

The Extent of Partners' Right to Redeem Shares in the Limited Liability Company under the Jordanian Companies Law Compared to the Egyptian Companies Law

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Abstract. This study examines the extent to which partners have the right to recover shares in a limited liability Company under the provisions of the Jordanian Companies Law, while conducting a legislative comparison with the Egyptian Companies Law in terms of the concept and scope, conditions and procedures, and the resulting legal effects. The study concludes that Article 73(a) of the Jordanian Companies Law No. 22 of 1997 and its amendments does not regulate the right of recovery in cases of share transfer other than by sale, such as donation or gift. In contrast, Article 4(2) of the Egyptian Companies Law clearly subjects the transfer of partners' shares in a limited liability company to the right of recovery. Accordingly, the researcher recommends amending Article 73(a) of the Jordanian Companies Law to include provisions similar to those in the Egyptian legislation, in order to fill the legal gap in this area and reduce opportunities for circumvention through non-sale transfers of shares.

Keywords: Share Recovery, Preemption Right, Limited Liability Company.

1. Introduction

The right of partners to recover shares in limited liability companies is considered an exception to the general rule in corporate law, which is based on the principle of the free transferability of shares in capital companies. Studying the right of recovery as a restriction on the partners' freedom to transfer their shares in a limited liability company to any person derives its importance from being a legal mechanism aimed at eliminating selfishness that could undermine the spirit of cooperation among individuals engaged in economic ventures, who are typically bound by mutual trust. For this and other reasons, both the Jordanian and Egyptian legislators have granted the partners in limited liability companies the right to oversee the identity of any incoming party through share transfers, thereby giving them the right of preemption and recovery. Both legal scholarship and statutory law agree on the permissibility of imposing restrictions on the transfer of shares in this type of company, as long as these restrictions do not infringe upon the essence of this right or deprive the partners of it entirely. Otherwise, such conditions would be deemed absolutely null and void, as they would violate the public policy principle of complete freedom for partners to transfer or sell their shares.

2. Problem statement

The central issue addressed in this study is the legality and effectiveness of the partners' right to recover shares within the framework of the limited liability company, as regulated by the Jordanian Companies Law, and compared with its counterpart in the Egyptian Companies Law. This includes examining the legal concept of this right, its scope of application, the conditions and procedures governing its exercise, and the legal consequences that follow.

3. Research Questions

This study seeks to answer several subsidiary questions, including:

1. Against which parties is the restriction of the right of recovery enforceable?
2. What legal transactions entitle the partners to exercise the right of recovery?
3. Does the right of recovery apply to shares transferred by way of gift or donation?
4. Is the Jordanian legislator's approach to regulating the right of recovery consistent with that of the Egyptian legislator?

3.1. Significance of the Study

The significance of this research stems from several key considerations:

The Jordanian legislator addressed the partners' right of recovery in limited liability companies only briefly and did not provide sufficient legislative structure to resolve practical issues. Despite the importance of the recovery restriction in limited liability companies, it has not received adequate attention in Jordanian legal scholarship. The right of recovery, as a restriction on the free transfer of shares in limited liability companies, is one of the defining characteristics of this type of company. Therefore, it has become essential to establish clear boundaries regarding its scope, the manner in which it may be exercised, and its legal implications.

4. Methodology

This study employs a combination of research methods, including the descriptive, analytical, and comparative approaches. It describes relevant legal opinions, analyzes applicable provisions of the Jordanian Companies Law and related judicial decisions, and compares them with Egyptian legislation and jurisprudence on the same issue.

4.1. Research Structure

The study is divided into two main sections as follows:

Chapter One: The Nature of Partners' Right to Recover Shares in a Limited Liability Company.

Chapter Two: Procedures and Legal Effects of Share Recovery in a Limited Liability Company.

The Nature of Partners' Right to Recover Shares in a Limited Liability Company This type of company is distinguished by a unique legal feature that sets it apart from other capital-based companies: the granting of a preferential right to partners in limited liability companies to recover shares when one of them wishes to transfer their share whether wholly or partially to a third party. The law safeguards this right with the aim of preserving the personal nature that characterizes this type of company, by enabling existing partners to purchase the offered share under the same conditions and at the same price offered to outsiders. (Al-Muhisen, Osama Nael (2008)

4.2. The discussion will proceed as follows:

Section One: The concept of the partners' right to recover shares

Section Two: The scope of the right of recovery in this section, we will explore the concept of the right of recovery by defining it and examining its legal nature, as follows:

Subsection One: Definition of the Right of Recovery the Jordanian Companies Law No. 22 of 1997 and its subsequent amendments do not explicitly use the term "recovery." However, Article 73 of the same law affirms the partners' right of preemption in purchasing shares, which by its substance and purpose is equivalent to the concept of recovery as recognized under Egyptian legislation. (Quteishat, 2020). Accordingly, the right of recovery may be defined as: Subsection Two: The Legal Nature of the Right of Recovery A debate has arisen regarding the legal nature of the right of recovery: is it a mandatory rule that cannot be contravened due to its association with public order, or is it a default (supplementary) rule like most provisions found in commercial legislation, which parties are free to exclude? (Qarman, Abdul Rahman Al-Sayyid (1995). The Jordanian Companies Law resolves this matter by treating the right of recovery as a mandatory rule that cannot be contractually overridden. In contrast, the provisions regulating the right of recovery under the Egyptian Companies Law are of a hybrid nature, combining both mandatory and supplementary elements. This raises a fundamental question: what are the justifications for the Jordanian and Egyptian legislators to consider the provisions governing the right of recovery as mandatory rules?

The primary rationale lies in the fact that one of the most defining features of a limited liability company is the concept of recovery itself. This mechanism is essential to fulfilling the legislator's objective in imposing such a restriction namely, to protect the company from the risks of speculative trading in shares by undesirable individuals, and thereby preserve the personal character of the company. Taha, Mostafa Kamal and Bandak, Wael Anwar (2013).

4.3. The legal nature of the right of recovery can be explained as follows:

First: Redemption Right as a Matter of Public Order

Although the Jordanian legislator did not explicitly label the partners' right of redemption as a matter of public order as clearly as the Egyptian legislator did, Jordanian law is stricter in substance. It does not allow partners to regulate redemption through private agreement, unlike Egyptian law, which allows partners to agree on additional conditions in their articles of association under Article 2(4) of Companies Law No. 159/1981, stating: "The transfer of partners' shares is subject to redemption according to special conditions stipulated in the company's articles of association, in addition to those provided by law." Conversely, agreements to prohibit the transfer of shares are valid, since Article 72(1) of the Jordanian Companies Law, which allows share transfer (otherwise), is considered a supplementary rule open to contractual exception. The same applies under Article 118(1) of the Egyptian Companies Law, which permits partners to include clauses in their articles preventing transfers to non-partners, or conditioning transfers on unanimous or majority consent. (Taha, 2007)

Legal doctrine concurs that the right of redemption comprises mandatory provisions rooted in public order. Therefore, partners cannot agree to exclude or nullify this right in the company's articles that would contradict public policy and be void. Similarly, they cannot contractually override the legal conditions governing redemption, such as shortening the statutory redemption period (Al-Akili, 2022; Al-Shawarbi, 2011). This leads to a key question: if the articles of association contain a clause preventing partners from exercising the redemption right, or otherwise contradict these mandatory rules, does this render the entire company void, or does it merely invalidate that clause while upholding the company's existence? The answer lies in Article 59(1) of the Jordanian Companies Law, granting the Companies Controller the authority to refuse company registration if the articles violate this law or any other applicable legislation unless the partners remedy the violation within a specified period. Under Egyptian law, Article 18 (a) of the Companies Law No. 159/1981 empowers the administrative authority to reject incorporation by reasoned decision if the memorandum or articles include violations or contradictory clauses, or mandatory legal provisions. Thus, in both jurisdictions, a clause that violates public order is deemed void but the company remains valid, as if the clause did not exist. (Quteishat & Al-Barghouthi, 2020)

Second: Invalid Transfers Contrary to Redemption Rules

What happens if the partners or company transfer shares in violation of the procedures governing redemption? Is the transfer void for contravening public order? This hinges on several considerations. Article 72(b) of Jordan's Companies Law requires that the transfer deed be registered with the Companies Controller with notification, payment of fees, and notarization and that transfer becomes effective only upon registration. This underscores the formal

procedural nature of share transfers (Al-Akili, 2022). Jordan's Court of Cassation confirmed this in case No. 843/2023 (Feb 11, 2024), ruling that failure to adhere to this formal requirement results in absolute invalidity. Consequently, any payment made by that point like the 70,000 JOD in that case must be returned to the buyer. (Court of Cassation, Jordan, case No. 843/2023) The Egyptian legislature adopted a similar approach. Article 118 states that share transfers must be executed by official deed or certified signatures, unless otherwise stipulated in the articles. In those cases, other partners have the right to redeem the sold share under identical terms. Egyptian law, like Jordanian law, enforces the formal requirement for share transfers.

While the Egyptian legal doctrine differed on this subject, two main viewpoints emerged:

- First viewpoint (Al-Qalyoubi, Samihah, 1996): It requires redemption in an official deed if the company's constitutive contract does not stipulate that it can be done through a private document. This interpretation is based on Article 118 of the Egyptian Companies Law.
- Second viewpoint (Younis, Ali Hassan, 1991): It holds that redemption must follow a formal structure (notarized deed), as formalities serve not only to prove but also to create the act.

The Jordanian Companies Law, however, did not make transfers void where multiple persons receive a share, since it does not set a maximum number of partners (see Article 53/a of Jordan's Companies Law No. 22/1997 and amendments). This contrasts with Egyptian law, which caps the number of partners at fifty (see Article 4 of Egypt's Companies Law No. 159/1981 and amendments).

Second Requirement: Scope of the Right of Redemption in a Limited Liability Company

The restriction on transferring shares to outsiders raises several legal issues, most notably: identifying who can trigger the redemption right, defining which types of transfers activate it, and whether it applies to inheritance transfers upon death. These issues will be addressed in the following sections: First Branch: Scope of the Redemption Right in Terms of Persons

We address this branch as follows:

1. Definition of "outsider" for the certification of the redemption right:

Neither Jordanian nor Egyptian laws explicitly define "outsider" in the redemption context. However, the underlying aim is to preserve the company's personal character by preventing unwelcome individuals from joining. Therefore, if a share is transferred to an

existing partner, the rationale for redemption disappears (Qarman, Abdul Rahman Al-Sayyid, 1995). This implies that an “outsider” is anyone who is not a partner at the moment of the intended transfer (Taha & Bandak, 2013).

2. Transfers of shares among existing partners:

Jordanian Companies Law Article 72 and Egyptian Companies Law Articles 4 and 118 regulate share transfers both to outsiders and among partners. But none explicitly state if transfers among partners fall under the redemption restriction. In Jordan, Article 73 specifies the procedures for outsider transfer; by implication, transfers among partners do not trigger redemption (Quteishat & Al-Barghouthi, 2020).

In Egypt, Article 273 of the Companies Law’s executive regulations allows partners to trade shares among themselves without others having redemption rights unless the company contract explicitly provides otherwise, in which case Articles 118 and 119 apply. Legally, this implementation should come from a higher law rather than an executive regulation to avoid conflict; the clear principle “the general rule applies unless specifically limited by law” indicates that the Egyptian legislator should have amended the primary text itself.

3. Categories exempted from the redemption right:

Jordanian law recognizes family and social ties, exempting certain intra-family transfers from redemption. Article 72(c) allows partners to transfer shares (not by sale) to spouses, up to third-degree relatives, or to a waqf, requiring only notification to the manager or board, unless otherwise stated in the articles. Egyptian law, however, does not distinguish between family and non-family transfers all are subject to redemption (Al-Shahri, 2000; Quteishat & Al-Barghouthi, 2020). The researcher believes Jordan’s approach is appropriate, granting flexibility for family transfers without redemption. Jordan’s Court of Cassation confirmed this principle, ruling that sacrificing formal wording should not invalidate a spouse- to-spouse transfer under Article 72, judicially invoking “analogy of cause and effect” to safeguard marital equality (Jordan Court of Cassation, case No. 1246/2007, Dec 27, 2007; reproduced on Qararq).

Second Section: The Scope of the Right of Redemption Based on the Nature of the Share Transfer
This section will be addressed through the following points:

First: Donation or Gift of Shares

Both the Jordanian legislator in paragraph (a) of Article 73 of the Companies Law No. 22 of 1997 and its amendments and the Egyptian legislator in Article 118 of the Companies Law No. 159 of 1981 and its amendments addressed the principle of transferring shares through sale, while also

recognizing the partners' right to redeem such shares from the transferee. However, neither legal system addressed cases where shares are transferred without compensation, such as through donation or gift. This raises the question: is the right of redemption applicable when a partner disposes of their shares without compensation, and is such a transaction subject to the same rules and procedures as a sale, or is it exempt due to the absence of consideration?

Jordanian legal doctrine has not expressed a clear stance on the matter of donation or gratuitous transfer of shares. In contrast, Egyptian legal scholars have settled on the view that this type of transfer is subject to the right of redemption provided that redemption is exercised in return for a fair price. This opinion is based on paragraph (2) of Article 4 of the Companies Law, which subjects all partner share transfers in limited liability companies to the right of redemption, without distinguishing whether the transfer involves consideration. The article's language is general and broad, encompassing all forms of share transfers whether compensated or gratuitous. Although Jordanian doctrine has not explicitly dealt with share donations, Egyptian scholars such as Ahmed, Abdel-Fadil (2011) and Taha, Mostafa Kamel & Bandak, Wael Anwar (2013) affirm that partners retain the right of redemption even in cases of share donation, as long as the redemption occurs for fair value. Article 4(2) of the Egyptian Companies Law states that partner shares in an LLC are subject to redemption, and the provision's generality includes both compensated and non-compensated transfers.

On the other hand, Atwi, Fawzi (2005) and Qarman, Abdel-Rahman Al-Sayed (1995) argue that the legislator only regulated redemption in the context of sale, thereby excluding non-sale disposals like donations from the scope of redemption. However, this interpretation allows for circumvention of the legislator's intent since the purpose of redemption is to prevent third parties from entering the company. Exempting donations from this rule opens a loophole in the legislative framework and may encourage speculation in LLC shares.

Second: Inheritance of Shares by Heirs

Upon a partner's death, their share in the company's capital transfers to their heirs or legatees, regardless of their number, as per Article 53 of the Jordanian Companies Law and Article 118 of the Egyptian Companies Law. Such a transfer is considered foreseeable at the time of contract formation and is thus valid by force of law, even without explicit mention in the company's founding contract. Nonetheless, nothing prevents the parties from agreeing otherwise in the company contract such as stipulating that the company dissolves upon the death of a partner, or granting the remaining partners a right to redeem the deceased's share from the heirs in exchange for fair compensation provided that such agreements do not contradict public order or public morals (Younis, Ali Hassan, 1991).

A key question arises here: Can the partners contractually restrict the transfer of shares to heirs?

Article 53(c) of the Jordanian Companies Law uses unrestricted language—"absolute terms remain absolute unless restricted by a specific text." Thus, the company contract cannot include provisions that contradict this article. The Egyptian legislator similarly did not expressly regulate the right to restrict inheritance-based share transfers (Qutaishat, Ali Khalid & Al-Barghouthi, Amina Abdul Hai, 2020). However, Egyptian legal doctrine (Younis, Ali Hassan, 1991) has settled on the opinion that the company contract may grant surviving partners the right to redeem a deceased partner's share from the heirs at fair value. This is based on the general wording of Article 4 of the Companies Law, which affirms that share transfers whether inter vivos or by inheritance are subject to redemption under the conditions stated in the contract and the law.

Third: Compulsory Enforcement on Shares

Any attachment (judicial seizure) on a partner's share is limited to the financial rights arising from it, such as profit distribution or the partner's share in liquidation proceeds. It does not extend to the share itself or to any of the company's assets (Younis, Ali Hassan, 1991). Both the Jordanian and Egyptian Legislators Have Regulated the Right of Redemption Regarding a Partner's Share Subject to Judicial Attachment and Enforcement Article (74) of the Jordanian Companies Law states: "If a final court ruling is issued for the enforcement on one or more of a partner's shares, priority in purchasing such share(s) shall be given to the remaining partners in the company. If none of them offers to purchase, or if no agreement is reached on the price within thirty days from the date of the final ruling, such share(s) shall be offered for public auction. Each partner in the company shall have the right to enter the auction under equal terms with third parties and purchase the share(s) for himself." (See Article 74 of the Jordanian Companies Law No. 22 of 1997 and its amendments).

In contrast, the Egyptian legislator adopted a different approach. Under Egyptian law, the right of redemption for a share subjected to judicial attachment belongs not to the partners individually, but to the company itself. The company may exercise this right by nominating another buyer, provided that the purchase is made under the same terms as those determined through the public auction. (See Article 119 of the Egyptian Companies Law No. 159 of 1981 and its amendments). According to some legal scholars (Al-Akili, 2022) the Jordanian legislator's stance is considered superior to that of the Egyptian legislator. The Egyptian approach allows the company, after the auction concludes, to block the enforcement of the sale and nominate another buyer within ten days of the auction decision, provided the terms are identical. This provision may discourage potential buyers from participating in the auction, ultimately harming the original shareholder, whose share might be sold below its actual value.

Chapter Two: Legal Procedures and Effects of Share Redemption in the Limited Liability Company

This chapter is addressed through two sections:

- The first section discusses the legal procedures and requirements for the transfer of shares.
- The second section outlines the legal consequences of share redemption.

Section One: Legal Procedures and Conditions for Share Transfer This section is divided into two subsections:

Subsection One: Legal Procedures Governing the Transfer of Shares The following points elaborate on the relevant procedures:

1. Notification of the Proposed Transfer

Both Jordanian and Egyptian legislators have regulated the procedure for share transfer, albeit with different mechanisms. Under Article 73(a) of the Jordanian Companies Law "If a partner wishes to sell his shares or a part thereof to a third party, he must submit a request to the company's manager or board of directors, as the case may be, and provide copies to all partners and the Companies Controller. The request must include the number of shares and the proposed price. The manager or the chairman of the board must notify the other partners of the proposed transfer either by hand delivery against a signed receipt or by registered mail within one week of receiving the request. The other partners shall have priority to purchase at the offered price. The manager or chairman must also notify the Controller in writing that the partners have been duly informed, failing which he shall be liable for damages." (See Article 73(a) of the Jordanian Companies Law No. 22 of 1997 and its amendments).

The Egyptian legislator was less stringent. Article 118 of the Egyptian Companies Law requires that: "Anyone intending to sell his share must notify the other partners through the managers about the offer made to him." (See Article 118(2) of the Egyptian Companies Law No. 159 of 1981 and its amendments). Furthermore, Article 274 of the executive regulations requires that the notification be sent by registered letter with acknowledgment of receipt, indicating the intent to sell, the price, and the sale terms. (See Article 274 of the Executive Regulations of the Egyptian Companies Law). As for how the managers should be notified, any method that conclusively proves the delivery such as a registered letter or a formal notification may suffice. The notification via managers is not essential to the validity of the transaction. It is also permissible for the transferring partner to notify the other partners directly, e.g., by obtaining their signed declarations of refusal to exercise the right of redemption. The company's contract may also

specify alternative notification methods. (Alwan, Bashar Zaid, 2020). Thus, the researcher finds that the Jordanian legislator has adopted a more rigorous approach by requiring the transfer notification to be submitted to the manager, all other partners, and the Companies Controller whereas the Egyptian law suffices with notifying the company's managers only.

2. Inviting Partners to Declare Their Position on the Share Transfer.

According to Article 73(a) of the Jordanian Companies Law, the manager or board chairman must inform the partners of the proposed transfer either via hand delivery or registered mail, within one week of receiving the request. The law goes further by imposing an obligation on the manager to notify the Companies Controller in writing, with the threat of civil liability if this duty is breached and harm results to any partner. (Nassar, Hamada Mohamed, 2017). The researcher praises the Jordanian legislator for enhancing this obligation by requiring written notification to the Controller and holding the manager legally accountable for any failure. In Egypt, Article 274 of the executive regulations obliges the manager to call a shareholders' meeting within ten days of being notified of the intended sale, to discuss whether the partners will exercise their right of redemption. Alternatively, unanimous written consent from all partners may be obtained. The outcome must be communicated to the selling partner by registered letter with acknowledgment of receipt within one month of the initial notice of intent to sell. (See Article 274 of the Executive Regulations of the Egyptian Companies Law).

3. Partners' Decision Regarding Transfer of Shares to Third Parties

Once the proposed transfer has been announced to the company and the partners, the partners have two options: Accept the transfer to the third party; or Refuse to admit the third party to the company. They may also remain passive. Acceptance of the Transfer to a Third Party upon analyzing Article 73(a) of the Jordanian Companies Law and Article 118 of the Egyptian Companies Law, the researcher notes that both legislators require unanimous consent of the existing partners for the transfer to be valid. The transferee does not join the company unless all partners agree. Rejection of the Transfer to a Third Party If the partners refuse to approve the transferee, a second stage begins namely, the partners' right to redeem the offered shares. (Alwan, Bashar Zaid, 2020). Upon examining Articles 73(b), (c), and (d) of the Jordanian Companies Law, and Article 118 of the Egyptian Companies Law, the researcher finds that both legislators consider the redemption right as a right, not an obligation. Therefore, partners may exercise it within the legal timeframe or choose to waive it as for the second related question whether the transferring partner may retract their offer if the partners reject the transferee the answer depends on general legal principles. If the notice from the partner was merely an invitation to negotiate, the partner may freely withdraw, based on the principle of freedom of contract. However, if the notice constituted an offer to the partners to purchase the shares at a

stated price, and they responded with a desire to exercise their redemption right, then a binding contract is formed through offer and acceptance. At that point, both parties become obligated to execute their respective duties under that contract. (Qutaishat, Ali Khalid & Al-Barghouthi, Amina Abdul Hai, 2020). There is also a doctrinal view Qalyoubi, Samiha (1996) which maintains that the transferring partner retains the right to withdraw from the sale. Rejection by Partners of the Proposed Transferee Even in the Absence of Explicit Provision in the Company's Articles of Association.

Passive Position by Partners toward the Proposed Transfer. The Jordanian legislator, in Article 73(c) of the Companies Law, set a specific time limit within which partners must respond to the proposed share transfer submitted by the transferring partner. This period is thirty days, starting from the date on which they were notified of the sale terms. The Egyptian legislator adopted a similar approach, stipulating in Article 118 of the Egyptian Companies Law that the period for responding to the proposed transfer is one full month from the date of notifying the partners. The Jordanian legislator considers that a lack of explicit acceptance or rejection of the proposed transferee within the prescribed legal period amounts to implicit approval of the transfer. This concept is enshrined in Article 73(c)(d) of the Companies Law, which grants the transferring partner the right to sell their shares to third parties if thirty days pass from the date of notifying the partners of the sale terms without any of them expressing a desire to purchase the shares at the offered price. The Egyptian legislator adopted the same approach, as Article 118 of the Egyptian Companies Law states: "If one month passes from the date of notification without any partner exercising the right of redemption, the partner shall be free to dispose of his share."

Section Two: Legal Conditions for Exercising the Right of Redemption, Once the transferring partner notifies the company of their intent to transfer and the partners reject the transferee within the legally defined period, a second phase begins the redemption of the shares subject to transfer. There is a close connection between the rejection of the transferee and the right of redemption, such that the two cannot be separated. Therefore, any agreement to deprive the partners of this right is deemed invalid, as the rules governing it are of public order. (Ahmed, Abdel-Fadil Mohamed, 2011). If the partners wish to exercise their right of redemption, the following conditions must be met:

First: Declaration of the Partners' Intention to Redeem the Share.

Article 57(3)(2) of the Jordanian Companies Law requires that the company's articles of association specify the conditions and procedures for share transfers, as well as the form in which the transfer must be made. If the articles are silent on these conditions, they are not deemed invalid; instead, the statutory provisions set out in Articles 72 and 73 of the Law must be followed. (See Article 57(3)(2) of the Jordanian Companies Law No. 22 of 1997 and its amendments). In

contrast, Article 274 of the Executive Regulations of the Egyptian Companies Law obliges the company manager to notify the selling partner, by registered mail with acknowledgment of receipt, of the partners' final decision regarding redemption within one month of the company being informed of the intent to sell. (See Article 274 of the Executive Regulations of the Egyptian Companies Law). It is essential that the redeeming partner expresses a willingness to pay the price agreed upon between the transferring partner and the third party. The redemption must be under the same terms. If the transferring partner and transferee collude to inflate the price to dissuade other partners from exercising their redemption right, and this becomes evident later, the partners retain their right to redemption. They may prove fraudulent intent using any form of admissible evidence. The law places no limitation on redemption in such cases, but the right must be exercised within a reasonable time, the assessment of which is left to the discretion of the court. (Younis, Ali Hassan, 1991).

The Jordanian legislator addressed this issue effectively. To prevent fraudulent collusion, Article 73(b) of the Companies Law empowers the Companies Controller to appoint a certified public accountant, at the expense of both seller and buyer, to determine the fair value of the share. (Leith, 2010). This approach ensures justice and saves time and effort compared to relying solely on general principles or initiating lawsuits over fictitious sales. It also prevents abuse by the transferring partner, who might demand an exaggerated price to discourage redemption, thereby enabling the sale to an outsider. (Al-Okaili, Aziz, 2022; Alwan, Bashar Zaid, 2020).

Second: The Redeeming Party Must Have Standing

Both the Jordanian and Egyptian legislators agree that existing partners have the primary right to redeem shares offered for sale, whether the transfer is to another partner or to a third party. The exercise of this right may lead to competition among partners to redeem the same share(s). (Qutaishat, Ali Khalid & Al-Barghouthi, Amina Abdul Hai, 2020).

The two legal systems addressed this potential conflict:

- Article 73(b) of the Jordanian Companies Law provides that: "If more than one partner submits a request to purchase the shares being transferred at the offered price, the shares shall be divided among the interested partners in proportion to their respective shares in the company's capital."
- Article 118(4) of the Egyptian Companies Law similarly states: "If more than one partner exercises the right of redemption, the sold share shall be divided among them in proportion to each partner's share in the capital." Applying the right of redemption in such scenarios poses no issue when the shares available for redemption are sufficient to be proportionally distributed. However, complications arise when more than one partner

expresses interest in redeeming a single share, which cannot be divided. This conflicts with the principle of the indivisibility of shares. So how is such conflict resolved?

The legal doctrine is divided:

- One view (Younis, Ali Hassan, 1991) suggests that multiple partners may exercise redemption, and in such cases, the share should be divided proportionally among them, even if it means dividing a single share. This would be an exception to the indivisibility principle, in order to uphold more significant principle equality among partners and avoiding favoritism in the exercise of redemption rights.

Third: Exercising Redemption within the Legal Timeframe This condition is explained through the following points:

- A. Legal Period for Redemption Article 73(c) of the Jordanian Companies Law stipulates: "If thirty days pass from the date the partners were notified of the sale terms without any of them expressing a desire to purchase at the offered price or the price determined by the appointed auditor, the partner intending to sell shall have the right to sell the share(s) to a third party at the offered price or, at minimum, the appraised price." It is thus understood that the Jordanian Companies Law has set a 30-day period from the date of notifying the company, the partners, and the Controller of the proposed transfer. During this period, partners have the right to exercise their right of redemption, and the transferring partner must await the response of the other partners, either approving the proposed transferee or rejecting them and opting for redemption. The key date for calculating this period is the notification by the transferring partner to the company and the partners of the proposed transfer not the date on which the company or partners respond with acceptance or rejection so that the partners can fully benefit from the entire legally allotted period for redemption. (See Article 73(c) of the Jordanian Companies Law No. 22 of 1997 and its amendments.) A similar position has been adopted by the Egyptian legislator, as Article 118(3) of the Egyptian Companies Law states: "After the lapse of one month from the notification of the offer without any partner exercising the right of redemption, the partner shall be free to dispose of his share." (See Article 118(3) of the Egyptian Companies Law No. 159 of 1981 and its amendments). Despite the fact that the right of redemption is a fundamental right connected to public order, Egyptian legal scholar (Sameeha Al-Qalyoubi (1996) argued that it is permissible for the partners to include a clause in the company's articles to extend the period beyond the one-month limit set out in Article 118(3). For example, they may agree to a three-month redemption period, relying on the freedom granted to them under Article 4(2) of the same law to tailor provisions that suit their mutual interests, in addition to those stipulated by the law. (See Article 4(2) of the Egyptian Companies Law No. 159

of 1981 and its amendments) On the other hand, some legal scholars argue that allowing partners to agree on an extended redemption period may conflict with the interests of the transferring partner. Nonetheless, they recognize the shortness of the one-month statutory period and support the idea that the partners may agree to a longer period such as two or three months maximum so long as it reflects their mutual intent.

The researcher, however, opines that the periods specified in Article 73(c) of the Jordanian Companies Law and Article 118(3) of the Egyptian Companies Law are mandatory and may not be extended, especially in the absence of an explicit legal provision allowing such extension. This view aligns with principles of legislative drafting, where the use of specific numerical durations is a form of rigid or “material” drafting, and according to the legal maxim: “There is no room for interpretation when there is a clear text.”

B. Legal Consequences of Failing to Exercise the Right of Redemption Within the Legal Period
Article 73(c) of the Jordanian Companies Law states: "If thirty days pass from the date the partners were notified of the sale terms without any of them expressing a desire to purchase, either at the offered price or the price determined by the auditor, the partner wishing to sell shall have the right to sell their share to a third party at the offered price or, at minimum, the appraised price." This is consistent with Article 118(3) of the Egyptian Companies Law, which provides that the transferring partner becomes free to dispose of their share if no partner exercises the right of redemption within the one-month legal period following notification of the proposed transfer.

Fourth: Payment of the Redemption Price – “Redemption at the Price Offered by the Third Party”
Both the Jordanian and Egyptian legislators have stipulated, in Article 73(a) of the Jordanian Companies Law and Article 118(1) of the Egyptian Companies Law, that the partners may redeem the shares offered for sale to third parties under the same terms offered by the proposed transferee. The redeeming partner is thus obligated to pay the same price offered by the third party. In this case, there is no dispute over how the price should be determined. But what happens if the partners disagree with the offered price? Or if the share transfer was a donation rather than a sale? The Jordanian legislator addressed this scenario in Article 73(b) by granting the Companies Controller oversight authority to appoint a certified public accountant at the expense of both seller and buyer from among the partners—to assess the value of the shares. This valuation is final. (See Article 73(b) of the Jordanian Companies Law No. 22 of 1997 and its amendments)

Second Requirement: Legal Effects of Share Redemption.

Redemption of shares, as a legal act, produces significant consequences for both parties whether the transfer was for consideration or gratuitous. This section will discuss the legal effects across three aspects: Section One: Relationship between the Transferring Partner and the Rejected Transferee

1. Legal Characterization of the Agreement between the Transferor and the Rejected Transferee:

Article 73(a) of the Jordanian Companies Law does not specify the legal characterization of the transferor's declaration to the company and the partners. It merely requires the transferor to submit a written request to the company manager, the partners, and the Controller. The same is true for Article 118(2) of the Egyptian Companies Law, which obliges the partner intending to sell to notify the remaining partners via the company's manager of the offer received. Therefore, the agreement between the transferor and the third party (transferee) cannot be considered a binding unilateral promise to contract. (See Article 254(1) of the Jordanian Civil Code No. 43 of 1976.)

For a promise to contract to be binding, the promise must express a desire to conclude the final agreement. Hence, in the absence of such expression, no binding contract arises. (Moumani, Laith, 2010). The notice submitted to the company must reflect the definitive consent of both parties to transfer the shares at a fixed price if the transfer is for consideration. Partners cannot be compelled to redeem the shares merely because the transferor has entered into a preliminary agreement or has received a promise from the third party to purchase. (Qarman, Abdel-Rahman, 1995) Consequently, the agreement between the transferor and the third party may be characterized as a conditional transfer agreement, subject to the suspense condition of partner approval of the proposed transferee.

2. Effect of Redemption on the Agreement between Transferor and Transferee:

If the partners redeem the shares, the agreement between the transferor and rejected transferee is nullified retroactively, and the parties revert to their pre-contractual state. The redeeming partner becomes the special successor of the transferor. (Moumani, Laith, 2010) There is no direct legal relationship between the redeeming partner and the rejected transferee that would allow the latter to claim reimbursement for the price or expenses paid to the transferor. However, the rejected transferee may exercise indirect rights against the redeeming partner via a non-direct action (*actio oblique*), in accordance with general rules. (See Article 366 of the Jordanian Civil Code and Article 235 of the Egyptian Civil Code). They may also invoke a claim of simulation (*sham transaction*) or enforce a garnishment on the amount owed by the redeeming partner to the transferor to recover amounts paid. (See Article 31(a) of the Jordanian Execution Law and Article 325 of the Egyptian Execution Law.)

Section Two: Relationship between the Transferor and the Redeeming Partner Redemption of shares triggers specific effects between the transferor and the partner who exercises redemption, resulting in mutual rights and obligations.

1. Rights and Obligations of the Redeeming Partner:

A. Rights: If the redeeming party is a current partner, redeeming shares leads to an increase in their ownership share, voting rights, and share in profits, commensurate with their larger capital stake. If the redeemer is a third party, the share transfer results in a change of ownership, and the transferee acquires partner status once the redemption process is finalized. However, this change is not opposable to the company, other partners, or third parties until the transfer is officially registered, as is also the case in transfers by inheritance. (Younis, Ali Hassan, 1991).

B. Obligations: The redeemer must pay the price of the shares in accordance with Article 522 of the Jordanian Civil Code and Article 418 of the Egyptian Civil Code, based on either:

- The price agreed upon between the transferor and the rejected transferee, or
- The value assessed by a legal auditor appointed by the Controller, in case of disagreement. The principle is that the redeeming partner must pay the actual value at which the shares were being sold. (Qarman, Abdel-Rahman, 1995).

Second: Rights and Obligations of the Transferring Partner

A. Rights: The transferring partner is entitled to receive the price of the redeemed shares, as well as the profits allocated to those shares for the period prior to their redemption. (Moumani, Laith, 2010).

B. Obligations: The transferring partner is obligated to deliver all documents proving ownership of the redeemed shares to the redeeming partner. As for warranty obligations, the general rule is that they shall be governed by the general provisions of sale set out in:

- Articles 465–531 of the Jordanian Civil Code
- Articles 418–468 of the Egyptian Civil Code

A prevailing view, expressed by Younis, Ali Hassan (1991), considers the transfer of shares to constitute a sale, thus obligating the transferor to warrant the sold shares in the event of eviction, and to refrain from any conduct that may impair the transferee's rights of enjoyment. Another school of thought, represented by Qarman, Abdel-Rahman (1995), argues that the transfer of shares should be considered as a transfer of the partner's creditor rights against the company, due to the unique nature of a partner's rights in the company unlike rights in tangible or

immovable property. Consequently, the rules governing the warranty obligations of a seller of real estate should not apply. Instead, the transferor of shares should be subject to the warranty obligations applicable to an assignor in an assignment of rights, namely the existence of the right at the time of transfer. The assignor shall not be liable for the solvency of the debtor (the company), unless otherwise agreed.

Section Three: Legal Effects of Redemption on the Company and Third Parties Examining the legal effects of redemption on the company and third parties requires outlining:

1. The procedures necessary to render the share transfer enforceable against the company and third parties
2. The specific legal consequences that follow

I. Procedures for Enforceability of the Share Transfer against the Company and Third Parties: According to Article 72(a–b) of the Jordanian Companies Law, any share transfer whether to another partner or to a third party must be executed via a transfer deed, prepared using a form approved by the Companies Controller, and signed in accordance with the formalities applicable at the time of company registration. Moreover, the transfer deed must be notarized by the Companies Controller, publicly announced, and the prescribed fees must be paid. The transfer shall not be effective against the company, partners, or third parties until officially recorded by the Controller. (See Article 72(a–b) of Jordanian Companies Law No. 22 of 1997 and its amendments.) The researcher notes a legislative drafting flaw (conflict of provisions), as Article 57 of the same law requires the memorandum of association to include the conditions and procedures for share transfer, including the form of the transfer document. This appears to contradict Article 72(a), which mandates that the form be that approved by the Controller. Relying on legislative interpretation principles to resolve such contradictions, the researcher suggests applying the jurisprudential rule: "The subsequent overrides the preceding" Thus, Article 72 should prevail as the applicable provision. The Egyptian Companies Law adopts a similar principle in Article 117, which requires the company to maintain a partner register containing specific details defined in the Executive Regulations. (See Article 275(c) of the Executive Regulations of the Egyptian Companies Law) Article 275(2)(3) of the Executive Regulations stipulates that the transfer or inheritance of shares has no legal effect vis-à-vis the company or third parties until registered in the company's partner register. The company is also required to process transfer requests that meet the legal requirements or recognize inheritance/legacy transfers within five days from the date of request submission, and must notify the applicant by registered mail with acknowledgment of receipt. (See Article 275(2)(3) of the Executive Regulations of the Egyptian Companies Law)

Additionally, Article 117(4) of the Companies Law imposes personal and joint liability on the company's managers for any damage resulting from:

- Maintaining the partner register improperly
- Preparing faulty lists
- Recording inaccurate information in the register or company documents (See Article 117(4) of Egyptian Companies Law No. 159 of 1981 and its amendments.)

Legal Effects of Redemption on the Company and Third Parties

A. Effects on Third Parties: If a contract is valid and meets all required elements, it becomes binding and enforceable. Only the contracting parties are obligated under its terms. This is the essence of the privity of contract principle, as enshrined in:

- Article 110 of the Jordanian Civil Code
- Article 145 of the Egyptian Civil Code (Sarhan, Adnan Ibrahim & Nouri, Hamad Khater, 2012) Third parties may benefit from a contract either directly or indirectly. Direct benefit, however, must be explicitly stated in the contract, and may take the form of either: Stipulation for the benefit of a third party, or Contractual commitment on behalf of a third party (See Article 210(1) of the Jordanian Civil Code and Article 154 of the Egyptian Civil Code.)

A. key question arises: To what extent does the exercise of the right of redemption affect third parties, especially those not party to the contract? Redemption may affect the rights of the transferor's creditors, since the redeemed shares are withdrawn from the transferor's estate, potentially reducing their general guarantee. However, the creditors may take action by:

- Garnishing the price payable to the transferor in the hands of the redeemer, provided they hold an enforceable title
- Initiating precautionary measures to preserve their general guarantee If the transferor neglects to claim the price and such neglect renders him insolvent or deepens insolvency, the creditors may: Assert the transferor's right themselves through indirect action (See Article 210(1) of the Jordanian Civil Code and Article 154 of the Egyptian Civil Code) They may also file a Paulian (revocatory) action a claim to invalidate the transfer if: The debt is due The transfer harms creditors by making the transferor insolvent or increasing their insolvency (Also governed by Article 210(1) of the Jordanian Civil Code and Article 154 of the Egyptian Civil Code)

B. Effects on the Company:

Although the company is not a party to the redemption transaction between partners, it nonetheless experiences certain legal consequences. These effects do not arise directly from the contract of transfer or redemption itself, but rather from the legal status of the partner and their relationship with the company, including:

1. Effect on the Number of Partners: Article 53 of the Jordanian Companies Law, as amended by Law No. 40 of 2002, states that

The Effect of Redemption on the Number of Partner Article 53 of the Jordanian Companies Law, as amended by Temporary Law No. 40 of 2002, provides the following Limited Liability Company shall consist of two or more persons. The Companies Controller may approve the registration of a limited liability company consisting of a single person or approve its transformation into a single-shareholder company. Upon reviewing the article, it is evident that the Jordanian legislator recognized the single-person company, thereby departing from the general principle of company law that requires a plurality of partners and the intention to associate among them. Instead, the law permits the establishment of a company with a special legal nature, consisting of a single person. This company allows an individual to allocate a portion of their personal assets to invest in a particular project or conduct a specific commercial activity through a separate legal entity that enjoys legal personality, distinct from the person of the owner. The single person's liability is limited to the amount invested in the company, meaning their other personal assets are not liable for the company's debts. (Elias, Nassif, 2006) Furthermore, under the Temporary Companies Law No. 40 of 2002, the Jordanian legislator allowed the direct registration of such a company (from its inception) or indirect establishment (when one partner acquires all shares in an existing limited liability company).

2. The Obligation of the Transferring Partner Not to Compete with the Company

A doctrinal opinion (Younis, Ali Hassan, 1991) supports the possibility of an agreement between the company and the transferring partner that obligates the latter not to compete with the company by engaging in a similar commercial activity. In the absence of such an agreement, each case must be evaluated individually, taking into account the importance of the company and the identity of the transferring partner.

5. Conclusion

5.1. Findings and Recommendations

This study addressed the extent to which partners in a limited liability company have the right to redeem shares under the Jordanian Companies Law, with a comparative analysis of the Egyptian Companies Law. We examined the concept, legal nature, conditions, procedures, and legal effects of this right. To avoid repetition, the researcher presents the key findings and recommendations as follows:

1. The Jordanian legislator permits a partner in a limited liability company to transfer their share(s) to another partner in the company. The law also allows such transfer to the partner's spouse (whether male or female), to relatives up to the third degree, or to a charitable endowment (waqf).
2. A partner is also allowed to sell their share(s) to a third party, provided the existing partners are granted a right of first refusal under the same terms offered to the third party. While this right is legally guaranteed, it does not prevent the company's Articles of Association from granting the company itself the option to exercise this right, even in cases of intra-partner or family transfers. In all cases, this requirement cannot be waived, as it is a mandatory formality and constitutes part of public policy.
3. In all cases of share transfer in a limited liability company, the transfer must be in writing, registered with the Companies Controller, and accompanied by the payment of applicable fees. This registration is a formality essential to the contract's validity. Failure to comply results in nullity of the contract, requiring the contracting parties to be restored to their pre-contractual status. This formal requirement applies to all properly registered limited liability companies.
4. Article 73(a) of the Jordanian Companies Law No. 22 of 1997, as amended, does not regulate the right of redemption in cases of non-sale transfers, such as gifts or donations. In contrast, Article 4(2) of the Egyptian Companies Law explicitly states that all share transfers in a limited liability company are subject to the partners' right of redemption, regardless of the transfer type.
5. The Jordanian legislator, in Article 73(a), failed to clarify the legal nature of a partner's notice of intent to transfer their shares to the company and other partners. The article merely states that any partner wishing to sell their share must notify the company manager, the partners, and the Controller. This drafting lacks the precision and clarity adopted by the Egyptian legislator, who, in Article 118(2), requires a partner intending to sell their share to a third party to formally notify all other partners through the company manager about the offer they received.

6. Recommendations

1. **Amend Article 72 of the Jordanian Companies Law to read as follows:**

- A. A partner in a limited liability company may transfer their share(s) in the company's capital to another partner, whether by sale or otherwise, unless otherwise agreed.
 - B. A partner may transfer their share(s), whether by sale or otherwise, to persons considered legal heirs.
 - C. In all cases, the transfer deed must be notarized with the Companies Controller, publicly announced, and the prescribed fees must be paid. Failure to do so shall result in nullity of the deed.
 - D. The Controller must notify the company manager or the board of managers of any share transfer under paragraphs (a) and (b) upon registration.
2. **Amend Article 73 of the Jordanian Companies Law by adding two new paragraphs, as follows:**
- A. It is not permissible for the company's Articles of Association or any subsequent agreement to restrict or exclude the right of first refusal for certain partners to the exclusion of others. Any such condition shall be null and void.
 - B. The Articles of Association or subsequent agreements may extend the right of first refusal to all types of share transfers mentioned in Articles 72 and 73. It is also permissible to grant the right of redemption to the company itself, provided that all such conditions comply with the registration and publication requirements of the law.
3. **Amend Article 73(a)** of the Jordanian Companies Law to close the legislative gap concerning non-sale transfers, such as gifts or donations. This amendment is necessary to prevent abuse of the law, since the rationale behind redemption the prevention of strangers entering the company equally applies in donation cases. Exempting gifts from this restriction opens the door for speculation and circumvention.
4. **Amend Article 53(c)** to regulate the entry of legatees (persons designated in a will) into the company, which currently occurs without partner oversight. This could harm the interests of the company and the partners and opens the door to legal loopholes, allowing outsiders into the company despite the absence of family ties, which were the original basis for the legislator's policy on inheritance.
5. **Amend Article 73(c)** by extending the legal period allowed for partners to exercise their right of redemption, in order to protect their interests and enable them to act in a timely and informed manner.

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