Criminal Liability for Worker's Assault on the Employer by Beating or Humiliation According to the Jordanian Law

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Abstract

This study dealt with the worker's assault on the employer by beating or humiliation according to the Jordanian Law. The study of the worker's assault on the employer by beating or humiliation is a very accurate and difficult matter, as determining the form of assault by the worker controls many important legal influences. When is the act of beating or humiliation achieved that allows the employer to legitimately dismiss the worker? Does the employer own if he committed the act of beating and humiliation without investigation. This study dealt with the most prominent cases in which the worker assaulted by beating or humiliating the employer or any other person during work, leading to the worker's legitimate dismissal. Ultimately, this study found that defamation and slander must be added to the Jordanian Labor Law in order to make changes. To the pertinent article's text. In order to ensure the worker's safety, we hope that the Jordanian lawmaker makes it clear that the worker cannot be fired in the event of an assault until he has undergone an investigation by an unbiased committee.

Keywords: Criminal liability, worker, employer, assault, beating, contempt, legitimate dismissal.

Introduction

The Jordanian legislator has regulated the provisions of the Labor Law, including cases of dismissal of the worker by the employer legitimately, and there is no doubt that the dismissal of the worker in these cases is based on an act or behavior carried out by the worker in violation of the provisions of the Labor Law

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and the legislation and regulations issued pursuant thereto (Al-Maghribi, 2018), or a violation of the contract concluded with the employer, and among these cases in which the worker may be dismissed is the worker's assault by beating or insulting the employer or any other person during or because of work. Research in this last part to explain its system and its implications (Abu Shanab, 2006).

Study Questions

This subject raises many questions, the whole of which constitute the problem of the study, for example: When is the act of beating or insulting that allows the employer to dismiss the worker legally? Does the employer have the right if he commits the act of beating and insulting without investigation? Why did the legislator drop some acts associated with the crime of contempt, namely defamation and libel, from the context of the legal text? Was this an oversight or intentional? Can a worker be dismissed if he is assaulted for work? What are the controls on which this is determined? What is the position of the Egyptian legislator on these previously raised questions, is the approach of the Jordanian legislator's position? Or does it have a different attitude?

Methodology

We will focus in our study on the worker's assault by beating or insulting the employer or any other person during work, or because of it without addressing the cases of legitimate dismissal as a result of the worker committing other violations except to the extent necessary and incidental that this study eliminates (Gamal El-Din, 2007), and we will follow in our study the comparative analysis approach so that we address the relevant texts in the Jordanian and Egyptian laws with analysis and discharge to find out their contents and references, as well as the matter for judicial rulings to deduce solutions and drop them on the legal reality as we will analyze The content and criticism of the views of commentators (Ramadan, 2006; Al-Billeh, 2023a).

Photos of assault prescribed by the legal text

The relationship between the worker and the employer is considered a relationship based on mutual respect, subordination and supervision by the employer, as both parties have many obligations, and therefore if the worker violates this relationship by assaulting the employer or any other person, the employer has the right under the legal text to dismiss the worker without notice (Al-Angal, 2009; Al-Billeh, 2024a), and this is what the legislator regulated in the text of Article 28 /i among the cases that allowed the decision to dismiss him, and thus the law specified the forms of assault, and We look at these photos in detail and the people involved in the attack. This is based on the text of article 28 (i),

which stipulates that "if the worker assaults the employer, the manager in charge, one of his superiors or any other person during or because of work by beating or insulting".

Worker beating

Referring to the contents of Article 28/I alluded to above, we find that the subject of multiplication was explicit on the one hand. Since any assault by the worker must be reflected by a physical act, which is beating: and completely on the other hand. According to the concept of beating: it is any act that does not result in cutting or injuring and has several forms either by kicking, or sticking, and the degree of gravity of the beating varies, there is basic beating, and serious beating. Therefore, our legislator did not specify in the legal context what beatings are, whether it is simple or serious, so we find that it includes all types of beating and any physical act issued by the worker towards the employer falls under the concept of beating contained in the text (Ali, 1999).

This is contrary to what the Egyptian legislator argued in Article (8/69), which stipulates "If it is proven that the worker assaulted the employer against the general manager, if he committed a serious assault on one of his superiors during or because of work". Where we find that the legislator did not specify the nature of the assault, and did not require that the assault be physical, but only mentioned the serious assault on one of the bosses and the simple assault on the employer, and therefore did not specify the assault by beating or cursing, only mentioning the assault by the worker (El-Shawarby, 1995; Al-Billeh, 2022a).

But the question arises if the worker beats in self-defense, is the worker considered an aggressor? Here it is necessary to stand on the criterion of legitimate defense, which is required not to exceed the limits of defense Articles 60 and 89 of the Jordanian Penal Code refer to (Hassan, 1999). To the need for a danger or exposure that entails self-defense, and that the defense is appropriate with the assault or danger that occurred or by dropping it on the case of assault by the worker, when it is an exposure or danger by the employer or any worker or any person towards him, here the worker only has to defend himself and respond to this exposure where there is no other way to pay, for example, except by beating, and for example when the employer offers or Another worker trying to direct blows to the worker as a result of a verbal altercation between them here the worker only has to defend himself and prevent these blows directed at him (Khalifa, 2004; Al-Billeh et al., 2023).

In addition to the above, the act of defense must be proportionate to the gravity of the assault, so it is only appropriate to pay this exposure, and therefore if the worker expands or exceeds the limits of his defense and that there is no room for the implementation of the state of defense and the worker is an aggressor (Al-Hadithi & Al-Zu'bi, 2008; Al-Billeh, 2023b).

Worker abuse by contempt

The other form of the worker's assault on the employer or any other worker or person, is represented by contempt, and therefore it is necessary to identify the meaning and nature of contempt, because the text did not clarify the cases that can be considered contempt, but only mentioned "contempt" and there is no fixed standard to take it, which constitutes that the phrase contempt is a fertile field and the subject of ijtihad among commentators (Nammour, 2005).

For the purposes of referring to the true meaning of contempt, it is necessary to refer to Article (190) of the Jordanian Penal Code, which clarified the significance of contempt by considering it every insult, and takes several forms such as movements and drawing a face directly to a person (Najim, 2000; Al-Billeh, 2022b).

Accordingly, we conclude that what is stated in the Jordanian Penal Code and the opinion of the Court of Cassation applies to the meaning of contempt contained in article 28 (i) as a kind of analogy (Nammour, 2005).

But the question arises as whether it is possible to consider the raising of the voice by the worker against the employer as pejorative and can the verbal altercation and discussion with the employer or another worker or person also be considered pejorative and then the world is considered an aggressor and this entails his dismissal?

Some went to consider that talking out loud and that the altercation with words is not considered an assault by the worker, through the fact that this altercation did not carry any word that includes insults and insults, and this is also and for talking loudly or shouting by the worker as long as he did not issue any cursing (Hisham, 1973).

The Court of Cassation also affirmed that speaking out loud is not considered derogatory, and this is what was stated in its decision. "The conversation of the distinguished with his boss during their discussion of the subject of the warehouse key aloud – not clothed – does not constitute a contempt within the meaning of Article (190) of the Jordanian Penal Code".

Therefore, we observe that the Court of Cassation aimed to limit the authority of the employer by utilizing the concept of contempt without extending it, whether through statements made by the worker or their acts, and deeming them valid according to the applicable legal provisions (Abu Shanab, 2006).

For example, if the employer directs the worker to the worker with words that affect the dignity of the worker in front of his colleagues, and it results in the worker responding to him in the same terms or words that he received, here we get out of the concept of contempt and this is considered a defense of himself because the human being has dignity and respect that must be protected by all, but participates With this provocation to be on a high degree of severity to push the worker to respond to the words and phrases directed at him (Al-Maghribi, 2018).

Through a talk about the criterion of contempt, it is necessary to know the extent to which the complaint is considered a complaint by the worker against the employer if it is related to his person, does it reach the degree of contempt that we discussed earlier, here it is necessary to distinguish if it involves real facts such as that the employer is committing administrative violations, here this complaint does not rise to the state of contempt and here the worker is considered to be exercising a right guaranteed to him by the constitution, which is to inform the competent authorities of the violations that occur In the work environment by the employer. But if it involves false facts that are not true, such as accusing the employer of having a relationship with a political regime or having a relationship with the Jews, then the factories are considered aggressors, and this is confirmed by the Cairo Court of Appeal. In one of its decisions, which considered that the worker is an aggressor if he files a malicious complaint against the employer (Ramadan, 2006).

After addressing the concept of contempt and the criterion that must be adopted to consider the act as derogatory, we wonder about the occurrence of the word contempt alone, and what is the purpose of the legislator in not mentioning slander and slander? What if the worker slanders or slanders the employer? Is the legal provision applied to him and he is considered an aggressor and thus dismissed? (Al-Angal, 2009).

For the first stage, we see that this case does not apply to what is stated in the legal text, as it did not include slander and slander, but the legislator only mentioned contempt, and therefore it is necessary to know the concept of both slander and slander and whether it is similar to contempt, so the legislator only mentioned contempt, and to know the cause and purpose of that, it is necessary to refer to Article (188) of the Jordanian Penal Code, which differentiated between slander and libel, which considered that slander requires the attribution of an article, which is thus unlike libel, which does not need to attribution of an article as stated in Article (188) and therefore the insult differs from slander in that it does not include the attribution of a particular article and is thus consistent with the libel (Abu Shanab, 2006).

Furthermore, it is important to note that defamation and slander require public exposure in order for a crime to occur. In the absence of such publicity, no legal offence will be committed. This distinguishes them from insults, which do not necessarily require public exposure for the cause to be evident. For instance, in cases where a worker verbally abuses their employer or another individual, it is sufficient for the abuse to occur privately, such as through a text message, without the knowledge or awareness of others (Ramadan, 2006; Isa et al., 2022).

He added that the insult is directed directly at the person, unlike slander and slander, which may be directed at an unspecified person or perhaps ambiguous, and this is indicated in the third paragraph of Article (188) of the Jordanian Penal Code. This is not required in the case of assault by the worker, where we are going to know the abused person specifically from the beginning without researching the evidence and evidence, in addition to that we find that the insult and through the definition contained in Article (190) of the Penal Code referred to earlier, we find that it includes a picture of the heavy treatment and may fall under it many images that can be measured and expanded, for example, if the worker pushes the employer or another worker, these The picture falls under the heavy treatment. But despite what has been mentioned, defamation, slander and insult must be included in the legal context, as they are all considered crimes that affect human honor and dignity, and that we will be facing a state of legislative deficiency if the worker slanders and defames the employer or any other person's worker, is this legal text applied and the worker is considered an aggressor? (Al-Angal, 2009).

We also find that the Jordanian legislator has granted the employer full authority to dismiss the worker in the event of assault by beating and insulting without a judicial ruling, as article 28 / i does not include the obligation of a judicial ruling for the crime of contempt even though it is considered a crime and must be confirmed through the judiciary and issued a judgment for him, in addition to that it is not required to inform the competent authorities of the incident of assault, and with the right of the employer to file a lawsuit and file a criminal case. In this regard, we believe that there is an expansion of the employer's authority on the one hand, and a significant derogation in the worker's guarantees on the other hand, as the legislator has given in some cases mentioned in Article (28) the need for a final judicial ruling to dismiss the worker, as stated in paragraph G of the same article (Ramadan, 2006; Al-Billeh, 2022c).

Persons affected by the assault

Article (28/i) specifies the specific individuals who are targeted exclusively, without more elaboration. These individuals include the employer, the responsible manager, one of their superiors, co-workers, or any other person (Abu Shanab, 2006).

This is what the Court of Cassation followed in one of its decisions, which stated: "... Referring to Article (28) of the Labor Law, we find that it allows the employer to dismiss the worker without notice in cases specified exclusively, including paragraph (i), which states: If the worker assaults the employer, the manager in charge, one of his superiors, any worker or any other person during or because of the work by beating or insulting him." Where we find that the legislator in paragraph (i) has limited the assault committed by the worker to the persons enumerated by paragraph I only (Ramadan, 2006).

As for the expansion of the legal text by adding the phrase "any other person" and by standing on this phrase, we raise several questions: Is it possible to consider the postal employee who delivers mail to the institution? "DHL" Anyone, is it possible to consider the maintenance employee in the institution anyone else, is it possible to consider the food delivery employee "DELIVERY" Anyone else? (Ali, 1999; Al-Billeh & Abu Issa, 2023).

What if a brother visits his brother at his workplace to discuss a family dispute, for example, and it results in beating or cursing between them, here the punishment will be harsh on the worker and the employer can only implement the legal provision on him in the event that he assaults the people mentioned, and only because they are present during work (Abu Shanab, 2006).

We believe that there is injustice against the worker because of its social dimension, as it determines any dispute with any person within the work that results in his direct dismissal and thus cutting off his source of livelihood (Al-Angal, 2009).

We may find that what is stipulated in Article (17) of the Labor Law. The repealed is better than the one that currently exists, as it did not include the phrase "anyone else" and therefore there is no expansion of the text, which is elaborated in Article (28/i) of the current Labor Law (El-Shawarby, 1995).

In addition, Article (17) of the repealed law has linked insults and insults only to the employer or the director of the institution, and this cannot be applied to the ordinary colleague. This is in contrast to the current Article (28/i), which we find that Article (28/i) does not distinguish by actual aggression, is it a simple enemy or a serious attack? Is there a difference between the assault on the employer and the assault on the other worker or any other person, which is contrary to the Egyptian legislator, where Article (69/8) includes? of the Labor Law referred to earlier, that the assault is serious on the bosses, and only a small assault on the employer or the manager in charge (Al-Maghribi, 2018).

Check assault by worker

After talking about the images of assault, it is necessary to address to know the achievement of this assault and through what is included in Article (28 / i), which specified the occurrence of this assault during work or its cause, and accordingly we find that the legislator linked the assault committed by the worker to the employer or any other person, with a time factor represented by: B during work" and an objective factor, which is "the reason for work", so we will address in this hadith the subject of the achievement of assault by the worker in detail (Abu Shanab, 2006).

Check assault by the worker during work

According to the text of Article (28/i) referred to earlier, through which the legislator determines the time required to apply this case, which is to be during work, and the question arises what is the time specified for working for the employer? (Al-Angal, 2009).

In order to answer this question, it is necessary to refer to article 55 of the Labor Code, which obliges an employer who employs more than 10 workers to establish an internal regulation for the organization of work, including working hours from beginning to end (Gamal El-Din, 2007).

Therefore, the assault takes place during official working hours, so it is not outside working hours, in terms of "during work" (Al-Maghribi, 2018).

This was confirmed by the Court of Cassation in this regard in one of its decisions, which included "... The employer may dismiss the worker without notice if he assaults the manager or one of his superiors with contempt, in accordance with Article 28 (i) of the Labor Law, this shall be before the termination of the worker's employment, i.e. during work (El-Shawarby, 1995).

However, it must be noted that article 58 of the Labor Act is only mentioned on the basis of some persons from working hours and they are those who supervise the institution or the nature of their work is based on mobility and therefore their work is not limited to specific hours. Work at the time recognized by the nature of their work, so the legal text can be dropped and the employer is prevented from dismissing the worker from these categories and not others if they are assaulted (Ali, 1999).

Nevertheless, there is a concern regarding the occurrence of assault when workers arrive at their workplace. This uncertainty stems from the wording in Article (28/i), which references the occurrence of assault "during work." It is unclear whether this includes the time spent travelling to and from work. If the institution facilitates transportation for its employees via private or affiliated buses, and an assault takes place between a worker and a colleague during this transportation, where the assault is directly related to work-related procedures, does the legal framework encompass such a scenario and impose the penalty of dismissal on the worker? (Al-Angal, 2009).

We believe that this case may be based on what is stated in Article (28/i), even if it is outside official working hours, based as an analogy on what is stated in Article (2) of the Labor Law, which referred to the work injury that occurs during work and during going to and from it , and by dropping this on the assault by the worker on the employer or any other person while going to work or during his return from it gradually within the legal text in Article (28/i) provided that The assault relates to the time of going to and from the workplace, as confirmed by the Supreme Court of Justice in a decision requiring that the accident be during the commute and return to the workplace (El-Shawarby, 1995; Al-Billeh & Al-Qheiwi, 2023).

Assault during his arrival or during return from it is related to the mechanism of work, in order to prevent expansion that may be unfair to the worker if it is considered that any assault committed by him while going to or returning from work entails his dismissal accordingly (Khalifa, 2004; Al-Billeh, 2023e).

We also address whether every assault at work results in the separation of the world? Here, some argue that the assault at work does not require that the subject of the assault be related to work or not (Hassan, 1999; Al-Billeh, 2024b). The question also arises whether the assault committed by the worker is the result of the employer's violation of the provision of occupational safety measures committed to under the text of Article (85), which obliges the employer to provide all means of occupational safety for the worker, and as a result of their unavailability led to the worker knowing a danger, and because of that the worker assaulted the employer as a result of demanding the availability of these procedures, can the employer here dismiss the worker because of this assault despite the fact that The worker and his failure to object may endanger his life (Al-Hadithi & Al-Zu'bi, 2008; Al-Billeh, 2023c).

In view of the absence of a legal text covering these questions, we must refer to other texts in an attempt to find an answer to these questions and extrapolating the content of Article (89) of the Jordanian Labor Law, which gives the worker a claim for compensation for work injury, where the law gave the right to the worker to claim if the injury resulted from the fault of the employer, and since the employer is obliged to provide all means of protection and occupational safety for workers under the law, it can be analogous with this right and consider that the assault The worker on the employer has been done after the employer did not provide the occupational safety tools, so we believe that the employer cannot dismiss the worker in this case (Nammour, 2005; AL-Khalaileh et al., 2024).

With reference to the text of article 28 (i) of the Jordanian Labor Law, we find that our legislator specified the assault on the employer or any other worker or other person during or because of work, and we find that he stipulated that the assault occurred during or because of work, which is unlike the Egyptian legislator in article 69/8, where it was not required that the assault on the employer be carried out during or because of work. The worker may assault the employer at any time Appropriate, as for the assault for the bosses, the dismissal must be connected, but if it is not related to work, the worker is not considered dismissed (Najim, 2000; Al-Billeh, 2024c).

It is possible that we consider the approach taken by our Jordanian legislator to be the most favorable. In this approach, the scope of assault during work is restricted to matters directly related to work. This is believed to be more equitable compared to the Egyptian law, which grants employers the authority to dismiss workers for any assault, even if it is unrelated to work. Consequently, the worker is deemed the aggressor and is terminated. (Hisham, 1973; Al-Billeh, 2024d).

Conclusion

The Jordanian legislature fails to provide clear definitions, scope, and limitations for various forms of assault, including physical violence and verbal abuse, directed towards employers or any other individuals. The Jordanian legislature has specified the individuals who are considered victims of the assault carried out by the worker. These include the employer, their representative, any other worker, or any other person within the institution, either during or as a result of work.

The Jordanian legislator has dropped defamation and defamation from the case of assault committed by the worker in a way that he did not justify at a time when these are considered interrelated and concomitant with contempt. The Jordanian legislator did not differentiate between the gravity of the assault on the employer, other workers or any other person, as did the Egyptian legislator, who distinguished between the assault and the reality on the employer or other workers and stipulated that it be easy only, while stipulating that the assault on others be serious so that the worker can be dismissed. The legislator gave the employer full authority to dismiss the worker directly without a court ruling if the worker was

assaulted, and did not grant the worker the right to defend himself as a guarantee as defined in Jordan's labor law.

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