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THE LEGISLATIVE AND JUDICIAL FRAMEWORK FOR THE ADMINISTRATIVE CONTROL AUTHORITIES IN JORDAN: WHAT ARE THE RISKS OF SOCIAL NETWORKS ON ELEMENTS OF PUBLIC ORDER?

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Abstract. The study analyzes the concept of administrative control and the distinction between administrative and judicial control authorities. That the objectives of administrative control have expanded to include other elements that fall within the moral aspect of the idea of public order will also be shown. The role of the administrative judiciary in distinguishing between administrative decision and judicial work, and the dangers of social networks on the elements of public order represented by public security, public health, public tranquility, ethics and public morality will be explained as well. The widespread use of social networking sites such as Facebook, Twitter, Instagram, and WhatsApp has led to a major revolution that has left its effects on all aspects of life, including the public order of countries, which is facing new challenges and threats. The study proved that the concept of administrative control according to jurisprudential trends differs from the legal and judicial concept. It was found that the jurisprudential definitions of administrative control were more comprehensive and general than the legislative and judicial definitions. However, there is a need to expressly stipulate the dangers of social networks that affect the elements of public order, represented by public security, public health, public tranquility, public morality and ethics.

Key words: administrative control, judicial control, executive authority, public order, administrative authorities, social networks, public security, public health, public tranquility, public morality and ethics.

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ЗАКОНОДАТЕЛЬНАЯ И СУДЕБНАЯ БАЗА ДЛЯ ОРГАНОВ АДМИНИСТРАТИВНОГО КОНТРОЛЯ В ИОРДАНИИ: КАКОВЫ РИСКИ СОЦИАЛЬНЫХ СЕТЕЙ ДЛЯ ЭЛЕМЕНТОВ ОБЩЕСТВЕННОГО ПОРЯДКА?

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Аннотация. В исследовании анализируется понятие административного контроля и различие между органами административного и судебного контроля. Показано, что цели административного контроля расширились и включили в себя другие элементы, входящие в моральный аспект идеи общественного порядка. Объяснена также роль административной судебной системы в разграничении административных решений и судебной работы, а также опасность социальных сетей для элементов общественного порядка, представленных общественной безопасностью, общественным здравоохранением, общественным спокойствием, нравственностью и общественной моралью. Широкое распространение социальных сетей, таких как Facebook, Twitter, Instagram и WhatsApp, привело к крупной революции, которая оказала влияние на все аспекты жизни, включая общественный порядок стран, которые сталкиваются с новыми вызовами и угрозами. В исследовании доказано, что понятие административного контроля, согласно тенденциям юриспруденции, отличается от правового и судебного понятий. Установлено, что юридические определения административного контроля носят более полный и общий характер, чем законодательные и судебные определения. Однако необходимо прямо оговорить опасности социальных сетей, затрагивающие элементы общественного порядка, представленные общественной безопасностью, общественным здравоохранением, общественным спокойствием, общественной моралью и нравственностью.

Ключевые слова: административный контроль, судебный контроль, исполнительная власть, общественный порядок, административные органы, социальные сети, общественная безопасность, здравоохранение, общественное спокойствие, общественная мораль и нравственность.

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Introduction

The principle of separation of powers requires dividing the functions of the state into three parts: legislative, executive, and judicial. Then, the exercise of these functions is entrusted to three authorities, each of which is independent of the other, in order to ensure the proper functioning of the state's business as required¹. Therefore, each of the state's authorities (legislative, executive, and judicial) exercises its own work without any other authority having to interfere in its work, although there is — in some cases — cooperation and balance between the authorities when adopting the principle of flexible separation².

However, cooperation always appears between the legislative and executive authorities. As for the judicial authority, it is in principle that it is completely independent from other authorities, and performs its function without interference from anyone. The study of the judiciary and its functions is not usually included in the study of the vocabulary of constitutional law, except with regard to monitoring the constitutionality of laws³.

The importance of the article lies in distinguishing between the administrative and judicial control

authorities and reconciling jurisprudential, legislative and judicial standards. This will be done in order to differentiate between administrative and judicial control, define the concept of public order in the light of jurisprudential opinions, clarify judicial trends on differentiating between administrative and judicial control work, and show that the Jordanian legislator did not explicitly stipulate the dangers of social networks that affect the elements of public order represented by public security, health, tranquility and morals.

The study aimed to show the extent to which the Jordanian legislator developed an inclusive and prohibitive definition of administrative control and to clarify the jurisprudential opinions that were developed in defining administrative control, the jurisprudence that distinguished between the work of administrative control and the work of judicial control, the clear differences in jurisprudential trends about the concept of administrative control and its elements, and the dangers of social networks on the elements of public order represented by public security, health, tranquility and morals. Therefore, it is noted that the legislator sometimes assigns the executive authority to carry out some judicial work. Here, the research problematic arises, which is represented by several questions as follows: Is giving the executive authority the power to practice some judicial work permissible and acceptable in light of the principle of separation of powers? What are the dangers of social networks on the elements of the public order represented by public security, health, tranquility and morals?

In this study covering the Jordanian legislation and judiciary, the analytical approach was followed by analyzing the concept of administrative control in jurisprudence,

¹ See: *Maamari Al-Masoud & Dabih Zahira.* The limits and controls of the control authorities as a guarantee to protect public freedoms // Journal of Human Sciences. 2022. No. 22 (2). Pp. 145–163.

² See: *Ibrahim Yama.* Administrative control powers and means of exercising them in the Algerian legal system // Journal of Ijtihad for Legal and Economic Studies. 2012. No. 1 (1). Pp. 113–137.

³ See: *Youssef Al-Dhafiri.* Administrative control and the limits of its powers in the circumstances normal and extraordinary circumstances // Journal of legal and economic research. 2020. No. 74. Pp. 1498–1549.

clarifying the legislative texts that showed the concept of administrative control and its difference from the judicial control authorities, demonstrating that the Jordanian legislator did not explicitly stipulate the dangers of social networks that affect the elements of the public order represented by public security, health, tranquility and morals, in addition to referring to the Jordanian Constitution and the jurisprudence of the administrative judiciary in Jordan, and comparing those matters with what the jurisprudential opinions have settled on.

1. Function of the executive authority

The state carries out major tasks and actions, which are external defense, internal security, adjudication of disputes between individuals, administration of justice between them, and imposition of punishment on perpetrators of crimes (this function is entrusted to the judiciary)⁴. The state also lays down the laws necessary for the performance of all these functions so that it can be done in the best and most perfect way. Therefore, the state has a legislative function, another executive and administrative, and a third judicial⁵.

The Jordanian Constitution stipulates the function of the executive authority in Article 45, which states: "The Council of Ministers is responsible for managing all the internal and external affairs of the state, with the exception of those affairs that have been entrusted or entrusted by this Constitution or any other legislation to any other person or body". The executive authority also has important powers represented in the enactment of temporary laws and the development of various regulations.

2. Difference between administrative and judicial work

The idea of differentiating between administrative and judicial actions has been included in the literature of administrative law, due to the importance of distinguishing between them in order to know whether the decision issued by the administration is subject to appeal before the administrative court or not⁶. If the decision is of a judicial nature, then the administrative judiciary may not discuss its legitimacy, as this is beyond its competence⁷. After a controversy arose in jurisprudence regarding the distinction between the administrative decision and the judicial decision, the jurists suggested several criteria to distinguish between them, the most important of which are:

2.1. Formal criterion

This criterion is based on the capacity of the decision maker and the authority that issued it. If the work is issued by the legislative authority, it is considered a legislative act. If issued by the executive authority, it is considered an administrative act. But if it was issued by the judicial authority, then it is a judicial act⁸. It seems that this criterion, despite its simplicity, does not help us in distinguishing between the administrative decision and the judicial decision. On the one hand, it depends on the form and does not go beyond the content⁹.

On the other hand, it relies on the principle of separation of powers, which requires defining the function of each of the three authorities absolutely¹⁰. However, the practical reality leads to overlapping the actions of the authorities. It is not true that everything that is issued by the executive authority is an administrative decision. Likewise, not everything issued by the judicial authority is considered a judicial act¹¹.

2.2. Objective criterion

As a result of the criticisms leveled against the formal criterion, jurisprudence created the objective criterion to avoid these criticisms. This criterion is based on the content or subject matter of the decision and does not stop at the form. It has been established that the objective criterion is based on the fact that the judicial ruling is issued in a dispute in order to clarify the Rule of Law in it¹².

A part of legal jurisprudence believes that the judicial decision, regardless of the authority issuing it, requires the availability of three conditions: the first is the existence of a dispute between the two parties, the second is that this dispute is based on a legal issue, and the third is that the decision when adjudicating the dispute has the strength of the thing decided in it¹³.

However, this criterion seems to apply to the final judicial rulings that decide on the subject matter of the dispute. Therefore, it does not include preliminary decisions and judgments issued before adjudicating the matter. A part of jurisprudence believes that this leads to subjecting the vast majority of ordinary court rulings to the oversight of the State Council, because we will then exclude only the final rulings issued on the subject.

⁸ See: *Muhammad Hassouna*. Administrative Control and its Impact on Public Freedoms. Alexandria, 2014.

⁹ See: *Tamawi Suleiman*. Al-Wajeez in Administrative Law. Cairo, 1996.

¹⁰ See: *Al-Thunabat Muhammad*. Al-Wajeez in Administrative Law. Amman, 2003.

¹¹ See: *Shatnawy Ali*. Encyclopedia of Administrative Judiciary. Part One. Amman, 2004.

¹² See: *Al-Helou Majid*. Administrative Law. Alexandria, 1996.

¹³ See: *Tamawi Suleiman*. The general theory of managerial decisions. Cairo, 1977.

⁴ See: *Hafez Mahmoud*. Administrative decision. Cairo, 1991.

⁵ See: *Layla Muhammad*. Political systems. Beirut, 1969; *Ziyad Adel & Belkhair Draghi*. The limits of administrative control authorities to protect individual rights and freedoms // Journal of Legal and Political Sciences. 2019. No. 10 (2). Pp. 1424–1441.

⁶ See: *Abdel Raouf Bassiouni*. Theory of Administrative Control in Contemporary Positive Systems and Islamic Law. Alexandria, 2007.

⁷ See: *Al-Ghazoui Muhammad*. Al-Wajeez in the political and constitutional organization. Amman, 2005.

This simply means demolishing and distorting the provisions of the Procedure Code¹⁴. Many theories have emerged within the objective criterion, such as the discretionary power theory. This theory considered that the administrative decision is issued based on discretionary authority, while the judicial ruling is issued based on restricted authority. Likewise, the theory of automatic action considers that the administrative decision is issued automatically, unlike the judicial decision that is issued at the request of the individual. In addition, the theory of purpose considers that administrative decisions aim to satisfy public needs, while judicial rulings aim to protect the legal system of the state¹⁵.

Article 26 of the Jordanian Constitution stipulates that: “The Executive authority is vested in the King, and he exercises it through his Ministers in accordance with the provisions of this Constitution”.

His Majesty the King is the head of the executive authority and is protected from all subordination and responsibility. The ones who bear criminal and political responsibility are the ministers.

The Jordanian legislator may assign the executive authority with some judicial tasks, such as the administrative detention authority granted to the governor and administrator of the Ministry of Interior, which restricts the rights of individuals.

3. Position of the administrative judiciary on differentiating between administrative decisions and judicial work

The administrative judiciary in Jordan adopted both the formal and the objective criteria. With regard to the formal criterion, the Jordanian Supreme Court of Justice ruled in its ruling No. 1991/277 issued Feb. 3, 1991, that: “The prevailing opinion defines judicial actions as those issued by judicial bodies, whether these decisions are in nature judicial actions, state orders, or actions related to the conduct of the case, its motion, and the procedures for implementing judgments. The criterion that is referred to for determining judicial decisions is the formal criterion that takes into account whether the body that issues the decision is an authority that has a judicial character or not”¹⁶.

The Jordanian Administrative Court also ruled in its ruling No. 348/2020 issued April 12, 2021, that: “We find that the Assistant Chief of the Administrative Public Prosecution raised a formal argument to dismiss the case before entering the grounds for lack of jurisdiction. In this, we find that the prevailing opinion in defining judicial actions is that they are actions issued by judicial bodies, whether these actions are judicial decisions or state orders related to the conduct of the case and its

movement or procedures for the implementation of judicial rulings. That is, the criterion for determining the type of decisions, whether they are judicial or not, is the formal criterion that depends on the consideration of whether the authority that issued the decision is a judicial authority or has a judicial capacity or not. Since the Administrative Court is competent to consider final administrative decisions pursuant to Article 5 of the Administrative Judiciary Law No. 27 of 2014, it follows that the jurisdiction of our court is the jurisdiction of an administrative judiciary to monitor the legality of administrative decisions and not judicial decisions. Therefore, our court is not competent to consider the decisions issued by the Chief Executive, as they are judicial decisions issued by the Chief Executive in his capacity as a judicial authority for the purposes of implementing judicial rulings. This matter necessitates dismissing the plaintiff's claim as a form of lack of jurisdiction”¹⁷.

The criterion to be referred to for determining judicial decisions is the formal criterion that takes into account whether the authority issuing the decision is an authority with a judicial character or not. Given that the decisions issued by the Chief Executive regarding the implementation of judicial rulings and deciding on implementation problems that are presented to it are judicial actions, therefore, the argument is that the case must be dismissed because the decisions issued by the Chief Executive are judicial decisions that do not accept appeals for cancellation before the Administrative Court, and the case must be dismissed¹⁸.

In some decisions, we find it combining the two criteria together. The most prevailing opinion that the judiciary has turned to in different countries is to take the two criteria together with some controls. According to this opinion, the decision is considered judicial if it is issued by a body that derives jurisdiction from a law defining its jurisdiction and indicating its procedures. This decision must be definitively decisive in a dispute between two parties over personal rights. That law would also have clarified the rules that apply to the dispute and the point of adjudication in it. The judge's decision is a judicial decision, whether in terms of form or subject matter or both together, because it is a decision issued by a judge before whom the attorney for the plaintiffs pleaded, and after the pleading he issued a judgment and not an administrative decision¹⁹.

The Jordanian Administrative Court ruled in its ruling No. 61/2016 issued May 15, 2016, that: “It is clear from Article 5/a of the Administrative Judiciary Law No. 27 of 2014 that the administrative judiciary is concerned with

¹⁴ See: *Fahmy Mustafa*. Administrative judiciary. Cairo, 1979.

¹⁵ See: *Al-Abadi Muhammad*. Al-Wajeez in the administrative judiciary. Al-Mafraq, 2004.

¹⁶ Jordanian High Court of Justice. 1991.

¹⁷ See: Jordanian Administrative Court. 2021.

¹⁸ See: The Jordanian Supreme Administrative Court. 2018.

¹⁹ See: *Kamoon Hussein*. On the specificity of judicial procedures related to disputes of the legality of decisions of independent police authorities in Algeria // *Journal of Ijtihad for Legal and Economic Studies*. 2022. No. 11 (1). Pp. 482–502.

final administrative decisions, as it is the natural judge in administrative disputes. It is recognized in jurisprudence and judiciary that the administrative decision is distinguished from other legal actions. It depends on two main criteria: the formal criterion related to the authority issuing the decision without regard to the subject of the work, and the objective criterion that depends on the subject and content of the work regardless of the authority that issued it. Administrative disputes are the ones that result at first sight from the activity and work of the administrative authorities, whether they are central, such as the government and its ministers, or decentralized authorities, which are public institutions and municipalities. Referring to the provisions of the Jordanian Constitution in Articles 24–27, it becomes clear that the Jordanian Constitution adopted the principle of separation of powers, meaning that they complement and cooperate with each other, and each authority supervises the other within the limits of the permitted constitutional oversight. Accordingly, the administrative judiciary is not concerned with legislative acts such as laws. Hence, the disputes that arise from legislative acts are outside its competence as well. It is not competent to monitor the constitutionality of laws after the establishment of the Constitutional Court. It is well known in the comparative administrative judiciary that the legislative acts that are not specific to the administrative judiciary are the acts issued by the legislative authority in accordance with the Constitution. They include two types of acts: laws and parliamentary acts. What is meant by the law that falls outside the jurisdiction of the administrative judiciary is the law in its formal sense, not the substantive one. Acts issued by the Parliament in the performance of its legislative function in accordance with the Constitution may not be the subject of an annulment suit²⁰.

Jurisprudence and judiciary have established that the decision is not considered judicial and is not subject to appeal before the Supreme Court of Justice except in two cases.

The first case: that the decision is issued by a court in accordance with its judicial function, it is settled on the basis of a judicial dispute that takes place between two opponents, and it is decided by the force of the legal fact that there is a right or not²¹. The second case: that the decision is issued by a body that does not consist of judicial elements, but that an exceptional judicial authority has been assigned to it to settle the disputes entrusted to it that meet the characteristics of judicial litigation, or that the will of the legislator is express or clear and categorical in its indication that that body is judicial²².

The following decisions show that the administrative judiciary in Jordan has adopted the objective standard.

The jurisprudence of the Supreme Court of Justice, after it the jurisprudence of the Jordanian Higher Administrative Court, has established that the decisions of the administration of a judicial nature are not subject to appeal before the administrative courts unless there is an explicit text to the contrary. The Jordanian Higher Court of Justice ruled in its ruling No. 554/2003 issued Jan. 29, 2004, that: “The administrator of the Koura District is considered a person of common law, the decisions issued by him in forestry cases according to Articles 41 and 42/b of the Temporary Agriculture Law No. 44 of 2002 are administrative of a judicial nature. If the decision complained of was issued by an administrative authority with judicial jurisdiction in forestry cases in accordance with the provisions of Article 42/b of the Agriculture Law, then the Supreme Court of Justice is functionally competent to consider the case, according to Article 9/A/11 of the Supreme Court of Justice Law No. 12 of 1992”²³.

We conclude from these decisions that the administrative judiciary in Jordan did not settle on a specific standard. Therefore, it is difficult to say that the administrative judiciary adopts one criterion over another to distinguish between administrative decisions and judicial actions. In addition, the dates of judgments are overlapping, which does not allow us to define the features of judicial jurisprudence and divide it into certain stages²⁴.

4. Judicial work carried out by the executive authority in Jordan

There are many legal texts that give some judicial authorities to the executive power. Examples of these laws include the Crime Prevention Law No. 7 of 1954. This law gives the administrator, who is an administrative body, the authority to issue summonses in accordance with the provisions of Article 3 thereof, and to issue arrest warrants in accordance with the provisions of Article 4 of the same law. In addition, he was given the authority to conduct an investigation and issue decisions, pursuant to the provisions of Article 5 of the aforementioned law. The administrator may accept and reject the bail of the arrested person, and he may also issue a decision to place the person under police supervision. All of these decisions, which the legislator placed within the competence of the administrator, are judicial, not administrative, although they are issued by an administrative body affiliated with the executive authority. Paragraph 4 of Article 5 of this law states: “The procedures that take place according to this law with regard to ... and objection to judgments ... shall be followed in the same manner as those used in criminal procedures in the courts of first instance”²⁵.

²⁰ Jordanian Administrative Court. 2016.

²¹ See: *Yassin bin Brih*. Administrative Control in the Thought of Positive Law and Islamic Sharia. Alexandria, 2014.

²² See: *Shawa Mahmoud*. Criminal Administrative Law. Cairo, 2009.

²³ See: Jordanian High Court of Justice. 2004.

²⁴ See: *Shatnawy Ali*. Op. cit.

²⁵ See: Articles 4, 5. The Crime Prevention Law No. 7 of 1954.

Also, the Trees and Plantations Preservation Law No. 85 of 1966 granted the administrative governor a judicial function represented in the power to consider attacks on trees and plants and to issue sentences that may include imprisonment in some cases. The decisions issued by him are judicial decisions. Article 15 of the aforementioned law stipulates that: "The judgments and decisions issued in accordance with the provisions of this law are considered as if they were issued by a regular court".

In addition, the Economic Crimes Law No. 11 of 1993, as amended, gave the Prime Minister the right to refer any of the crimes stipulated therein to the State Security Court in accordance with the powers assigned to him under the provisions of the State Security Court Law. The decision he issues under this authority is considered a judicial decision.

5. Permissibility of exercising the executive authority for some judicial actions

It should be noted that giving jurisdiction to the executive authority contradicts the most important legal principles. The principle is that the judiciary is the only competent one²⁶. The judiciary must be independent of the legislative and executive branches. A part of the legal jurisprudence went to say that any interference with the competence of the judge in connection with a particular case is an attack on his independence and impartiality. This interference may come from him in the form of taking away the case from the hands of its original judge and assigning another judge to consider it, which inevitably involves a violation of the independence of the original judge from whom it was taken away²⁷.

6. Dangers of social networks on elements of the public system

Elements of public order include public security, health, and public peace. These elements share their apparent and tangible character in the life of society. Therefore, the public order at this stage is described as the external and physical system of electronic social networks²⁸. Despite its digital nature, it has been proven that it carries many risks that could threaten those physical elements of a safe or stable life within society²⁹.

6.1. Dangers of social networks on the public security element

The widespread use of social networking sites, such as Facebook, Twitter, Instagram and WhatsApp, has led

to a major revolution that left its effects on all aspects of life. Among them is the national security of countries, which is facing new challenges and threats through the practice of crimes through the use of social networks³⁰. The concept of national security has expanded beyond the scope of confronting military threats and ensuring the protection of the homeland, its unity, territorial integrity and sovereignty, to other areas including political and economic stability, social harmony and environmental safety³¹.

Several new forms of crimes related to social media have emerged, including but not limited to the crime of electronic blackmail, the crime of threats and defamation, as well as the crime of financial piracy³². In addition to the emergence of types of dangerous games for youth and adults, some of which may cause the player to commit suicide or crimes, addiction or sex. For example, the game *The Blue Whale Challenge*, has caused several people to commit suicide worldwide. Likewise, terrorist organizations also used social media as a channel to exchange plans and information about making bombs and explosives and attacking targeted sites³³.

The Jordanian Court of Cassation, in its criminal capacity, ruled in its judgment No. 4232/2022 issued Feb. 15, 2023, that: "The actions of the accused consisted of following up the news and publications of the terrorist organization *ISIS* through the Internet via social media (Facebook) and getting acquainted with a number of people to talk about the legitimacy of the organization and that it is right and, convinced of their sinful ideas, decided to postpone his studies because it is forbidden to study at the university in addition to several personal reasons. So he stopped studying for three years and returned to his place of residence in the city of Irbid and continued to meet with a group of people in Al-Hosn camp who are supporters of the terrorist organization *ISIS*, to exchange talks with them about the legitimacy of that terrorist organization and its application of Islamic law. The accused was also following a number of pages that publish news of the terrorist organization on social networking sites (Facebook), and he in turn republishes that news to a number of his

³⁰ See: *Tricky Hassan*. Security Threats Related to Bad Uses of Social Media // Journal of Law and Political Science. 2014. No. 19. URL: <https://search.emarefa.net/detail/BIM-660849>

³¹ See: *Khalaf Khaled*. Judicial oversight of the work of the independent administrative control authorities. Master Thesis. Muhammad Al-Siddiq Bin Yahya University, 2012. URL: <http://dspace.univ-jijel.dz:8080/xmlui/handle/123456789/9822>

³² See: *Bukhari Ali, Taytus Fathi*. The role of administrative control authorities in maintaining public health (Corona Covid-19 virus as a model) // Journal of the Researcher for Legal and Political Studies. 2022. No. 6 (3). Pp. 1244–1258.

³³ See: *Al-Amili Siriy*. Judicial control over administrative control procedures in exceptional circumstances (a comparative study) // Journal of Education College Wasit University. 2022. No. 48 (3). Pp. 469–496.

²⁶ See: *Bosoul Omar*. Explanation of the crime prevention law. Amman, 2008.

²⁷ See: *Sorour Ahmad*. Constitutional Criminal Law. 4th ed. Cairo, 2007.

²⁸ See: *Ehab Khalifa*. Electronic Power: How Can States Manage Their Affairs in the Age of the Internet? Cairo, 2016.

²⁹ See: *Zaina Ait Ouazou*. A Critical Study of Independent Regulatory Authorities // The Legitimacy of Independent Regulatory Authorities. Constitutional Court Journal. 2018. No. 6 (2). Pp. 11–28.

acquaintances in order to gain more supporters for the organization. Up to the date of his arrest, he was supportive of the ideas of that terrorist organization because he was convinced of their validity. The court found that these actions are considered as promoting the ideas of a terrorist organization, improving its image, embellishing its ideas and disseminating them through the means used by the legislator with the aim of gaining the confidence of supporters and more proponents for the terrorist organization. His intent was also to find an incubator for the organization in the Jordanian arena and to deviate from the Jordanian constants towards terrorism and terrorists, with the accused's full knowledge that his actions are prohibited and criminalized by law, as well as his free and conscious will is directed to committing them. All of these constitute, on his part, all the elements of the charge against him, which requires that he be charged with this felony"³⁴.

In another ruling of the Jordanian Court of Cassation, in its penal capacity, No. 2838/2022 issued Oct. 18, 2022, it ruled that: "The material actions that the accused did were represented by following up on the news and publications of the terrorist organization *ISIS* through the Internet via social media, including publications and text files belonging to the organization that talk about how to manufacture IEDs and explosives, the pledge of allegiance to the Emir of the organization to hear and obey, his entry into Jordanian territory coming from the Kingdom of Saudi Arabia to settle in Jordan July 15, 2021, to promote the ideology of that terrorist organization among his relatives and friends, to convince them of the organization's ideas and legitimacy, to increase the number of supporters and advocates for it, and to create a popular incubator in the secure Jordanian society. The court found that these actions are considered as promoting the ideas of a terrorist organization, improving its image, embellishing its ideas for dissemination through the means used by the legislator, with the intention of gaining the trust of supporters and more proponents of the terrorist organization to create a popular incubator for the organization in the Jordanian arena, and deviating from the Jordanian constants towards terrorism and terrorists. With the accused's full knowledge of the nature of his actions, that they are prohibited and criminalized acts by law, and his free and conscious will is devoted to committing them, all the elements of the charge against him are formed, which requires that he be criminalized with this felony"³⁵.

6.2. Risks of social networks on the public health component

Using social media, such as Facebook, Twitter, Instagram, and WhatsApp, can negatively affect teens by distracting them, disrupting their sleep, and exposing

them to bullying³⁶. They are also used to spread rumors and unrealistic views on the lives of others. In addition, they are used to promote some foodstuffs, medicines, or cosmetics, which mislead and deceive the public about the goods by displaying materials that differ from what are delivered to it³⁷.

The Rusaifa Court of First Instance, in its capacity of appeal (Jordan), ruled in its judgment No. 1016/2021 issued Feb. 8, 2022, that: "In investigation with the above-mentioned defendant, he claimed that he has a strong relationship with olive oil merchants, especially adulterated ones. He did this through the social network by announcing that he has olive oil and that whoever wants to buy should call the number 0000. A group of people contacted him with the aim of providing them with olive oil for 50 dinars per tin. The accused A was the one who supplied him with oil and owned a warehouse in Al-Majar for 33 dinars. He claimed that his goal was only trade. On the evening of Monday, Dec. 9, 2019, he loaded 23 tins of olive oil with his above-described vehicle, which was provided by the accused A, in order to sell them to people in the Rusaifa area, at an amount of 50 dinars for one tin. He was accompanied by the accused A, who is his partner in the profit. When they reached the Rusaifa area, his vehicle was stopped by policemen. After the police found that they were carrying olive oil, they suspected that it was adulterated. So, they were caught and the oil was set to be tested. The accused denied knowing whether the oil was adulterated or not"³⁸.

6.3. Dangers of social networks on the element of public tranquility

The dangers of electronic social networks, despite their virtual nature, have many effects on physical reality, including the effect on public peace. Noisy celebrations and demonstrations that were previously called for through traditional means of communication are organized by well-known people with an acceptable number of participants³⁹. Today, as a result of social networks on the Internet, celebrations have become more dangerous for public tranquility due to the absence of specific organizers known to them, and the failure to notify public authorities about them, in addition to not specifying the number of participants in them. All of this may lead to the lack of framing of these celebrations

³⁶ See: *Wassim Shafiq Al-Hajjar*. The legal system for social media (WhatsApp, Facebook, Twitter): A comparative legal study on privacy, personal freedom, responsibility and jurisdiction. Beirut, 2017.

³⁷ See: *Barakat al-Suead, Faraq Saeid, Zumuli Naeima*. First Minister's administrative control powers in maintaining public order of the State "Practical applications to combat corona virus model" // Journal of Law and Human Sciences. 2023. No. 16 (1). Pp. 799–823.

³⁸ The Rusaifa Court of First Instance in its capacity of appeal (Jordan). 2021.

³⁹ See: *Miloud bin Abdel Aziz*. Moral and pornographic crimes via the Internet and their impact on society from a Sharia and legal perspective // Al-Wahat Journal for Research and Studies. 2012. No. 17. P. 164.

³⁴ The Jordanian Court of Cassation, in its criminal capacity. 2022.

³⁵ The Jordanian Court of Cassation, in its penal capacity. 2022.

and increase the possibility of them getting out of control and becoming a source of nuisance for the public⁴⁰.

The Jordanian Court of Cassation, in its criminal capacity, ruled in its judgment No. 2820/2019 issued March 17, 2020, that: "For this purpose, the members of the gang used the social network, in particular the WhatsApp program, and began sending random messages to numbers in the Gulf countries. These messages include that they have large amounts of valid dollars, that they got them from Iraq, and that they want to sell them at a lower price than the market price. They sent pictures of wads of dollars to these phone numbers in order to convince the victims that they had them. They also claimed that they had sheep for sale at below market prices. After several attempts, they were able to lure their victims to Jordan. Upon the victim's arrival in Jordan, the accused gang members with the initials M and G and the convicts K, M.N, N and A. share roles among themselves, headed by the accused M. The victim is hosted in the style of authentic Arab generosity and hospitality. Then the victim is shown a correct amount of dollars to increase the trust of these people. Then they ask the victim to sign fictitious contracts, such as buying goods, vehicles, or building blocks. The victim is persuaded that the purpose of this is to remove suspicion from them and him. After the victim is reassured by the accused M. and G and the convicts H, M.N, N and A (the gang members) as a result of their cunning fraudulent methods, the victim leaves the place to bring the sums of money for which he intends to buy dollars or what was agreed upon. Then they arrange to meet again. Often the meeting takes place at the home of the accused M (the gang leader). The victim hands over his money to them, and then they take that money to the inner rooms of the house in order to bring dollars for it. However, they exit through the back door of the house. After a short period of time, they call the victim and inform him of the need to leave the house and wait for them in places to be determined by them. After the victim leaves the house, they close the doors of the house, which is surrounded by walls. Most of their scams were done that way"⁴¹.

6.4. Dangers of social networks on the element of public morals

Electronic social networks pose great dangers to public morals in societies due to the weak censorship of their contents. Each user has ample freedom to post whatever they want. Because of the global nature of this network, the specifics of the value systems or public morals of each individual society are not taken into account⁴².

⁴⁰ See: *Shebeisheb Abdel-Wahhab*. Judicial control over (administrative) control authorities. Master's thesis, Mohamed Boudiaf University. Algeria, 2018.

⁴¹ The Jordanian Court of Cassation, in its criminal capacity. 2020.

⁴² See: *Al-Ahmadi Wajdi*. Judicial oversight of the work of the administrative control authorities // Arab Journal for Scientific Publication 2021. No. 1 (30). Pp. 426–456.

The Jordanian Court of Cassation, in its criminal capacity, ruled in its judgment No. 1429/2018 issued June 5, 2018, that: "The accused with the initial W published and sent his pictures and videos that he consensually filmed while having sex with his complaining wife to the accused with the initial A who, in turn, published it through social networks, accompanied by phrases and messages that are contrary to morals. As the filming is done by means of telecommunications devices and was sent and published by this means, what the defendant W and the accused A did, in legal application, constitutes all elements of sending insulting and immoral messages within the limits of Article 75 of the Communications Law. This act does not amount to the seriousness of the felony of indecent assault, as stated in the attribution of the prosecution, as the act of filming initially was done with the consent of the complainant. However, sending and publishing it by the accused W to the accused A and then publishing it by the accused A is the legally criminalized act in the manner in which the act took place. There was no proof in the prosecution's evidence that the filming was initially done without the complainant's consent. Thus, the act does not amount to the gravity of the acts of indecent assault. Accordingly, this necessitates amending the description of the charge ascribed to the accused W and A from the felony of indecent assault within the limits of Article 206/1 Penalties in terms of Article 15 of the Cybercrime Law to the misdemeanor of sending immoral messages, phrases and images within the limits of Article 75 of the Communications Law"⁴³.

As for the administrative detention decision exercised by the governor or administrator of the Ministry of Interior, this decision is subject to judicial oversight, and any person harmed by the administrative detention decision can review the administrative and criminal courts and request that this decision be canceled if it is found to be incorrect.

Consequently, it becomes clear that the Jordanian legislator must intervene by establishing a legal regulation for the use of social networks in a manner that does not contradict the elements of public order represented by security, health, tranquility and morals.

Conclusion

Administrative control seeks to ensure protection for any society by preventing prejudice to the prevailing public order, and achieving a set of goals, including maintaining public security by preserving the prevailing security in a society or state remaining undisturbed. Thus, security is achieved for the citizens who live in that society.

It is the responsibility of the executive authority responsible for administrative control to maintain society free from infectious diseases and to prevent them effectively, regardless of the source of infection, whether it is

⁴³ The Jordanian Court of Cassation, in its criminal capacity. 2018.

animal, human or natural, public tranquility by achieving calm in residential areas and eliminating disturbances that discomfort citizens, and public morals by preventing any transgression that affects morals and violates the customs and traditions prevailing in society.

In fact, it is necessary to exercise oversight over the bodies that carry out the function of administrative control so that they do not abuse the public authority granted to them and do not shift from protecting the public interest to protecting personal interests.

It is necessary to introduce legislation that obliges the administrative control bodies to make a greater effort in order to achieve its sole and primary goal, which is to preserve the system with its four elements, public security, health, tranquility and morals, and to exercise control over the means used by the administrative bodies so as not to affect the rights and freedoms of individuals in illegal ways.

The widespread use of social networking sites such as Facebook, Twitter, Instagram and WhatsApp has led to a major revolution that left its effects on all aspects of life, including the public order of countries that are facing new challenges and threats through the practice of crimes through the use of social networks.

As for the use of social media networks, there must be oversight by the state. Therefore, it is necessary to introduce amendments to the Jordanian Crime Prevention Law by adding legislative texts regulating control over the use of social media networks.

Finally, it is necessary to put in place legislation and controls to control the use of social networks that harm the state and citizens in order to preserve the elements of public order represented by public security, health, tranquility and morals, taking into account not affecting freedom of expression and publication.

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