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## **Expansion Of The Powers Of The Administrative Authority In Exceptional Circumstances And Its Impact On Fundamental Rights And Freedoms (Comparative Study)**

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### **Abstract**

This research aimed to shed light on the expansion of the authority of the administration in exceptional circumstances on the fundamental rights and freedoms of individuals, because of the effects of this expansion on the restriction of these rights and freedoms guaranteed by international constitutions and conventions, and the subject of rights and freedoms is one of the most important topics at the internal and international level, as these rights and freedoms are one of the most important social issues because they are closely related to the daily life of society and people. Human rights and freedoms have become a global issue of concern to every human being in the world, and in modern times rights and freedoms have gained so much importance that they have become one of the basic pillars and standards by which democracies are measured in contemporary political systems. In this research, we addressed the concept of exceptional circumstances and their intellectual basis, the position of jurisprudence and the judiciary, as well as the powers granted to the authority of the administration under exceptional circumstances in comparative legislation, as well as the impact of the expansion of the powers of the administration authority on fundamental rights and freedoms under the Corona pandemic, whether personal or intellectual freedoms or social, economic and cultural

**Keywords:** Fundamental Rights, Freedoms, Constitutions, and Conventions.

### **Introduction**

The declaration of exceptional circumstances confers broad powers on the administration by law and imposes restrictions on individuals' rights and freedoms. They may take away from people the rights and freedoms they ordinarily had, such as freedom of movement, passage, roaming, and travel. Undoubtedly, the Emergency Law has a significant impact on the extent to which the fundamental rights and freedoms of individuals enshrined in and guaranteed by States' constitutions are respected. While a state of emergency and martial law may be subject to arrests and searches, as well as searches of premises, evacuations, isolation, travel to and from certain entities, and other measures affecting

individuals' freedoms. As far as intellectual and moral freedoms are concerned, the Department's authority begins to monitor newspapers, magazines, publishing houses, and the press which can sometimes be closed.

The declaration of the state of exceptional circumstances (state of emergency and martial law) has a significant impact on the authority of the administration through the granting of broad powers, to maintain public order and security within the State when the ordinary laws in force are unable to address these exceptional circumstances. This objective is regarded as the officer in determining the provisions of the Emergency Labour Law, and the infringement of public rights and freedoms under this Act is only to the extent necessary to this end.

The declaration of a state of emergency and martial law in States entails the establishment of an exceptional law, the effect of which is the emergence of a pre-designated competent authority in emergency law which exercises considerable exceptional powers, which it finds in legislation and law, as well as in administrative judgments.

Through this research we will address in the first topic what are exceptional circumstances, their intellectual basis, their terms, and the position of jurisprudence and their judiciary, we will also address in the second topic the powers given to administration authority in exceptional circumstances in comparative legislation, and the impact of the expansion of the authority of the administration on fundamental rights and freedoms under the coronavirus pandemic will also be addressed in the third topic.

### **Study Problem**

The problem with this research is the implications of declaring a state of exceptional circumstances (state of emergency), which entails granting the authority of the administration-wide powers, such broad powers under the Emergency Law were aimed at maintaining public order and security within the State when ordinary laws were unable to meet such exceptional circumstances. Although these restrictions, measures, and procedures are imposed following the Constitution and the law, they have significant implications for public rights and freedoms, the disruption and abolition of constitutional institutions that are important to people's lives in normal circumstances, and that objective is the central officer in determining the provisions of the Emergency Law.

The problem of the conflict between the powers granted to the administrative authority and the basic rights and freedoms of individuals under exceptional circumstances emerges. Through this research, many of the following questions will be answered:

1. What impact does the authority of management have on rights and freedoms under exceptional circumstances?
2. Do these powers come in a specific form?
3. Are these powers loose, broad, and uncontrolled?
4. Are actions and measures taken under exceptional circumstances an act of sovereignty? What is the position of jurisprudence and the judiciary on actions and measures taken under exceptional circumstances from the authority of the administration?
5. What has been the impact of the expansion of the administration's authority on rights and freedoms under the coronavirus pandemic?

### **Study Importance**

The importance of this study and our choice of this topic came from the fact that it is closely connected to the daily life of society and people, most affected by personal rights and freedoms in exceptional circumstances, under exceptional circumstances, the Administration's authority exercises broad powers that restrict fundamental rights and freedoms. The application of the Emergency Law and the Executive's possession of broad and substantial exceptional powers because of the importance of this Declaration and its gravity to the public rights and freedoms guaranteed by the constitutions and ordinary laws and because of the importance of this topic, we will address the position of jurisprudence and the judiciary on the legal nature of the actions and measures taken by the administration's authority under exceptional circumstances and their impact on rights and freedoms.

### **Study Objectives**

Through this research, we aim to demonstrate the impact of the expansion of the Administration's authority in exceptional circumstances on fundamental rights and freedoms under the legislation and laws of comparative States, their responsiveness to human rights protection requirements, and their effectiveness and success in combating these emergency conditions.

Through this research we aim to indicate the following topics:

1. The expansion of the administration's authority in exceptional circumstances has an impact on rights and freedoms.
2. Describe what are the exceptional circumstances, their intellectual basis and conditions, and the position of jurisprudence and the judiciary thereon.
3. To indicate the powers granted to the administrative authority in exceptional circumstances in comparative legislation.

4. The expansion of the administration's authority has affected rights and freedoms under the coronavirus pandemic.

### **Study methodology**

This study draws on the comparative analytical approach by analyzing constitutional texts in both the comparative countries of Jordan, Egypt, and France and the rights and fundamental freedoms and the impact of exceptional circumstances thereon. We have also extrapolated and analyzed provisions and jurisprudence in comparative legislation in France and Egypt. The comparative approach was also used in this study between the comparative States' legal systems in Egyptian, French, and Jordanian legislation. This is done by comparing the constitutional and legal provisions governing rights and freedoms with the jurisprudence and judiciary's view of the application of the Emergency Law and its impact on rights and freedoms. We have also used the historical approach to know the intellectual basis of the theory of exceptional circumstances as well as the creation of fundamental rights and freedoms.

### **Study Plan**

This research requires research on the expansion of the Department's authority in exceptional circumstances and its impact on rights and freedoms. This research has been divided into three topics, an introduction, then the presentation of findings and recommendations.

**First topic:** what are exceptional circumstances, their intellectual basis, their conditions, the position of jurisprudence and the judiciary.

**First requirement:** the concept of exceptional circumstances and their intellectual basis.

**Second requirement:** Conditions of exceptional circumstances.

**Third requirement:** The position of jurisprudence and the judiciary on the theory of exceptional circumstances.

**Second topic:** Powers granted to administration authority in exceptional circumstances in comparative legislation.

**First requirement:** Powers of administrative authority in French legislation.

**Second requirement:** Powers of administrative authority in Egyptian legislation.

**Third requirement:** Powers of administrative authority in Jordanian legislation.

**Third topic:** The impact of the expansion of the administration's powers on fundamental rights and freedoms under the coronavirus pandemic.





Article (125) of the Constitution further stipulates: "1. In the event of serious emergencies, measures and procedures under the preceding article of this Constitution shall be considered insufficient to defend the Kingdom. The King may, according to the decision of the Council of Ministers, declare the ownership of martial law in all or part of the Kingdom.

2- When declaring martial law of the King, any instructions that may be necessary for the purposes of defense of the Kingdom shall be issued under the will of the King irrespective of the provisions of any applicable law that is detrimental to all persons carrying out such instructions, in the light of the provisions of Law until such time as such responsibility is pardoned by a special law to that end "

The idea of exceptional circumstances among the scholars of administrative law means that the exceptional circumstances are not subject to ordinary rules and that the administrative judiciary has not defined exceptional circumstances, the jurisprudence has tried to give certain definitions so we will set out these definitions as follows.

**First: Judicial definition:** the theory of exceptional circumstances is a limitation on the principle of constitutional superiority and is undoubtedly a judicial theory that has bridged the deficits and deficiencies that appear in the texts of ordinary legislation in the face of emergency exceptional circumstances.

**Second: Definition of jurisprudence:** There has been a multiplicity of jurisprudence on the concept or definition of exceptional circumstances. "If necessary, the situation that arises shall govern the derogation of the administrative authority from the rule of the Constitution or the rule of law, through the exercise of serious procedures that are prejudicial to public freedom, and the legal norms that exist under normal circumstances are unable to enable the administrative authority to cope with exceptional circumstances" (1).

**Third: Legal definition:** There is much different legislation that has not used the term "exceptional circumstances", but stipulates in their constitutions and legislation that certain measures should be taken. Jordan has known the declaration of a state of emergency since 1939. The Royal Will was issued to implement the provisions of the Defense Law of the year (1953) and continued until (1990), this Law was repealed and replaced by Defence Law No. (13) of (1992) which provided for broad powers for the

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<sup>1</sup> Al-Qabbani Bakr (1985-1989), Freedoms and Public Rights under the State of Emergency, The Crisis of Human Rights in the Arab World, A Collection of Selected Studies Presented to the Seminars of the Arab Lawyers Union, Arab Lawyers Union Center, p. (104)

executive in the event of exceptional circumstances requiring the defense of the homeland.

### **Second: The intellectual basis of the theory of exceptional circumstances**

There are two bases for exceptional circumstances (a state of emergency), a philosophical basis based on the theory of necessity, and a legislative basis based on the Constitution and the law. The philosophical basis of exceptional circumstances requires appropriate legitimacy, based on the theory of necessity as a general theory of law, which permits or to the extent that it is necessary to act in a manner, not in normal circumstances (1).

### **Second requirement: Conditions of exceptional circumstances**

Through this requirement, we will set out the conditions for the application of the theory of exceptional circumstances.

**First:** Existence of an exceptional circumstance:

**Second:** Administration's inability to cope with the exceptional circumstance.

**Third:** Proportionality between the Department's work and exceptional circumstances

**Forth:** Confining the work of the theory of exceptional circumstances to the time and place of exceptional circumstances

### **Third requirement: the position of jurisprudence and the judiciary on the theory of exceptional circumstances**

**First: The position of jurisprudence on the legal nature of the decision to declare a state of emergency**

Jurisprudence has disagreed on the legal nature of the decision to declare a state of emergency and martial law, and this difference can be limited to two counter-directions.

**The first direction:** - The owners of this trend believe that the decision to declare a state of emergency has the nature of ordinary administrative decisions and includes under its provisions, which are subject to the supervision of the administrative judiciary and which consist of annulment and compensation.

**Second direction:** In the view of the owners of this trend, the decision of the state of emergency has the nature of acts of sovereignty and is not subject to judicial supervision.

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<sup>1</sup> Sorour Ahmed Fathi, (2000), Constitutional Protection of Rights and Freedoms, 1<sup>st</sup> Edition, Dar Al-Shorouk Press, Cairo, p. (805)



This trend was that there is no doubt that the declaration of martial law by decree in accordance with the law is an act of sovereignty. It is recognized by scholars of administrative law that acts of legislative power are acts of Parliament (1).

### **Second: The judiciary's position on the legal nature of the decision to declare a state of emergency**

**The position of the French Council of State on the decision to declare a state of emergency:** The French administrative judiciary and the Court of Conflict decide that the decision to declare a state of emergency is not an act of sovereignty but an administrative decision like all other ordinary administrative decisions subject to the control of the judiciary in its various aspects.

**Egyptian State Council's position on the decision to declare a state of emergency:** In terms of the extent of control over their elimination, decisions are divided into administrative decisions that are subject to supervision in order to eliminate or compensate the administration to achieve the principle of legality, and administrative decisions that are not subject to judicial control because they relate to the sovereignty of the internal and external State and are therefore called acts of sovereignty (2).

**The Jordanian judiciary's position on the decision to declare a state of emergency:** The Jordanian Supreme Court of Justice, following the previous Defence Act of 1935, approved the decision to declare martial law on the occasion of the appeal against the Director of Publications' decision of 16 August (1954) to suspend (Al-Yqatha Magazine) (3) and prevent it from issuing for six months according to article 4 bis of the Defence Law No. (4/1951).

### **Second Topic: Powers granted to administration authority in exceptional circumstances in comparative legislation**

The powers granted to the authority of the administration under exceptional circumstances shall be a restriction on public rights and freedoms, and the fundamental rights and freedoms are the goal that all humanity seeks to protect. Over the years, people have struggled to recognize their civil, economic, social, or cultural rights, and the rights

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<sup>1</sup> Al-Khashin Tawfiq (1943/1944), The Right of the Authority Exerting Martial Laws to Arrest and Arrest Persons, Law Journal, Year (24), p. (103)

<sup>2</sup> Khater Sharif Youssef (2011), Administrative Decision, Dar Al-Fikr and Law for Publishing and Distribution, Mansoura, p. (37)

<sup>3</sup> Al-Ghuwari Ahmed Odeh, previous reference, p. (62-71)



3. The authority to prevent any person who tries in any way to impede the work of the public authorities from residing in the administrative area or in part of it.

### **Second requirement: The powers of the administrative authority in Egyptian legislation**

In the event of an emergency, Egypt's emergency law has granted the President of the Republic the necessary measures and measures to address this exceptional circumstance. This article gives the President of the Republic to call upon him to act in his place in all or some of his functions, in all of the territories of the Republic or certain regions or regions, this is stipulated in Article II of the State of Emergency Act No. 162 of (1958), and accordance with article 2, paragraph 1, of the Emergency Law No. (162) of 1958, as amended by Act No. (37) of (1972), which adopts the situation under which a state of emergency has been declared, the existing authority in declaring a state of emergency shall declare and end a state of emergency by the decision of the President of the Republic <sup>(1)</sup>.

Article (3) of the Emergency Law, as amended by article 6 of LawNo. (37) of 1972, stipulates the powers of the Emergency Extraordinary Authority: "The President of the Republic, when declaring a state of emergency, shall take appropriate measures to maintain security and public order, in particular."

1. Restriction on the freedom of assembly, movement, residence, and passage of persons in certain places or times, arrest and arrest of suspects or persons dangerous to the security and public order, and authorization to search persons and places without complying with the provisions of the Code of Criminal Procedure.
2. Control of communications of any kind and control of newspapers, leaflets, publications, editions, drawings, and all means of expression, propaganda, and advertising before publication, seizure, confiscation, disruption, and closure of printed places. Censorship of newspapers, publications, and the media are limited to matters related to public safety or national security purposes.
3. Determine the opening and closing dates of public shops, as well as order the closure of all or some of these shops.
4. Entrusting any person with the commencement of any business and the seizure of any movable or real estate and following the provisions of the Public Mobilization Law concerning the organization and assessment of compensation.

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<sup>1</sup> Al-Wakeel Muhammad, previous reference, pp. (358-359)

5. Withdrawal of licenses for weapons, ammunition, explosive substances, or explosives of all kinds and the order to hand them over, seize them and close the weapons stores.
6. Evacuate or isolate certain areas, regulate means of transport and restrict transport between different areas.

### **Third requirement: Powers of the administrative authority in Jordanian legislation**

Jordan's Defence Law No. (13) of (1992) entrusts the Prime Minister with the application of this Law and may delegate all or some of his powers to those who deem him competent to do so throughout the Kingdom or in a specific area thereof under the conditions and restrictions specified therein, article (3) of the Defence Law No. (1992) where it states "

A- the application of this Act shall be entrusted to the Prime Minister to take the necessary measures and measures to ensure public safety and defend the Kingdom without adhering to the provisions of the applicable ordinary laws,

B- The Prime Minister exercises his powers under a written order.

C-The Prime Minister shall delegate all or some of his or her powers to those he or she deems competent to do so throughout the Kingdom or in a specific area thereof and to the conditions and restrictions set by him or her " .

Article (4) of Defense Law No. (13) of (1992) stipulates the powers granted to the administrative authority or (emergency authority), which is represented by the Prime Minister, to exercise the powers, and it is that "the Prime Minister shall exercise the following powers:"

- a. Placing restrictions on the freedom of persons to assemble, move and monitor, and arrest and detain suspects or those who are dangerous to national security or public order.
- b. Assign anyone to do any work or perform any service within their ability.
- c. Inspection of persons, premises, and vehicles in compliance with the provisions of any other law and order the use of appropriate force in case of objection.
- d. Seizing movable and immovable property and postponing the payment of debts and due obligations.
- e. Preventing, restricting, or restricting the import, export, or transfer of materials from one place to another, specifying the transaction, prohibiting the concealment, destruction, purchase, or trade of materials, and setting their prices.
- f. The seizure of land, construction, road, or source of energy and the creation of defense-related works, removing any trees or their origin and ordering their management and exploitation or regulating their use.

- g. Evacuation, isolation, or roaming ban.
- h. Timing of opening and closing of all or some public shops.
- i. Regulation and identification of means of transport and communications between different regions, closure or reorientation of any road or waterway, and prohibition of traffic or regulation.
- j. Monitoring, seizing, confiscating, and disrupting messages, newspapers, publications, drawings, and all means of expression, propaganda, and information, and closing their places of preparation
- k. Preventing the taking of images or making designs or maps of any particular place or object that may benefit the enemy and preventing the keeping next to these places and objects by any photographic devices or materials to make images, designs, and maps and preventing the stay or delay in such places without a legitimate excuse.
- l. Elimination of licenses for firearms, ammunition, explosives, and explosive substances that are involved in the explosives industry and prohibition of their manufacture, sale, purchase, transport, or disposal and order of their delivery, seizure, and closure of their sale and storage shops.
- m. prevent the manufacture, sale, purchase or possession of communication devices and order their delivery and seizure "

The Jordanian legislature, in accordance with the Defence Law expresses these powers in article 4 of the Law, which is broader than we have already mentioned in the Egyptian Emergency Law. However, it is provided for exclusively in this Law and the wording of its terms is fairly disciplined.

However, the French legislature has not specified in a martial law or emergency law the instrument used by the administration's authority to exercise its powers. It may use oral orders, written orders, or both, and in Egypt, the legislature has chosen the President of the Republic to exercise his powers when declaring a state of emergency by written or oral orders, as stipulated in article 3 of the Egyptian Emergency Law.

### **Third topic: The impact of the expansion of the powers of the administration's authority on basic rights and freedoms under the Corona pandemic**

In late 2019, the coronavirus pandemic hit the world. human rights ", which is an exceptional health condition that threatens the lives, rights, and freedoms of individuals in all countries of the world, Confronting this unexpected risk, which is difficult to combat with normal measures In the wake of this pandemic, emergency law has been announced in many countries of the world. Following the Act's implementation, which constitutes a significant restriction on fundamental rights and freedoms, whether personal, economic,

social, or political. The fight against this epidemic requires a great deal of interference with life and individual privacy, which would restrict individuals' rights, work, mobility, treatment, and food, and result in long and unknown disruption of life in all its aspects. The exceptional circumstance of the coronavirus pandemic has shown that national legislation and its failure to respond to such a human health disaster in an era of globalization and technological development, as well as the health authorities' inability and confusion in combating the pandemic, have exacerbated their impact on fundamental rights and freedoms (1).

Under exceptional circumstances, the States of the world shall ensure that public services are provided to citizens through public facilities, including health facilities under normal or exceptional conditions, however, under exceptional circumstances, as in the case of the coronavirus pandemic, states may have to depart from the principle of legality when the country raids an extraordinary threat to the security, integrity, and interests of the State and to the rights and freedoms of individuals. In these exceptional unforeseen circumstances, which are impossible to pay with the powers and possibilities available under normal circumstances, this justifies resorting to exceptional powers, and of course, these procedures and measures undoubtedly undermine, impair or diminish the effectiveness of individuals' fundamental rights and freedoms, until the end of the exceptional circumstance or emergency threatening national security and safety (2).

Through this topic, we will show in the first requirement the impact of the outbreak of the Corona pandemic on rights and freedoms in Jordan. in the second requirement, the impact of the Corona pandemic on rights and freedoms in France, and in the third requirement, the impact of the Corona pandemic on rights and freedoms in Egypt.

### **First requirement: The impact of the coronavirus pandemic on Jordan's rights and freedoms**

A state of health emergency due to the spread of epidemics is one of the forms of emergency that states face in exceptional circumstances, one of the justifications for declaring a state of emergency, in general, is partial, and emergency laws often include

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<sup>1</sup> Saleh Maher Faisal, Abdullah Intisar Hassan, and Khalil Mustafa Talaa, (2005) Solutions and Remedies - Research published in the Journal of Legal Sciences - College of Science - University of Baghdad, special issue, research and conferences of the Public Law Branch, for a period (13-14/11/2018). ), p (163).

<sup>2</sup> Khammas Farouk Ahmed, (1988), Oversight of Administration Works, Dar al-Kutub for Printing and Publishing, Mosul University, p. (11 and 13).



we are committed to ensuring responsibility, we have issued our will to approve the placement of the Council of Ministers in the Declaration on the Operation of the Defence Act No. 13/1992. That is to ensure the continuity of the efforts made and to eliminate the obstacles that arise in the face of this scourge.

Because the text of the Royal High Will proclaims the application of the Defence Act, it clearly defines the use of this Act by making the application of the Defence Act and its order within the following limits:

First: The Government shall ensure that public facilities are conducted regularly, especially those concerned with citizen service.

Second: The Government shall ensure respect for private property, whether property or property and shall take measures to ensure the stability and safety of the private sector.

Third: The executive branch should focus on the protection of public health and the safety and protection of society.

Fourth: The application of the Defence Act shall be as limited as possible so as not to affect and preserve political and civil rights and freedoms and the right to expression guaranteed by the Constitution and ordinary laws.

### **Second requirement: The impact of the coronavirus pandemic on France's rights and freedoms**

The World Health Organization has announced a covid-19 outbreak. The coronavirus virus, which first appeared in December 2019 in the Chinese city of Wuhan and reached the end of the pandemic and the global pandemic, has forced all countries of the world to take urgent and important steps to prevent the threat to public health and provide health care to citizens, considering that international humanitarian law guarantees everyone the right to the highest standard of health <sup>(1)</sup>.

### **Third requirement: The impact of the coronavirus pandemic on Egypt's rights and freedoms**

A state of health emergency due to the coronavirus pandemic is not one of the political or military emergencies that may allow states to severely restrict fundamental rights and freedoms. It is an exceptional emergency caused by the outbreak of an epidemic called the coronavirus.

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<sup>1</sup> The website of Human Rights Watch [www.hrw.org](http://www.hrw.org) on March 19, 2020



## **Conclusion**

Through this research, entitled "Expansion of the authority of the administration under exceptional circumstances and its impact on fundamental rights and freedoms", in which we addressed what are the exceptional circumstances, their intellectual basis, and conditions, the position of jurisprudence, and the judiciary on actions and measures taken under exceptional circumstances and their impact on rights and freedoms.

Through this research, we have found that the application of the Emergency and Martial Law may subject persons to arrest and search, as well as the search of premises and the evacuation and isolation of certain entities, and the prohibition of travel thereof. and other actions that have a significant impact on rights and freedoms. Exceptional circumstances and the extension of the administration's authority have an impact on intellectual and moral freedoms, and they are greatly influenced.

## **Results**

1. One of the findings of this study is that the fundamental rights and freedoms of individuals are guaranteed by constitutions, declarations of human rights, and international instruments and guarantees for the protection of these rights and freedoms. The principles of equality, legality, separation of powers, and independence of the judiciary are important.
2. The situation of unexpected exceptional circumstances, which bears upon states in situations of war, natural disasters, diseases, and epidemics, where the executive branch is unable to cope with the circumstances by its normal means, and needs broader powers and powers to address this circumstance in accordance with the Constitution and the law, which have a significant impact on the imposition of restrictions on rights and freedoms.
3. The declaration of exceptional circumstances entails the imposition of restrictions on certain rights of liberty. A distinction must be drawn between certain rights that may be temporarily restricted, such as the right of movement and residence that may be restricted for purposes of the public interest. and between rights and freedoms that are not restricted under exceptional circumstances such as the right to life, treatment, and equal access to services from health facilities, freedom of opinion, expression, education, and employment.
4. One of our findings is that the situation of exceptional circumstances is a limitation on the principle of separation of powers, which is a guarantee of rights and freedoms because the executive branch plays the role of both legislative and executive power.

5. One of our findings is the expansion of the administration's authority in exceptional circumstances, often overriding the boundaries laid down by the Constitution and the law.
6. The situation of exceptional circumstances is one of the dark signs that distorts the principle of ordinary legality and replaces it with the principle of extraordinary legality, in which the authority of the administration expands and restricts rights and freedoms.
7. We conclude that the emergency law in Jordan, Egypt, and France grants broad powers to the Head of State or the Head of Executive Authority in declaring a state of emergency and in taking actions and measures that constitute an infringement of public rights and freedoms, but may even delegate such reforms to others in some or all of the State's territories, thereby aggravating those powers to rights and freedoms.
8. One of our findings is the declaration of a state of emergency in Jordan due to the coronavirus pandemic and the promulgation of the royal will, which included many recommendations to the executive branch to act on it. To ensure the functioning of public facilities and respect for private property and to take measures to protect them, Focus on protecting citizens' public health and apply the Defence Act as narrowly as possible, without prejudice to the fundamental rights and freedoms of individuals.
9. One of our findings is that the imposition of a state of health emergency in the countries of the world due to the outbreak of the coronavirus pandemic has shown that there is a violation of public rights and freedoms. Some governments have taken advantage of the broad powers given to them for political reasons such as restricting freedom of assembly, gathering, demonstrating, disrupting elections, restricting the media, and persecuting journalists and civil activists.

## **Recommendations**

1. The need to enact new legislation that includes the protection and safeguarding of the rights and freedoms of individuals under exceptional circumstances which may arise in States and which may result in the restriction of these rights and individual freedoms of citizens, as well as the time frame for the beginning and end of the state of emergency.
2. We recommend that the state of emergency should be regulated by the Constitution and by a detailed law specifying the duration and duration of states of emergency and how they are declared, the powers granted, and the use of exact and not broad and interpretable phrases.
3. We recommend that the emergency system be an integrated system that includes the alternative treatment of each restriction on rights and freedoms such as

providing a system of food, medicines, and medical supplies to ensure equal access to treatment and others in exceptional circumstances.

4. We recommend the development of legislation that regulates the concept of public order, as it is important and the objective of the authority of management always in all circumstances.
5. The researcher recommends that the terminology used in laws and legislation governing exceptional circumstances (state of emergency) be disciplined, unclean, broad, and specific.

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