

Legal Guarantees of the Laborer's Privacy Right in the Workplace

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Abstract:

This study dealt with the legal guarantees of the worker's privacy right in the workplace. It did so by highlighting the manifestations of infringement on the worker's privacy in his workplace and the violation of his privacy. It also shed light on the concept of privacy and its importance for the worker in the workplace, the distinction between it and the worker's professional life, guarantees of worker's rights in Jordanian legislation and Islamic law, and the dimensions of a worker's right of private life in the workplace. The study also focused on knowing the extent of the employer's authority in monitoring that restricts the worker's movements within the establishment according to specific laws that guarantee the preservation of the employer's interest and the preservation of the sanctity of the worker's private life and not violating his privacy.

The researcher used the descriptive approach to achieve the objectives of the study. The results of the study showed that the sanctity of private life is in danger in our era as a result of the modern and rapid technological developments that we are currently witnessing, which may make the private life of individuals vulnerable to violation, assault, and violation of the privacy of the worker in the workplace. The study recommended emphasizing the importance of protecting people's privacy by controlling the perpetrators of these crimes and the need to punish them in order to protect the public interest and public morals and ethics.

Keywords: guarantees, legal, privacy, worker, workplace.

Introduction:

Just because a person acquires the status of a laborer, the scope of his exercise of his rights and freedoms differs from those he exercised before acquiring this status. Moreover, the workplace enjoys privacy that may lead to a restriction or limiting of the worker's

exercise of his rights and freedoms. Sometimes the nature of the work controls the scope of this practice. The laborer receives great attention, both at the national and international levels. The reason is due to the extreme importance of work in human life. It is likely that most laborers work for the account, authority and supervision of the employers, and depend for their income and life on the wage paid for doing this work.

Because of the importance of work, national and international efforts have combined to set a general framework through which legal protection and guarantees for the rights of the laborer are achieved. The privacy of the laborer must be threatened in the workplace, whether this threat is minor or serious. These threats include, for example, being monitored by the employer, whether traditional or electronic monitoring, as it threatens the worker's private life.

It must be noted that the employer has the right to observe the laborer to know his ability to perform his work and know his professional behavior in the facility, and also has the right to maintain the workflow in the proper manner. However, he must not abuse this right and balance the observation tools in a manner that satisfies him and agrees with legal texts related to the success of the work of the facility and ensures that the privacy of the worker is not violated in the workplace. With the development of modern technological means, monitoring and investigation of the worker has become continuous, and it is difficult to determine where the worker's freedom begins and where it ends.

Accordingly, the worker's private life may be exposed to infiltration, either through investigation and monitoring, and collecting information and data through records and questions directed to him, or by monitoring his telephone calls and postal correspondence, and also through placing surveillance cameras. All of these aspects are considered as aspects of penetration of the privacy of the worker in the workplace.

Problem of the study:

The problem of the study is that the right to privacy or the private life of the individual is one of the oldest rights recognized by societies that worked hard to protect it by various means. All legislations ensured the protection of the privacy of the individual because of its special importance as it is related to human rights and freedom. Moreover, threatening the privacy of a person makes his whole life threatened by instability, especially in light of the advancement of modern technology that threatens the sanctity of private life everywhere

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and in various forms such as surveillance and photography. Among the sanctity of private life is the worker's right not to inspect everything that hurts his feelings, emotions, modesty and freedom, as long as it does not conflict with the interest of the work, the nature of the work, and the interest of the employer.

Questions:

The current study seeks to answer the following main question:

To what extent are legal guarantees applied to protect the worker's right to privacy in the workplace?

It also seeks to answer the following sub-questions:

1. What are the guarantees that guarantee the worker's privacy in the workplace, and do the worker really enjoy these guarantees in a realistic and practical manner?
2. What privacy should the worker enjoy in the workplace?
3. What are the aspects of infringement of the worker's right to privacy in the workplace?
4. What is the adequacy of national legislation to protect the worker's right to privacy?
5. What is the level of international efforts exerted in providing protection for the worker's right to privacy?

Objectives:

The present study seeks to achieve the following objectives:

1. To find out whether the worker has legal guarantees that protect his private life in the workplace or not.
2. To find out the extent to which these guarantees can be applied.
3. To highlight what type of privacy the worker should enjoy at the workplace.
4. To highlight the aspects of infringement of the worker's right to privacy in the workplace.
5. To show the level of adequacy of the national legislation to protect the worker's right to privacy.

6. To highlight the level of international efforts exerted in providing protection for the worker's right to privacy.

Hypotheses:

H1- It is hypothesized that the worker has legal guarantees that protect his private life in the workplace.

H2- It is proposed that the worker's legal guarantees are not applied.

H3- It is hypothesized that the worker's privacy is threatened at the workplace.

H4- It is hypothesized that the national legislation to protect the worker's right to privacy is inadequate.

H5- It is proposed that the level of international efforts exerted in providing protection for the worker's right to privacy is low.

The concept of the worker's privacy and the extent to which it is recognized in the workplace:

Attempting to find a comprehensive definition of the privacy of the worker in his workplace is very important in the sense that the idea of the privacy of the worker's life must be separated from his place of work and set separating boundaries between them so as not to be violated under the pretext of concern for work interests and responsibilities by the employer. The sanctity of private life in general enjoys legislative and legal protection in all countries, including Jordan and the Jordanian legislation and constitution, which urged the necessity of protecting private life.

Thus, the legislation in Jordan has provided a special protection for the worker's private life and protected it against any aggression in his workplace. This underlines the importance of preserving and maintaining the sanctity of the worker's private life. It also prompts us to identify the concept of privacy for the worker in general and its limits and the need to separate it from his professional life.

The Jordanian constitution guarantees individual rights and freedoms in Chapter Two of the constitution, which include natural rights attached to the human person, or those related to intellectual rights and freedoms. In this context, Article VII in Chapter Two of the Jordanian Constitution embodied the principle of protection and personal freedom, as it

stipulated that “personal freedom is safeguarded” and Article Eight stated that: “No one may be arrested or imprisoned except in accordance with the provisions of the law”.

The importance of protecting the privacy of the worker lies in the fact that the worker is one of the most important elements of production as well as the most contributor to advancing the wheel of economic development. In view of the complexities of labor relations in light of the tremendous development in the use of modern technology and the use of devices and computers and the importance of the worker’s private life and its close connection with his privacy and its impact on his productivity, the issue of protecting the worker's privacy is becoming increasingly important (Fatma, 2017).

Undoubtedly, the nature of change, innovation, and continuous development in the means of modern technologies in the field of work and in relation to private life makes it difficult to try to define a specific definition of the right to privacy, because of the breadth of its scope and the number of matters covered by this right and the actions that are considered infringing on it (Hassan, 2018). In this respect, privacy is defined as: “Any person who is seriously violated, and without the right of another person, that his affairs and conditions do not come to the knowledge of others, and that they are not presented for public viewing, is considered responsible to the victim” (Al-Ahwany, 1978).

The private life of the individual can be defined as: "Maintaining the private and family life of the individual away from exposure, or surprises from others without his consent. It is also defined as the security of the person over his faults and the faults of his family, which he is keen to be far from all forms of interference by others" (El-Gendy, 2006).

The right to privacy has been defined as: “The right of an individual to a secluded and unknown life. A person has the right to live far from people’s sight and from social constraints, meaning that a person has the right not to be social” (Qaid, 1988). The right to privacy is one of the inseparable rights that have been established for the human being, and that it is often difficult to enumerate the different aspects of it, and to distinguish with clear boundaries between what is considered a person’s private life and what is considered a public life for him (Hegazy, 2009).

Legal nature of the right to private life:

The worker's right to privacy in his workplace is considered one of the most important human rights, given that the human right to the sanctity of his private life is considered the

essence of personal rights and freedoms, which constitute the framework within which a person can exercise his right to the sanctity of his private life. These rights and personal freedoms in general must be available so that a person can enjoy his privacy and claim protection of his right to it (Awad, 1983). There is no doubt that privacy has not been specified in any statement in the constitution or in legislation, and the definition of the right to privacy is still one of the most delicate matters that raises controversy in jurisprudence and comparative law, since the legislation that stipulates the sanctity of private life has not, in fact, established a special definition of this right. In this respect, the Jordanian Constitution of 1952 provides articles that guarantee the protection of the private life of Jordanians, but it does not define it.

There is no doubt that the right to the sanctity of private life is a personal right and is considered one of the rights that are closely related to the human personality. This right is related to the natural appearance of a person's personality and his right to the integrity of his body and the preservation of his honor and reputation. Accordingly, there are a number of legal characteristics of the right to the sanctity of the worker's private life, the most important of which are: (Jordan, 2016).

The concept of privacy in the Jordanian labor law and the Jordanian constitution:

Based on the constitutional importance of the sanctity of private life, the Jordanian civil legislator hastened and stipulated in Article 48 that "everyone who has been subjected to an unlawful attack on one of the rights inherent in his personality may request the cessation of this assault with compensation for the damage he may have suffered"(Article 48, Jordanian Civil Code).

In 2015, the Jordanian legislator issued a law called the Cybercrime Law. This law includes 27 articles. It becomes clear by reading the various articles included in the Jordanian Cybercrime Law that some articles have been designated to protect private life, including Article (4) which punishes anyone who enables others to access data and information of others with imprisonment for a period of no less than three months and no more than a year and a fine of no less than (200) dinars and no more than (100) dinars. Moreover, Article (2) stipulates that anyone who intentionally takes pictures, eavesdrops, obstructs, alters, or deletes contents on what is sent through the information network or any information system shall be punished with imprisonment for a period of no less than three months and not more than a year in addition to a fine of no less than (200) dinars and not more than (100) dinars.

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The Jordanian constitutional legislator has approved, through the constitutional principles contained in the Jordanian Constitution of 1952, to protect all rights and guarantee and preserve all personal freedoms for every Jordanian citizen in Article (7) and the freedom to practice religious rites and beliefs in Article (20) and freedom of opinion, expression, press, printing and public safety in Article (22). It emphasized the right to address public authorities and in personal matters in Article (27) and to maintain the confidentiality of postal, telegraph and telephone correspondence and not to monitor them in Article (28) and other personal and private rights and freedoms, and to prevent aggression or transgression against them. (Abu Hajaila, 2007). The concept of professional life and the relationship between it and the private life of the worker in his workplace: There is no doubt that distinguishing between the worker's private life related to the sanctity of access to his secrets and data and his professional life means preserving work interests and responsibilities and the necessity of separating them and setting limits that cannot be crossed by the worker so that the sanctity of his private life is not violated under the pretext of preserving work interests. The relationship between the professional life and the private life of the worker in his place of work is affected by the privacy that the worker enjoys at his place of work. This means that the work needs to activate the professional life and its concept and its wide scope in the field of work in all its different fields. Moreover, the scope of the worker's right is determined in the private life and its relationship with the professional life according to the individual interest of the worker and the sanctity of his private life, the secrecy of his activities, and the extent of the employer's interest during his supervision of the worker in his workplace, and not to prejudice and infringe upon his private life, especially by modern advanced technological means, which were found to serve the work, its owner and the worker without interference in the rights, duties and interests of each of them at work and their private lives and their sanctity. It is the right of the worker to reside in a particular place, so that the employer is not allowed to interfere with the worker's private sanctity in his place of work (Ghannam).

The international system is based primarily on respecting and promoting human rights and fundamental freedoms for all people without distinction as to gender, language, or religion, and there is no difference between men and women. Among its most important principles are stability, peace, justice and security. Global and regional conventions have emphasized the protection of the right to private life, which highlights the international importance of the right to privacy (Rakha, 2005). Among the most important aspects of the

Universal Declaration of Human Rights is the right to the inviolability of private life in Article 12, which states that “No one shall be subjected to arbitrary interference with his private life, family, home, or correspondence, or to attacks on his honor and reputation, and every person has the right in the protection of the law from such interference, or such campaigns” (Human Rights, 2004).

By examining these articles, it becomes clear how much attention is paid to the sanctity of the human body and the preservation of its dignity and feeling, and that no person may be arrested, imprisoned, or exiled unjustly. It also shows us the extent of the international community's concern for the freedom of the person and the safety of his body (Aqli, 2011). These agreements, despite their traditional protection of private life, did not address the issue of protecting private life in light of the emergence and development of information technology and its acceleration. Therefore, they remain mere texts that protect private life in their imitation form, not in their modern forms. In general, the employer, with his wide powers as he holds a strong position, and based on the dependency relationship that brings him together with the worker, may violate the basic rights of workers, which led to the emergence of the International and Arab Labor Organizations in an attempt to contain the various violations and abuses that workers are exposed to in their workplace (Barkouki, 2011).

Aspects of infringement on the privacy of the worker in the workplace and how to protect it:

There is no doubt that the worker's private life has become in need of great protection and legal guarantees after violations of the worker's privacy in his workplace. In addition, the objectives of setting general guarantees to preserve this privacy seek to respect individual, private and collective rights and freedoms. In this context, the legislation states that there is no contradiction between the privacy of the worker in his workplace and the legal legislation, because maintaining the privacy of workers in their workplace will have an effective impact on maintaining security and public order in labor facilities (Bariq, 2017).

In light of the advancement of modern technology in this era, it is easy to obtain information stored on a computer linked to the Internet. Information can be exchanged between one computer and another. This would confirm that human transparency and privacy have become naked in front of the progress and development of modern science in the computer world. The confidentiality and privacy guaranteed by the automated system for data

processing is no longer a convincing argument for penetration of data, information and privacy related to individuals in general and workers in particular in their workplace, as cases of intrusion into the automated system have become an incoming and not impossible issue.

Aspects of infringement on the privacy of the worker in his workplace by the employer:

Undoubtedly, the employer has wide authority and multiple powers in the institution that he must maintain its continuity, progress and quality, and he has the right to monitor the movements of workers in the manner through which he is informed of the actions and activities of workers. Moreover, the means used by the employer to achieve this purpose vary in following up the workflow and monitoring the performance of workers, which may result in violating the professional framework and affecting the private life of workers and infringing on their privacy in their place of work. The aspects of this abuse are evident when the employer exercises his organizational authority by working to issue regulations, laws and instructions that contain texts and orders unrelated to the nature of work and increase its production.

Among the aspects of infringement on the privacy of the worker in his workplace by the employer are those methods that have to do with the development of work and its fields and the organization of its affairs through aspects of supervision and inspection of workers. These methods include the instructions and regulations issued by the employer, regulating the work, its limits, the scope of its work and its fields, which must be based on the separation between the worker's private life and his professional life.

Legislative instructions and regulations related to regulating the workflow and maintaining its quality are defined as the instructions and orders issued by the employer within his institution for which he is responsible and for monitoring the performance of its employees, and the extent of the workers' credibility in the performance of their work. The authority of the employer appears through these internal regulations regulating the work progress and performance, and a statement of the work required to be completed by each worker in particular and other workers in general within the institution's framework. Workers must abide by it and work according to the work contract concluded between the worker and the employer, which defines the nature of the worker's work, duties and rights, and not infringing on his private life and violating his privacy in his workplace in the sense that the worker's privacy in his workplace is related to his private life and the secrets of his home. These instructions and regulations are defined by conditions, the most important of which

include that they should not be in violation of the general order of work, public morals and morals, and that their implementation should not expose the worker to danger, violate his privacy in his family life, and be aware of his private sanctity. These instructions must be issued by the employer in accordance with a law and a clear and specific internal system with no special objectives in it, and they must be clearly announced to the workers, and the legislative regulations must be related to the workflow in accordance with the established and regulated goals to ensure efficient and effective work performance (Nadia, 1997).

There is no doubt that the employer has the authority to investigate the worker before concluding the contract with him and before he begins his work to ensure the worker's efficiency. He has the right to search for a qualified person to take up the required job, which requires specific skills and competencies to be known by interviewing the worker and collecting his information and data.

Therefore, the employer has the authority to monitor, direct, supervise and advise the worker within the institution, and he is also entitled to collect information about the worker within his responsibility and to ask questions and interrogate the worker in the event of his committing for fear of violations stipulated in the work bylaw. The employer also has the right to hold the worker accountable for his negligence in work and to direct blame and inquiries about the circumstances of the abuses that occurred from him if he violated the general agreement signed by him and concluded in the work contract. He also has the right to investigate the worker by asking questions to the workers who work with him to reveal the violation committed by the worker, intentionally or unintentionally. And the investigation requirements require this procedure, which is not considered an infringement on the privacy of the worker in his workplace, but rather is considered one of the work procedures and its nature and the nature of maintaining its progress as required. This matter may require the employer, after detecting the violation and the nature and circumstances of the violation, to direct disciplinary penalties to the worker for his negligence and violations that may impede the progress of work and limit production (Salah, 2010).

Within the framework of information technology, the seriousness of the information threat to the private life in general and to the privacy of the worker in his workplace in particular emerges. This danger is represented in the misuse of information and data related to individuals, especially workers in their workplace. It is difficult to limit the images and aspects of assault on the private life of the worker in his workplace, because it is constantly

evolving as a result of the development of information technology (Momani, 2008). Among the most prominent violations and infringements that may affect the right of individuals are related to the sanctity of their private lives, especially workers in their workplace (Al-Makawi, 2010).

Aspects of infringing the privacy of the worker by using his data in his workplace:

1. Using incorrect personal data related to workers in their workplace, and this would constitute an infringement on the worker's privacy at his workplace.
2. Collecting and storing correct personal data, but in a criminally unlawful manner, related to workers at their place of work, which represents an infringement on the sanctity of the worker's private life at his place of work.
3. Unlawful disclosure and misuse of personal data. This personal data is related to the workers at their place of work, which represents an infringement on the sanctity of the worker's private life at his place of work.
4. Violation of the formal rules regulating the process of collecting, processing and publishing personal data that fall within the scope of legislative protection for the privacy of workers' information according to the nature of their work.
5. Monitoring the worker's private communications within the organization. This aspect has become clear about the extent of the employer's infringement of the worker's privacy in his workplace and monitoring of the worker's communications in his workplace if he uses the work phone for purposes and privacy related to his private life outside work (Al-Amin, 2007).
6. Monitoring the worker's internet and e-mail and infringing his privacy under the pretext of the illegal work interest in following up on the worker's messages that are sent to him via e-mail. As for work-related messages, the business owner has the right to review their content and express his opinion on their necessity for work. As for the confidentiality of the employee's correspondence and his life, the employer is not allowed to see it because it is considered a privacy for the worker and it is not permissible to violate it and see its content.
7. Entering false data or information related to the worker at his workplace and that would prejudice the privacy of the worker, as by this means the employer can seize personal

data often related to the elements of the financial disclosure in order to achieve personal interests for him such as obtaining money for himself.

8. Electronic espionage on the private life of the worker at his workplace using a small program placed on the computer disks for subversive purposes such as completely destroying or modifying the data and information stored inside the computer. This is considered a violation of the privacy of the worker in his workplace.

9. Stealing the worker's information at his workplace and forging it.

10. Falsifying the worker's information by electronic intrusion into his private data at his workplace, as hackers attempt to enter the worker's information system where his life data is stored and sanctified, in order to access this information, which is often confidential, and breach it, or modify it, or add false information to it (Suzan & Otani, 2014).

Aspects of infringement on the worker by using his personal data at his place of work:

Aspects of infringement of the worker's privacy in the workplace, related to the use of incorrect personal data, indicate the manipulation or deletion of the worker's personal data by unauthorized persons. This manipulation or deletion is usually associated with realizing the material interests of the perpetrators, in addition to violating the confidentiality and sanctity of the worker's private life at his workplace (Al-Kaabi, 2009). It also includes the use of false personal data by legally authorized persons. In this case, negligence is often the reason behind the process of collecting, processing or publishing incorrect personal data by legally permitted persons, with the possibility of this happening intentionally related to workers in their workplace and infringing on their privacy in that (Ibrahim, 2011).

As for the aspects of infringement of the worker's right to privacy in the workplace, it is related to the collection and storage of correct personal data, but in a criminally illegal manner, and it is represented in the violation of the right to the private life of individuals in the process of collecting and storing correct data about them, but in an illegal and unlawful manner. This illegal collection or storage of information derives from the illegal methods used to obtain such data and information, or from the nature of its content related to the worker's privacy at his workplace.

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There is no doubt that the methods and methods of collecting or storing data and information is illegal and is a clear infringement on the privacy of the worker in his workplace. This attack has several methods, including (Bariq, 2017):

1. Capturing the vibrations caused by sounds in the concrete walls of the rooms, translating them and processing them with a computer equipped with special software to translate them into words and phrases.
2. Monitoring, intercepting, capturing and unloading messages exchanged via e-mail.
3. Connecting wires in a hidden way to the computer in which the data to be seized is stored.
4. Unlawful access to data files belonging to others.

In this respect, the Jordanian legislator mentioned in Article 5 of the Cybercrime Law the following: Anyone who intentionally captures or eavesdrops on what is transmitted through the information network shall be punished by imprisonment for a period of no less than three months and not exceeding one year and a fine of no less than (200) two hundred dinars, and not more than (1,000) thousand dinars, and the illegality of the content of the data that is provided, collected or Stored: Data and information of a personal nature are numerous and varied, given the nature of their content.

Results:

Based on a review of the legal texts related to guarantees of preserving worker privacy, the results of the study showed the following:

1. There is no doubt that the worker in Jordanian legislation enjoys many real and practical guarantees that will preserve his privacy in the workplace, the sanctity of his private life and distinguish it from his professional life, and there is no doubt that national legislation is adequate to protect the worker's right to privacy in his workplace.
2. The international efforts exerted to provide protection for the worker's right to privacy have removed all obstacles that prevent workers from empowering their rights, and combating the exploitation of workers' need to work to impose conditions and restrictions that are incompatible with the exercise of the right to work. This was done by preventing forced labor, protecting wages from not being paid, preventing the employment of children

who are under the working age, exploiting women's need to work in extortion, violating their sanctities, assaulting their purity and chastity, and other measures.

3. The right to privacy is one of the most important human rights. Despite this, it did not have a single definition suitable to work with in the field of law despite the existence of a number of international agreements that urge respect for the worker's privacy in his workplace, in addition to the remarkable level of international efforts exerted to provide protection for the worker's right to privacy in the workplace, and the issuance of many publications, brochures and books that aim to clarify the rights of the worker with regard to the sanctity of his privacy at work, and to follow up on the legal texts and guarantees issued in this regard in the field of protecting workers' rights.

4. The employer may not collect information and data about the worker or conduct monitoring of his movements and residences in relation to the sanctity of his private life within the labor establishment because this threatens the human dignity of the worker, and exposes the privacy of his life and exposes him to others, and this would negatively affect production and work.

5. The right to the inviolability of the worker's private life is considered one of the necessities of practical life, and it is a real aspect of human freedom because of its impact on strengthening and developing his personality in its various aspects. The right to privacy is characterized by a lofty position at the international level, as all international and regional organizations and bodies have been keen to ensure the necessary protection for it.

6. The sanctity of private life is in danger in our time as a result of the modern and rapid technological developments that we are witnessing today, which may make the private life of individuals vulnerable to violation and assault, as well as assault and violation of the privacy of the worker in the workplace, and the development of means of communication and the Internet has helped in a way on the development of the world and its qualitative transfer, and it has helped in the development of means of violating the privacy of the worker in his workplace through eavesdropping on individuals by governments and individuals alike.

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