المركز الوطني لحقوق الإنسان

The National Centre for Human Rights

Specialized Report on the Impact of the COVID-19 Pandemic on Civil and Political Rights

(For the period from March to May 2020)

Disclaimer

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Introduction

In late 2019 the entire world witnessed a germ warfare of sorts caused by the spread of the novel coronavirus (COVID-19). Owing to the speed at which the infection spread and the breadth of its reach, a number of States with advanced health systems lost the ability to contain the outbreak of this epidemic, and the numbers of infections and deaths consequently multiplied at an alarming rate. This prompted the World Health Organization to declare, on 11 March 2020, that this novel virus constituted a global epidemic (a pandemic).

At the domestic level, a Royal Decree was issued approving the decision of the Council of Ministers to apply the Defence Law No. (13) of 1992, subject to safeguards defined by the Royal Letter addressed to the Prime Minister, which included an express directive to protect the rights and public freedoms of citizens in the light of the expansion of the scope of the Government's powers under those exceptional circumstances.

The period during which the Defence Law was applied witnessed the issuance by the Prime Minister of numerous Defence Orders having a direct bearing on human rights. Those Orders made it necessary to reposition the subject of human rights as a matter of national security at the domestic level, and raised a pivotal question as to the shape human rights would take after the COVID-19 pandemic. The pandemic likewise demonstrated the extent of the need to reconsider the level of human solidarity at the global level.

The successive factual situations also raised an important question as to the extent of the success of the Government, social organizations and the media in strengthening active citizenship and in instilling in the citizen a sense of reassurance that he or she is a partner in the drafting of the prohibitions contained in the Defence Orders — a matter which would remove the difficulties of implementation faced by law enforcement agencies and would establish a conscious national state of affairs that we, as Jordanians, are in the greatest need of, whether at present or in the future.

This report aims to monitor the impact of the Defence Law No. (13) of 1992 on civil and political rights in Jordan in the light of the Constitution and the international human rights standards, through what the Centre has monitored and the complaints it has received, this being the first experience of the application of the provisions of that Law since its enactment in 1992. It further aims to monitor violations from the beginning of the adoption of the strict and precautionary measures taken to confront the COVID-19 outbreak, including the activation of the Defence Law and the ensuing Orders that restricted a set of rights and freedoms. The report covers the period from March to May 2020, during which a comprehensive and a partial curfew were imposed, and it does so under eight chapters:

- Chapter One: The constitutional principles and standards governing the declaration of a state of emergency.
- Chapter Two: The impact of the state of defence on the right to residence and freedom of movement.
- Chapter Three: The impact of the state of defence on the right to a fair trial.
- Chapter Four: The impact of the state of defence on the rights of inmates of correction and rehabilitation centres.
- Chapter Five: The impact of the state of defence on freedom of expression.
- Chapter Six: The impact of the state of defence on the right to privacy.
- Chapter Seven: Recommendations.
- Chapter Eight: Complaints received by the Centre.

Chapter One: The Constitutional Framework Governing the Declaration of a State of Emergency (The Position of the National Centre for Human Rights on the Activation of the Defence Law)

Recourse to the application of the Defence Law constitutes a temporary departure from a literal adherence to the principle of legality, to the extent that it enables the public authorities to eliminate exceptional dangers so as to safeguard the continuity of the social order, provided that their acts and dispositions remain subject to judicial review.

The Jordanian Constitution distinguishes between two factual situations for confronting the exceptional circumstances that threaten the entity of the State and its stability, in accordance with two constitutional regimes, as follows:

The first situation: an ordinary state of emergency.

The constitutional framework governing this situation is set out in Article (124) of the Constitution, which provides as follows: "In the event of an emergency of such a serious nature that action under the preceding Article of this Constitution would be insufficient for the defence of the Kingdom, a law called the Defence Law shall be enacted, by which authority shall be granted to the person specified therein to take the necessary measures and actions, including the power to suspend the ordinary laws of the State, in order to secure the defence of the Kingdom. The Defence Law shall come into force when it is so declared by a Royal Decree issued on the basis of a decision of the Council of Ministers."

Article 2 of the Jordanian Defence Law No. (13) of 1992 defined the cases that justify the application of that Law, namely: the occurrence of an emergency that threatens national security or public safety in any part of the Kingdom, by reason of the outbreak of war, the existence of a state of war or the threat thereof, the occurrence of disturbances or armed internal strife, general disasters, or the spread of a pestilence or an epidemic.[1]

As to the scope of the exceptional powers conferred by that Law, the Law empowers the Prime Minister to take the measures and actions necessary to secure public safety and the defence of the Kingdom without being bound by the provisions of the ordinary laws in force, including the imposition of restrictions on the freedom of persons to assemble, to move and to reside; the arrest and detention of persons suspected of, or dangerous to, national security and public order; the assignment to any person of the performance of any work or the rendering of any service within his capacity; the search of persons, places and vehicles without being bound by the provisions of any other law; the seizure of movable and immovable property and the postponement of the discharge of debts and due obligations; and, in addition, the monitoring of letters, newspapers,

[1] Defence Law No. (13) of 1992, Official Gazette No. (3815), 25 March 1992.

printed matter, publications, drawings and all means of expression, propaganda and advertising prior to their publication, and their seizure, confiscation, suspension and the closure of the premises where they are prepared.[2]

The second situation: exceptional circumstances of a graver nature.

As to the constitutional framework governing exceptional circumstances of a graver nature, where it is established that they cannot effectively be confronted by means of the powers laid down in the Defence Law prescribed for emergency circumstances, it is set out in Article (125) of the Constitution, which provides as follows: "1. In the event of the occurrence of a grave emergency in respect of which the measures and actions taken under the preceding Article of this Constitution are considered insufficient for the defence of the Kingdom, the King may, on the basis of a decision of the Council of Ministers, declare martial law by Royal Decree throughout the Kingdom or in any part thereof. 2. Upon the declaration of martial law, the King may, by Royal Decree, issue any instructions that necessity may require for the purposes of the defence of the Kingdom, notwithstanding the provisions of any law in force. All persons carrying out those instructions shall remain subject to the legal liability arising from their acts under the provisions of the laws until they are relieved of that liability by a special law enacted for that purpose."

It follows that the Jordanian Constitution has been careful to circumscribe recourse to the application of the Defence Law and to the declaration of martial law by constitutional safeguards that ensure the protection of rights and public freedoms while exceptional situations are being confronted, in line with the normative standards laid down in comparative constitutions, which have established a number of core safeguards for resorting to a state of emergency and for testing the extent of its continuation.

As regards the legal guarantees in respect of Defence Orders issued under the Defence Law No. (13) of 1992, they flow from the legal characterization of the Defence Orders, which are regarded as regulatory administrative decisions that may be challenged before the administrative judiciary by way of an action for annulment and for compensation, and from the settled jurisprudence of the administrative courts (the Administrative Court and the High Administrative Court, and previously the High Court of Justice).[3]

The position of the National Centre for Human Rights on the activation of the Defence Law

First: On 17 March 2020 the Centre issued a statement expressing its position on the activation of the Defence Law, which read as follows:

[2] Defence Law No. (13) of 1992, Articles (3) and (4).

[3] Article 8 of the Defence Law No. (13) of 1992.

The National Centre for Human Rights follows the governmental measures aimed at preventing the spread of the coronavirus, and what has been reported in the daily press and on the electronic news websites concerning the possibility of applying the Defence Law No. (13) of 1992 in the light of the rising number of coronavirus infections. In this regard, the Centre affirms three pillars, which it describes as fundamental, namely:

First: The Centre commends the preventive and curative governmental measures taken to prevent the spread of the coronavirus, and at the same time calls upon all to abide by the directives and by the health guidance and instructions issued by the competent governmental authorities, which are such as to preserve the lives of citizens and to guarantee their enjoyment of the right to health and public safety.

Second: The Centre considers that the legal powers vested in the Minister of Health under the Public Health Law No. (47) of 2008 and its amendments are sufficient, at the present stage, to confront the spread of the coronavirus.

Third: The Centre affirms the need to respect and safeguard all the rights and freedoms guaranteed to individuals by the Constitution and by the international instruments, and that recourse to the activation of the Defence Law of 1992 must be confined to defined cases and to the narrowest limits, and must be accompanied by an assessment of the degree of "the spread of the pestilence or the epidemic" required for the application of that Law under Article 2 thereof, based on scientific and legal facts establishing beyond doubt that the application of the Defence Law is the only means of confronting the circumstances that threaten public safety, security and public order. The Centre further affirms the need to preserve a state of balance between safeguarding and protecting the rights and freedoms of individuals and averting anything that would threaten national security and public safety, and upholding the higher national interest.

Second: Following the activation of the Defence Law, the Centre issued a statement on 20 March 2020 in which it affirmed the following:

The National Centre for Human Rights follows what is taking place on the domestic and international scene by way of a comprehensive confrontation of the coronavirus epidemic, which constitutes a grave challenge to humanity at this dangerous stage of human history. We pray that our people, and all the peoples of the earth, may overcome this ordeal. In this context, the Centre extends its thanks to the Government, the Army, the health sector and all the institutions working to protect people and preserve their lives, at both the official and the popular levels, and to everyone contributing his efforts to this comprehensive confrontation.

In this connection, we wish to draw attention to a number of essential matters at this critical stage:

- We urge citizens and all individuals to comply fully with the instructions issued by the competent authorities, and to cooperate in preserving all our lives with a high sense of national responsibility, and not to take information from undocumented rumours.
- We call upon the Government and the law enforcement agencies to abide by human rights standards and to preserve the human dignity of individuals and of offenders, without resorting to the use of violence; to activate the Defence Law within the narrowest limits; and not to encroach upon political and civil liberties or freedom of expression, or upon private property.
- To provide the necessary care for persons with disabilities and persons with special needs, and to take account of their exceptional circumstances when instructions are issued and measures are taken, and to secure medical and food supplies by all possible means.
- To provide appropriate care for orphanages and homes for the care of the infirm and older persons, in terms of securing food, treatment and protection, and to tighten supervision over the work of their administrations.
- To pay attention to the conditions of the inmates and pre-trial detainees held in correction and rehabilitation centres, to provide the necessary health care, and to facilitate the process of communication with their families during this critical period.
- To redouble the work of the institutions for the protection of children and of women subjected to violence; to keep shelters open; and to hear complainants and provide the required care so that the exceptional circumstances are not exploited by some persons.
- To attend to the rights of daily-wage workers and of the owners of small shops affected by the period of confinement, as well as of the owners of farms and of daily produce which is quick to spoil, and to secure means of delivering their produce.

The Centre will continue its mission of receiving citizens' complaints, monitoring the prevailing situation and communicating with decision-makers with a view to cooperating in preserving the rights of individuals and safeguarding their freedoms, so that our homeland may remain free and dignified.

Third: On 20 June 2020 the Centre issued a statement in which it called for a reassessment of the extent of the need to continue to operate under the Defence Law, which had impeded the wheel of the national economy and had led to encroachments upon public rights and freedoms. In the same statement, the Centre affirmed the need to broaden the scope of consultation with the relevant institutions and bodies with a view to participating in redressing the various situations.

Chapter Two: The Impact of the State of Defence on the Right to Residence and Freedom of Movement

Article (9) of the Jordanian Constitution provides for the right to residence and freedom of movement.[4]

At the level of the international standards, this right is provided for in Article (13) of the Universal Declaration of Human Rights[5]

and in Article (12) of the International Covenant on Civil and Political Rights.[6]

As to the international standards specific to the right to residence and freedom of movement, this right falls, by virtue of Article (4) of the International Covenant on Civil and Political Rights, within the category of rights that may be restricted and derogated from in states of emergency, subject to the following cumulative safeguards:

a. That the exceptional measures be confined to the narrowest limits.

b. That the measures taken be not inconsistent with the State's other obligations under international law (the rules of customary international law).

c. That such measures do not involve discrimination on the ground of race, colour, sex, language, religion or social origin.

d. That the States Parties immediately inform the other States Parties, through the intermediary of the Secretary-General of the United Nations, of the provisions from which they have derogated and of the reasons by which they were actuated. A further communication shall be made, through the same intermediary, on the date on which the State terminates such derogation.

First: The position of the National Centre for Human Rights on the Defence Orders affecting the right to residence and freedom of movement

a. The position of the National Centre for Human Rights on Defence Order No. 2

Defence Order No. 2 was issued on 20 March 2020 and published in the Official Gazette in its issue No. (5627). This Defence Order imposed a prohibition on the movement and circulation of

[4]Article (9) of the Jordanian Constitution: "1. No Jordanian may be deported from the territory of the Kingdom. 2. No Jordanian may be prohibited from residing in any locality, or compelled to reside in a specified place, except in the circumstances prescribed by law."

[5]Article (13) of the Universal Declaration of Human Rights: "1. Everyone has the right to freedom of movement and residence within the borders of each State. 2. Everyone has the right to leave any country, including his own, and to return to his country."

[6]Article (12) of the International Covenant on Civil and Political Rights: "1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own."

persons throughout all areas of the Kingdom as from 21 March 2020 and until further notice, in addition to the closure of all shops in the Kingdom until further notice. The Defence Order prescribed a penalty of imprisonment for one year for any person contravening the content of this Defence Order and the notices issued thereunder. In this framework, the Centre notes the following:

1. Article 4 of the International Covenant on Civil and Political Rights permits States Parties to derogate from certain of the obligations contained therein subject to defined normative safeguards; among the rights that may be restricted is the right to residence and freedom of movement.

2. The Centre considers that the penalty of imprisonment prescribed under this Defence Order is inconsistent with the policy of the Government itself and of the Judicial Council in confronting the spread of the COVID-19 pandemic, which was reflected in the adoption of a set of decisions ordering the release of thousands of judicially and administratively detained persons and of convicted persons pursuant to an executive decision, so as to avoid the continued overcrowding of correction and rehabilitation centres and temporary detention centres and, consequently, the multiplication of the opportunity for the infection to spread.

b. The position of the National Centre for Human Rights on Defence Order No. 3

Defence Order No. 3 was issued on 26 March 2020 and published in the Official Gazette in its issue No. (5628). This Defence Order amended the penalties relating to the prohibition of the movement and circulation of persons throughout all areas of the Kingdom, prescribing penalties of a fine, imprisonment and the impoundment of vehicles for any person contravening the content of this Defence Order and the notices issued thereunder.

1. Defence Order No. 3 remedied the legal and practical difficulties that had attended Defence Order No. 2, by adopting the principle of individualization of punishment through the imposition of a fine for a first contravention, coupled with a stay of prosecution where the offender pays the minimum amount of the fine within one week from the date on which the contravention occurred. The Defence Order also retained the possibility of confining the penalty to a fine even in cases of repetition.

2. The Centre supports the fact that the seizure measure under this Defence Order was confined to the impoundment of the vehicle for a period of thirty days, and that recourse was not had to the application of Article (7/d), which treats the moneys and means used in the commission of the offence as impliedly confiscated.

c. The position of the National Centre for Human Rights on Defence Order No. 12

1. The abolition of the notion of imprisonment in the event of a contravention of the obligation to observe the prohibition on movement and circulation is considered a commendable measure, consistent with the State's policy of physical distancing generally, and with the reduction of overcrowding in correction and rehabilitation centres in particular.

2. The National Centre welcomes the fact that this Defence Order made it possible to return the impounded vehicle without being bound by the thirty-day period of impoundment provided for in Defence Order No. 2.

3. In the light of the difficult economic circumstances of citizens, and having regard to the principle of proportionality between the act committed and the penalty imposed, the National Centre expresses its reservation as to the doubling of the amount of the fine in the event of a repetition of the failure to observe the prohibition on the movement and circulation of persons, and the imposition of a fine of (200–1,000) dinars instead of (100–500) dinars.

Second: Violations relating to the right to residence and freedom of movement during the application of the relevant Defence Orders

On the first day of the application of Defence Order No. 2, the National Centre monitored the apprehension of approximately four hundred persons who had contravened that Defence Order, with a view to their being placed in the security centres so that they could be referred to the courts and the penalty imposed upon them. However, in view of the rising number of offenders, the matter was confined to having the offenders sign undertakings requiring them to be brought before the courts and the penalty imposed upon them in the event of repetition. This demonstrated the difficulty of applying the aggravated penalty provided for in Defence Order No. 2, which resulted in a breach of the principle of the rule of law; for a penalty, before it is laid down, must be capable of application and commensurate with the level of criminal culpability, without excess, together with the need always to seek alternative penalties commensurate with the stage through which the State is passing.

1. The National Centre monitored the arrest of approximately (693) persons who had contravened Defence Order No. 2 concerning the curfew during the second day of the entry into force of that Order. The spokesman for the Public Security Directorate announced that those apprehended would be transferred to and detained in King Talal School in the Khaw area and Al-Hasa Secondary School for Military Culture, in coordination with the General Command of the Armed Forces — Arab Army. It was subsequently indicated that those persons would be placed in health quarantine for a period of (14) days, after which the necessary legal action would be taken. The National Centre considers that the detention of individuals by the judicial police under the general rules laid down in the Code of Criminal Procedure No. (9) of 1961 and its amendments must not exceed (24) hours; otherwise the

measure constitutes an unlawful deprivation of liberty. Accordingly, the detention of persons for a period of (14) days, followed by the taking of the necessary legal action, has no legal basis whatsoever.

2. Through the complaints received by it, the Centre monitored the difficulties encountered by individuals, particularly those who had been separated from their families and were unable to join them because of the curfew.

3. Ill-treatment of certain individuals during the application of the Defence Orders. Through the video clips circulated on the social media platforms, the Centre monitored individual instances in which certain law enforcement officers, in some cases, assaulted and beat certain individuals while arresting them for breaching the curfew. The most notable observations on these acts are as follows:

- Assaulting individuals while arresting them and ill-treating them constitutes a violation of the right not to be subjected to cruel, inhuman or degrading treatment — a right guaranteed by the Jordanian Constitution under Article (8) and by the International Covenant on Civil and Political Rights under Article (10), which affirms the obligation to treat persons deprived of their liberty humanely — and is likewise contrary to the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- It appears from the video clips that there was a lack of proportionality between the act committed by the individuals and the degree of force used by the Public Security personnel; the individuals were not carrying any kind of weapon and offered no resistance to the Public Security officers. The Public Security personnel were required to act as the standards governing the use of force require, in accordance with the international human rights standards and the national legal framework, and in particular the Public Security Law.

4. The National Centre monitored recourse by the administrative governors to the detention of certain citizens under the provisions of the Crime Prevention Law No. (7) of 1954 where they had contravened Defence Order No. 2. The Centre's settled position is that this Law, and consequently the measures arising thereunder, involve an encroachment upon the competence of the judiciary, which is the authority originally competent in matters of criminal prosecution, and likewise constitute a disregard of the requirements of the right to a fair trial. The most notable cases are as follows:

- On 31 March 2020, the person known as the "quarantine bridegroom" and a group of his relatives were detained pursuant to a decision issued by the Governor of the Capital, for breach of the undertaking he had given upon leaving health quarantine in the Dead Sea area, which included an undertaking not to mix with others.

- On 6 April 2020, an employee of Irbid Municipality and others were detained pursuant to a decision issued by the Governor of Irbid, for contravening the decision prohibiting the opening of commercial premises during curfew hours.
- On 1 April 2020, a folk artist was detained pursuant to a decision issued by the Governor of Irbid, for having published on the social media platforms a video clip containing a song that made light of the COVID-19 pandemic, notwithstanding that the date on which the performance was held preceded the announcement of the application of the Defence Law.

5. The National Centre monitored a clear disparity in the degree of monitoring of the enforcement of the curfew across many governorates of the Kingdom, and likewise across different areas within the same governorate.

The Centre affirms that, with the issuance of Defence Order No. 3, many of the difficulties set out above were remedied, since that Order addressed the legal and practical difficulties that had attended Defence Order No. 2. The Centre commends the Government's review of the Defence Orders issued so as to meet the intended purpose thereof.

Chapter Three: The Impact of the State of Defence on the Right to a Fair Trial

The Jordanian Constitution expressly guarantees certain of the basic principles and standards of the right to a fair trial, such as the independence of the judiciary, the presumption of innocence, the public character of hearings as a general rule, and the trial of a person before his natural judge, together with the inclusion of an exception to that principle, as set out in Article (101/2) of the Constitution. At the same time, the Constitution omitted to provide expressly for certain of those principles, namely: the non-retroactivity of laws, the right to the assistance of counsel, and the prohibition of the repeated prosecution of a person for the same act. At the level of the international human rights standards, Articles (8) and (11) of the Universal Declaration of Human Rights[7]

and Article (14) of the International Covenant on Civil and Political Rights provide for this right.

First: The position of the National Centre for Human Rights on Defence Order No. 5

Defence Order No. 5 was issued on 30 March 2020 and published in the Official Gazette in its issue No. (5629). This Defence Order provided for the suspension of the running of all periods and time limits prescribed in the legislation in force.

The National Centre welcomes the substance of this Defence Order, in that it settles any future dispute as to the legal time limits relating to the judicial and administrative proceedings covered by it. At the same time, the Centre affirms that this Order carries a declaratory rather than a constitutive effect, inasmuch as legal doctrine and the administrative judiciary are settled in treating emergency circumstances as one of the grounds for the suspension of the time limits for appeal.

Second: Decisions of the justice sector in the light of the COVID-19 pandemic

The Centre monitored a set of decisions issued by the Judicial Council and by the State Security Court with a view to reducing the opportunities for the spread of the epidemic among the inmates of correction and rehabilitation centres, on the one hand, and ensuring the continuity of the operation of the justice facility, on the other, including the strategy of the justice sector for dealing with the crisis of the spread of the coronavirus.

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[7] Article (8) of the Universal Declaration of Human Rights: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." Article (11) of the Universal Declaration of Human Rights: "1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. 2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed."

First: The most notable decisions

a. The automatic postponement of the consideration of the cases pending before all the courts during the period between 16 March 2020 and 15 April 2020, and the treatment of those periods as part of the judicial vacation.

b. The continuation of the work of all the courts of the Kingdom in respect of three categories of cases, namely: urgent applications, criminal cases in which there are detainees, and the receipt of legal appeals and applications for release.

c. The continuation of the work of the public prosecution departments, and the preservation of the continuity of the work of the courts at a minimum level during the period of the prohibition on the movement and circulation of persons.

d. The secondment of a number of judges and public prosecutors in all the courts of the Kingdom, who were entrusted with the consideration of contraventions of the Defence Orders, all urgent applications, the extension of periods of pre-trial detention, and the consideration of juvenile cases.

e. The continuation of the work of the Court of Cassation as from the second week of the prohibition on the movement and circulation of persons, which disposed of (98%) of the total number of cases received.

f. The disposal by the Courts of Appeal and the Courts of First Instance in their appellate capacity of (100%) of the total number of cases referred to them by way of review on the papers.

g. The continuation of the work of the execution departments during the period of the prohibition on the movement and circulation of persons, and the transfer of the sums deposited by means of electronic bank transfer.

h. The holding of (253) trial hearings by remote means, in felonies and misdemeanours alike, with a number of the accused being held in pre-trial detention in connection therewith.

i. The addressing by His Excellency the President of the Judicial Council of a letter to His Excellency the Prime Minister on 19 April 2020, containing a request that lawyers be granted movement and circulation permits.

Second: The judicial measures adopted by the Judicial Council pursuant to its Decision No. (70) of 2020, aimed at reducing overcrowding in correction and rehabilitation centres so as to prevent the spread of the COVID-19 epidemic

a. The release of all persons held in pre-trial detention in misdemeanour cases and, pursuant to the provisions of Article (114) of the Code of Criminal Procedure, the substitution of travel-ban decisions for detention warrants.

b. The postponement of the execution of criminal judgments in respect of every person sentenced to a term of imprisonment not exceeding three months or to fines, and his release together with a ban on his travel.

c. In the offences provided for in Article (421) of the Penal Code relating to the issuance of a cheque without sufficient funds, the postponement of the execution of criminal judgments in respect of every convicted person where the aggregate value of the cheques in respect of which he was convicted does not exceed the sum of one hundred thousand dinars.

d. The examination of the cases of persons held in pre-trial detention in felonies falling outside the jurisdiction of the Grand Criminal Court, and the consideration of the possibility of releasing the detainee where the circumstances of the case so permit, coupled with the imposition of a travel ban on the person released.

e. In execution cases, the postponement of the imprisonment of every person adjudged liable for a civil debt of a rights-based nature, where the aggregate of the debts adjudged does not exceed the sum of one hundred thousand dinars, and their release coupled with a ban on their travel.

Third: The strategy of the justice sector for dealing with the crisis of the spread of the novel coronavirus

By its Decisions Nos. (72) and (73) of 2020, the Judicial Council decided to form a Higher Judicial Committee, with the participation of the Ministry of Justice and the Bar Association, for the purpose of drawing up a plan for the conduct of the sector during the exceptional circumstances. That Committee approved the strategy of the justice sector for dealing with the crisis of the spread of the novel coronavirus. Upon reviewing this strategy, which runs to (22) pages, the most notable of its contents may be summarized as follows:

a. This strategy comprised three strategic objectives, divided according to three phases, namely:

- The first strategic objective: the conduct of the justice sector during the curfew period in a manner that ensures the preservation of rights and of the guarantees of the right to a fair trial.
- The second strategic objective: the conduct of the justice sector during the period following the curfew and prior to the end of the crisis, in a manner that ensures the preservation of rights and of the guarantees of the right to a fair trial.

– The third strategic objective: the conduct of the justice sector after the end of the crisis, in a normal manner that ensures the preservation of rights and of the guarantees of the right to a fair trial.

b. The strategy expressly acknowledged that the conduct of the justice facility was at a minimum level for the conduct of the justice sector. It stated as follows: "and it enabled the justice sector to conduct, at a minimum level, the requirements of justice."

c. The holding of trial hearings for those contravening the Defence Orders relating to the prohibition of the circulation and movement of persons by means of the (Microsoft Teams) technology and the (Huawei) system.

d. The provision of the possibility of submitting (14) procedures and services electronically, the most notable of which are: "the payment of powers-of-attorney fees or personal-claim fees; the registration of actions; the notification of indictments; the appearance of the accused or of the person complained against before the trial panel by means of the two technologies referred to; the hearing of witnesses …".

e. Within the third strategic objective, the strategy approved, for the subsequent phase of the reopening of the sectors, a series of measures aimed at reducing overcrowding in correction and rehabilitation centres, consisting of the following measures: "expansion in the application of alternatives to pre-trial detention; expansion in the application of community-based penalties; expansion in the application of non-custodial measures for juveniles; expansion in the conduct of settlements in economic, tax and customs cases whenever their legal conditions are met; and expansion in recourse to the legal aid programme."

The proposal contained in this expansion in recourse to the legal aid programme requires that fundamental amendments be made to the legal aid system, in accordance with the recommendations made by the Centre in its annual report for the year 2019.

Fourth: The State Security Court

The State Security Court adopted a set of measures to prevent the spread of the COVID-19 epidemic in correction and rehabilitation centres, together with measures aimed at guaranteeing the safeguards of the right to a fair trial during the application of the measures prohibiting the movement of persons, by way of the following judicial measures:

a. The release of (4,151) persons held in pre-trial detention by the State Security Court and the Public Prosecution attached to that Court. It should be noted that these release decisions covered persons detained in misdemeanour cases as well as in felonies the circumstances of which permitted their release.

b. The continued consideration of certain of the applications submitted to the Court by the inmates of correction and rehabilitation centres themselves, the most notable being: release on the basis of the personal undertaking of the inmate himself where the application is granted.

c. In order to safeguard the sacred right of defence, and in application of the substance of the prohibition on the movement and circulation of persons, the State Security Court postponed the holding of trial hearings during the period of the total and partial curfew running from 17 March until 19 June.

d. The continuation of the work of the Public Prosecution Department at the State Security Court — at a minimum level — so as to ensure the conduct of the work of that Department.

As regards the most notable measures newly introduced for trial purposes during the phase of the partial reopening of the sectors, these consisted in the equipping of a remote-trial courtroom and, consequently, the holding of numerous trial hearings by means of modern technologies, particularly in terrorism cases.

Fifth: Difficulties affecting the enjoyment of the right to a fair trial during the application of the Defence Law

The Centre monitored a set of violations and complaints affecting the right to a fair trial during the application of the Defence Law, the most notable of which are the following:

1. The inability of citizens who had contravened the Defence Orders to obtain the assistance of counsel before the judicial police and the public prosecutors alike.

2. The inability of lawyers to reach detained persons in order to obtain the powers of attorney necessary for the purpose of submitting applications for release on bail or for challenging certain decisions, such as a deportation decision.

3. The deprivation of many women of the ability to register and file maintenance judgments with the execution departments, which aggravated for those women, and for those having children in their custody, the severity of the difficult economic circumstances.

4. The Centre monitored the apprehensions of many citizens as to the delay in the determination of civil and criminal actions in particular, and the compound societal difficulties resulting therefrom at both the economic and the social levels.

5. As regards the extent to which trial guarantees were afforded during the period of the total and partial curfew, the Centre — through its examination of many judicial decisions — monitored the established absence of defence counsel from trial hearings.[8]

6. During the phase of the partial reopening of the sectors, certain courts facilitated the attendance of lawyers at trial hearings, through coordination with the governors for the purpose of providing lawyers with temporary movement permits.[9]

7. The detention of a juvenile for contravening the Defence Orders relating to the prohibition of the movement and circulation of persons, and his being sentenced to a fine in the sum of (55) dinars; a complaint was received by the Centre in this regard.

In this connection, it should be noted that on 8 June 2020 the Centre issued a statement concerning its follow-up of the case of the detention of a group of juveniles in juvenile education and care homes on the basis of the Defence Orders relating to the curfew imposed to limit the spread of the novel coronavirus.

In that statement, the National Centre affirmed the obligation to observe the fundamental principles set out in the Convention on the Rights of the Child, and in particular the principle of the best interests of the child, in all legislation and measures adopted by the State, proceeding from the fact that Jordan has ratified that Convention by virtue of the Law Ratifying the Convention on the Rights of the Child No. (50) of 2006, published in the Official Gazette in its issue No. (4787) of 16 October 2006, and that those principles enjoy a legal status superior to the ordinary laws by virtue of Interpretative Decision No. (1) of 2020 issued by the Constitutional Court, which requires that they be observed as a legal guarantee and a foundation from which no derogation is permissible when applying the Defence Law.

In this framework, the Centre stressed that, in the absence of any special regulation in the Defence Orders governing the case of a contravention of the curfew by juveniles, it is necessary to abide by the general rule laid down in the Juveniles Law, namely that juveniles may not be detained in misdemeanour cases. It further noted that the Juveniles Law No. (32) of 2014 itself abolished the imposition of the penalty of a fine on juveniles and adopted the approach of substituting alternative penalties for traditional penalties, with a view to giving effect to the philosophy of restorative justice for juveniles.

The statement further pointed to the need to abide by the approach of restorative justice in all circumstances and cases relating to juveniles, and to refrain from custodial penalties when

[8] Among the most notable decisions monitored by the Centre in this regard are the following: (2020/1250, 2020/1244, 2020/1248, 2020/1202, 2020/899, 2020/1232, 2020/1249, 2020/1204, 2020/1240, 2020/1245).

[9] The Centre carried out field visits to the courts.

applying the Defence Orders, particularly in the light of the harm they cause to the mental health of the juvenile, their social consequences, and the risks of the transmission of criminal contagion; and to observe the principle of the best interests of the child in all measures and legislation adopted by the State.

In general, the Centre considers that the decisions and measures adopted in respect of the justice sector may be divided into two categories: the first category consists of positive decisions that contributed to reducing the opportunities for the transmission of infection to the inmates of correction and rehabilitation centres; the second category consists of decisions confined to the deferral of the time limits of judicial proceedings to a later date, and to treating the right to health as taking priority over all other rights, including the right to a fair trial.

While the National Centre for Human Rights welcomes the approval by the Judicial Council of the strategy of the justice sector for dealing with the crisis of the spread of the novel coronavirus, it at the same time offers the following observations:

- The need to accord the guaranteeing of the principles of the right to fair trials during the COVID-19 pandemic the highest priority, alongside ensuring the conduct of the justice facility.
- The strategy affirmed the need for expansion in the application of alternatives to pre-trial detention; expansion in the application of community-based penalties; expansion in the application of non-custodial measures for juveniles; expansion in the conduct of settlements in economic, tax and customs cases whenever their legal conditions are met; and expansion in recourse to the legal aid programme. In this regard, the Centre affirms the need to give effect to these objectives and to expedite the adoption of the bases capable of ensuring their application, in addition to the need to make fundamental amendments to the legal aid system, in accordance with the recommendations made by the Centre in its annual report for the year 2019.

Chapter Four: The Impact of the State of Defence on the Rights of Inmates of Correction and Rehabilitation Centres

First: The series of measures adopted by the administration of the correction and rehabilitation centres

The Centre monitored the adoption by the administration of the correction and rehabilitation centres of a set of measures as from the outbreak of the COVID-19 pandemic, as follows:

The first phase

- At the outbreak of the pandemic, every new inmate was accommodated for a period of (14) days in health quarantine at the Balqa Correction and Rehabilitation Centre; after the requisite examinations had been carried out and it had been confirmed that he was not infected with the virus, he would be assigned to the correction and rehabilitation centre nearest to his place of residence. Upon the centre's receipt of the inmate, and prior to his accommodation in the dormitories, he would be held apart for a period of (14) days before being mixed with the inmates; during that period he would be examined and periodically monitored by the centre's physician, who would verify his temperature; and if he were found to be free of the virus, he would be assigned to the dormitories.
- The prohibition of visits by the inmates' families, and the confinement of contact to permitting them to make telephone calls, so as to limit the spread of the virus among the inmates.
- The periodic disinfection of all the facilities of the correction and rehabilitation centres.
- Directing the inmates' families to deposit any cash deposits for the inmates at the nearest security centre, from where they would subsequently be delivered to the inmate.

The second phase

- The designation of (4) further centres as health quarantine centres, rather than confining quarantine to the Balqa Correction and Rehabilitation Centre, namely:

  North of the Kingdom: Bab Al-Hawa/Irbid Correction and Rehabilitation Centre.

  Centre of the Kingdom: Al-Juwaida Correction and Rehabilitation Centre; Birain Correction and Rehabilitation Centre.

  South of the Kingdom: Al-Tafileh Correction and Rehabilitation Centre.

- Permitting families to visit the inmates at the rate of two visits every two weeks instead of three, in addition to the making of telephone calls.

– The continued disinfection of the correction centres and the provision of disinfection materials and public safety equipment.

While the Centre commends the above measures, which had the greatest effect in limiting the spread of the coronavirus among the inmates, it notes that it monitored a set of difficulties relating to the inmates of correction and rehabilitation centres and of temporary detention centres, through the complaints it received. The Centre also carried out four inspection visits to correction and rehabilitation centres during the period of the total curfew, in addition to carrying out visits to certain inmates on the basis of the complaints received. The most notable of the Centre's findings are as follows:

1. The Centre monitored the insufficient availability of disinfection materials and face masks for the inmates of correction and rehabilitation centres, in addition to the failure of all Public Security personnel to wear face masks; these difficulties were, however, subsequently remedied.

2. The right of inmates to communicate with the outside world: the Centre received more than one complaint concerning the inability of the families of inmates of correction and rehabilitation centres to communicate with their sons in those centres in the required manner, in the light of the Government's decision to suspend visits for a period of two weeks as a precautionary measure by reason of the outbreak of the coronavirus, in addition to the failure of certain inmates to contact their families, particularly in the centres that witnessed acts of rioting (Bab Al-Hawa Correction and Rehabilitation Centre and Al-Umaymeen Correction and Rehabilitation Centre). There were also complaints that inmates who had been transferred from Bab Al-Hawa Correction and Rehabilitation Centre to Al-Umaymeen Correction and Rehabilitation Centre were not permitted to contact their families. These difficulties were resolved in cooperation with the Public Security Directorate.

3. Overcrowding in the temporary detention centres: the Centre received complaints concerning the poor conditions of detention of persons who had contravened the curfew order in certain temporary detention centres, it being noted that the Public Security Directorate opened an investigation into the violations reported by one of the complainants as having been suffered by him during his detention in one of those centres.

4. The National Centre received a set of complaints during the period of the total curfew relating to the inmates of temporary detention centres and of correction and rehabilitation centres, as follows:

– A complaint from certain inmates in one of the correction and rehabilitation centres concerning their exposure to ill-treatment following an attempt by a group in that same centre to incite rioting.

- A complaint from the family of one of the inmates concerning his need for particular medication that was not available at the centre.
- The Centre received complaints concerning the inability of certain inmates to obtain legal assistance owing to the inability of lawyers to reach them in the light of the curfew, and the delay in the submission of bail and the delay in determining such bail applications where they were submitted.

Second: The measures taken by the National Centre for Human Rights

First:

The National Centre for Human Rights communicated with the Public Security Directorate concerning its observations and the taking of the necessary measures, and the Centre commends the high level of responsiveness of the Public Security Directorate in this regard.

Second:

The Centre carried out a number of monitoring visits in order to verify the complaints received and to examine the conditions of the detention environment; the relevant authorities were addressed and the necessary recommendations were made.

Third:

The Centre issued a statement concerning the need to observe the international standards relating to the rights of the inmates of temporary detention centres and of correction and rehabilitation centres in the light of the emergency circumstances relating to the outbreak of the COVID-19 epidemic, on 8 April 2020. The text of the statement read as follows:

"Within the framework of the Centre's continuous follow-up and monitoring of the human rights situation during the confrontation of the coronavirus and of the precautionary measures taken by the Government with a view to limiting the spread of this virus, and in the light of the complaints it receives and deals with, and affirming that the protection of human rights and freedoms must be a fundamental pillar of any measures or practices adopted, the Centre wishes to affirm the following:

First: The detention and arrest of individuals who have contravened the Defence Orders must be carried out in accordance with the legal procedures and formalities, and in a manner that guarantees the treatment of persons deprived of their liberty with dignity and humanity, and the provision to them of the guarantees of a fair trial, consistently with the Jordanian Constitution, the international human rights standards and the national legal framework.

The conditions of the detention environment must likewise be such as to respect human dignity, with emphasis on ensuring that no overcrowding occurs among the detainees, particularly in the light of the present circumstances of the outbreak of the coronavirus, since such overcrowding may lead to an increase in the spread of the epidemic — God forbid — which would constitute a grave danger to the health and lives of the detainees.

The Centre likewise affirms, in the same context, the need to provide the detainees with preventive supplies and the need to take the necessary measures to disinfect all the detention centres."

Fourth:

At the beginning of the period of the total curfew, the Centre prepared a position paper containing a set of measures designed to limit any consequences that might attend the spread of the disease and, at the same time, to protect the rights of the inmates of correction and rehabilitation centres. It provided in particular as follows:

- Reducing the proportion of judicially and administratively detained persons in correction and rehabilitation centres.
- Adopting a set of preventive health measures, including carrying out the necessary examinations of the inmates and taking the necessary measures to disinfect all the facilities of the correction and rehabilitation centres, and providing disinfection materials, face masks and personal hygiene supplies to the inmates on a permanent basis.
- Equipping special rooms for isolation purposes in the event of a suspected case or the discovery of cases of coronavirus infection, and providing qualified medical personnel and the medical supplies required in such cases.
- Providing preventive supplies, in the form of special equipment and clothing, to the Public Security personnel, in addition to providing preventive supplies such as disinfectants, face masks and the like.

Chapter Five: The Impact of the State of Defence on Freedom of Expression

The Jordanian Constitution expressly guarantees the right to freedom of expression under Article (15).[10]

At the level of the international standards, Articles (18) and (19) of the Universal Declaration of Human Rights[11]

and Article (19) of the International Covenant on Civil and Political Rights provide for this right.

In accordance with the international human rights standards, the right to freedom of expression is not an absolute right; the International Covenant on Civil and Political Rights permits States Parties to impose restrictions on the rights recognized therein subject to defined conditions, in accordance with the text of Article (19), paragraph 3, which provides that: "The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals." These restrictions are intended to achieve a form of balance between the rights of the individual and the rights and common interests of the community.

Such restrictions must, however, be subject to certain determinants or, as the Human Rights Committee established under the International Covenant on Civil and Political Rights has described it, to the three-part test; the restrictions imposed must satisfy the following conditions:

First: That the restriction be provided for by law in clear, specific and precise terms, such that a person is able to regulate his conduct in accordance with the legal text. This is not sufficient in itself; this condition further requires that the law be precise and specific in the formulation of the restricting provisions, and that recourse not be had to loose legislative drafting that is open to interpretation or to discretion and opens the door wide to the nullification of the right and to its manipulation.

Second: That the restrictions be necessary to serve a legitimate aim; the purpose of the restriction must be a legitimate one. The International Covenant on Civil and Political Rights has specified a list of legitimate aims, namely the protection of national security, public order, public health and public morals, and respect for the rights and freedoms of others.

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[10] Article (15) of the Jordanian Constitution: "The State shall guarantee freedom of opinion; every Jordanian shall be free to express his opinion by speech, writing, photography and the other means of expression, provided that he does not go beyond the limits of the law."

[11] Article (19) of the Universal Declaration of Human Rights: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Third: Proportionality: the restrictions imposed must not be excessive; they must be appropriate to achieve their protective function in respect of society and individuals, and must be proportionate to the interest to be protected.

The Human Rights Committee indicated, in General Comment No. (27), that restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.

First: The position of the National Centre for Human Rights on Defence Order No. 8 in the light of its impact on freedom of expression

Defence Order No. 8 was issued on 15 April last and published in the Official Gazette in its issue No. (5633). This Defence Order criminalized a set of acts with a view to preventing the transmission of infection and protecting the private life of infected persons, of persons who have been in contact with them and of persons suspected of infection.

Upon reviewing the substance of the Defence Order, the National Centre affirms the following two observations:

1. This Defence Order criminalized the publication, republication or circulation of any news concerning the epidemic that is such as to cause panic among people, or to provoke alarm among them, through the media, the means of communication or the social media platforms. This criminalization accordingly rests upon loose and general expressions that open the way to expansion in criminal prosecution, and does not satisfy the conditions that must be met by restrictions in accordance with the international human rights standards.

2. The Centre considers that the existing Jordanian criminal framework is sufficient in this regard, and that there was no need to enact a special Defence Order in this connection. The penalty imposed in respect of this act is, moreover, an aggravated one.

Second: The most notable difficulties relating to freedom of expression during the period of the total curfew

The National Centre for Human Rights monitored the detention of a number of individuals on account of the expression of their opinions during the period of the total curfew, some of which related to the novel coronavirus while others were for other reasons:

1. The detention of the director-general of a television channel and of its news director following the broadcast of material concerning daily-wage workers and their suffering during the curfew. The Public Prosecution at the State Security Court charged them with the offence of

carrying out acts liable to expose the security of society to danger, on the basis of Article 2 of the Prevention of Terrorism Law.

2. The National Centre monitored the continued detention of activists of the popular movement (Hirak) and of other activists during the period of the application of the provisions of the Defence Law; a former member of parliament was detained and charged with incitement to undermine the system of government. Approximately three other activists were also arrested.

3. The detention of an academic following a complaint lodged against him by a group of employees at the Prime Ministry; he was charged with republishing material involving defamation, vilification and contempt by electronic means, contrary to the provisions of Article (11) of the Cybercrime Law, and with the offence of disseminating false news.

4. A photographer working for one of the daily newspapers was subjected to beating and abuse while photographing the return of Jordanians stranded abroad at Queen Alia International Airport.

5. The detention of a journalist holding Bangladeshi nationality at the Balqa Correction and Rehabilitation Centre on account of his preparation of a report on the suffering of Bangladeshi nationals during health quarantine, pending the execution of the deportation decision issued against him.

6. The bringing by one of the Ministers of a publications and press action against two journalists working for one of the electronic news websites who had criticized the work of the Ministry during the COVID-19 pandemic.

Third: The statements issued by the National Centre for Human Rights

The Centre issued a number of statements concerning the detention of individuals on account of the expression of their opinions, as follows:

First: On 10 June 2020 the Centre issued a general statement on freedom of expression of opinion, which read as follows:

The Centre has recently followed the detention of a number of activists and of members of the popular movement in connection with cases relating to freedom of expression of opinion. In this context, the Centre affirms the following:

First: The right to freedom of expression, including the seeking and circulation of information in its various forms, constitutes the fundamental pillar for the building of any genuine democratic society founded upon guaranteeing public participation in the decisions that concern individuals. The importance of this right extends beyond the individual himself and his sense of his own entity and existence, to its importance for the State and for society alike. Guaranteeing the exercise of

freedom of expression supports stability and security, strengthens pluralism, and sustains the vitality and effectiveness of society.

Second: The Centre affirms that the international human rights standards — and specifically the International Covenant on Civil and Political Rights, in Article (9/3) — have confirmed that the detention or arrest of persons may not be the general rule, and that the process of detention itself is inconsistent with the fundamental constitutional principle of the presumption of innocence. The Centre affirms the need to abide by what is provided for in the national legal framework, and specifically Article (114) of the Code of Criminal Procedure, which affirms that pre-trial detention is an exceptional measure and may only be resorted to in accordance with defined justifications and safeguards. At the same time, the Centre affirms the need to refrain from detaining persons under the Crime Prevention Law, and to work towards the repeal of that Law, which comprises powers that constitute an encroachment upon the work of the judiciary.

Third: The Centre affirms that the shortcomings of certain national legislation, and the general and loose legal formulations contained in some of that legislation, have contributed to a considerable extent to broadening the range of acts criminalized under those laws, and have imposed restrictions upon freedom of expression of opinion, contrary to the Jordanian Constitution, which affirmed that right in Article 15 thereof, and to Article 128/1 of the Jordanian Constitution, which affirmed that the laws issued under the Constitution may not affect the essence of rights or prejudice their fundamentals; and contrary to the international standards relating to freedom of expression, which permit the imposition of restrictions on that freedom subject to defined conditions. While the National Centre affirms the importance of protecting the national security of the State, it calls upon the authorities to exercise full care to guarantee the freedom of the individual to exercise his right to the peaceful expression of his opinion in its various forms, including writing, publication and commentary.

Second: The Centre issued a statement concerning one of the detained persons and its follow-up of his case in the light of the circumstances attending his detention, as follows:

"The National Centre for Human Rights has followed the case of the detention of Mr. (…) and has communicated with the relevant authorities in order to ascertain the reasons for and the circumstances of the detention, to satisfy itself as to his situation, to ascertain his whereabouts, and to ensure his communication with his family. Following that, the Centre contacted his family, reassured them as to his situation, and confirmed that he was in contact with them. In this framework, the Centre affirms that it is continuing to follow his situation.

At the same time, the Centre calls for any person who is detained to be brought promptly before the judiciary within the period prescribed by law, and to be informed of the charges brought against him, in accordance with the international human rights standards relating to fair trial guarantees

and in compliance with the Jordanian Constitution and the national legal framework in this context; and for persons who are detained to be enabled to communicate directly with their families so that the latter may be reassured as to their situation."

Chapter Six: The Impact of the State of Defence on the Right to Privacy

The international human rights standards expressly guarantee the right to privacy under Article (12) of the Universal Declaration of Human Rights[12]

and Article (17) of the International Covenant on Civil and Political Rights.[13]

First: The position of the National Centre for Human Rights on Defence Order No. 8 in the light of its impact on the right to privacy

Defence Order No. 8 was issued on 15 April last and published in the Official Gazette in its issue No. (5633). This Defence Order criminalized a set of acts with a view to preventing the transmission of infection and protecting the private life of infected persons, of persons who have been in contact with them and of persons suspected of infection.

Upon reviewing the substance of the Defence Order, the National Centre affirms the following observations:

1. The violations affecting the privacy of infected persons, of persons who have been in contact with them and of persons suspected of infection revealed the shortcomings of the existing national legal framework in putting an end to such excesses, beginning with the definition of the scope of the right to privacy and the provision of legal protection for it, which required that any natural or legal person be prohibited from interfering with their privacy and with all matters relating to their lives. This is an obligation resting upon the Jordanian State by virtue of Article (17) of the International Covenant on Civil and Political Rights and, as regards its substantive scope, by virtue of General Comment No. (16) issued by the Human Rights Committee.

2. The provisions protecting the privacy of infected persons, of persons who have been in contact with them and of persons suspected of infection are couched in loose and general terms, which opens the way to expansion in criminal prosecution.

3. The Centre considers that the penalties provided for in the event of an infringement of the privacy of such persons — consisting of imprisonment for up to three years or a fine of three thousand dinars, or both of those penalties — are aggravated penalties exceeding the gravity of the act committed.

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[12] Article (12) of the Universal Declaration of Human Rights: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

[13] Article (17) of the International Covenant on Civil and Political Rights: "1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks."

Second: The most notable difficulties relating to the right to privacy during the application of the Defence Law

Contemporaneously with the recording of the first case of coronavirus infection in Jordan, the Centre monitored a violation of the right to the private life of individuals (the right to privacy), infringements of the private life of individuals having constituted a recurrent pattern on the part of individuals themselves and, at times, on the part of certain official bodies.

The National Centre monitored the following patterns of violation of the right to privacy:

1. The publication of the personal data of patients, including the publication of lists of their names.
2. The publication of photographs of infected persons or of their families, or the publication of video clips falling within what constitutes part of the private life of individuals.
3. The publication of official documents relating to infected persons.
4. One of the public hospitals published, through the social media platforms, the data of patients who had been in contact with one of the doctors infected with the coronavirus, so that they might undergo coronavirus testing. The hospital subsequently apologized, without any legal measures being taken against the person who had infringed the privacy of those patients.
5. The publication of filmed material (a video clip) of a family quarrel during the curfew period (accompanied by audio commentary concerning what was taking place between families during the curfew period).

Chapter Seven: Recommendations

At the conclusion of this report, the Centre recommends the following:

- That recourse to the application of the Defence Law and to the declaration of martial law be circumscribed by constitutional safeguards ensuring the protection of rights and public freedoms while exceptional situations are being confronted, in line with the normative standards laid down in comparative constitutions.
- The need to confine the power of detention for contravening the Defence Orders to the judiciary, as the authority originally competent to exercise that power.
- The avoidance of overcrowding in temporary detention centres, so as to protect detainees from the risks of the spread of the COVID-19 epidemic, and the observance of public safety measures and of distancing between individuals.
- The protection of the right to privacy of individuals, and in particular of their personal data, and the taking of the necessary legal measures against any person who infringes the private life of individuals, whether that person represents the official authorities or is an ordinary individual.
- The amendment of Defence Order No. 8 by repealing the item that criminalizes the publication, republication or circulation of any news concerning the epidemic that is such as to cause panic among people, or to provoke alarm among them, through the media, the means of communication or the social media platforms, since the existing legislation is sufficient and this provision is such as to broaden the scope of criminal prosecution.
- The broadening of the scope of remote trials, and the adoption of measures capable of ensuring the continuity of the judicial facility while at the same time limiting the spread of the epidemic within the courts.
- Increasing the duration and the number of telephone calls for the inmates of correction and rehabilitation centres.
- Observing distancing and the avoidance of overcrowding in temporary detention centres.

The strategy of the justice sector for dealing with the crisis of the spread of the novel coronavirus affirmed the need for expansion in the application of alternatives to pre-trial detention; expansion in the application of community-based penalties; expansion in the application of non-custodial measures for juveniles; expansion in the conduct of settlements in tax and customs cases whenever their legal conditions are met; and expansion in recourse to the legal aid programme. In this regard, the Centre affirms the need to give effect to these objectives and to expedite the adoption of the bases capable of ensuring their application, in addition to the need to make fundamental

amendments to the legal aid system, in accordance with the recommendations made by the Centre in its annual report for the year 2019.

Chapter Eight: Complaints Received by the Centre during the COVID-19 Pandemic Crisis (the Total Curfew)

During the period extending from 18 March until 10/5/2020, the National Centre for Human Rights received (57) complaints and requests for assistance, distributed as follows:

Complaints received through the hotline during the COVID-19 pandemic, 2020

Right / subject of the request	No. of complaints	Satisfactory outcome	No satisfactory outcome	Outside the Centre's mandate	Violation not established	Complainant did not cooperate	At complainant's request	Under follow-up	Filed	Reopened	Jordanian nationality
Right to work	6	2	0	1	0	0	0	3	0	0	5
Right to freedom of residence and movement	9	Distributed over the following sub-rights (%)									
Administrative detention	1	0	0	0	0	0	0	1	0	0	1
Judicial detention	3	3	0	0	0	0	0	0	0	0	2
Prohibition of residence and movement	5	1	0	4	0	0	0	0	0	0	5
Rights of persons with disabilities	4	3	0	0	1	0	0	0	0	0	4
Rights of women	1	0	0	0	0	0	0	1	0	0	1
Rights of the child	4	0	0	1	1	1	0	1	0	0	4
Rights of inmates of correction and rehabilitation centres	29	18	0	10	0	0	0	1	0	0	29
Rights of older persons	4	4	0	0	0	0	0	0	0	0	4
Total	**57**	**31**	**0**	**16**	**2**	**1**	**0**	**4**	**0**	**0**	**57**
Percentage	**100%**	**17.67%**	**0%**	**9.12%**	**1.14%**	**0.57%**	**0%**	**2.28%**	**0%**	**0%**	**100%**

The National Centre received, from 18/03/2020 until 10/05/2020, 57 complaints, of which 38 complaints related to civil and political rights and 6 complaints related to economic, social and cultural rights. The number of complaints relating to the rights of the groups most in need of protection amounted to 13 complaints. The outcome of the follow-up of those complaints was as follows:

A satisfactory outcome was achieved in 31 complaints, representing 17.67% of the total number of complaints; 16 complaints were closed as falling outside the mandate of the Centre, representing 9.12%; 2 complaints were closed for failure to establish any violation, representing 1.14%; a further complaint was closed for want of cooperation on the part of the complainant, representing 0.57%; and 4 complaints remain under follow-up, representing 2.28% of the total number of complaints. All of the complainants are of Jordanian nationality.

Requests for assistance received through the hotline during the COVID-19 pandemic, 2020

Right / subject of the request	No. of complaints	Satisfactory outcome	No satisfactory outcome	Outside the Centre's mandate	Violation not established	Complainant did not cooperate	At complainant's request	Under follow-up	Filed	Reopened	Jordanian nationality
Right to an adequate standard of living	18	18	0	0	0	0	0	0	0	0	18
Total	**18**	**18**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**18**
Percentage	**100%**	**100%**	**0%**	**0%**	**0%**	**0%**	**0%**	**0%**	**0%**	**0%**	**100%**

The National Centre received, from 18/03/2020 until 10/05/2020, (18) requests for assistance, all of which related to economic, social and cultural rights. All 18 requests were closed with a satisfactory outcome, representing 100%.