

## Law in the Corona and post-Corona Era, Flexibility and Efficiency Test of the Qatari Laws: Horizontal Overview

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### Abstract

Out of the sudden. Coronavirus – Covid-19 erupted few months ago to challenge all human traditions, health care systems, norms and life styles. Given the fact that the pandemic is still in the process of spreading, it seems early to predict the extent to which it will change human perspectives in dealing with universal crisis, and to say the least, Coronavirus pandemic will strictly tests human readiness and ability to foresee and face challenges presented by any factor threatening human beings worldwide.

Despite the fact that Coronavirus pandemic is a global disaster that the world still struggling with, there is a story to tell about the State of Qatar legal response to the Covid-19 crisis. The Qatari experience in confronting Coronavirus crisis has many points of strengths and weaknesses. These strengths should be enhanced and adopted while and weaknesses may be improved to ensure readiness, flexibility and efficiency while confronting challenges affecting society at large.

The ongoing Covid-19 pandemic presents tremendous challenges to the state and its legal framework; almost all branches of law face these challenges at different levels. Applying a horizontal overview, this Article will briefly present and critically assess the Qatari legal response to the crisis to draw the attention of competent authorities to enhance, strengths, and overcome weaknesses, which ultimately will improve flexibility as well as efficiency of its national legal frameworks in times of crisis.

**Keywords: Law, Crisis, Covid-19, Coronavirus, Flexibility and Efficiency test, Qatar Laws**

### Preamble

In the last few months the world has been suffering from the eruption of a dangerous diseases caused by Coronavirus medically known as Covid-19<sup>1</sup>. Starting from the city of Wuhan in Chania and spread throughout the world in the course of few weeks causing millions of causalities and hundreds of thousands of deaths<sup>2</sup>. While Qatar and the world is still in the confrontation field, this article will review the national experience of the State of Qatar in dealing with the crisis from different legal perspectives to highlight its strengths and weaknesses and suggest ways to overcome it shortcomings. Certain figures and facts made Qatar distinguished in its response to the Covid-19 pandemic.

Although Qatar has one of the highest rate of casualties in comparison with its population<sup>3</sup>, but this fact was not reflected by the death rate connected to the Covid-19 pandemic; in the contrary, Qatar has one of the lowest rate of death linked to the pandemic. This may reveal certain reflections about the efficiency of Qatar health care system, and the effectiveness of the states' response to the pandemic<sup>4</sup>.

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<sup>1</sup> There is a growing debate on Covid-19 issue; some argue that the virus is humanly manipulated, whereas other believe that it is naturally developed. Other also doubted the overreactions applied by some states, and there are different theories and controversy over this issue. This research is only concerned with the legal aspects of the pandemic and more precisely with the measures adopted by the state of Qatar to deal with the pandemic. The debate on the validity of the Covid-19 pandemic is not the concern of this study; rather it explores a wider perspective on the legal issues and the role of the law in the time of crisis being it pandemic, natural catastrophes, war, etc.

<sup>2</sup> The most recent official figures as announced by the World Health Organization, <https://www.who.int>

<sup>3</sup> According to the World Health Organization data and updates on Covid-19 Pandemic, <https://covid19.who.int>

<sup>4</sup> The population of Qatar as of August 2020 is around 2.7 Million people; 14.30% less than 15 years, 10.79% between 15 to 24 years, 73.57% between 25 to 64 years and only 1.34% above 65 years, and according to health experts, young people are more

## 1. Gradually Confronting the Pandemic

The State of Qatar applied gradual approach to confront the crisis by adopting certain measures and restrictions. These measures ranged from soft and partial lockdown to comprehensive but temporary lockdown to (Mosques, Malls, educational institutions i.e. schools and universities, public beaches and attractions), reduction of working public servants in the governmental departments and also compulsory quarantine measures to all arrivals and suspected Covid-19 victims. This approach started with a prompt response to the World Health Organization declaration, which classify Covid-19 Virus as a universal pandemic on March 2020 following the widespread cases registered in tens of States all over the world's continents.

## 2. A High Ranked National Crisis Management Committee

From an early stage of the crisis the State of Qatar, decided to form a high ranked official committee to act as national crisis management team<sup>5</sup>. The Supreme Committee for Crisis Management chaired by the prime minister, with fifteen ministers and high ranked officials as members. The committee represents the Qatar national official platform to deal with crisis - affecting the nation - of all kinds.

According to the prime minister decision forming the Supreme Committee, the committee shall act as the national executive body to manage crisis's and catastrophes that occur and/or threaten to occur in the country, set and implement plans, issue directives, prescribe restrictions and take any necessary measures as deemed appropriate in the whole country<sup>6</sup>. It is worth mentioning that according to Article 3 of the decision, the committee should have a spokesperson to deal with media on behalf of the committee and to present any information, data, and decisions relevant to committee work. This transparency seems to be efficient in raising the awareness on the crisis and the role of every individual to protect himself and others by adopting precautionary measures and comply with the instructions issued by the competent authorities.

In line with its efforts to confront the pandemic, the state of Qatar launched awareness campaigns by different media outlets i.e. distributing health kits, personal precaution and safety equipment and leaflets for workers around the country. Above all, a daily briefing on the pandemic status conducted by the Supreme Committee for Crisis Management spokesperson and other specialists in healthcare and pandemics' affairs. Following the instructions issued by the Committee, All public and private sectors departments and companies put in place precautionary measures to minimize the risk of infection in daily life supplements and work streams.

One statement can briefly summarize the Qatari approach in confronting the pandemic crisis: Public Health first, Awareness second, Law third. This equation applied by Qatar worked well, and resulted in relatively speedy recovery and gradual rescission of the pandemic that led within the course of four months to a gradual plan to reopen of economy and other daily life facilities.

Certain precautionary measures still applicable such as wearing facemasks and hand gloves, and applying a policy of social distancing in public places. Moreover, a period of 14 days in home quarantine was applied on individuals if infected or suspected with Covid-19. In addition, a mandatory smart phone application called "EHTELAZ" was developed to follow up on the latest updates of COVID-19 Coronavirus in Qatar and every adult with smartphone has to install and present this application on his/her smart phone upon the request of competent authorities and security officers. Imprisonment up to 3

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likely to resist and overcome the virus. For more information regarding Qatar fact and figures see the official website of Qatar Planning and Statistics Authority, <https://www.psa.gov.qa/en/Pages/default.aspx>

<sup>5</sup> Prime minister decision no 4/2020 on the organization of the Supreme Committee for Crisis Management, available online in Arabic at: <https://almeezan.qa/LawPage.aspx?id=8338&language=ar>

<sup>6</sup> According to Article 2 of the decision no 4/2020 there are 10 wide competences entrusted to the Committee, these competences are not exclusive. Therefore, the Committee may act within its mandate out of these prescribed competences.

years and /or a fine of up to 200.000 Qatar Riyals is applicable in case of violation.<sup>7</sup> It has been mandatory to install and activate the Ehteraz app when leaving the house for all citizens and residents in Qatar since 22 May<sup>8</sup>. A green updated Ehteraz status has been a requirement to enter work places as well as access public places.



### 3. Criminal Law in light of Covid-19 crisis: New norms of crime

In its endeavor to confront the pandemic, Qatar promulgated an urgent amendment to the Decree Law No. 17 of 1990 on Protection from Infectious Diseases<sup>9</sup> to include Covid-19 in its application, and introduce certain measures and offences accordingly<sup>10</sup>. From a public health perspective, this Law provides a comprehensive legal response to deal with infectious diseases. According to Article 21 as Amended by Law 9/2020, certain obligations were added to the law, article 3 of the law no 9/2020 provides that “in addition to Decree-Law No. (17) Of 1990, the following two texts are added, Article (six Duplicate reads as follows:

"Everyone who has been isolated or subjected to health surveillance by the competent health authority, in accordance with the provisions of the previous article, must remain in the place of isolation specified by that authority and adhere to the established isolation and monitoring procedures". Moreover, new paragraph was added to Article 10. This new paragraph reads as follows, "The Council of Ministers, based on the minister's proposal, and with the aim of curbing the spread of the infectious disease, may take appropriate general measures and measures to maintain public health, including imposing restrictions on the freedom of people to gather, move, reside and pass in certain places or times".

Article 4 of the original law was replaced by a new text, which provides for the following:

“The duty of reporting stipulated in the previous article rests on:

<sup>7</sup> EHTERAZ has been designed and developed in the Ministry of Interior to support all categories of the Qatari community to spread the health awareness tips and techniques as well as the protection methods that are necessary to halt the outbreak of Coronavirus. EHTERAZ is meant also to give a hand to those people that are responsible for their families in their endeavors to protect their love ones, and to support healthcare and related entities in order to protect the safety of individuals and that of the Qatari community from this pandemic virus at large.

<sup>8</sup> The Government Communications Office of Qatar, <https://www.gco.gov.qa/en>

<sup>9</sup> The amendment come into force on 26/3/2020.

<sup>10</sup> Decree Law No. 17 of 1990 on Protection from Infectious Diseases, available in English at Qatar Legal Portal, <https://www.almeezan.qa/LawPage.aspx?id=2682&language=en>, and the law no 9/2020, <https://www.almeezan.qa/LawPage.aspx?id=8275&language=ar>

- 1- Every physician who examines the injured or suspected of having an infectious disease,
- 2- The injured,
- 3- The head of his family or whoever is sheltering him
- 4- The director of the university, institute or school or his representative,
- 5- The direct boss at work if the injury occurred or was suspected of having occurred while it was being performed,
- 6- The one who brought the expatriate, whether injured or suspected of being infected inside the country or abroad, when he/she know the case”.

Finally, Article 21 of the original law was also replaced by a new text, which provides for what is reported by media outlets to be the most severe punishment in the world relevant laws<sup>11</sup>. Article 21 as amended provides that: “Without prejudice to any more severe punishment stipulated in any other law:

1- Violation of Articles 3, 4, 6, 7/2, 7/3, 8, 11, and actions and measures taken by the Council of Ministers in accordance with Article 10 / last paragraph, shall be punished by imprisonment for a period not exceeding three years, and a fine not exceeding (200,000) two hundred thousand Qatari riyals, or one of these two penalties.

2- Violation of the provisions of Articles 15 / last paragraph, 16, 17, shall be punished with imprisonment for a period not exceeding one month, and a fine not exceeding (10,000) ten thousand Qatari riyals, or one of these two penalties. The same penalties shall be imposed on violating the decisions issued in implementation of the provisions of the articles referred to in the previous two clauses.

It is worth mentioning that law did not use the term pandemic<sup>12</sup> or epidemic, but use the term infectious disease, which give the law a wide and flexible scope to deal with threats to public health even in certain limited cases or even individual case. In fact, using the terms pandemic or epidemic would technically limit the scope of the law to cases were it fit into the definition of the pandemic or epidemic; by virtue of interpretation rules set for legal terms and texts .

In addition to this special law, criminal law has a role to play in confronting Covid-19 pandemic; many provisions in the Qatari Penal code are of potential application in this context. For example, article 252 of the Qatari penal code provides that: “Whoever purposely commits an act that might cause the spread of an infection or an epidemic shall be punished with imprisonment for a term not exceeding fifteen years. The penalty shall be capital punishment if this act results in the death of any person”<sup>13</sup>. Article 253 further provides that: “1- Whoever accidentally spreads an infection or an epidemic shall be punished with imprisonment for a term up to three years and/or a fine not exceeding ten thousand Qatari Riyals (QR 10.000). 2- A prison term not exceeding seven years and a fine not exceeding twenty thousand Qatari Riyals (20.000QR) shall apply if this act causes death”.

Article 177 may also have potential application in the context of Covid-19 pandemic is Article 177 of the Qatari Penal Code. This Article states that: “any physician or midwife requests or accepts for himself or another party a donation or a privilege of any kind or a promise, for giving false evidence in the case of pregnancy, birth, disease, handicap or death. Or gives evidence thereof as a result of request,

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<sup>11</sup> See for example, Coronavirus pandemic: Qatar rolls out harsh penalty for not wearing masks, <https://www.foxnews.com/world/coronavirus-pandemic-qatar-rolls-out-harsh-penalty-for-not-wearing-masks>, and Qatar imposes mandatory masks on pain of prison, available online at: <https://www.globaltimes.cn/content/1188695.shtml> , Also, Wear a mask or face jail in Qatar, available online at: <https://www.arabnews.com/node/1676111/middle-east>

<sup>12</sup> Pandemic is defined as “an epidemic occurring worldwide, or over a very wide area, crossing international boundaries and usually affecting a large number of people” whereas epidemic is defined as “A widespread occurrence of an infectious disease in a community at a particular time”. A *Dictionary of Epidemiology*, available online at: <https://www.oxfordreference.com/view/10.1093/acref/9780195314496.001.0001/acref-9780195314496-e-1373?rskey=awgaPB&result=1372>

<sup>13</sup> Law No. 11 of 2004 Issuing the Penal Code, Qatar Legal Portal <https://www.almeezan.qa/LawPage.aspx?id=26&language=en>



recommendation or intercession, shall be punished with imprisonment for a term not exceeding five years.

The provisions of Article 173 hereof shall apply if the false testimony resulted in a sentence of imprisonment or death<sup>14</sup>. In addition, Article 207 provides that: “Any doctor or midwife who issues a forged certificate or statement concerning pregnancy, birth, disease, deformity or death or any other thing related to this profession shall be punished with imprisonment for a term not exceeding five years”.

Another kind of criminal offences that become applicable due to the counter covid-19 measures is breakings the rules and restrictions of home isolation committed by individuals in quarantine. Article 253 of the Qatari Penal Code, which provides that, covers this offence: “1- Whoever accidentally spreads an infection or an epidemic shall be punished with imprisonment for a term up to three years and/or a fine not exceeding ten thousand Qatari Riyals (QR 10.000). 2- A prison term not exceeding seven years and a fine not exceeding twenty thousand Qatari Riyals (20.000QR) shall apply if this act causes death”.

It is worth mentioning that The Qatari Attorney General issued a decision to establish the Health Prosecution, as part of the precautionary and preventive measures taken by the state to preserve public health and community safety. The establishment of the health prosecution was unprecedented in the State of Qatar and the region with the aim to monitor individuals and institutions compliance with precautionary health measures<sup>15</sup>. The decision to establish the Health Prosecution comes to deter violators of public health laws, and the new Prosecution office will be responsible for investigating all health-related crimes, especially the violation of the provisions of the following laws:

- Law No. 11 of 1982 regulating medical treatment institutions.
- Law No. 2 of 1983 regarding the practice of the profession of medicine, dental medicine and surgery and its amendments.
- Law No. 3 of 1983 regulating pharmacy professions, agents of pharmaceutical factories and companies, and its amendments.
- Decree-Law No. 17 of 1990 on the prevention of infectious diseases.
- Law No. 3 of 2014 on packaging and serving human food.
- Law No. 15 of 2015 regulating the transportation and transplantation of human organs.
- Law No. 16 of 2016 regarding mental health.

#### **4. Covid-19 Pandemic from a Civil Law perspective**

Under the umbrella of civil law, contract occupies significant importance since it is the main source of civil “financial” obligations. Civil law usually provide for the general theory of contract, its classifications, pillars, requirements and effects, and then provide for special regulation contracts, that are most common and raise legal disputes; such as sale of goods, lease, labor, mortgage, insurance and contract.

Certain contracts that requires time for its implementation usually trigger more disputes, because the relationship between the contracting parties remain through the implementation of the contract, and the potential change in the circumstances during implementation of the contract due to hardship or force majeure.

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<sup>14</sup> Article 173 of the Qatari Penal Code provides that: “Whoever, being a witness, gives false testimony that lead to the imprisonment of the accused, shall be punished with imprisonment for a term up to seven years and a fine not exceeding fifteen thousand Qatari Riyals (QR 15.000). If the testimony has the consequence of passing a judgment against the accused inflicting capital punishment, the witness shall be punished by capital punishment”.

<sup>15</sup> Qatar establishes Health Prosecution, Gulf Times Newspaper, 24, March 2020, available online at: <https://www.gulf-times.com/story/659156/Qatar-establishes-Health-Prosecution>

In the contract's context, Qatari Civil Law provides for two important solutions to deal with the exceptional circumstances that may occur in the course of contract execution. These solutions are the theory of hardship or "exceptional circumstances", and the theory of force major<sup>16</sup>. They seriously raise the question about the possibility to legally "quarantine" or rescind the contract.

According to Article 171 of the Qatari Civil Code provides for the theory of hardship by stating: "*Pacta sunt servanda* i.e., a contract duly and properly concluded between the parties must be executed, and non-fulfilment of the respective obligations is a breach of that contract. Such a contract may be rescind or altered only by mutual consent of the parties or for reasons provided for by law. Where, however, as a result of exceptional and unforeseeable events, the fulfilment of the contractual obligation, though not impossible, becomes excessively onerous in such a way as to threaten the obligor with exorbitant loss, the judge may, according to the circumstances and after taking into consideration the interests of both parties, reduce the excessive obligation to a reasonable level. Any agreement to the contrary shall be void"<sup>17</sup>.

As per Force majeure theory. It receives the attention of the law in Article 188 of the Qatari Civil Code. This Article reads as follows: "In contracts binding on both parties, where performance of an obligation by one party is extinguished by reason of impossibility of performance due to force majeure beyond the control of the obligor, such obligation and correlative obligations shall also be extinguished and the contract deemed rescinded *ipso facto*. Where such impossibility is partial, the creditor may either enforce the contract to the extent of such part of the obligation that can be performed or demand termination of the contract."

The two theories are similar in that characteristics of the event that may be considered hardship or force majeure, but there are differences on the effect that event leaves on the contract and the obligations of one party or both. Another major difference between Hardship and Force majeure is that, according to Article 258 of the Qatari Civil Law, "the parties may agree that the obligor shall bear liability for force majeure or unforeseen incident", while this agreement is not acceptable in regard of hardship.

Apparently, the measures adopted by the government in the aftermath of the Covid-19 pandemic to confront it and to protect public health involved the conditions and requirements where both theories may be applicable according to the circumstances of each case and the discretion of the competent courts. The facts on the ground are of great importance to judge the effects of such measures on the contract. Therefore, the study encourages Qatar judiciary to apply a case-by-case approach to assess the circumstances of each case and decide disputes accordingly<sup>18</sup>.

In this regard, the study suggests that, the parties of the contract may be the best judge to solve their contractual disputes relevant to the Coronavirus crisis. They can do that by implementing the principle of good faith and through the introduction of an obligation to renegotiate contract terms<sup>19</sup> in order to be more compatible to the facts on the ground. Alternatively, courts are advised to settle relevant disputes

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<sup>16</sup> Interestingly, both theories find their origin in Islamic sharia. The Holy Qur'an generally referred to force major as a reason to exempt debtor from his obligation toward the creditor. This is clearly apparent in Surat Yusuf - Aya No 66 when Allah SWT said: "Jacob said: "Never will I send him with you until you give me a promise by Allah that you will bring him back to me, unless you should be surrounded by enemies. And when they had given their promise, he said, Allah, over what we say, is Witness". The Holy Qur'an also referred to the theory of exceptional circumstances in Surat Albaqra in Aya 280. Allah SWT said: "And if the debtor is in a hard time (has no money), then grant him time till it is easy for him to repay, but if you remit it by way of charity, that is better for you if you did but know". For more about this see Aref AlJanahi, "Application of Hardship theory in Sale Contract with installments and Morabaha in Islamic Fiqh and Law", 2019, Sharjah Journal of Sharia' and Islamic Studies, V 16, Issue 1, pp 126-164 Available online at: <https://www.sharjah.ac.ae/en/Research/spu/Journalsharia/Documents/V16/Issue%201/5.pdf>

<sup>17</sup> Law no (22) of 2004 Regarding Promulgating the Civil Code, <https://www.almeezan.qa/LawPage.aspx?ID=2559&language=en>

<sup>18</sup> Abdelnaser, Hayajneh, "Contracts in Light of the Coronavirus Pandemic: An Opportunity for Reflection, Legal and Judicial Creativity", April, 2020 A news Article, published online at: <http://www.rumonline.net/index.php?page=article&id=508546>

<sup>19</sup> Unfortunately, the Qatari Civil Law did not provide for the obligation to renegotiate and this crisis may be a good time for the legislator to introduce such obligation.

in a case-by-case manner and in light of the general and governing principles of civil law i.e. fairness, good faith, and contractual stability.

Contracting parties for their part may better anticipate future circumstances of different nature and decide their arrangements to face any potential change in the circumstances that prevail in the time at which they conclude their contract. Such anticipation will work better than any other external interference and avoid disputes or keep it at the minimal level.

In contractual context, the formation of contracts should receive due attention; because in light of the Corona pandemic and the measures taken by the State of Qatar and almost all world states, the movement and travels of individuals become less possible or completely forbidden. Moreover, confrontation restrictions negatively affect the ability to work and organize exhibitions and trade's activity. In the one hand, these arrangements expands e-commerce and e-payments arrangements and all forms of digital transactions<sup>20</sup>; and in the other hand, such expansion requires up-to-date legal frameworks to regulate and control e-transactions.

In Qatar there is a special law regulating electronic transactions, within the general rules of civil law, the main pillars of e-contract are the same of the traditional contracts, which means that the consent (offer and acceptance), consideration, cause and any required formality in the e-contract are the same in traditional contract. The special rules for e-contract include determining the time of contract conclusion, proof of the contractual relation, and to certain extent the method of contractual obligation execution and e-payment if applicable.

Given the advantages of e-contract in general and particularly in the time of crisis, the legislator is invited to revisit the law of e-transactions to improve and introduce any required provisions to regulate e-payments, rules of proof and the obligations of the e-contract parties.

Within the civil law, the Coronavirus pandemic may also raise issue related to unlawful conduct. The doctrine of civil liability entails the commission of fault in the defendant part that causes damage to the plaintiff. The concept of fault is crucial and wide enough to encompass unlimited norms of misconduct. An apparent norm of fault can be violating the public health restrictions and measures that the national competent authorities may issue to avoid infection and combat the spread of infectious disease like Coronavirus. Such measures may be a partial curfew in certain times or comprehensive range-ban, gatherings ban, and certain precautionary measures while being outside, or while gathering or communicating with others, and any kind of violation to the public health preservation.

The only condition required in this regard is the fact that such violation causes damage to another person, in the case of infectious disease threatening the health of the public in itself can be considered as being sufficient to fulfill the requirement of harm since – according to circumstances can deteriorate the state efforts to combat the spread of pandemic. The potential harm in such case is to be considered sufficient in terms of making the violator responsible for any harms that is reasonably resulted from his misconduct without having a certain damage being occurred thereof.

Another point that court should take into consideration while deciding civil liability disputes is the causal link between the misconduct of the defendant and the injury of the plaintiff. Under the traditional rules of civil liability, a plausible causality is required between the defendant conduct and plaintiff injury to establish liability and get compensation. This traditional requirement has to be accommodated to allow the establishment of defendant's liability even where there is a mere or reasonable probability that the defendant conduct may cause or have caused the plaintiff injury.

The risk of transferring infection is valid in itself to constitute unlawful act, criminal law provisions support this idea since it consider such an act a crime under the penal code requirements

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<sup>20</sup> Most contracts conducted during these exceptional circumstances took the forms of e-contracts, i.e. contracts that are concluded remotely via modern and digital tools and media.

Another issue in the case of civil liability dispute relevant to the Coronavirus is the time required to file the case before the court. In solving this procedural issue, and based on the possibility of filing the case as prescribed by the law, this important procedure should be made permissible online if applicable, or the timeline offered by the law to do so should be extended until it is possible - or at least reasonable - to initiate proceeding safely in the traditional forms.

### **5. Civil Procedural law in lights of Covid-19**

Upon the eruption of the pandemic and following the precautionary measures adopted by the state of Qatar. The Supreme Judicial Council decided to suspend all litigations and courts' proceedings in the Court of Appeal, Court of First Instance, and the judicial and semi judicial committees<sup>21</sup>. Further, the council partially moved to distant adjudication and in a later stage to apply restrictive measures in the courts during litigation and other courts' proceedings. Meanwhile a decision issued by the Supreme Judicial Council to deal with the judicial dates specified by the Civil and Commercial procedural law<sup>22</sup>. Some date are suspended, others are extended besides certain arrangements to review urgent and interim cases; so that the right to sue or to have fair trial better be served by such suspension or extension.

These restrictive measures applied show the need to conduct a due review of court's traditional proceedings and the urgent need to introduce certain and appropriate procedures for distant adjudication i.e. submitting pleas and petitions, notification's rules, and other procedures during proceedings formalities, as well as regulating digital documentation and evidence. This review is needed in light of Covid-19 pandemic and any potential national emergency to allow judiciary, lawyers and parties to do justice according to principles of due process and to ensure effective and meaningful individual's right of access to justice<sup>23</sup>.

As per the Qatari Civil Law itself, it provides for many articles related to prescription in civil transactions throughout the law<sup>24</sup>, for example, contracts, civil liability, and rights in rem rules, these rules are of procedural significance. They also need special attention while conducting such review to clearly deal with situation where pandemic or epidemic erupts and entail complete or partial lockdown in the justice facilities. The main issue that needs to be addressed in this regard in the suspension and/ or extension of the limitation dates prescribed by the law to allow cases and appeals after the elapse of the ordinary limitation periods.

### **6. Human rights and Freedoms under Quarantine**

Qatar's authorities apply some restrictions on travel and movements of individuals to control the spread of the pandemic. These restrictions include partial to complete ban /suspension of flights to and from Doha, the ban of gathering of more than ten and later of five persons and the closure of public spheres such public gardens, beaches, besides the closure of school and universities, mosques and shopping centers.

These restrictions in the ideal and ordinary circumstances contradict with certain constitutional articles such as Articles 36 of the Qatari Constitution, which provides that "Personal freedom shall be guaranteed and no person may be arrested, detained or searched, neither may his freedom of residence and mobility be restricted, save under the provisions of the Law.". In addition, Article 38 provides that: "No citizen

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<sup>21</sup> The official website for the Supreme Judicial Council, <https://www.sjc.gov.qa/en/Pages/default.aspx>

<sup>22</sup> Law No. 13 of 1990, Qatari Civil and Commercial Procedure Law, available online at: <https://www.almeezan.qa/LawPage.aspx?ID=2492&language=en>

<sup>23</sup> Criminal procedures also needs such due review in light of the challenges presented by the pandemic.

<sup>24</sup> Articles 403-418 are the main subchapter provides for the general rules of limitations, Law no (22) of 2004 Regarding Promulgating the Civil Code, available online at: <https://www.almeezan.qa/LawPage.aspx?ID=2559&language=en>



shall be exiled from or denied re-entry to the country”. As well as Article 44, which reads as follows “The right of citizens to assemble in public is guaranteed in accordance with the provisions of the Law”. In addition, article 50 provides for the freedom to practice religious rituals by stating that, “Freedom to practice religious rites shall be guaranteed to all persons in accordance with the Law and the requirements of the maintenance of public order and morality”.

In the ordinary circumstances, people exercise their rights and liberties according to ordinary laws, which usually regulate such exercise, rather than restricting it. However, in the exceptional circumstances such as the case of Covid-19 pandemic, these right and liberties are restricted in line with the national strategy to confront and combat threats to public health. Certain restrictions were imposed on individual’s right and freedom to travel, movement, assemble and gather, including worship gatherings and accessibility of public attractions.

Although these restrictions disturb and/ or cause damage to some individuals but there were no significant reported cases to challenge these restrictions or decisions before courts or administrative authorities. This of course reflects public awareness and understanding of the necessity of these measures and the wide general public acceptance of the public health and Constitution Law compromise during the Covid-19 crisis.

### **7. Labor contracts during Covid-19: the most affected contract.**

Labor contract seems to be one of the most affected by the Coronavirus crisis; since most countries impose partial of full lockdown. According to this lockdown worker cannot join his workshop and implement his obligations according to the contract.

In this regard, it is well- known that labor contract is regulated under a special law, namely Qatar Labor Law no 14/2004, and this law include provisions to determine rules applicable when the worker is not able to join his work place and perform his assigned work.

Article 42 of the Qatari Labor law provides that: “The Worker shall undertake the following: 1- To perform the Work by himself and to exert the ordinary man's care in its performance”. In addition, Article 44 provides that: “The Employer shall enable the Worker to perform the work and provide all necessary requirement for the performance of the work. And if the worker attends the place of work and is ready to do the work but he fail to do the work due to reasons beyond his control, he shall be considered to have actually done the work and so be entitled to the wages and advantages accruing therefrom”.

The wording of Article 44 is not expressly cover the situation where the worker cannot attend the work place due to quarantine or any other public health restrictions. However, the interpretation of labor law provisions and labor contract should be in favor of the worker since he/ she is generally the weak party in the labor relationship. Accordingly, the worker deserve his/ her wage and other benefits if he/she is not able attend the work place or perform his/her work due to any public health restrictions.

Other legal issues appeared in light of the quarantine imposed on positively tested and suspected individuals by the public health services to combat the spread of Covid-19, such as considering the quarantine period as a sick leave for public servants and private sector employees. While applying the rules of law will refer to quarantine period as being a sick leave, some governmental departments opted to consider it a sick leave for employees who are outside Qatar only, while considering it as a working time for those who are staying in quarantine inside Qatar. This consideration entails many legal effects on the employees’ term of services, as well as rights and duties of both parties.

In light of the Covid-19, pandemic and the measures applied to confront it, many private and public sector entities and departments make a considerable shift to working online and distance services. The

legislator may consider introducing certain provisions to the Labor Law and Human Resources Law to regulate long-distance works and its rules. Specially wages, leaves and other issues thereof.

### **8. Environment and Sustainability: Apparently, the most clear beneficiary**

Being the victim of human adverse interference and complicated patterns of life and consumption, the environment seems to be a winner in the Covid-19 crisis. The partial lockdown imposed by the state of Qatar during the pandemic affects all aspects of normal life, which ultimately reduce human movement lowering fuel consumption and carbon emissions; due to less traffic usually occurred in the course of ordinary daily life.

The natural spaces in the country's desert, coasts and public attractions were less occupied or even unoccupied by human which allows nature to recover and restore its' balance. Interesting scenes can be noticed during the lockdown involving domestic and even usually wild animals, which found their chance to bread, feel safe and explore urban places in the absence of humans and their undue interference in the wild life partners, by hunting, polluting and many other distractive conducts.

In the other hand, one may cite the fact that people staying at their homes almost all the time tend to consume even more supplies, food, water and other life stokes which may require more production or using a significant amount of the state strategic storages.

This experience may give merits to certain environmental protection practices adopted by Qatar's competent authorities specially in protecting vulnerable areas and natural reserves<sup>25</sup>.

### **9. Proposed comprehensive legal approach to face national challenges and crisis**

After exploring different aspects of Qatar's approach to manage and face the crisis, one may consider proposing a unified comprehensive legal response to anticipate, manage and overcome challenges and crisis. One may regard this comprehensive legal response as a matter of public policy that should take into account all aspects of the crisis and its effects at the domestic and international levels.

In this regard, the study recall the Jordanian legal approach, which briefly opted to a one single dormant law that once activated national laws and bylaws are suspended and the a comprehensive competences are entrusted to executive authority. The Jordanian Defence Law number 13 for the year 1992. Article (2) of this law reads as follows:

"A- This law may be implemented when something necessitates the defense of the country - in the event of an emergency threatening national security or public safety in all parts of the kingdom or in a certain region due to

- a) War
- b) Situation threatening of war
- c) The occurrence of internal armed disturbances
- d) Strife
- e) Public disasters
- f) Spread of a pest

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<sup>25</sup>It is a common practice in Qatar to keep certain areas protected from human activities and according to official data, 25% of the State of Qatar territory is considered natural reserves with legal restrictions on human access, and activities. The official website for the ministry of Municipality and Environment: <http://www.mme.gov.qa/cui/index.dox?siteID=2> and Qatar e-Nature: <https://www.enature.qa>.

g) Pandemic

Declaring the implementation of this law a royal Decree issued upon the decision of the Council of Ministers

B - The royal Decree includes the statement of the case for which it was decided to announce the implementation of this law, the region in which it is applied and the date of its application.

C- This law shall be suspended with a royal Decree issued upon the decision of the Council of Ministers.

Article 4 of the Jordanian Defence Law offers many competences to prime minister to implement the law<sup>26</sup>. Moreover, Article 10 of the Law stipulate the suspension of any legal text or provision, or any legislation that contravenes any of the provisions of this law and the orders issued pursuant thereto.

In the legal sense, article 11 of the law provides for a cover to any legal effects for the law on contracts and obligations. It reads as follows “If it is impossible to implement any contract or obligation due to observance of the provisions of this law or any order, mandate or instructions issued pursuant to it or due

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<sup>26</sup> Article provides that: “The Prime Minister may exercise the following powers: -

- A- Place restrictions on the freedom of persons to gather, move, and reside, and arrest and detain suspects or individuals who are dangerous to national security and public order.
- B- Assigning any person to perform any work or perform any service within his ability.
- C- Searching persons, places, and vehicles without being bound by the provisions of any other law, and ordering the use of appropriate force in the event of reluctance.
- D- Setting possession of movable and immovable property and postponing the payment of the debt and the due obligations.
- E- Preventing, restricting or restricting the import, export or transfer of materials from one place to another, specifying dealing in them and prohibiting their concealment, destruction, purchase or bartering them, and setting their prices.
- F-Seizure of any land, building, road, or source of water and energy, establishing defense-related works on it, removing any trees or installations on it, and ordering its management, exploitation, or regulation of its use.
- G- Evacuating or isolating some areas and imposing curfews in them.
- H- Determine the dates of opening and closing public stores, in completely or in part.
- I- Regulating the means of transport and transportation and determining them between the different regions, blocking any road or stream of water or changing its direction and preventing traffic or regulating it.
- J- Monitor messages, newspapers, publications, pamphlets, drawings, and all means of expression, publicity and advertisement before publishing, seizing, confiscating, disrupting them, and closing their numbers.
- K - Preventing taking pictures or making designs or maps for any specific place or thing that might benefit the enemy, preventing keeping near these places and things with any photocopiers or materials for making pictures, designs and maps, and preventing staying or delaying in such places without a legitimate excuse.
- L - Cancellation of licenses of firearms, ammunition, explosives, or explosive materials that are used in the manufacture of explosives, preventing their manufacture, sale, purchase, transfer, or disposal of them, and ordering their delivery and seizure, and closing their selling and storing stores.
- M-Preventing the manufacture, sale, purchase, possession, and ordering and making communication devices.”

to compliance with these provisions, the person associated with this contract is not considered to be in breach of its terms. But the contract is considered suspended to the extent that the implementation of the contract is impossible and is considered a defense in any lawsuit brought or brought against that person, or any measures taken against him as a result of not implementing the contract or obligation”<sup>27</sup>.

Although the defence law experience is applied well in regard of confronting the potential public health crisis. It requires a very strict control against any potential misuse of power or arbitrary discretion that may divert the law apart from its essential objectives.

An independent and impartial judicial body to maintain and protect citizens’ rights and liberties best exercises this control. Such control will maintain legitimacy and reasonableness. Therefore, the state shall only resort to this exceptional law to face the emergency case, strictly confined to this purpose and not to be used beyond it. Moreover, judiciary should have the right to overrule arbitrary decisions issued in accordance with this law to safeguard rights and liberties, and force the state to offer compensation to the victims of such decisions. Without these guarantees, any exceptional legal frameworks may threaten the principle of legitimacy and the rule of law that should prevail in any democratic and civilized society.

Qatar may opt to consider such a choice to handle challenges ahead, be it public health threat, or any threat posed by wars, political instability, and natural or climatic disasters. In proposing a public security law “Emergency Law”. In addition, to ensure flexibility and efficiency, certain points and requirements are to be highlighted by the law as follows:

**First.** The law should clearly and strictly defines the terms “state of necessity” or “emergency”; as these terms will be the trigger that allow the activation of its provisions.

**Second.** The law should include comprehensive provisions to deal with all aspect of the challenge.

**Third.** The law should provide for an independent and impartial judicial body to control the declaration and implementation of the proposed law.

**Fourth.** Assessment of the potential risk posed by the law on individual’s rights and freedoms to ensure minimal effects to these rights and freedoms by the declaration and implementation of the law.

By these requirements, the proposed single emergency law will ensure flexibility and efficiency in confronting challenges facing the state. Meanwhile it will ensure fairness and reasonableness in the state approach towards defending people health and welfare as well as their rights, freedoms and legitimate interests.

## **10. Closing remarks and recommendations**

Relatively, and apart from the legal discourse – given the magnitude of the catastrophe caused by the eruption of the Covid-19 pandemic and the measures applied by world states to face it - one may predict that this crisis may lead to a new and comprehensive world order at political, economic, and other levels. The Covid-19 pandemic and its’ confrontation measures changed every aspect of human everyday life. It is something that goes beyond a bloody war since it affects every aspects of human life around the world, and indeed, it did so far.

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<sup>27</sup> For more about Jordan Defence Law no 13/1992 see in Arabic Farhan Al Massa’eed, “Jordan Defence Law no 13/1992: theory and application”, 2017, Journal of the College of law /Al-Nahrain university, V 19, Issue 2, pp 127-149, available online at: <https://www.iasj.net/iasj?func=fulltext&aId=146128>

The last thing the world needs these days is a pandemic that horrifically affects the life of billions of human being on the planet Earth. Today's world is suffering more than ever from numerous issues that worsen quality of life and threaten the existence of human and other creatures as well as the balance of the environment.

The crisis shows that any national legal framework should have standby exceptional alternatives to deal with difficult times that one may not foresee, but in fact, they can be closer to us than we ever thought. Qatar is not an exception; the Qatari legislator should consider and assess all possible alternatives and introduce the most suitable option for Qatar. The desired option is the option that reflect and comply with the general principles of law namely the principles of good faith, fairness and legal certainty, in addition, it must consider and respect rights and legitimate interests of individuals, and their right to reasonably predict and assess their legal statuses in any given time.

At a wider level, International cooperation and human solidarity are required to overcome global challenges such as Covid-19 pandemic. Least developed and developing nations are struggling with public health deficiencies, environmental and economic issues, poverty, unemployment, and serious human security shortcomings. Without urgent action and collective campaigns to offer generous aids, these challenges are expected to get even worse. The State of Qatar realized this fact, and was at the frontline to offer donations, humanitarian aids, medical equipments, food and drinking water supplies to many states around the world in the course of the last few months as Qatar used to do at ordinary times<sup>28</sup>.

## References

1. Official website of the World Health Organization, <https://www.who.int>
2. The official website for the Supreme Judicial Council, <https://www.sjc.gov.qa/en/Pages/default.aspx>
3. Decree Law No. 17 of 1990 on Protection from Infectious Diseases, Qatar Legal Portal, <https://www.almeezan.qa/LawPage.aspx?id=2682&language=en>
4. Law no 9/2020 amending the law no 17/1990 on Protection from Infectious Diseases, Qatar Legal Portal, <https://www.almeezan.qa/LawPage.aspx?id=8275&language=ar>
5. Law No. 11 of 2004 Issuing the Penal Code, Qatar Legal Portal <https://www.almeezan.qa/LawPage.aspx?id=26&language=en>
6. Law No. 13 of 1990, Qatari Civil and Commercial Procedure Law, available online at: <https://www.almeezan.qa/LawPage.aspx?ID=2492&language=en>
7. Law no (22) of 2004 Regarding Promulgating the Civil Code, <https://www.almeezan.qa/LawPage.aspx?ID=2559&language=en>
8. Abdelnaser, Hayajneh, "Contracts in Light of the Coronavirus Pandemic: An Opportunity for Reflection, Legal and Judicial Creativity", April, 2020 A news Article, published online at: <http://www.rumononline.net/index.php?page=article&id=508546>
9. Aref AlJanahi, "Application of Hardship theory in Sale Contract with installments and Morabaha in Islamic Fiqh and Law", 2019, Sharjah Journal of Sharia' and Islamic Studies, V 16, Issue 1, pp 126-164 Available online at: <https://www.sharjah.ac.ae/en/Research/spu/Journalsharia/Documents/V16/Issue%201/5.pdf>
10. For more about Jordan Defence Law no 13/1992 see in Arabic Farhan Al Massa'eed, "Jordan Defence Law no 13/1992: theory and application", 2017, Journal of the College of law /Al-Nahrain university, V 19, Issue 2, pp 127-149, available online at: <https://www.iasj.net/iasj?func=fulltext&aId=146128>

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<sup>28</sup> The State of Qatar continues to send urgent medical assistance to support efforts to combat the outbreak of the Coronavirus pandemic, for more in the Qatari Aids see, Qatar Fund for Development. <https://qatarfund.org.qa/en/>



11. Qatar Planning and Statistics Authority, <https://www.psa.gov.qa/en/Pages/default.aspx>
12. The Government Communications Office of Qatar, <https://www.gco.gov.qa/en>
13. Qatar Fund for Development, <https://qatarfund.org.qa/en/>
14. Qatar establishes Health Prosecution, Gulf Times Newspaper, 24, March 2020, available online at: <https://www.gulf-times.com/story/659156/Qatar-establishes-Health-Prosecution>