all members of the human family and of their equal and inalienable rights is the basis of freedom, justice and peace in the world.” Article (23) of it stated that:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

[\(https://www.un.org/ar/universal-declaration-human-rights/\)](https://www.un.org/ar/universal-declaration-human-rights/)

Most of the constitutions of the world have also protected this right and made securing it a duty of the state towards its citizens and a right that cannot be waived, foremost of which is the Constitution of The Hashemite Kingdom of Jordan issued in (1952) and its amendments, as it states:

- 1 . Work is the right of every citizen, and the State shall provide opportunities for work to all citizens by directing the national economy and raising its standards.
- 2 . The State shall protect labour and enact legislation therefore based on the following principles: A. Every worker shall receive wages commensurate with the quantity and quality of his work. B. The number of hours of work per week shall be defined. Workers shall be given weekly and annual days of paid rest. C. Special compensation shall be given to workers

supporting families and on dismissal, illness, old age and emergencies arising out of the nature of their work. D. Special conditions shall be made for the employment of women and juveniles. E. Factories and workshops shall be subject to health safeguards. F. Free trade unions may be formed within the limits of the law.

(Article 23 . The Constitution of The Hashemite Kingdom of Jordan for the year 1952 and its amendments)

In this way, all the constitutions of the world followed, including the French constitution, whose preamble included: “The French people solemnly proclaim their attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble to the Constitution of 1946, and to the rights and duties as defined in the Charter for the Environment of 2004.” Then guaranteeing him the right to work and developing it when it affirmed that: (Each person has the duty to work and the right to employment. No person may suffer prejudice in his work or employment by virtue of his origins, opinions or beliefs. All men may defend their rights and interests through union action and may belong to the union of their choice. The right to strike shall be exercised within the framework of the laws governing it. All workers shall, through the intermediary of their representatives, participate in the collective determination of their conditions of work and in the management of the work place. All property and all enterprises that have or that may acquire the character of a public service or de facto monopoly shall become the property of society. The Nation shall provide the individual and the family with the conditions necessary to their development.) (the French Constitution issued in 1958 and its amendments).

As for labor laws, there is no doubt that they came to protect the rights of workers and regulate the relationship between the worker and the employer, such as the Jordanian Labor Law No. (8) of (1996) and its amendments, the French Labor Law and its amendments No. (1088) of (2016), the new Bahraini Labor Law No. (36) for the year (2012).

. Therefore, jurisprudence came in turn explaining the most important characteristics of human rights, including the impermissibility of deviating from them, as they are interdependent and do not accept division. This means the integration of human rights and their indivisibility, since there is, in principle, no special priority given to a particular sect at the expense of another sect. There are also some rights that may not be waived in any way. No, but more than that, the inadmissibility of evading the binding obligations of states to protect human

rights and allegation of the existence of a state of emergency that allows this. This is what was expressed by one aspect of jurisprudence by saying: "It is not permissible to deviate from these rights under any circumstances in order to preserve human dignity and dignity...." (Shatanawi, 2019)

This is also stated in all international conventions that deal with human rights and the importance of preserving and preserving them from any kind of fragmentation or marginalization. However, the justifications for limiting human rights must be in accordance with the text of the law, while preserving the guarantees that guarantee maximum protection for any right that has been reduced based on a legal justification.

All of this must be in line with the exact concept and urgent need required by the state of emergency, i.e. the state of necessity required by the interest of the nation as a whole. As the restrictions on human rights can be imposed based on this concept only, that is, if "the interest of the whole country is at risk." This excludes restrictions on human rights that can be imposed in the interest of only one element of national security. (Kotkot, 1990).

For all of this, the state must inform its citizens and all other parties if we are talking about entering into an international treaty. An example of this is what was stated in the last paragraph of the text of Article 4 of the International Covenant on Civil and Political Rights, that: 3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation. (<http://hrlibrary.umn.edu/arab/b003.html>) .

To say that there is a state of emergency means the availability of all objective conditions through which it is possible to recognize the existence of an exceptional case that requires prompt and immediate involvement from the competent authorities. In addition to the fact that the danger must be exceptional, the measures taken must be commensurate with the exceptional danger, with an emphasis on the temporary temporal factor that requires the cessation of any exceptional procedure with the cessation of the state of emergency. All of this must also take into account the sanctity of some rights that may not be violated or reduced in any way. (Al-Jundi, 2012)

Perhaps the first paragraph of the text of Article 4 of the International Covenant on Political and International Rights issued

in (1966) is the one that clearly indicated the nature of the state of emergency by saying: 1. in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. (<http://hrlibrary.umn.edu/arab/b003.html>)

This is what leads us directly to the text of Article (124) of the Jordanian Constitution of (1952) and its amendments, as it set additional conditions required to defend the homeland in an emergency, saying:

In the event of an emergency necessitating the defence of the Kingdom, a law, which shall be known as the Defence Law, shall be enacted giving power to the person specified therein to take such actions and measures as may be necessary, including the suspension of the operation of the ordinary laws of the State, with a view to ensuring the defence of the Kingdom. The Defence Law shall come into force upon its proclamation by a Royal Decree to be issued on the basis of a decision of the Council of Ministers.

This text was linked to Interpretative Resolution No. (2) of (1991), unanimous decision dated (22/8/1991), and it is understood from this text that: "The Defense Law is an exceptional law of emergency laws that is issued in anticipation of the occurrence of the so-called state of emergency, and for its enforcement to be conditioned on the occurrence of an emergency that requires the defense of the homeland. It is also understood from these texts that the validity and enforcement of this law is not subject to the provisions of the application of ordinary laws stipulated in the second paragraph of Article (93) of the Constitution. Rather, its validity and enforcement is a subsequent and independent stage from the issuance of the law and is within the competence of the executive authority, because it is the King who proclaims its enforcement based on a decision of the Council of Ministers in accordance with the text of Article (124) of the Constitution. Since the authority of the executive authority to announce the entry into force of the Defense Law is absolute and not dependent on the approval of any other authority, the defense law may not include a provision that would restrict this authority, and the executive authority must obtain the approval of the National Assembly on this declaration or present it to it. Any text contained in the Defense Law to the contrary is contrary to the constitution,

and it is not permissible to act on it, without prejudice to the power of the legislative authority to supervise the executive authority, such as a vote of confidence in the ministry or directing a question or interrogation pursuant to Articles (51), (53), (96) of the Constitution.” .(<https://qarark.com>)

Second: Defence orders related to the right of Jordanian citizens to work.

The global Corona pandemic, whose negative effects extended to all sectors and state facilities, disrupted some, if not most, of the rights of the country's citizens. This required a sustained popular collective effort, reinforced by the state's ability to lead a participatory effort that goes beyond immediate security measures to contain the dimensions of this crisis in both the short and long term. Perhaps the ultimate goal of the national plan in facing this crisis centered around protecting the working class and its sources of income and ensuring the continuity of institutions supporting the national economy in terms of protecting citizens' right to work. (Muasher, 2020)

Regarding the long term of this plan, the legal protection and judicial decisions have become an umbrella that surrounds all the rights of the worker against the abuse of the employer in one way or another; Which highlights the importance of adhering to the rule of appropriating targets, which requires judicial oversight over the goal corner of administrative control decisions. Its precise concept, according to what is defined by jurisprudence: is the regulatory rules imposed by the public authority - the administrative authority - to regulate individual activity and public freedoms to achieve the public interest. It is a general meaning represented in subjecting individual activity and personal freedoms to a preventive regulation aimed at avoiding disturbances to public order within the limits of the law. (Al-Wakeel, 2003).

When the judiciary grants the administrative authority discretionary powers that sometimes expand in exceptional circumstances to include everything that achieves the public interest, this does not exempt it from being subject to judicial oversight to ensure that it does not abuse its authority and / or deviate from this authority from the purpose assigned to it. Bearing in mind that the legislator explicitly or implicitly specifies the purpose for which the administration's competence was established, for example, authorizing the administrative control authority to have some powers to prevent epidemic diseases in order to protect the public interest and protect public security from danger. Accordingly; The administrative control bodies must

abide by this purpose in accordance with the rule of allocation of targets. (Al-Tamawy, 1991)

Regarding the guarantees surrounding the right to work in all circumstances, whether ordinary or exceptional, the state is obligated in all circumstances to devote this right by providing guidance and direction in the field of technical and professional work. In addition to taking appropriate measures to promote the creation of suitable job opportunities for its citizens and the preservation of human rights in light of the declaration of a state of emergency, these are either guarantees contained in the provisions of the Jordanian constitution, or guarantees contained in the texts of internal legislation (Al-Dabbas, 2018).

From here comes Article (128/1) of the Jordanian Constitution, affirming the necessity of preserving the essence of rights and freedoms in the event of a state of emergency being declared, by saying: 1. The laws issued in accordance with this Constitution for the regulation of rights and freedoms may not influence the essence of such rights or affect their fundamentals.

The researchers believe that it is necessary to surround the rights and freedoms of citizens with protection, diligent legal oversight, and the necessary guarantees, in order to exclude the idea of the executive authority's pervasiveness and allegation in such circumstances, which may result in prejudice to such rights in one way or another.

If we look at the text of Article (125) of the Jordanian Constitution of (1952) and its amendments, we find that the phrase contained in the second paragraph thereof definitively indicates the full authority of the executive authority to issue any instructions that may be necessary for the purposes of defending the Kingdom regardless of the provisions of any applicable law. Our example:

Defense Order No. (6) (of 2020) related to the Corona pandemic issued pursuant to Defense Law No. (13) of (1992) :

Since the main goal of the curfew is to protect the lives and health of Jordanians, make possible efforts to take the necessary measures to reduce the negative economic impacts on private sector companies and employees and to enable the economy to recover after the end of the current crisis, while studying the possibility of gradually allowing some economic sectors to resume their work according to public health and safety regulations and national priorities, I decided to issue the following defence order:

First: A- All workers in private sector institutions and establishments or any other entity subject to the Labor Law deserve to receive their wages for the period from March 18 to March 31, provided that workers in the sectors excluded from the cabinet's suspension decision don't have the right to ask for

additional pay, unless they are assigned to work overtime in accordance with the provisions of Article (59) of Labor Law No. (8) for the year 1996.

B- For applying paragraph (A) of this order, paragraph (B) of Article (59) of Labor Law No. (8) for the year 1996 shall be suspended in relation to legal provisions related to work on official holidays only.

Second: A- The sectors, institutions, or establishments in the private sector or any other entity subject to the Labor Law that will be authorized to resume their work should obtain approval from the Minister of Industry, Trade and Supply, the Minister of Labor and Health and the relevant minister collectively.

B. For the purposes of the works of Paragraph (A) of this item, the Ministers of Labor, Industry, Trade and Supply and Health are authorized to define the basis, procedures and conditions for obtaining approval according to instructions issued by them collectively for this purpose.

Third: To facilitate the mechanisms of work "remotely" in whole or in part and to enable the economic sectors in these circumstances to resume their work and production, I decided the following: -

A - Private sector establishments and any other entity subject to the Labor Law shall resume their work "remotely" in whole or in part.

B- The provisions of Articles (3), (5), (8), (10) and (12) of Flexible Labor Law No. (22) of 2017 shall be suspended for the purposes of implementing paragraph (a) of this item.

C- The Minister of Labor is authorized to take the necessary measures and procedures to organize flexible work "remotely" according to instructions issued for this purpose.

Fourth: As of April 1, 2020, the wages of workers in private sector establishments and institutions and in any other body subject to the Labor Law are determined as follows:

A - Workers who perform their work in the workplace deserve their full wages, provided that it is permissible to agree, on the will of the worker, to reduce his/her wages, provided that the amount of the reduction does not exceed 30% of the wage and that this option is not used unless the reduction includes the salaries of the high management of the institution.

B - Workers who perform their work "full time" remotely at the institutions and establishments authorized to work, institutions covered by the suspension decision or not authorized to work deserve to receive their salaries. Workers who perform their work

"part-time" remotely at the authorized establishments and facilities, those covered by the suspension decision or institutions that are not authorized to work deserve to receive their wages according to the actual working hours and not less than the minimum amount per hours or according to the wages stipulated in Paragraph (e) of this item, whichever is higher.

C - The workers stipulated in Paragraphs (A) and (B) of this item who are assigned to work overtime are entitled to additional pay in accordance with the provisions of Paragraph (A) of Article (59) of Labor Law No. (8) of 1996 only.

D- For the purposes of the works of Paragraphs (A) and (B) of this item, Paragraph (B) of Article (59) of Labor Law No. (8) of 1996 shall be suspended in relation to legal provisions related to work on public holidays only.

E - The employers of the establishments and institutions authorized to work "part-time" with regard to workers who are not assigned to work, institutions covered by the suspension decision and those that are not authorized to work, have the right to submit a request to the Minister of Labor to allow them to pay at least 50% of the value of the normal wage for these workers, provided that it's below the minimum wage.

F - The foundations and conditions according to which employers are allowed to pay no less than 50% of the value of the original wage are determined according to instructions issued by the Minister of Labor for this purpose.

H - The provisions of Article (50) of the Labor Law No. (8) of 1996 shall be suspended for the purposes of implementing paragraphs (e) and (f) of this item.

Fifth: An employer who is unable to pay wages as mentioned in item (4) above in private sector institutions and establishments, any other body subject to the Labor Law and authorized to work, or those covered by the suspension have the right submit a request to a joint committee formed by all the Ministers of Industry, Trade, and Supply and Labor to completely stop work at his institution or facility and to stop work contracts for all workers. The employer must take no action in this regard except after obtaining the approval of that committee and must attach to the request a statement showing the names of workers, the forms of their contracts, duration, work hours and the amount of their wages according to what is registered for the Social Security Corporation (SSC). The issuance of the decision approving the suspension shall result in the following:

A- The employer whose work was completely suspended in his establishment is not permitted to perform any work or any activity during the suspension period.

B - The contractual relationship between the employer and the worker shall not be interrupted during the suspension period, and the employer is not obligated to pay the worker's wages during this period.

C- The suspension period is not considered as part of the period of the employment contract.

D - All financial and contractual obligations incurred by the employer remain valid during the suspension period, except for the employees' wages.

E- The employer in private sector establishments and insitutions or any entity subject to the Labor Law, shall not benefit from any economic protection programs for the private sector from the date of suspension.

F- A signal to prevent the disposal of movable and immovable property belonging to the establishment shall be made during the suspension period by a decision of the committee.

Sixth: A- Subject to the provisions of Paragraph (e) of item (5) above, the employer in private sector institutions and establishments and any entity subject to the Labor Law, covered by the suspension decision and not authorized to work, has the right to benefit from economic protection programs in accordance with the conditions established for each of them.

B - The government works to grant incentives to employers who are obligated to pay workers' wages in full since the the Defence Law was activated and until the end of its implementation. In addition, they will benefit from economic protection programs in accordance with the conditions set for each of them.

Seventh: In light of its capabilities, the government seeks to provide the necessary support to secure the basic life needs of Jordanian day laborers who are not involved in the social security, provided that they register in social security according to a mechanism to be determined later.

Eighth: A- The employer may not exert pressure on the workers to compel them to resign or lay them off except in accordance with the provisions of paragraphs (c) and (d) of Article (21) and paragraphs (a, g, h, i) From Article (28) of Labor Law No. (8) of 1996.

B- For the purposes of implementing paragraph (a) of this item, Article (23) and the provisions of paragraphs (b, c, d, e, and f) of Article (28) of Labor Law No. (8) of 1996 shall be suspended and the Minister of Labor shall be authorized to take measures and procedures necessary to implement paragraph (e) thereof.

C- Every employer who has forced any employee to resign or laid any off in cases other than those stipulated in Paragraph (A) of this item and during the period between March 18 and until the date of the issuance of Defence Order No. (6) for the year 2020, should bring them back to work within a week of the date the defence order was published in the Official Gazette.

Ninth: Every pledge, agreement or document in which the worker assigns any of his rights since March 18 is considered invalid and is not legally recognized, and the employer must take the necessary measures to cancel it within a week from the date of publishing the defence order in the Official Gazette.

Tenth: A- The defence order and the instructions issued pursuant thereto shall be reviewed on a monthly basis or whenever the interest requires that, according to reports issued by the Prime Minister for this purpose.

B - The foundations and conditions for the employer to benefit from each economic protection program are determined by the competent official authority, according to instructions issued for this purpose.

C- The Prime Minister issues the necessary communiqués and orders to implement what came with this defense order.

Eleventh: A- Any person who violates any of the procedures for obtaining the approval referred to in item (2) of this defence order shall be punished by closing the violating establishment for a period of 60 days.

B - Anyone who violates any other provision of this defence order and the communiqués issued by the Prime Minister or the ministers charged with pursuant thereto shall be punished with imprisonment for a period of three years and a fine of JD3,000.

C- The penalties stipulated in this defence order do not prevent the worker from claiming his labor rights in accordance with the provisions of Labor Law No. (8) for the year. 1996. (<http://www.mol.gov.jo>).

In view of what was stated in each of paragraphs (a), (e) and (f) of the fourth clause of the aforementioned defense order and all the details it contained, we find that the guarantees through which the executive authority tried to protect the right to workers' wages in light of the Corona pandemic, It did not give the working class the legal protection it needed.

In Paragraph (a), it is permissible to agree to reduce the worker's wages by 30%, provided he agrees, which gives the employer the authority to take this text as a pretext through which he tries to pressure the worker's will, so that this contract turns later from a consensual contract into a contract of submission that controls It

is the will of the employer, even from the subcontractor. As for paragraphs (e) and (f), the will of the employer is restricted by the instructions issued by the Minister of Labor, as he has the authority to agree to reduce the wages of the usual worker if he is not from the mentioned categories by 50% for workers who are not partially assigned to work or the institutions included in the decision of deactivation and was not authorized to work. However, we know that the right to work is one of the most sacred rights associated with the possibility of a decent life and the continuity of life, especially under exceptional circumstances. In addition to that, what was stated in the fifth clause of the same article, which greatly reduced the right of the worker, to give the employer who is unable to pay wages in private sector institutions and establishments and any other entity subject to the labor law and authorized to work, or those covered by the suspension decision and not authorized to work have the right to completely suspend work in his establishment or establishment and suspend employment contracts for all workers, provided that he submits a request to a joint committee formed by each of the Ministers of Industry, Trade, Supply and Labor to completely suspend work in his establishment or establishment. And if we take into account what was stated in the seventh paragraph, through which the government raised the ceiling of worker support to include daily workers, provided that they are registered in social security. We see that this clause came to increase the complexity of the mechanism for obtaining this right, which is fundamentally inconsistent with the idea of taking effective measures and means to protect all rights in exceptional (emergency) circumstances! So where do we protect this right? And where is the judicial oversight of the administrative control process in light of emergency circumstances? Even the instructions and the decision issued under the aforementioned defense order could not find a real and sufficient legal umbrella, through which it can be said that we did not violate the right to work and did not marginalize it to protect another right, which is public health.

Third: The extent to which citizens' right to work is impacted under the declaration of a state of emergency.

In addition to what was stated in Defense Order No. (6) (of 2020) related to the Corona pandemic, which we have previously discussed in the analysis, we would like to refer to vivid examples that show the extent to which the right of Jordanian citizens to work has been affected in practice by referring to the most prominent jurisprudence. There is no doubt that judicial oversight,

based on its objectivity, impartiality and independence, constitutes a cornerstone for the implementation of the principle of legality and thus ensuring that the administration does not deviate from the provisions of the law. This is what made the link between judicial oversight and the guarantee of rights and freedoms one of the constant axioms of our time, as judicial oversight over the work of the administration has become an integral part of the inherent competence of the judiciary and a logical consequence of achieving justice, the supreme task of the judiciary. (Muhammad, 2021). Among the most prominent examples of the abuse of employers and the adaptation of what was stated in the aforementioned defense order and all subsequent and related decisions emphasizing the protection of workers' rights during the pandemic, Judgment No. 3647 of 2021 - Court of Cassation in its human rights capacity issued on 16/9/2021, and It contained the following:

In response to the reasons for cassation, as for all the reasons for discrimination, the outcome of which was the same, and to the effect that the Court of First Instance in its appeal capacity was mistaken in terms of the result, which came according to Defense Order No. (6) of 2020, which stated in its merits that the work contract is automatically renewed for a period of one year in accordance with the Defense Law, since the work contract ends in 30/4/2020. The Defense Law required the renewal of fixed-term contracts, and the plaintiff did not prove the existence of the written contract, which is considered to be automatically renewed. The conclusion reached is contrary to the law and the interpretation of the defense order and considering it a renewed contract and the decision is contrary to Article (160) of the Code of Civil Procedure, and the obligation of the defendant to pay the amount adjudicated. The defendant did not commit any act that constitutes arbitrary dismissal, and her justification that the employment contract has been renewed and its renewal does not require the signing of an employment contract separate from that contract is contrary to reality and the law. In that, we find that the plaintiff has been working for the defendant since the date of 1/10/2005 under annual work contracts that are renewed annually, as the plaintiff continued to work from the date of 20/9/2005 until the date of 14/8/2020, as is proven by the letter of To Whom It May Concern. Also, the defendant did not renew the plaintiff's employment contract for another year, as is proven in the written evidence highlighted in the email lawsuit dated 9/6/2020, meaning that the plaintiff's employment termination was on 14/8/2020. As the plaintiff's work with the defendant was under a school teacher's employment contract, where the

contract was renewed more than once, and where we find that the period referred to in the defense order and Communication No. (8), then the conditions for its application according to Clause IV have been met according to the facts of this case. In light of the foregoing, the plaintiff's contract has become automatically renewed, since the conditions are met for a period similar to the last contract, which is one year. Whereas, the defendant did not renew the plaintiff's contract for the following year 2020-2021 from the date of 15/8/2020 until the date of 14/8/2020 without any legal basis. In the absence of any of the cases of Article (28) of the Labor Law cases of legal termination, the failure to renew the contract is an illegal termination of work, and the plaintiff deserves compensation for the entire period of the contract. Whereas, the Court of First Instance, in its capacity as an appellate court, reached the same conclusion when it approved that in terms of the result and not in terms of the reasoning, which requires refusing these reasons. (<https://qarark.com>).

Judgment No. 8973 of 2021 – first instance / penalty - misdemeanour / Amman/ issued on 10/12/2021, with which the court concluded the following:

By applying the law to the facts, the court finds that the actions that the suspect committed, represented in not paying the workers' wages for the months of September, October and November, and December for the year 2020 and January and February for the year 2021, but these acts constitute all the pillars and elements of the offense attributed to them. Which requires condemnation and punishment in accordance with Order No. (6) of (2020). Therefore, and based on the foregoing, the court decides, pursuant to the provisions of Article 177 of the Code of Criminal Procedure, to convict the suspect, Ahmed Al-Zubaidi Company, and his partner, for the crime of violating Defense Order No. 6 of 2020, represented by non-payment of workers' wages. For the months of September, October, and November, and December for the year 2020, and January and February for the year 2021, and pursuant to the same article, a fine of three thousand dinars and fees were issued, and the trial expenses were included. (<https://qarark.com>).

Based on the above; The researchers believe that the defence order and the decisions that followed it and related to the protection and regulation of the right to work issued by the executive authority as one of the means of administrative control during the Corona crisis. It did not reflect the ideal picture of the balance between protecting public health from this epidemic and ensuring continuity of work and paying the salaries of workers with indefinite or fixed-term contracts. The matter becomes more

complicated when we talk about the category of day laborers who are not registered in social security, and the self-employed, which led to an increase in the unemployment rate, and employers abandoning their worker. In addition, the closure of many facilities, the dismissal of a huge number of workers and the termination of their contracts, this is what leads us to talk about a more deadly crisis in society than the Corona pandemic. This calls for the need to intensify work on managing real strategies that represent the preventive aspect of managing such emergency conditions, and dealing with it with a kind of caution and wisdom and an extensive study of the dimensions of this crisis and its fierce repercussions on the public interest, for which all public facilities are established to protect it. Through a means that begins to manage this, which is the public authority whose role is limited whether or not to achieve this goal - the public interest -.

Hence, it was necessary to seek help from some of the experiences of other countries, especially with regard to taking various measures and policies that include influencing aspects of the labor market, especially with regard to inactive labor market policies. Such as unemployment benefits or alternative income during periods of unemployment, and social protection systems in addition to fixed benefits related to the citizen's right to work, health and education, as is the case in France. This is what requires investing in human capital to stimulate economic growth in the long term, as social protection, according to the modern perspective of development, represents investments in human capital and in social and economic development alike. (Abu Shamala, 2020). In addition to being a matter of rights and entitlement according to the International Covenant on Economic, Social and Cultural Rights (1966), and the Universal Declaration of Human Rights in 1948, the researchers support the preventive and curative means adopted by these policies at the same time, all of which are based on: financial transfers, and legislation for the protection of the working class, in addition to collective labor agreements and unemployment benefits.

Perhaps all of this makes the Corona crisis a golden opportunity for the state to form new political and economic governance systems, based on non-traditional participatory solutions with the private sector, to find alternative financial resources to help those most affected by this crisis and to enhance social cohesion, as restoring dynamism to government systems, as one aspect of jurisprudence puts it, all of this is in order to crystallize a new development environment, capable of bringing about the growth required to face any challenges such as the challenge of the Corona pandemic. (Al-Muasher, 2020)

Findings and recommendations

FIRST : FINDINGS

1. Jurisprudence and judiciary unanimously agree on the need to protect the right to work and workers as the weakest party in the work contract, since the French Revolution in 1789, whose highest goals were to protect workers and secure a decent life and a decent living for them, passing through the industrial revolution in 1870 and the emergence of the labor force on a larger scale. All the laws and constitutions of the world sought to include this right and protect it among the broad items in the list of rights and freedoms, including the Jordanian Constitution of (1952) and its amendments.
2. Saying that there is an emergency situation does not entitle the state to violate a right that must be protected under these circumstances. Therefore, the jurisprudence is unanimous that one of the advantages of human rights is their indivisibility or violation even in exceptional cases that require prompt and immediate intervention. With an emphasis on the end of any exceptional procedure with the end of the state of emergency, as it must take into account the sanctity of some rights that cannot be reduced in any way, and we are talking here about the right to work specifically.
3. Defense Order No. (6) (of 2020) related to the Corona pandemic issued pursuant to Defense Law No. (13) of (1992) did not meet the purpose for which it was issued, which is protecting the rights of workers and regulating the work of establishments during the pandemic period. This gave the employer the authority to take this text as a pretext through which he tries to put pressure on the will of the worker, so that later on this contract turns from a consensual contract into a contract of submission that is controlled by the will of the employer, even from subcontracting. There are many vivid evidences of this, and even when the defense order restricted the will of the employer, it limited it to the instructions issued by the Minister of Labor, which means assuming control and oversight of the authority that issues the decision itself (the executive authority).
4. The defense orders significantly reduced the right of the worker, to give the employer who is unable to pay wages in private sector establishments and institutions and any other entity subject to the Labor Law and authorized to work, to

completely stop work in his establishment or institution and to suspend employment contracts for all workers.

5. The consequences of Defense Issue No. (6) (for the year 2020) related to the Corona pandemic were more severe for citizens than the pandemic itself, which resulted in the loss of huge numbers of workers and their jobs. In addition to the deduction of salaries, the termination of employment contracts, the closure of many establishments, and the high rate of unemployment.

Second: Recommendations

1. The researchers recommend that the procedures followed in the event of an emergency should be commensurate with the extent of reducing some rights that are no less important than this exceptional danger, such as the right to work, which forms the backbone of the societal structure and the basis for the continuity of life. This is something that requires studying defense orders before issuing them and activating oversight on the party issuing them in a large way, so that this does not lead to the incursion of the executive authority and producing disastrous results that outweigh the state of emergency itself.
2. The researchers recommend the importance of providing Article (125) of the Jordanian Constitution with a kind of flexibility in order to activate oversight over the actions of the executive authority, as the phrase contained in the second paragraph of it definitively states the full authority of the executive authority to issue any instructions that may be necessary for the purposes of defending the kingdom regardless the provisions of any applicable law. This contradicts both legal logic and reality.
3. The need to intensify work on managing real strategies that represent the preventive aspect of managing emergency conditions such as (the Corona pandemic), and taking into account its negative repercussions on the public interest by drawing on some experiences of other countries with regard to taking various measures and policies that include influencing aspects of the labor market, especially with regard to inactive labor market policies, such as unemployment benefits or alternative income during periods of unemployment and social protection systems, in addition to fixed entitlements related to the citizen's right to work, health and education, as is the case in France .
4. The researchers believe that it is necessary to invest in human capital to stimulate economic growth, and to work within participatory popular and governmental efforts, as a result of which this crisis will be contained in both the short and long term.

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