



Research Article

© 2022 Al-Shawabkeh et al.
This is an open access article licensed under the Creative Commons
Attribution-NonCommercial 4.0 International License
(<https://creativecommons.org/licenses/by-nc/4.0/>)

Received: 14 June 2022 / Accepted: 19 August 2022 / Published: 2 September 2022

The Impact of COVID-19 on General Rights and Freedoms: The Jordanian Case as a Model

Faisal Al-Shawabkeh¹

Tayil Shiyab¹

Jamal Barafi¹

¹Al Ain University, Al Jimi,
Al Ain, Abu Dhabi,
United Arab Emirates

DOI: <https://doi.org/10.36941/ajis-2022-0130>

Abstract

The study addressed the impact of COVID-19 on public rights and freedoms. The research question is to what extent it is possible to achieve compatibility between preserving public health in light of the COVID-19 pandemic and protecting the basic rights and freedoms of individuals, and how the Jordanian government dealt with the pandemic by resorting to exceptional legislation in this regard. To address this problem the study focused on the legislative basis which the Jordanian government relied on to confront the pandemic and the manifestations of prejudicing general rights and freedoms. The study discussed the compatibility between respecting rights and freedoms, and combating the pandemic. The conclusion is that the Jordanian government imposed harsh legislations which restricted individuals' rights. It is recommended that the Jordanian government adopt preventive measures to combat the epidemic in line with international standards on respecting human rights. Policies are suggested.

Keywords: COVID-19 pandemic; constitutions; rights and freedoms; defense act; imprisonment

1. Introduction

An exceptional situation is sweeping the globe embodied by the Coronavirus epidemic (COVID-19)(World Health Organization, 2022) which afflicts all aspects of human life, including economic, social, political, and psychological. It continues to inflict great damage on humanity, affecting the basic rights and freedoms enjoyed by individuals and institutional bodies. On March 11, 2020, the World Health Organization announced the outbreak of COVID-19, and noted this virus appeared for the first time in December of 2019 in the Chinese city of Wuhan. The WHO noted the virus reached the level of a pandemic or global epidemic, called for concerted international efforts to confront it, and directed countries to take all necessary protective measures and procedures to combat this scourge, thereby avoiding catastrophic repercussions on human life in the absence of an effective treatment or vaccine.

There is no doubt that the Coronavirus, with its extent and severity, is a real threat to public health. It can justify imposing restrictions on some rights and freedoms, such as imposing quarantine or isolation, which restrict and limit freedom of movement, which are prioritized over concern for human rights, a need to respect human dignity, transparency, and non-discrimination in light of the

unnatural atmosphere associated with the pandemic. The prioritization of public health may result in imposing measures that do not take into account respect for human rights.

The attitudes of different countries in dealing with and combating this pandemic are varied, ranging between severe and soft. This includes the Jordanian government, represented by the cabinet, which resorted to a set of laws and legislations and imposed their implementation to confront the pandemic. It applied Defense Act No. (13) of 1992 (Jordanian Government, 1992), based on the text of Article 124 of the Jordanian Constitution issued in 1952 (The Kingdom of Jordan Constitution, 1952) and issued, according to the Defense Act, multiple Defense orders. This restricted individuals and organizations, especially civil society institutions such as unions and parties. The law restricted the exercise of many constitutional rights and freedoms, both individual and collective, such as the right to express an opinion, the right to move, the right to work, and other rights guaranteed by the Constitution of Jordan.

We fully agree with the official speech presented by the country, which acknowledges that Coronavirus is an exceptional case that requires doing everything that would protect the public order and security from the threat of this epidemic. However, we have reservations that we will explain in detail in this study.

Our study aims to evaluate measures to confront the COVID-19 epidemic in Jordan, analyze the effectiveness of the unusual legislation that has been imposed, and explain the defects associated with the overall government position and its impact on the various basic rights and freedoms of individuals.

The study raises many questions, the most important of which is: what are the legal foundations on which the Jordanian government relied in issuing its orders related to the COVID-19 pandemic? What is the scope of application of the legislation imposed during the COVID-19 crisis? What are the rights and freedoms that may be affected by the application of exceptional legislations? Is the Jordanian government obliged to impose exceptional legislation and laws to confront the COVID-19 pandemic?

Addressing these issues requires us to divide the study into three sections, which first allow researchers to study the legislative basis that allows the Jordanian government to consider exceptional legislation to combat the COVID-19 pandemic. Then we will address the infringement of public rights and freedoms. Finally, we study the compatibility between respecting general rights and freedoms and combating the COVID-19 epidemic.

2. Legislative Basis for Exceptional Legislations in Response to the COVID-19 Pandemic in Jordan

The Jordanian government is committed to dealing with the COVID-19 pandemic with legislation, foremost of which is Jordan's Constitution of 1952 (The Kingdom of Jordan Constitution, 1952), Defense Act No. 13 of 1992 (Jordanian Government, 1992), and Public Health Law No. 47 of 2008 (The Kingdom of Jordan, 2008).

2.1 The Constitution

The Constitution of Jordan is the main source and reference for the Jordanian government in its dealing with the Coronavirus pandemic, specifically the text of Articles 45 and 124 of the Constitution. The first paragraph of Article 45 stipulates that, "the cabinet shall be responsible for managing all internal and external affairs, except what has been assigned or entrusted with of those affairs under this constitution or any law to any other person or body." Based on the constitutional text, the Cabinet holds the mandate to handle the COVID-19 pandemic as it is an internal matter that falls within its competencies. Therefore it is the responsible body for managing the crisis and the various resulting repercussions. Article 124 of the Constitution stipulates that: "If something happens that call for defending the country in the event of an emergency, a law is issued in the name of the

Defense Act, according to which the authority is given to the person designated by law to take the necessary measures and procedures, including the power to suspend the ordinary laws of the country to secure defending the country and the Defense Act shall be in effect when it is announced by a royal decree issued upon a decision by the cabinet" (Al-Sinari, 2000).

The great danger in the text of the previous constitutional article is evident for two reasons. The first is that the issuance of the Defense Act as an exceptional law would suspend all the state's laws and their diversity.

The Defense Act takes the priority of execution as well as its pursuant orders, regardless of their compatibility or incompatibility with any law that was in force before the issuance of the Defense Act, whether it was a labour law, a trade law, or a public employment law ... etc. As for the second aspect that shows the seriousness of the previous constitutional text, it is represented in broadening of the principle of the legality of the actions of the executive authority. What was considered an illegal act by the executive authority in the period before the application of the Defense Act is considered a legitimate act if it was issued under the Defense Act, and the argument for that is the state of emergency (Shatnawi, 2004).

In a state of emergency, all state laws are restricted and suspended (through Defense orders) with the guarantee they contain agreed rights and freedoms. Defense orders rely on exceptional acts and orders to measure the legitimacy of the actions of the executive authority. Obviously, the exceptional legislations issued in specific crises faced by states are not comparable with their counterparts issued in the natural circumstances and conditions in terms of observing individual and collective rights and freedoms. The possibility of violating the guaranteed rights of individuals and authorities is compounded by the reliance of these exceptional legislations on the Basic Law, the Constitution, which is one of the most important sources of the principle of legality. In addition to the impact of these legislations on individuals leads to fear and panic from an emergency such as the COVID-19 pandemic, so they obey these legislations that violate many of their rights and directly affect their basic freedoms, such as freedom of expression, freedom of movement, etc. The only resort to solve this dilemma that affects rights and freedoms during crises such as the COVID-19 pandemic is the judiciary as it is tasked with preventing the encroachment of executive authority on rights and freedoms of individuals under the pretext of protecting public security and order in the state. We find some jurisprudence of the Jordanian High Court of Justice that adequately protects the rights and freedoms of individuals from the arbitrariness of the administration. The court cancels administrative decisions issued under the pretext of protecting public order, including the ruling that decided to cancel the deportation of a citizen's wife by stating: "The Jordanian wife is treated as a foreigner if she retains her foreign nationality. ... Consequently, the administration has the power to deport her from the Kingdom if her existence threatens the security of the state, its national economy, public health, public morals, or public tranquillity" (The Judgment of the Jordanian High Court of Justice No. 97/84, Bar Association Journal, 1985).

The court extended its control over the Ministry of Interior's decision to deport the wife of a Jordanian citizen under the pretext of protecting the public order and ended with its cancellation. In another judgment the court cancelled the administration's decision that included restricting the freedom of trade under the pretext of preserving public security. It ruled that "mere adherence of the plaintiff to his right to sell his extraction of salt does not justify the application of the provisions of the Crime Prevention Law as long as there is nothing in the evidence indicating that the plaintiff has performed an act that would lead to a breach of security." (The Judgment of the Jordanian High Court of Justice No. 52/41, Bar Association Magazine, 1953, 97).

The expansion of the umbrella of judicial control exercised by the judiciary over the actions of the administration, especially in times of crisis, would reduce the intransigence of the administration and achieve adequate protection for individuals and ensure that they avoid the arbitrariness and arrogance of the administration when it issue its decisions against them. We find that the judiciary simplifies its precise control over the suitability of the procedure to the circumstances and the facts that led to its issuance, especially regarding decisions issued under the pretext of maintaining the

public order. This includes the High Court of Justice's ruling that states: "the reasons presented by the governor as the authority in charge of implementing the regulation of administrative formations are subject to the control of the High Court of Justice in terms of the suitability of the procedure to the circumstances and facts that led to its issuance so that the judiciary replaces the administration in its assessment of the reasons considered to be a breach of public order by the means it deems appropriate to prevent this breach." (Judgment of the Jordanian High Court of Justice No. 173/83, Bar Association Magazine, 1987, 486).

2.2 Defense Act No.13/1992

Defense Acts, "in addition to declaring a state of emergency," are the primary means for countries to deal with worldwide crises such as the pandemic, so the Defense Act holds up based on its constitutional reference. All constitutions contain texts which are not supposed to negatively affect human rights, but protect them in accordance with international human rights obligations. These texts allow states to take necessary measures in exceptional circumstances to protect basic rights such as the right to health, and implement policies to protect public health and provide medical care for those who need it. This entails the imposition of restrictions on some rights as they might lead to serious threats to public health (Article 124 of the Jordanian Constitution issued in 1952). These restrictions can be justified if they are based on a scientific basis, are not applied arbitrarily, are implemented for a specific period of time, and consider human dignity.

Jordan implemented the Defense Act on March 17th with the royal decree to activate Defense Act No. 13/1992 giving the Prime Minister exceptional powers to issue orders that would restrict basic rights and freedoms such as freedom of expression, the right to movement and assembly, the right to work, etc. The danger is not in the Defense Act itself, as it allows for suspension of laws, but rather the danger lies in the defense orders issued based on it, such as the suspension of the Social Security Law. The suspensions begs the question: what is the scope of execution of these exceptional powers and the possibility of exceeding the limits of legality? By virtue of the Defense Act, "the prime minister has the authority to take the necessary measures and procedures to secure public safety and defend the Kingdom without being bound by the provisions of the ordinary laws in force" (Article 3/A of Defense Act No. 13/1993).

The powers of the Prime Minister are embodied in the form of various orders and communications in various fields, according to what the government considers necessary to confront the pandemic. The law defined a state of emergency (Article 2/A of the Defense Law), including the spread of a disease or an epidemic, as justification for implementing the Defense Act, which has economic, political, health, social and legal consequences, especially with regard to some rights and freedoms.

2.3 Public Health Law No. (47) of 2008

The Public Health Law deals with the health situation in Jordan, and the Ministry of Health, represented by its Minister assumes responsibility for public health in the Kingdom. Through instructions it issues in coordination with relevant authorities, the Public Health Law defines the Ministry's duties, as follows (Article 3 of the Public Health Law No. 47/2008):

"Preserving public health by providing preventive, curative and supervisory health services."

"Regulating and supervising health services provided by public and private sectors."

"Providing health insurance for citizens within the limits of their available capabilities."

"Establishing education, training, and health institutions and establishments affiliated to the Ministry and supervising their management taking into account the provisions of the relevant legislation in force."

After the law defined the Ministry's duties and its general mandate over public health in the Kingdom, it also defined the goals of the ministry, the most important of which is encouraging and

promoting healthy lifestyle patterns and behavior, improving the health of the population, taking care of the health of women and children by providing the necessary services for them, and implementing healthy policies and procedures for caring for the elderly. The Public Health Law has dealt with contagious epidemics in more than one article in the law.

An epidemic is defined in Article 17 as “an increase in the number of cases of a specific disease than the number usually expected to occur in a specific place and a specific time.” The law is comprehensive, covering all health circumstances and conditions that the country may go through, taking into account the aspects of prevention and protection from epidemics and infection, the mechanisms of dealing with them, the procedures to be followed, and the powers and precise responsibilities of health authorities (Articles 33, 36, 38, 44, 51, and 58 of the Public Health Law 15.). It lists penalties that may be inflicted if individuals and institutions violate the law. The law contains 75 articles that cover anything that would threaten public health in the Kingdom. The law also covers anything that concerns the Ministry of Health and other institutions concerned with medical affairs, such as the Food and Drug Administration and other bodies concerned with the health care of Jordanian citizens, individuals and organizations. It is reasonable to ask why the Jordanian government is not satisfied with relying on the Public Health Law to confront the COVID-19 pandemic. Have not many countries resorted to their medical laws to confront the COVID-19 epidemic? Was it necessary to enforce exceptional laws (the Defense Act) that clearly restrict rights and freedoms? This is the focus of this research paper: an examination of the impact of the Jordanian government’s reliance on unprecedented laws that violate basic rights and freedoms, such as the right of freedom of speech, the right of movement, the right to health, and the right to work.

3. Manifestations of Infringement of Public Rights and Freedoms

There is no doubt that human rights standards should be respected in all circumstances. That is necessary to ensure the stability and development of societies, whether the rights in question concern the freedom of speech and expression, the right of movement, the right to health and work, or any other rights related to the individual.

3.1 *The Right to Express Opinions*

Freedom of expression is related to the dignity of individuals and is considered one of the basic rights and freedoms from which they can enjoy the rest of the rights and freedoms.

This right is enshrined in article 19 of the Universal Declaration of Human Rights, which provided that everyone has the right to freedom of opinion and expression without interference, and can seek, receive and impart information and ideas through any media. This right was also enriched in Article 19 of the International Covenant on Civil and Political Rights (ICCPR) which provided: the right to hold opinions without interference; the right to seek and receive information; and the right to impart information (UN Human Rights, Office of the High Commissioner, 1966).

It is considered the starting point in the exercise of various freedoms and general intellectual, cultural, and other rights. Therefore, constitutional systems are keen to include in their constitutions this fundamental right. The Jordanian constitution stipulates that: “the state guarantees freedom of opinion, and every Jordanian has the right to express his opinion freely by speech, writing, photography and all other means of expression, provided that they do not go beyond the law.” (Article 15 of the Constitution of Jordan of 1952). By including the right, the Constitution is in harmony with the system of international human rights legislation. However, an observer of the Jordanian response to the COVID-19 pandemic may note that fifteen defense orders have been issued based on the Defense Act. Some of these orders directly affected the freedom of opinion and expression. Defense Order No. (2) dated 20-3-2020 banned the movement of people and their roaming in all regions of the Kingdom, starting from seven AM that day until further notice. It was followed six days later by Defense Order No. (3), which imposed financial fines and penalties such as

imprisonment, seizing vehicles, and closing shops for violators of the roaming ban. Harsher penalties were implemented for repeat violations. A harsher defense order was issued on May 20, 2020: Defense Order No. 12. These orders negatively affected the social movement system, individuals, and organizations; some opposition figures were arrested, including former assemblymen. It is no longer possible to go out into the squares and streets to peacefully express societal demands. An example is the teachers' crisis. Educators are a large segment of Jordanian society who are demanding the government return privileges that were retracted by the defense orders that affected their salaries. The teachers' movements were restricted, their President was arrested, and they were prevented from gathering and peacefully expressing their demands. Some of them are imprisoned. The government's argument is that the defense orders that do not allow them to peacefully protest preserve national security. Hence, we find that the balance between the right to express an opinion and the obsession with preserving national security cannot be achieved if governments considers expressing opinions a threat to national security in crises. Therefore, to achieve this balance, governments, especially in third world countries, shall reconsider the right to express an opinion as not posing a threat to national security. They should then ensure that of the two considerations, the right to express an opinion and preserve national security, neither is given priority over the other. This would ensure that the freedom of speech is constitutionally guaranteed and not restricted.

3.2 *The Right of Movement*

The basic principle is that an individual is free to reside and move, and so has absolute freedom to reside in any place within the country, or to travel to another country. The individual is free to choose his residence and move, whether inside or outside the country, at any time he wants. This is considered a human right stipulated in international laws and norms (Article 13 of the Universal Declaration of Human Rights) (UN General Assembly, 1948) and (Article 12 of the International Covenant on Civil and Political Rights) (UN Human Rights, Office of the High Commissioner, 1966). The aforementioned article states that every resident has the right to freedom of movement, but this right can be subject to legal restrictions when necessary to protect national security, public health, or the rights and freedoms of other people. The Jordanian constitution stipulates that: "it is not allowed to ban a Jordanian to reside in a place, or prevent him from moving, nor be obliged to reside in a specific place except in the cases specified in Law" (Article 9 of the Jordanian Constitution) (The Kingdom of Jordan Constitution, 1952). This is the normal situation in the lives of some individuals, except that the COVID-19 pandemic and the Jordanian government's Defense Act, and the orders issued according to it, have restricted this right. Defense Order No. 2 included a total ban on the movement of people. The ban was comprehensive for all governorates of the Kingdom and all individuals; the order continued for weeks, followed by multiple orders and notifications imposing a partial travel ban for separate areas for varying periods of time. Notifications based on Defense Order No. 2 are still issued, some are total and some are partial closures for the governorates and districts, the last of which is the closure of Ar-Ramthā district. All this restriction on the freedom of movement is accompanied by severe penalties, mentioned by Defense Order No. 3, then aggravated by Defense Order No. 12. Anyone who violates the ban on movement and travel shall pay fines that may reach 500 Dinars and may be imprisoned, in addition to having their vehicles seized if they traveled by vehicle. In light of this severe restriction of the movement of individuals and the penalties imposed on anyone who violates this ban, how can parliamentary elections be held to select the members of the Jordanian parliament in November this year? Can the Jordanian people choose their representatives in light of the restriction of freedom of movement? The Jordanian government announced that the parliamentary elections will take place on time. Citizens are facing two assumptions and there will not be a third. The first assumption is that the parliamentary elections do not take place at the date set by the government. The would mean the government impedes the normal course of parliamentary life in Jordan (Article 1 of the Jordanian constitution) (The Kingdom of Jordan Constitution, 1952), which is that parliamentary elections are held every four years. The

second assumption is that the government holds the parliamentary elections on time. Here we ask about the process by which the elections will be held. Will the representatives of the people be elected remotely (electronically)? The government announced that it is not possible to adopt the electronic method for conducting the elections, and the elections will take place in the traditional way. This option is unreasonable in light of the lack of opportunity for individuals to exercise their right to move and participate in electoral meetings and festivals held by candidates for the parliamentary elections to explain their electoral promises. This is especially true since Jordan is a country in which partisan life has taken root. Candidates are elected based on their party affiliation. Therefore, it is quite clear that the exaggeration restriction of the right of movement would impede important paths for the stability of Jordanian society and the Jordanian state. This is in addition to its violation of a basic right of Jordanian citizens.

3.3 *The Right to Health*

The Medical Constitution of the World Health Organization affirms that enjoying good health is one of the basic human rights, and states shall create conditions that enable individuals to enjoy good health. The right to health is a matter of concern and is affirmed by international laws, treaties, and covenants. Article 25 of the Universal Declaration of Human Rights, states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control" (UN General Assembly, 1948).

The Constitution of Jordan did not directly stipulate the right to health, but on the occasion in its presentation of the rights and duties of Jordanians it indicated that "the law protects motherhood, childhood and old age, nurtures young people and people with disabilities, and protects them from abuse and exploitation"(Article 6/5 of the Constitution of Jordan)(The Kingdom of Jordan Constitution, 1952). Likewise, the Jordanian Public Health Law "which is the holder of the mandate in the matter of health in the Kingdom" in Article 19 stipulates that:

The patient with an infectious disease shall be isolated, and the isolation shall be in the manner prescribed by the doctor, to prevent the exposure of others to infection with the disease.

The minister or his authorized representative may take the necessary measures to prevent the transmission of infection to others from the reservoir or source of infection.

The director, doctor, or authorized employee has the right to take laboratory samples from patients, close contacts, or suspected persons, or from any food, water, or otherwise, if they suspect an infectious disease.

The law strengthened the authority of the Ministry of Health and gave the Minister of Health broad powers to take necessary measures to preserve public health, including quarantine and isolation (Article 23 of the Public Health Law No. 47/2008)(The Kingdom of Jordan, 2008). The law was comprehensive and effective in facing any epidemic or pandemic by covering any emergency that the Kingdom might go through. Article 22 of the law stipulates that:

- a. If an epidemic disease outbreaks in the Kingdom or any region in it, the minister must urgently take all measures to combat it and prevent its spread and announce this epidemic by various media and the announcement shall be published in the Official Gazette.
- b. The Minister shall be empowered to take all necessary measures to eradicate the epidemic, and for this purpose, he has the right to isolate the injured, vulnerable, or suspected of being infected, prevents their transportation, gives serum and vaccination, treats and inspects, destroys contaminated materials, buries the dead, inspects means of transport and lays hands on real estate and means of transport for the period required by necessity in exchange for fair compensation.
- c. Whoever intentionally conceals an infected person or exposes a person to infection with epidemic disease, or intentionally causes the transmission of infection to others, or refuses

to implement any measure requested from him to prevent the spread of infection, is considered to have committed an offense punishable under the provisions of this law (Article 66 of the Public Health Law)(The Kingdom of Jordan, 2008). It is clear that the law has granted the Minister of Health to impose penalties on anyone who violates government instructions in the matter of health, and the legislator has singled out Chapter Fifteen of the Law, for penalties in this regard (Articles 62, 63, 64, 65, 66, and 67 of Public Health Law No. 47 of 2008) (The Kingdom of Jordan, 2008).

It is also evident that the Public Health Law obliges the Minister of Health, in the event of an epidemic in the Kingdom, to urgently take all measures to isolate infected persons and persons who may be infected, and to do everything to limit the spread of the epidemic. Here we wonder whether it is sufficient to activate the Public Health Law to confront the Coronavirus? Have not many countries resorted to health legislation to confront the Coronavirus pandemic and avoid abusing rights and freedoms? There are several examples of countries relying on public health laws to confront this crisis, for example, the United Arab Emirates. Since the beginning of the Coronavirus crisis The UAE resorted to Federal Law No. 14 of 2014 regarding communicable diseases control (UAE Government, 2014). It implemented the means of protection and prevention imposed by this law and did not resort to a defense or emergency act, although the UAE constitution allows this in case of necessity (Article 146 of the UAE Constitution promulgated in 1971)(UAE Constitution, 1971). Therefore, we recall the question previously raised about the extent of the necessity to activate the Defense Act in Jordan in light of the existence of the Public Health Law. Why was the Jordanian government not satisfied with the effectiveness and feasibility of the Public Health Law?

For our part, we consider that relying on the Public Health Law in Jordan is sufficient to confront the Coronavirus pandemic, with the preventive measures it imposes and punitive measures that achieve the desired protection for public health within the Kingdom. In light of the royal declarations that the Defense Act, the Public Health Law should work in the narrowest limits. The government should focus on that, and not on expanding disrupting laws, encroaching on public rights and freedoms, silencing and severely restricting the right to movement, and settling scores with political opponents in the absence of the House of Representatives. The government's actions mean the Coronavirus pandemic was exploited and employed to pass government policies that are not popularly accepted.

3.4 *The Right to Work*

Everyone has the right to work (Article 2 of the Jordanian Labour Law No. 8 of 1996) (The Jordanian Government, 1996) as it is a means for a decent living and a basic human right (Momani & Al-Zawahra, 2014). It almost tops human rights in both economic and social terms, due to its connection with achieving a decent standard of living. All constitutional systems, and national and international legislation unanimously agree on the necessity of securing for their citizens job opportunities (Fattal, 2018). The Jordanian Constitution stipulates that: "the state guarantees work and education within the limits of its capabilities and guarantees tranquillity and equal opportunities for all Jordanians." The individual has the freedom to carry out the work he chooses and accepts without compulsion or coercion, in light of legislation governing the worker's relationship with the employer. These legislations guarantee the protection of the worker on the one hand, and the interests of the employer on the other hand. Those who study the right to work in Jordan during the Coronavirus pandemic notice the negative changes that occurred in the labour law. These changes led to the suspension of some Articles due to the Defense Act, especially Defense Order No. 6. That Order is a clear and direct violation of the right to work. Defense Order No. 6 states that: "work shall be suspended in Paragraph B of Article 59 of Labour Law No. 8 of 1996 (The Jordanian Government, 1996) in relation to the legal provisions relating to work on official holidays only," while Paragraph B of Article 59 of the Labour Law states that: "if the worker works on his weekly day off, religious holidays, or official holidays, he shall receive in exchange for his work for that day an additional wage

of no less than (150%) of his usual wage.” This means the employee who works during official holidays is not legally entitled to his wage for that work, so his earnings are limited to his regular wage during official holidays and feast days. This is a complete injustice and attack on the rights of workers, as it is not permissible for the individual to exert effort in work without remuneration. Also, the Defense Order authorized the employer in the establishments and enterprises that are permitted to work to reduce the wages of some workers by 50%. This means stopping work in Article 50 of the Labour Law, including the protection contained in this article for workers. Defense Order No. 6 halted the work of many productive businesses, which was reflected on the workers, including day laborers. Day laborers are a large demographic, and are among the most affected workers affected by the Defense Order. They usually receive low salaries and perform modest administrative or technical work. Day laborers receive a lot of social insurance, which keeps them at the mercy of the government. The government aid usually does not help them advance socially or economically. The negative effects of the Defense Order are not limited to employees, but also include the owners of establishments and enterprises who were affected by the closure of their facilities. With official permission from the Jordanian government, 3,640 establishments were closed for non-compliance of Defense Order No. 11 since last March. The government tends to be strict in confronting the labour sector and imposed fines and closures on anyone who violated Defense Orders. The question here is: Are this restriction and direct prejudice to the right to work justified? The Public Health Law should protect public health without violating basic rights for individuals, including the right to work. Hopefully the Jordanian government will adjust its course in dealing with the work sector, especially since the epidemiological situation in the country is in a state of fluctuation despite the strict closures of economic sectors.

4. The Appropriateness between Respecting Rights and Freedoms and Combating the Coronavirus Epidemic

The spread of the Coronavirus epidemic forced the Jordanian state to take various measures to protect people and society from the threat of this epidemic. The Jordanian government dealt with this epidemic by activating the Defense Act and issuing defense orders to limit spread of the disease. Researchers who studied these orders find that they are a clear violation of the rights and freedoms of individuals. However, the Jordanian government justified these orders on the pretext of protecting public health and public security. This does not prevent creating a balance between protecting the rights and freedoms of individuals on one hand, and on the other hand protecting public health. Therefore, we note some inconsistency and contradiction in government orders regarding the reconciliation between caring for the rights and freedoms of individuals, and protecting public health.

4.1 Lack of Balance in Defense Orders to Confront the Coronavirus Pandemic

The Jordanian government issued Defense Order No. 2 of 2020 according to Defense Act No. 13 of 1993, which includes a restriction on the movement of people and travel in all regions of the Kingdom, starting from seven in the morning on Saturday 3/21/2020 until further notice. Whoever violates the provisions of this order shall be punished with immediate imprisonment for a period not exceeding one year. It is curious that the Jordanian government went directly to immediate imprisonment for a period not exceeding one year for every person violating the curfew to combat the Coronavirus epidemic through the physical spacing between people. At the same time the Jordanian government released hundreds of prisoners in penal institutions to avoid overcrowding and the spread of Covid-19 among prisoners. It is fair to note the absence of the logic of proper dealing with the Coronavirus epidemic in Jordan. There is no evidence of logic from Defense Order No. 12, which amended the imprisonment penalty referred to in Defense Order No. 2 to make the fine no less than 100 Dinars and not more than 500 Dinars.

This is completely in line with the approach of the United Arab Emirates, which did not go towards imprisonment, but fined anyone who violated the prohibition orders. A fine of three thousand dirhams has been imposed for violating the curfew implemented by the competent authorities, except for reasons of necessity to purchase food and medicinal needs, or for health emergencies. Also excepted were the vital sectors that were excused from the curfew.

The Jordanian government moved away from imprisoning citizens for violating the curfew and is satisfied with the financial penalty. It can be said that the Jordanian government immediately limited the rights and freedoms of individuals in applying the Defense Act. It issued its orders to prevent freedom of movement, roaming, meeting, and association, as a pre-emptive move to prevent any peaceful demonstration or protest, especially since Jordanian society recently witnessed peaceful demonstrations against corruption and unemployment. The protests and demands of the Teachers Union, which restored many citizens' confidence in their ability to effect change in the government's orientations and decisions, are obvious. The other issue that contradicts the explanations of the Jordanian government's pandemic choices is the decision to allow parliamentary elections and meetings at the clan level to filter the candidates. How is it possible for the Jordanian government to implement a comprehensive curfew while at the same time allowing internal elections to take place at the tribal level? This is what leads us to say that there is an imbalance in the Jordanian government's decisions to confront the Coronavirus pandemic. The government has taken an approach that diminishes the rights and freedoms of individuals under the pretext of confronting the Coronavirus pandemic and preserving the health of the citizen. At the same time the Jordanian government moved to preserve the constitutional constants by holding elections and allowing clans to hold internal elections to filter their candidates. This creates a kind of contradiction and imbalance in government decisions. The Jordanian government was supposed to either preserve the health of the citizen, or preserve of the constitutional constants. We say that preserving the constitutional constants is the real guarantee to tackle the incidents sweeping the Jordanian state, including the Coronavirus pandemic. Among the manifestations of adherence to the constitutional stipulations is the continuation of the work of the House of Representatives and its oversight role for all government actions, chiefly its decisions in the face of the Coronavirus pandemic. Other alternatives to the Defense Act are the Public Health Law and the Penal Code. Amendments could be made to both to cope with the unprecedented nature of the Coronavirus pandemic.

4.2 Contradicting Government Orders Related to Penal Institutions

The Coronavirus epidemic poses a great danger to people who live close to each other as it is an infectious disease. It disproportionately affects the elderly and people with chronic diseases such as heart disease, chronic respiratory diseases, and hypertension. The seriousness of this epidemic is particularly acute in penal institutions (such as prisons and juvenile care homes), due to the poor health care infrastructure of inmates, as well as the difficulties containing the spread of the virus in such a closed environment. Prisoners are considered vulnerable to infection for several reasons, the most important of which is their proximity to each other due to living and performing work inside penal institutions, which are often overcrowded with poor air circulation. The Penal Reform Organization considers infectious diseases a source of special concern to prisoners, as the incidence rates of infections are between 10 to 100 times higher among prisoners than in society, and inmates are five times more likely to have HIV infection than adults in general population. The United Nations High Commissioner for Human Rights has expressed his grave concern about prison overcrowding, as many people are in unsanitary conditions, which may cause a wider spread of the Coronavirus. In a statement, the United Nations High Commissioner for Human Rights, Michelle Bachelet, said, "Covid-19 has begun to overrun prisons, immigration detention centers, residential care homes, and mental health hospitals, and it threatens to spread among the most vulnerable residents of these institutions."

Therefore, many countries released prisoners, and the Jordanian Judicial Council released many inmates to preserve their health and because they feared the spread of the disease in the penal

institutions. The Jordanian Judicial Council decided, by Resolution No. 70, dated 3/24/2020, to convert the imprisonment of every convicted person in a civil debt not to exceed the total amount of the adjudicated debts, an amount of one hundred thousand dinars, to release them, and then prevent their travel. Likewise, all persons arrested in connection with misdemeanors and in accordance with the provisions of Article (114) of the Criminal Procedure Code were released, and arrest warrants were replaced with a decision banning their travel. The implementation of criminal judgments for every person sentenced to imprisonment not exceeding three months or fines was postponed and they were released with a travel ban. Also, for crimes stipulated in Article (421) of the Penal Code, related to the issuance of a check whose balance is not offset by the postponement of the execution of criminal judgments on every convicted person, the total value of sentenced checks should not exceed an amount of one hundred thousand dinars.

The Jordanian Judicial Council also took note of the procedures carried out by the heads of the courts of first instance and public prosecutors to study the cases of remanded persons convicted of felonies that fall outside the jurisdiction of the Grand Criminal Court and decide to release the remanded persons if the circumstances of the case allowed that, with the addition of a travel ban for the released (Jordanian Judicial Council, 2022).

According to the statistics of the Jordanian Ministry of Justice, the number of people released as a result of these measures has reached 4,000 inmates from various reform and rehabilitation centers, and this would support national efforts to limit the spread of the Coronavirus while working in the interest of society, the rights of the complainants, and the victims in cases. The penalties of those sentenced in civil cases, all for the requirements of the public interest, and the implementation of the provisions in which the implementation has been postponed will move forward as soon as the emergency passes, and they will be given priority in the courts (Jordanian Judicial Council, 2022).

This begs the question: as the Jordanian Judicial Council tries to preserve the public health of citizens, especially inmates in penal institutions, is it cognizant of the danger of releasing inmates from penal institutions and the spread of crime ?

Therefore, the Jordanian Judicial Council, when releasing many prisoners, had to create a kind of balance between preserving the public health of citizens and not allowing the spread of crime through the following:

- a. Releasing prisoners most at risk, people over the age of 60 and people who suffer from chronic health conditions, such as diabetes, heart disease, or lung disease, as these will be more likely to die if they contract the virus.
- b. Releasing of elderly women over the age of 60, women with chronic diseases or a critical medical history that puts them among the groups most at risk of infection, pregnant women, and women with custody of their children - two years old or less - in prison and women who have families with elderly people, children, people with a critical medical history and need to take care of them. Women in debt and for whom the state bears the responsibility for their incarceration as a result of their inability to provide for their needs and the basic needs of their families. Women who are in pretrial detention or have not yet been tried, and have not been proven guilty. Women prisoners of conscience and human rights defenders who were imprisoned for their legitimate activities or exercising their basic right to express their views.
- c. Activating alternatives to pretrial detention, such as electronic wristbands and judicial control, and preventing new prisoners from entering penal institutions.
- d. Releasing pretrial detainees who fulfill the legal conditions for release on bail; a known address and the inability to influence the course of the investigations.

4.3 Depriving Prisoners in Penal Institutions of Family Visits

Regular visits are an important way to establish contact between prisoner and the outside world, especially with their families. International standards clearly state that contact with the family is a

right and not a privilege to be acquired by the prisoner. Article 19 of the Body of Principles relating to the Protection of All Persons Subject to Any Form of Detention or Imprisonment states the following: “A detained or imprisoned person shall have the right to be visited in private by members of his family and to communicate with them. They shall have adequate opportunity to communicate with the outside world, subject to the observance of reasonable conditions and restrictions established by law or legal regulations” (United Nations Human Rights, 1988). Likewise, the Standard Minimum Rules for the Treatment of Prisoners stipulated in Article 37 state that a prisoner shall be permitted, under the necessary supervision, to communicate with his family and those of good repute among his friends, on regular intervals, by correspondence and to receive visits alike. Likewise, Article 79 states that “special care shall be taken to maintain and improve the prisoner's relationship with his family, to the extent that this is in the interest of both parties.”

It can be said that this right to family visits to prisoners was absent during Coronavirus, as many countries deprived prisoners of their right to receive family visits due to fears of the spread of the Coronavirus. Spain banned communication in the prisons of seven autonomous communities, and the head of the Correctional Institutions Department in Spain said that “the suspension of personal meetings of inmates is valid for three weeks and will be on all centers of the Madrid and Basque communities, La Rioja and Navarra, as well as facilities in Mallorca, Zaragoza, and Valencia, and thus Prisoners in these areas will only be able to communicate with their relatives through video calls.” The Algerian authorities temporarily suspended family visits as part of precautionary measures in prisons. In turn, the Jordanian government prohibited family visits to prisoners in penal institutions to preserve inmates’ health and for fear of spreading the disease. The United Nations High Commissioner for Human Rights, Michelle Bachelet, indicated that contact with the outside world should not be suddenly cut off for people who live in difficult and tense conditions. As an alternative to visits, the High Commissioner noted that some countries began implementing video communication and increasing the duration of phone calls with family members, in addition to allowing the use of e-mail.

Northern Ireland allowed inmates to make calls via Zoom with their families and relatives all over the world (Vardy, 2020). In the United States, prisons that prevented visits provided prisoners with free daily phone calls, so they could call their families. Dubai allowed inmates in penal institutions to use modern technology to communicate with family and relatives to ease the psychological burden on inmates. The Shanghai Municipal Government launched a new service that enables prison inmates to video chat with their family members. The Philippines approved the use of modern technology in prisons to allow inmates to make video calls with their families.

Therefore, the Jordanian government, when it suspended family visits to inmates, should have enabled these inmates to communicate with their families and relatives through video technology and communication networks. This is consistent with international standards and any set of principles relating to the protection of persons subjected to any form of detention or imprisonment and the Standard Minimum Rules for the Treatment of Prisoners. Another alternative that the Jordanian government should consider, allowing prison visits through glass windows.

5. Conclusions

The shock of the Coronavirus pandemic to the world has prompted some countries, including Jordan, to tighten and restrict individual freedoms to a point where many times those restrictions impede basic human rights, such as the right to express opinion, the right to movement, and the right to work.

The Jordanian government imposed exceptional legislation, exemplified by the emergency law and the orders issued in accordance with it. The laws of the state were stopped in many aspects, and all state facilities were managed according to the exceptional legislations in which individual guarantees were diminished and sometimes evidently disappeared.

The Jordanian government's imposition of the Defense Act to confront the Coronavirus epidemic imposed harsh penalties on everyone who fears the provisions of this law, represented by

financial fines. These fines can reach up to 3,000 Dinars, which is more than 4000 dollars, or imprisonment for up to three years.

On one hand, the Jordanian government imposed immediate imprisonment up to a year for every person violating the curfew. On the other hand, it released hundreds of prisoners in penal institutions to avoid overcrowding and to combat the spread of the Coronavirus epidemic among prisoners. This leads us to say that there is an absence of the logic on how to properly manage the Coronavirus epidemic in Jordan.

The Jordanian government amended the imprisonment penalty for anyone who violates the curfew referred to in Defense Order No. 2 to make the penalty a fine, which is no less than 100 dinars and no more than 500 dinars.

The Jordanian Judicial Council released nearly 4,000 inmates, to preserve their health and for fear of the spread of the Coronavirus inside the penal institutions, without regard to the inmate's gender, health condition, or age.

The Jordanian government prohibited family visits to prisoners in penal institutions to preserve inmates' health and for fear of transmitting the Coronavirus. However, there was no alternative to the visits to keep communication going between the inmates and their families.

6. Recommendations

The study recommends that the Jordanian government adopt preventive measures that are consistent with international standards regarding respect for human rights.

The study recommends that the Jordanian government use and implement the Public Health Law No. 47 of 2008, since it provides adequate protection for public health in the Kingdom.

The study recommends that the Jordanian Judicial Council, upon releasing many prisoners, create a balance between preserving the public health and not spreading crime through the following:

Releasing prisoners who are over the age of 60, and people who suffer from chronic health conditions, such as diabetes, heart disease, or lung disease, who will be more likely to die if they get the virus.

Releasing elderly women over the age of 60, women with chronic diseases or a critical medical history that puts them among the groups most at risk of infection, pregnant women and women with custody of their children - two years old or less - in prison and women who have families with elderly people, children, and people with a critical medical history and who need care. Women in debt and for whom the state bears the responsibility for their presence in prisons as a result of their inability to provide for their needs and the basic needs of their families. Women who are in pretrial detention or have not yet been tried and have not been found guilty. Women prisoners of conscience and human rights defenders who have been imprisoned for their legitimate activities or exercising their basic right to express their views.

Implementing alternatives to pretrial detention, such as electronic wristbands and judicial control, and preventing new prisoners from entering penal institutions.

Releasing pretrial detainees who fulfill the legal conditions for release on bail; a known address and the inability to influence the course of the investigations.

This study recommends that the Jordanian government enable inmates in penal institutions to communicate with their families and relatives through video technology and communication networks. This makes them more integrated with society, reduces the burden of inspecting visitors, and reduces the spread of the Coronavirus.

References

Al-Sinari, M. A. (2000). *The principle of legality and control over the administration works in the united arab emirates* (2nd ed.). Al-Ain, UAE: The United Arab Emirates University Publications. Retrieved from https://library.ecssr.ae/cgi-bin/koha/opac-detail.pl?biblionumber=146614&shelfbrows_e_itemnumber=211467

- Fattal, R. (2018). *Explanation of labor relations law and social insurance principles in the united arab emirates* (1st ed.). Sharjah, UAE: Brighter Horizon Publishers. Retrieved from <https://altibrah.ae/book/26656>
- Jordanian Government. (1992). Jordanian defense law no. 13 of the year 1992. Retrieved from <https://rb.gy/qvcbbm>
- Jordanian Judicial Council. (2022). Decisions of jordanian appellate jurisdiction courts as a penal . Retrieved from <http://jc.jo/ar/decision/alkrarat-alsadr-aan-alhye?page=1>
- Momani, B., & Al-Zawahra, M. M. (2014). *Al-siraj, explanation of labour and social insurance laws according to the recent legislative amendments and judicial applications in the united arab emirates* (1st ed.). Dubai, UAE: Dar Al-Hafez Library. Retrieved from <https://library.ecssr.ae/cgi-bin/koha/opac-detail.pl?biblionumber=212386>
- Republic of France. (1958). The french constitution of 4 october 1958. Retrieved from <https://www.refworld.org/docid/3ae6b594b.html>
- Shatnawi, A. K. (2004). *Encyclopedia of administrative judiciary (two parts)* (1st ed.). Amman, Jordan: Dar Althaqafa Publication and Distribution.
- The Jordanian Government. (1996). Labour law and its amendments no. 8 of 1996. Retrieved from http://www.ahtnc.org.jo/sites/default/files/labor_law.pdf
- The Kingdom of Jordan. (2008). Public health law no. 47 of 2008. Retrieved from <http://extwprlegsl.fao.org/docs/pdf/jor167170.pdf>
- The Kingdom of Jordan Constitution. (1952). Constitution of the hashemite kingdom of jordan. Retrieved from <https://www.refworld.org/docid/3ae6b53310.html>
- UAE Constitution. (1971). UAE constitution. Retrieved from https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf
- UAE Government. (2014). UAE federal law no. (14) of 2014, on combating communicable diseases. Retrieved from https://www.dha.gov.ae/Asset%20Library/20180625/FL14_2014.pdf
- UN General Assembly. (1948). Universal declaration of human rights (UDHR). Retrieved from <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- UN Human Rights, Office of the High Commissioner. (1966). International covenant on civil and political rights (ICCPR). Retrieved from <https://www.ohchr.org/en/professionalinterest/pages/ccpr.a.spx>
- United Nations Human Rights. (1988). Body of principles for the protection of all persons under any form of detention or imprisonment. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention>
- Vardy, E. (2020). Coronavirus: Zoom calls reunite prisoners with families. Retrieved from <https://www.bbc.com/news/uk-northern-ireland-53179481>
- World Health Organization. (2022). EPI-WIN: WHO information network for epidemics. Retrieved from <https://www.who.int/teams/risk-communication>