

The Legal Framework for Community Penalties in Jordanian Law

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Abstract

This study aims to clarify the contemporary criminal justice policy, which endeavors to embrace a system of societal sanctions, also known as alternative punishments, as a viable alternative to conventional criminal justice in the present era. This is in response to the fact that the prevailing criminal justice policy in both Arab and foreign legal systems primarily emphasizes punitive measures, resulting in a surge in crime rates and a mounting caseload in the judiciary. Upon concluding our study, we determined that the Jordanian legislator made a proper decision by implementing many alternative societal sanctions, such as social service, social control, and social service, which are acknowledged in comparable laws. There should be strong assurances in place to ensure that convicts can be successfully reintegrated into society after their release. This includes allowing conditional release, where a convict's good behaviors do not prevent them from benefiting from this measure before the specified end date of their sentence. It is important to always provide opportunities for convicts to benefit from alternative punishment systems, as this decision should be based on the best interests of society, rather than solely on the convict's interest.

Keywords: Alternative Punishment, Electronic Surveillance, Conditional Parole.

Introduction

Due to the inability of this traditional method of resolving disputes and keeping pace with the rapid development witnessed in the modern era, as well as the high rate of crime and the number of cases presented to the judiciary and their accumulation, most Arab and foreign legislation began to refrain from what is known as criminal justice, which focuses in essence on the policy of punishment, and this matter came as a result of Due to legislative expansion in the criminal field, which prevented the judiciary and competent agencies from appropriately implementing the punishment in terms of individualization of punishment, individualization of judicial treatment, and achievement of the desired reform, the punishment began to fall short of performing its function and achieving its goals in terms of deterrence and reform. We often find that punishment affects their

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criminal behavior, and on the other hand, we find that penal centers and institutions are overwhelmed with inmates (Al-Yousef, 2003; Al-Billeh, 2022a).

Imprisonment is regarded as one of the worst penalties imposed on those who engage in criminal activities. The primary objective of imposing a jail term is to diminish the likelihood of recidivism, facilitate the rehabilitation of offenders, and facilitate their reintegration into society. Empirical evidence and scientific research have shown that incarceration and correctional sentences may not be the optimal means of attaining the stated objective. Due to their focus on isolating and removing criminals from their normal social and residential settings, these measures may contribute to their subsequent difficulties in readjusting to society. Due to this rationale, jail has been deemed a costly approach that fosters the development of more criminal and hazardous individuals. Consequently, alternate strategies to incarceration and the curtailment of freedom have been pursued. The Jordanian penal system has undergone several contemporary adjustments to align with the implementation of current criminal policy. The Jordanian lawmaker proposed the implementation of the alternative sentencing system in the most recent revision of the Jordanian Code of Criminal Procedure in 2017 (Bushra, 2010; Al-Billeh, 2022b).

From this perspective, the research will examine contemporary prison systems, assess the applicable laws in Jordan, and explore the actual implementation of this legislation in Jordanian penitentiary facilities (Nammour, 2010; Al-Billeh, 2022c).

The prevailing criminal justice policy in Arab and foreign legislation, which emphasizes punishment, has resulted in a rise in crime rates and the proliferation of cases presented to the judiciary. Consequently, there is a growing inclination towards implementing community punishments or alternative sanctions as viable alternatives to the conventional criminal justice system in contemporary times. It is seen as a contemporary method for handling and addressing criminal situations, emphasizing the need to resolve cases without relying on official trials (Saad, 2013; Al-Billeh, 2022d; Madhloom & Antonopoulos, 2022).

The process of reforming, rehabilitating, and integrating individuals into society aims to prevent the recurrence of crime and priorities the individual's best interests. The goal of the research is to determine the nature of social penalties implemented by the Jordanian lawmaker. What is the suitability of implementing it in correctional facilities in the Sultanate of Oman, Jordan, and its function in promoting reform and rehabilitation?

The importance of this study lies in the importance of the topic that it attempts to address, which is studying the nature of societal punishments adopted by the Jordanian legislator and the extent of their impact on reforming and

rehabilitating convicts. This topic also derives its importance in terms of its relationship to security, crime control, and the judiciary. The importance of this study also stems from the fact of the scarcity of studies. And specialized literature about societal punishments.

Modern Practical Uses of Non-Restrictive Social Penalties

Most nations' modern criminal laws have tended to embrace a system of alternative sanctions, or so-called society punishments. Since its inception, the United Nations has convened several conferences on crime and its causes, as well as numerous studies in different regions of the globe, such that there are now alternatives to negative sanctions. One of the constants of criminal policy and one of the cornerstones of criminal justice is freedom. As a result, it was incorporated in numerous UN guidance notes during the Sixth United Nations Conference in Caracas in 1980. The eighth recommendation sought to spread alternative measures in the world on a large scale by introducing them into criminal legislation, and for legislative bodies to create alternatives appropriate to the special social and cultural conditions of each country (Al-Barrak, 2012; Al-Billeh, 2022e).

Suspension of Implementation

The objective of this approach is to alleviate the drawbacks associated with the implementation of brief periods of incarceration for offenders. These individuals lack a criminal history and do not pose a significant risk to society. Reform and rehabilitation initiatives are unnecessary for them. Instead, imposing jail terms on children results in their association with criminals. Individuals with prior criminal records may reintegrate into society after the enforcement of the designated penalties, posing a heightened risk to both them and the community at large. This objective arises from the notion of preventing the damage inflicted upon the offender in return for a societal advantage that may not include punitive measures that restrict their liberty but might p A suspended sentence refer to a situation where the defendant is found guilty and given a punishment, but the execution of the penalty is postponed under certain conditions for a certain duration as established by the law. If the criteria are not satisfied, the conviction verdict is deemed null and void. Hence, the suspension of execution pertains to the legal description that corresponds to a particular sentence imposed by a criminal judgment, thereby depriving the individual of their rights. The executive authority in Jordan has the right to delay the execution of a sentence, but certain circumstances must be fulfilled. These conditions pertain to the offender, the

crime committed, and the punishment that was imposed. potentially have adverse repercussions on society in the future (Allen, 2008; Alkhseilat et al., 2022).

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A directive is given to temporarily halt the implementation for three years, commencing from the day when the judgment attains its ultimate status. The designated term for this time is referred to as the probationary period. (Article (54/1) of the Jordanian Penal Code stipulates) The execution suspension is conditional upon the beneficiary's adherence to good behavior and refraining from any further commission of felonies or misdemeanors. If the probationary term elapses without revoking the suspension Execution If the judgment is not implemented, it becomes definitive and is treated as if it had no effect. According to Article (54) of the Jordanian Penal Code and Article (74), the legislature has authorized the cancellation or suspension of the execution of a sentence of imprisonment that exceeds one month if the prisoner commits an act during the trial term.

Undoubtedly, this system is widely recognized as a crucial alternative to contemporary forms of punishment that have been adopted by numerous penal legislations worldwide. It grants judges the authority to select the most suitable option from a range of alternatives, tailored to the offender's personality, to achieve individualized and effective punishment. Nevertheless, these legislations have shown differences. One of the aspects is that they define the criteria for the temporary cessation of implementation and the offences it encompasses (Al-Billeh, 2022b; ALMANASRA et al., 2022).

Partially stopping the implementation of the punishment might be accompanied by additional responsibilities, such as subjecting the offender to court supervision or mandating them to engage in public service. It is imperative to confront the adverse aspects of the execution suspension system when the offender is in desperate need of support, aid, rehabilitation, and prevention of recidivism (Saad,2013). Furthermore, we urge the Jordanian parliament to

carefully consider revising Article (54) of the Penal Code (Hayes, 2015; Al-Billeh & Al-Qheiw, 2023).

Community Work (Community Service)

The second criterion is taking part in activities that contribute to the betterment of society, such as participating in community service. Several countries have implemented this significant concept, such as (the Bahraini Criminal Procedure Code, 2012) and the Egyptian Penal Code of 1937, which was modified in 2003 to include community service in Article 108. The Omani criminal law failed to consider it (Alshible et al., 2023; Al-Billeh et al., 2023a).

A judge in the East Amman Court of First Instance has issued an unprecedented alternative to imprisonment as a punishment. A reliable source from the Ministry of Justice confirmed that the judge made this decision after the convict caused public damage and the Ministry was informed. The Community Punishments Directorate will now determine the specific type of community punishment to be imposed on the convict, as well as the location where it will be served and the monitoring procedures until it is carried out (Isa et al., 2022).

In 2018, instructions were given to provide clear guidance on the responsibilities of the Community Punishments Directorate within the Ministry of Justice. The instructions state that they are applicable whenever a decision is made on any of the community reform options specified in the law, which include community service, community monitoring, and community monitoring with the requirement of undertaking one or more rehabilitation programmes (Al-Billeh et al., 2023b).

To ensure the efficacy of this alternative kind of punishment, it is important to adhere to and consider many factors. The primary requirement is that these efforts must be carried out inside governmental or public-benefit organizations, with a focus on monitoring those who have been convicted by these organizations (Al-Kasasbeh, 2010; Al-Billeh & Abu Issa, 2022). Institutions are responsible for monitoring and evaluating regular reports to assess the appropriateness of these activities for prisoners and their effectiveness in rehabilitating offenders. The aim is not to replace these activities with another form of work. The Jordanian legislator considered this aspect when implementing this punishment in Jordanian ministries and government institutions. Each ministry has defined specific guidelines for this purpose. These ministries include those where individuals who have been condemned to a social punishment may be carried out. This is through memorandums of understanding between the Ministry of Justice and the rest of the official ministries in Jordan, and this is what we will explain as follows:

First: Rehabilitation initiatives and programmers that might be used within the Ministry of Education as substitutes for social restructuring include:

1- The Directorate of Scouts and Guides is responsible for managing educational activities, including scout camp facilities. Periodic maintenance work is required for these public facilities, which may involve tasks such as painting, carpentry, blacksmithing, gardening, tree care, and general maintenance of buildings and school desks.

2- Take advantage of the specialized academic knowledge of experts in the field through courses, lectures, and workshops offered to employees at the Ministry's center or education directorates in schools. These programmers are carefully designed and overseen by the Guidance and Guidance Directorate in the Education Administration.

3- Employees specializing in childhood and kindergarten or computer skills can benefit from the academic expertise of specialists in the field through courses, lectures, and workshops. These programmers focus on designing programs for children without direct interaction with them. The programmers are prepared under the supervision and follow-up of the Childhood Directorate in Education Administration.

4- Employees specializing in voluntary community services can benefit from the academic expertise of specialists through courses, lectures, and workshops. These educational opportunities cover various topics such as the environment, social activities, and supportive education services like illiteracy eradication programs. Engagement in awareness campaigns about the right to education, facilitated by programmers developed and overseen by the Education Department.

5- This involves doing routine maintenance tasks and engaging in activities relating to the upkeep of institutions, schools, and government structures in a broad sense. These tasks may include cleaning schools, landscaping gardens, painting school fences, enhancing and painting pavements, and so on.

6- Maintenance of computer networks, software, and hardware in computer labs in schools and administrative offices.

7- Utilizing the academic proficiency of experts in educational training and research studies in counseling and awareness, namely in the areas of communication, social networking, conflict resolution techniques, anger management, and psychological counselling.

Second: Rehabilitation initiatives and programmers that may be used by the Ministry of Agriculture as substitutes for social transformation include:

1- Engaging in various agricultural tasks such as watering, planting, preparing, and trimming in forest nurseries and plant nurseries, as well as performing activities related to planting, weeding, watering, planting, and fertilizing.

2- Clearing and maintaining roadsides by raking and removing weeds, as well as employing laborers for tasks such as pruning trees, eliminating dead trees, and hauling and loading firewood.

3- Workers engaged in seed collection.

4- The individuals involved in forest monitoring stations and programmers include radio operators, forest protection personnel, forest firefighters, agricultural technicians, reporters, and other office staff.

Penalties Restricting Freedom

Many alternative punishments restrict freedom; that is, they are punishments that do not deprive people of freedom, but the freedom of movement and livelihood of the convict is restricted. Among the most prominent of these punishments that the Jordanian legislator has adopted are the following:

Conditional Release

Parole, as referred to in jurisprudence, is a system that involves releasing a convict from prison before their sentence is complete. This release is conditional and involves placing the convict under supervision to assist them in completing the remainder of their sentence, provided they demonstrate good behavior outside the institution. What is intended by it Paroling the prisoner before the completion of his term, upon meeting particular criteria, by subjecting him to targeted monitoring to assist him in serving the remaining duration of his sentence (Raynor, 2008; AL-Hammouri et al., 2023a; Al-Billeh, 2023a).

Conditional release, a contemporary form of punishment alternative, did not arise from emergency legislation but rather emerged from the observations and research conducted by penal institutions in France and Britain. As a result, this system underwent numerous stages and processes before its concept became well-defined (Robinson & McNeill, 2008; Al-Hammouri & Al-Billeh, 2023; Al-Billeh, 2023b).

Regarding the Jordanian legislation in this domain, it is evident that the Jordanian lawmakers did not implement a well-defined strategy to implement this system. However, certain aspects of this system were incorporated into the Jordanian Correction and Rehabilitation Centers Law. This law grants the director of the Correction and Rehabilitation Centre the power to release inmates who have demonstrated good conduct and behavior. If the convict has completed 75% of their sentence and has demonstrated good conduct and behavior, the Minister of Interior, upon the recommendation of the Director of Public Security, has the power to release them from life imprisonment with hard labor after they have served twenty years. (Al-Jabour,2009; Al-Billeh et al., 2023a)

The researcher recommends the Jordanian legislator reassess the structure of this category as a significant substitute for penalties, which, as per the Jordanian legislator's plan, is seen as an ultimate discharge rather than a conditional discharge. Consequently, this might result in the elimination of the system and the depletion of its significance and worth, particularly when the offender is aware that it signifies freedom. The release is absolute and non-contingent, and his neglect exposes him to the revocation of this release and the subsequent deprivation of his freedom once again, since it is irrevocable and unconditional (Mair, 1998; Al-Billeh & Al-Hammouri, 2023).

We also hope that the Jordanian penal legislator will transfer the power to grant conditional release and revoke it from the administration (correctional centers, the Minister of Interior) to the judiciary. This would avoid encroaching upon the executive power of the ruling, which is the approach taken by most comparative penal legislation (Mair, 1995; Al-Billeh & Abu Issa, 2023a; AL-KHALAILEH et al., 2023; Al-Khawajah et al., 2023).

Electronic Monitoring

The origins of this alternate type of punishment may be traced back to the 1980s in Europe, some states in the United States of America, and Canada. Over time, this practice expanded to include most nations by the late twentieth century. The French legislator established a comprehensive and cohesive legal framework in his criminal law to address situations involving electronic monitoring (Finkel et al., 1994; AL-Hammouri et al., 2023b).

Home imprisonment, also known as electronic monitoring, is a contemporary and inventive approach that serves as a substitute for brief custodial sentences. This method permits the offender to stay in their residence and fulfill their prison term without being physically confined within prison walls. Instead, they are subjected to electronic surveillance through a device resembling a wristwatch or bracelet. Alternatively, the surveillance cameras may be strategically positioned inside the residence or attached to the leg of the offender, enabling the competent authorities to effectively trace and oversee the criminal's movements (Denney et al., 1999; AL-Hammouri et al., 2023c; Al-Billeh, 2023c).

House Arrest

The first form involves designating the domicile of the incarcerated individual in a particular location, often their current place of abode, but the court may also assign a different location. The criminal laws that implemented these types of penalties exhibited variations in establishing their nature, resulting in some punishments being more severe than others. Certain individuals saw it as a

substitute for imprisonment, like French legal practice, but others viewed it as a preventative measure, similar to English laws (Cox, 2013; Khashashneh et al., 2023; Al-Billeh & Abu Issa, 2023b; Khater et al., 2023)

The second form entails prohibiting the offender from residing in a particular location or visiting specific places that may foster their corruption and encourage deviant and abnormal behavior. For instance, this may involve preventing the offender from residing in areas known for drug trafficking and promotion (CANTON, 2008).

Therefore, we encourage the Jordanian penal legislator to incorporate this system as a significant method of alternative penalties instead of short-term imprisonment. Additionally, it is necessary to review and revise the legal provisions governing these penalties, expanding their scope beyond mere preventive measures. The implementation and evaluation of these penalties should be entrusted to the judiciary rather than the penal legislator. Executive Governor (BOTTOMS, 2008; Abu Issa & Khater, 2023).

Conclusion

Upon concluding this research, we focused on the legal system of community punishments, which was divided into two parts. The first part examined the contemporary practical applications of community punishments that do not restrict freedom, such as suspended sentences and community service. The second part addressed societal punishments that restrict freedom, including probation, house arrest, and electronic monitoring.

Due to the advancement of criminal policy, the implementation of alternate forms of punishment has emerged as a significant consideration. This stage necessitates immediate action, as shown by the advancements made in current criminal studies. The Jordanian legislator made a correct decision by including several forms of alternative societal sanctions, such as social service, social control, and social service, which are acknowledged in comparable law.

There must be serious guarantees that support the hope of socially rehabilitating the convict after his release. This entails, for example, in conditional release that the good behavior of the convict does not prevent him from benefiting from this measure before the date specified for the end of his sentence; Rather, room must always be made available to convicts, given that benefiting from the system of alternatives to punishment; Because it does not depend on the interest of the convict, but must be granted in light of the interest of society as well.

The necessity of coordinating efforts between the judiciary and other relevant agencies and finding mechanisms to ensure the success of this

coordination, including organizing scientific and periodic competencies, and holding training courses for everyone as needed.

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