

**ALTERNATIVE PENALTIES  
IN QATARI AND JORDANIAN LEGISLATION**

**العقوبات البديلة في التشريعين الأردني والقطري**

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**Abstract:**

*This study aims at identifying the alternative penalties in the Qatari and Jordanian legislations, then the concept of alternative sanctions and social service were identified. The qualitative approach was applied in this study. The current study has reached a number of conclusions, the most important of which was that alternative sanctions do not mean the suspension of the original sanctions, but instead, convicted person is subjected to alternative sanctions instead of the deprivation of liberty.*

*The Qatari legislator provided for the sanction of social service as one of the sanctions stipulated in the Qatari and the Jordanian Penal Code. A person convicted to a social service sentence shall be liable to carry out social service six hours per day, in accordance with the method and in the manner determined by the decision of the Attorney General.*

**Keywords:** *Alternative penalties; Penal Code; Qatar; Jordan.*

**المخلص:**

يهدف هذا البحث إلى التعرف على العقوبات البديلة في التشريعين القطري والأردني، ثم التعرف على مفهوم العقوبات البديلة والتشغيل الاجتماعي، وقد تم اتباع البحث النوعي في هذا البحث، وتوصل البحث إلى مجموعة من الاستنتاجات أهمها: أن العقوبات البديلة لا تعني تعطيل العقوبات الأصلية، إنما هي عقوبات تُفرض على المحكوم عليه بدلاً من العقوبات السالبة للحرية، ونص المشرع القطري على عقوبة التشغيل الاجتماعي كإحدى العقوبات المنصوص عليها في قانون العقوبات القطري، والخدمة المجتمعية في قانون العقوبات الأردني، ويكلف المحكوم عليه بعقوبة التشغيل الاجتماعي بأداء الأعمال المحددة في الحكم الصادر ضده، لمدة ست ساعات في اليوم الواحد، وذلك وفقاً للأسلوب وبالطريقة التي يصدر بتحديداتها قراراً من النائب العام.

**الكلمات المفتاحية:** *العقوبات البديلة، قانون العقوبات، قطر، الأردن.*

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### **INTRODUCTION:**

The development of punitive policies has led to the development of the concept of sanction, which is not limited to deterrence, but extends to justice and the rule of law in society by deterring the offender from re-committing the crime, what leads to Social stability (*Kasasbeh, 2010: 9*).

The current trend focuses on research on prevention, reform and activating social solidarity by rehabilitating the offender and preventing him from re-committing the crime by subjecting him to remedial and rehabilitation programs and providing aftercare services after his release. This trend has been represented by the social defense movement and other contemporary trends. After the emergence of intellectual movements in social defense and the protection of society from crime and its dangers, contemporary penal policies have established that the objective of deterrence based on the idea of rehabilitating of offenders should be the ultimate goal of the sanction function. This has been reflected in the recent penal legislation that adopted this idea (*Talib , 2000: 66*), as the offender is part of society.

Hence, this study highlights the evolution of reform institutions in the development of societies and peoples and the development of the philosophy and concept of sanction itself. The State of Qatar and the Hashemite Kingdom of Jordan are among the countries that have followed this development, each of which has enacted legislation that works to reform criminals and qualify them to be good members of society. To achieve the purpose of sanction, the State of Qatar has introduced the sanction of social service in its laws to be applied to convicted persons rather than imprisonment in some cases and crimes defined by the legislator. The Jordanian legislator as also introduced social service sanction instead of imprisonment in some cases and crimes, so this study deals with the study and analysis of alternative sanctions in the Qatari and Jordanian laws, and examines their feasibility and importance in reforming the offender.

### **PROBLEM OF THE STUDY**

The development of the scope of punitive and reformist policies in the world is a formidable development, as criminal legislation and preventive and precautionary measures multiplied. Judgments concerning social service and social sanctions are considered to be positive phenomena in modern societies. Accordingly, the following question stems: What is the concept, philosophy and role of alternative sanction in reducing the phenomenon of re-committing the crime in the legislation of the State of Qatar and the Hashemite Kingdom of Jordan?

This following questions stem from the abovementioned main question:

1. What is the concept of alternative penalties in the Qatari and Jordanian legislations ?

2. What is the impact of the sanction of social service as one of the alternative penalties in the reform of the accused in the State of Qatar and the Hashemite Kingdom of Jordan?

3. What is the approach of both Qatari and Jordanian legislators in the field of community sanctions or alternative sanctions?

**IMPORTANCE OF THE STUDY:**

The importance of this study lies in shedding light on the reality of alternative sanctions in general and the sanction of social service in particular, since alternative sanctions are a social judicial approach aimed at reforming the offender away from imprisonment, taking into account the interest of the citizen and society together. The importance of the study is that it shows the role of the sanction of social service in reforming the convicted person by making him participate actively in society and to take him towards a safe and secure life.

The importance of the study is that it will benefit the various stakeholders (legislative, judicial and executive parties), researchers interested in this subject, and it is hoped that this study constitutes a qualitative addition to the legal library.

**OBJECTIVES OF THE STUDY**

The current study aims to:

1. Identify the role of alternative sanction in reducing the phenomenon of recommitting crime in the State of Qatar and the Hashemite Kingdom of Jordan.
2. Understanding the concept of alternative penalties in general, and the penalty of social service in particular.
3. Identifying the legitimacy of the alternative sanctions, their types and controls.
4. Identifying the impact of the sanction of social service as one of the alternative sanctions for reforming convicts in the State of Qatar and the Hashemite Kingdom of Jordan?
5. Reaching the appropriate conclusions and recommendations for the research topic.

**METHODOLOGY:**

The analytical descriptive approach and the comparative approach were used. Reference to primary and secondary sources of books, research, and university essays and articles was carried out to address this issue.

### **PROCEDURAL DEFINITIONS OF THE STUDY:**

**1. Sanction** is the penalty determined by the law and signed by the judge in a court judgment on behalf of the community to those who prove responsibility for the crime, and which is commensurate with this sanction (*Al-Shathili, 2006: 323*).

**2. Alternative Sanctions:** A set of measures that replace prison sentences and apply the crime prevention policy (*Al-Yousef, 2003: 18*).

**3. The sanction of social service:** It is a social work assigned to the convicted under certain rules and procedures, in lieu of ordinary penalties (imprisonment and fine). The Court shall order these proceedings at the request of the Attorney-General and the offenses punishable by imprisonment for a period not exceeding one year or a fine not exceeding one thousand riyals. The law shall be enforced from the date of its issuance and published in the Official Gazette. (The Qatari Penal Code and its amendments).

### **TOPIC (I)**

#### **WHAT ARE THE ALTERNATIVE PENALTIES?**

Scholars have not agreed on a comprehensive and unified definition of alternative sanctions. The reason may be the novelty of the subject in the Middle East, or the differences in each environment from the other, as well as how it is applied and the different regimes. Even names are different. Some call them prison alternatives, public benefit penalties, and prison alternative sanctions. This section has been divided into two sections: **Section I: The concept of alternative sanction**, and **Section II: The stages of origin and development of the application of alternative sanction**.

### **SECTION (I)**

#### **THE CONCEPT OF ALTERNATIVE SANCTION**

"Altering" means changing the thing about its original state, which is to make something place somewhere else (*Ibn Manzoor, 1988*).

The alternative sanction is defined as "a set of alternatives taken by the judge instead of imprisonment, where the accused provides a service to a class of society or charity or to attend an educational facility in order to rehabilitate him and protect him from harm and to serve his community" (*Al-Humaidi, 2006*) : 7).

Another defined it as penalties other than prison sentences against offenders, or "using penalties other than imprisonment" (*Shankitti, 2008: 43*).

It is also defined as: a set of measures that replace prison sentences in order to avoid the effects of this sanction and to work on reforming the offender and returning him to society as a good member (*Al-Otaibi, 2011: 12*).

The general trend, whether at the international or regional level, is towards the use of alternative measures of imprisonment, particularly in minor crimes, but this approach is still limited in practice (*Al-Hawiti 1993, 34*).

We conclude from the above definitions that there is no uniform definition of alternative sanctions as most definitions in the field of human sciences, but all agree that it is a process of imposing an alternative sanction for short-term imprisonment.

The alternative sanction can therefore be defined as "those sanctions imposed on the convicted person rather than on a short term prison sentence, and it should not deviate from the objectives of sanction, namely, public and private deterrence and the achievement of justice for all."

## **SECTION II**

### **THE STAGES OF ORIGIN AND DEVELOPMENT OF THE APPLICATION OF ALTERNATIVE SANCTION**

In most countries of the world, modern criminal policies have led to the adoption of alternative sanctions. Since its inception, the United Nations has held numerous conferences on crime prevention and treatment of causes, and many studies and research have been conducted around the world for half a century on this subject. The five-year conferences have had an impact on criminal justice policies, on national and professional procedures and practices throughout the world, and at a time when many contemporary problems, including crime, have taken on a global dimension. These conferences have become particularly important and have been given special priority.

The efforts of the United Nations to develop the International Guidelines for Criminal were not without historical context. Since 1872, the International Committee of Prisons, which later became the International Commission for Penalty and Reform, has established an international conference to make recommendations for prison reform and continued to hold anti-crime conferences every five years (*Rifai, 1993: 86*).

The functions of the International Commission on Penalty and Reform were transferred to the United Nations in 1950, including the convening of international conferences every five years on crime control issues. Accordingly, the first United Nations Congress was held in 1955 and international specialized conferences recommended the adoption of alternative sanctions. For example, the Second United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in London in 1960, recommended that Judges shall not, as far as possible, sentence short-term imprisonment and shall be replaced by alternative sanctions (suspension, judicial examination, fine, work or placement in an open institution).

The Fifth United Nations Congress on Crime Prevention and Treatment of Offenders, held in Geneva in 1975, dealt with the issue of "Treatment of offenders within prisons within the Community" by seeking alternatives to imprisonment as a sanction for offenders in a free society and the Sixth United Nations Congress on the Prevention of Crime and The Treatment Of Offenders (1980), adopted in its recommendation No. 8, "to promote the widespread dissemination of alternative measures to imprisonment in the world by introducing them into penal legislation and to give criminal justice agencies the necessary qualifications to understand, apply and adopt them" (*Al-Yousef, 2003: 29 and beyond*).

The Seventh United Nations Congress in Milan in 1985 has in its recommendation No. 16 adopted measures to remedy the phenomenon of overcrowding of prisoners and to replace, as far as possible, prison sentences with alternative measures for the reintegration of persons convicted in society as active members. The Congress stated that sanctions that do not require imprisonment are a humanitarian way to facilitate rehabilitation efforts on convicted individuals. The Congress recommended the following (*United Nations, 1985*):

1. Member States should increase their efforts to reduce the negative effects of imprisonment.

2. Seeking reasonable sanctions that do not require imprisonment as a means of reducing the number of prisoners.

3. Requests the Commission on Crime Prevention to examine the question of sanctions that do not require imprisonment and measures for the social integration of offenders, taking into account several issues.

One of the rules of particular importance to the United Nations is the Standard Minimum Rules for Non-custodial Measures, the Tokyo Rules, which were issued at the 68<sup>th</sup> session on 14 December 1990, which contain indispensable principles in the area of alternative sanctions. Here I refer to the Standard Minimum Rules for the Treatment of Prisoners, which also deal with the treatment of a prisoner as a human being and to enjoy the full enjoyment and dignity of human rights (*Tokyo Rules, 1990*).

## **TOPIC (II)**

### **TYPES AND CONTROLS OF ALTERNATIVE PENALTIES**

One of the most important debated issues is the ineffectiveness of penal institutions in carrying out their basic tasks of reforming and rehabilitating offenders and protecting society from crime. If we want to prove the effectiveness of alternative sanctions, there are controls for their use and means of achieving them. This section is divided into two sections: **Section I: Types of alternative sanctions**, **Section II: The legality of alternative sanctions and their controls**.

## SECTION I: TYPES OF ALTERNATIVE SANCTIONS

The basic idea in these sanctions is to restrict the freedom of the convicted person to practice his life without depriving him of it entirely. These sanctions take several forms, the most important of which are suspending the sentence, judicial probation, police release, subjecting the offender to surveillance, house arrest and working for the benefit of the community.

**FIRST: SUSPENDING THE SENTENCE:** It is intended to stop the conviction of the accused and to suspend the execution of the sentence immediately after a judgment has been issued on a condition within a period of time determined by law. If the condition is not met, the conviction is null and void. (*Al-Jbour, 2009: 39*).

Such a system would not imprison the offender when, after examination of the offender's character and circumstances, the judge had believed that the offender would not recommit the crime again. The purpose of this system is to provide an opportunity for the convicted person who commits the crime for casual circumstances that do not indicate a criminal danger. The judge estimates that such sanction will reform the offender, rather than acquiring criminal methods as a result of his imprisonment (*Al-Shawi, 2008: 21*).

**SECOND: JUDICIAL PROBATION:** It is a form of alternative sanction, which aims at reforming the offender and reintegrating him into society, away from depriving his freedom in prison. This is a judicial proceeding in which the criminal court either refrains from issuing the sentence, ie imposing a certain penalty or refraining from implementing it after it has been issued, by putting the convicted person under judicial probation for a specific or unspecified period, in order to oversee its behaviour. If the offender breaches any of the conditions imposed upon him, the court shall determine a sentence against him or carry out the sentence against him, which has been suspended under the obligations imposed on him (*Al-Dawri, 1988: 288-291*).

**THIRD: CONDITIONAL RELEASE:** It is also called (parole). It means the release of a prisoner from the institution before the completion of his term of sanction, once certain conditions have been met, by placing him under certain supervision in order to help him to spend the remainder of the sentence. The modern concept of conditional release complies with the provisions of the principle of social defense, which aims to protect the society from crime, including encouraging the convicted to abide by proper behavior inside the prison, and also contributing to their rehabilitation in order to reintegrate them (*into society. 2009: 268*).

**FOURTH: ELECTRONIC SURVEILLANCE:** Electronic surveillance raises many legal problems, to the extent that some have questioned its usefulness,

despite its proven effectiveness in countries such as the United States, Canada, Sweden and France applied by the last year (1997).

One of the most important problems in this regard is that this system would undermine individual liberty and, in particular, the privacy of the convicted person (*Ibrahim, 2008: 3*). The electronic surveillance is intended to oblige the convicted person to live in his place of residence at specified times. This is ascertained by monitoring his movement by placing a transmitter on his hand that allows the monitoring center to know whether the convicted person is present at the specified time and place, where the computer reports the results of these communications (*Al-Yusuf, 2003: 134*).

**SIXTH: FINE:** It is the most common sanction in the application of sanction in modern legislation because it is a useful, reform and economic sanction. It obliges the convicted to pay a sum of money in favor of the state treasury, and despite the many advantages, but it raises multiple problems, especially the weakness of its deterrent power to the financially able person.

The fine may be paid by other persons who are not convicted, and it may turn to prison if the convicted person fails to pay. But despite the disadvantages of the fine, it remains one of the practical alternatives that can be applied in some non-hazardous crimes (*Al-Yousef, 2003: 19*).

**SEVENTH: CONFISCATION:** The confiscation is intended to seize the ownership of the funds or objects used or intended for use in the commission of an offense or the result thereof. The importance of confiscation appears to be to achieve a reform objective by depriving the offender of the tools he has used to commit his crime and preventing their reuse for other crimes. The transfer of ownership of these items to the state treasury leads to a reduction in the property of the offender and a deterrent to him (*Al-Majali, 2009: 430*).

Legislative policies were different regarding confiscation. Some of the legislations considered it to be an original penalty, as in the French Penal Code (Article 131). Other legislation provided for it as supplementary penalties in some crimes and as a precautionary measure in others, such as the Egyptian Penal Code, while others considered it a precautionary measure, such as the Italian Penal Code (Article. 36).

**EIGHTH: COMPENSATION AGAINST CRIME DAMAGES:** This alternative is to deduct part of the financial resources of the offender to compensate the victim for the damage caused by the crime.

It is one of the most equitable alternative sanctions, to satisfy the feelings of the members of the society, because it leads to the offender being deprived of the gains he has made from the crime, compensating the victim of the damage and obliging the offender to compensate the damage caused by the crime. This sanction is also an effective means of rehabilitating the offender, with the

obligations and duties imposed on him, while at the same time preventing him from being imprisoned (*Al-Yusuf, 2003: 92*).

Many penal legislations, such as French legislation, have applied compensation as a substitute for a criminal case (Article 469) of the Code of Criminal Procedure or as an alternative to sanction (Article 132/43) of the French Penal Code.

## SECTION II

### THE LEGALITY OF ALTERNATIVE SANCTIONS AND THEIR CONTROLS

The legality and controls of alternative sanctions are as follows:

**FIRST: THE LEGALITY OF ALTERNATIVE SANCTIONS:** In some cases, the judiciary restricts the freedom of the individual. This is considered to be contrary to the general principle. It is not for the harm of the individual, but for the safety and freedom of all other members of society. This principle applies to the other sanctions that the judiciary resorts to in some cases, and to the tendency to alternative sanctions, which have prompted Arab countries to pay attention to them (*Abd al-Rahman, 2006*):

**1. AVOIDING THE NEGATIVE EFFECTS OF IMPRISONMENT:** The Arab states have agreed to this, and resorting to the system of alternatives reflects the conviction of their criminal policies that there are negative effects for imprisonment, as well as the need to apply alternative sanctions for the reform of delinquents and offenders.

**2. HELPING TO MEET THE NEEDS OF THE OFFENDER, HIS FAMILY AND SOCIETY:** in this a reference to the theory of the separation of sanction, ie the need to take into account the circumstances of the offender and his family on the one hand ,and the protection of society on the other.

**3. AVOIDING THE REMOVAL OF THE OFFENDER FROM SOCIETY:** The agreement reflects the conviction of the Arab countries of the criticism of imprisonment, which is the contradiction between the need to reform the culprit for its integration into society, and the imprisonment which separates him from this society on the other hand.

**4. THE USE OF ALTERNATIVES DOES NOT LEAD TO AN INCREASE IN CRIME:** Most of the research and studies conducted in America and Europe, which have made considerable progress in this area, confirm that the use of alternatives has not led to any increase in the crime rate. However, Arab countries may not have access to such results now, especially since there has been no in-depth studies on this subject.

**5. REDUCING THE NUMBER OF INMATES IN PRISONS:** This includes two benefits. First, not to resort to imprisonment but only when absolutely necessary

and to replace it with alternatives. Second, the reduction in the number of inmates enables the provision of rehabilitation programs.

**6. ECONOMIC REASONS:** The use of alternatives will contribute to solving the economic problem experienced by many Arab countries, where it will be able to alleviate the financial burden of increasing the number of inmates in prisons, and the construction and maintenance of prisons.

**SECOND: CONTROLS ON THE USE OF ALTERNATIVE SANCTIONS:** Since alternative measures to imprisonment may be counterproductive, whether due to misuse, or because of faulty authority, which leads to prejudice against the offender. Therefore, these alternatives must be regulated so that they can be a legitimate framework that cannot be bypassed. The most important of these controls are the following (*Al-Yousef, 2003: 83*):

1. The agreement of alternatives to be applied with basic human rights so as not to cause serious harm to the person's status in society.
2. Taking the alternatives by a judicial reference that remains under its control, in order to review them when necessary and to stop them if the purpose is achieved or to replace them with imprisonment if found to be useless.
3. The consent of the convicted person to be subject to the alternative, especially if the alternative is for the benefit of society, since the proper performance of the work cannot be performed if the person does not agree to it.
4. Considering the personal and social circumstances of the convicted person, as well as considering the circumstances of the crime, so that the alternative is commensurate with the size of the crime.
5. Not to defame the offender, and all that causes negative effects of stigmatization and embarrassment to the family, peers, neighbors or other groups of society.

In order to ensure the success of alternative measures for imprisonment aimed at reforming the convicted person, and to correct his behavior and prevent him from delinquency in the future, it is necessary to take into consideration some of the ways and means (*Al-Kasasbeh, 2010: 275*):

1. Forming public opinion to accept such measures by explaining their benefits and indicating the disadvantages of the prison sentence.
2. Apply these alternative gradually, and to highlight their effectiveness and acceptance from society.
3. Work to provide the judges with full conviction about the feasibility of these alternatives, so that they trust them and their seriousness.

4. Providing penal systems that allow the application of these alternatives, and publishing administrative details for practical and field application.
5. These alternatives should be flexible enough, taking into account individual differences and socio-economic variables.
6. Provide scientific meetings between criminal justice institutions (judiciary, police and social service institutions) to ensure compatibility and cooperation between these institutions and organize training courses for all levels of employees.

### **TOPIC (III)**

#### **SOCIAL SERVICE SANCTION IN COMPARATIVE LEGISLATION AS ONE OF THE ALTERNATIVE SANCTIONS**

Social service sanction as called by the Qatari and Jordanian legislators in the Penal Code is of the most important alternatives to imprisonment, as it includes many benefits, and the most important mean of reform of the offender through offender's work in beneficial projects, which keeps him away from the disadvantages of prison. Such sanction gives the offender an opportunity to work in a profession that protects him against unemployment, which could lead him to the crime again. In addition, social service benefits the offender, his family and the community (*Al-Khath'ami 2008: 58*). Therefore, this section is divided into three sections: **Section I: the penalty of social service in foreign legislation. Section II: Sanction of Social Work in Qatari Law, Section III: Sanction of Social Work in Jordanian Law.**

#### **SECTION (I)**

##### **SOCIAL SERVICE SANCTION IN FOREIGN LEGISLATION**

Given the importance of this mean as an alternative to prison, it has been confirmed by numerous international conferences, the most important (*Havana - Cuba, 1990*) conference on the Standard Minimum Rules of the United Nations Non-custodial Measures<sup>1</sup>, the International Conference of Prisons, which was held at the University of Leicester in England in 1994. It was stipulated in some modern legislation, such as the French Penal Code of 1992 (Article 131) and the Italian Penal Code of 1930 (Article. 102).

Examples of some countries that dealt with employment in the social service as a vision and a contemporary penal policy:

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<sup>1</sup> - *United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), recommended for adoption by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 1991, and adopted by the General Assembly.*

**FIRST: EMPLOYMENT IN SOCIAL SERVICE IN ENGLISH LEGISLATION:**

The English legislator has provided for some conditions for the application of work in social service as an alternative sanction and which can be summarized as follows:

1. The work shall be done free of charge.
2. The hours of service in the social service shall not be less than 40-120 hours if the offender is not 17 years old or 240 hours of 17 years or more.
3. Before the judgment of the social service, the court shall request a report from the judicial probation officer on the case of the accused and the appropriateness of such sanction.
4. The court should explain to the accused the purposes of social service.
5. The Court may not make such a sanction without the consent of the convicted person.
6. The convicted person shall be liable to perform all hours of work within 12 months from the date of his conviction under the supervision of the competent judicial probation officer, provided that the type of work required is not inconsistent with his religion, and the hours of such work shall not interfere with his working hours in his job or study hours if he is a student.

**SECOND: EMPLOYMENT IN SOCIAL SERVICE IN DUTCH LEGISLATION:** In 1989, the Dutch legislator has included the social service sanction to the original schedule of sanctions provided for in the legislation. In fact, this legislative amendment has culminated in the results of extensive research and field studies that have been going on for several years since 1981 in order to experiment with different types of work in social service.

**SECTION (II)**

**SOCIAL SERVICE SANCTION IN QATARI LAW**

Alternative sanctions in developed societies are applied successfully and are positively employed and are used to achieve the overall objectives of societies, provided they are not related to criminalization of the offender and only to the establishment of a specific community culture and "message".

The Qatari legislator addressed the sanction of social service in the Penal Code and the Code of Criminal Procedure as follows:

The Qatari Penal Code No. (11) of 2004 ,as amended, has added a new type of sanction which was called social service, which is a social act assigned to the convicted person according to certain rules and procedures, in lieu of ordinary penalties (imprisonment, fine). The court shall issue such sanctions at the request of the Attorney General in crimes punishable by imprisonment for a period not exceeding one year or a fine not exceeding one thousand riyals, and ordered the

enforcement of such decision from the date of its issuance and published in the Official Gazette.

This amendment addressed some of the procedures relating to the application of sanction of social service rendered in respect of amending the Penal Code, as Article (1) of the amended Qatari Penal Code stipulated that " texts of Articles (23), (57) shall be replaced with the following two texts":

**1. Article 23:** Misdemeanors are crimes punishable by imprisonment for a term not exceeding three years and a fine of not more than one thousand Riyals, or social service or one of these penalties, unless the law provides otherwise.

**2. Article (57):** The original penalties are: (death penalty, life imprisonment, fine, social service).

The Code of Criminal Procedure promulgated by Law No. (23) of 2004 provides that this amendment shall deal with certain procedures relating to the application of social service sanctions for which the Penal Code was amended.

The amendments stipulate that the sentence shall be twelve days at the request of the Public Prosecution of the Court. The sanction shall be imprisonment for one year and a fine of up to one thousand riyals, and six working hours per day for the convicted person. The method of implementation shall be determined by the Attorney General. The amendments also provide for the imprisonment of a convicted person who abstains from executing the sentence for one week for each day he abstains from executing the judgment, while the prosecutor shall determine the places where the sanction shall be implemented. The Public Prosecution may postpone the execution or take measures to prevent the convicted person from escaping during execution.

If the convicted person fails to carry out the sanction of social service, the sanction shall be imprisonment for a period of one week, for each day of the sanction that has not been implemented.

The law defines the social agenda as follows: (Inculcation or memorizing the Holy Quran, literacy, juvenile care, caring for people with special needs, transporting patients, cleaning roads, streets and public squares, beaches and orchards, nature reserves , cleaning and Maintenance of public buildings, maintenance of public parks, loading and unloading containers in ports, assisting civil defense personnel in their work, postal writing works, administrative work in health centers, clerical work and driving vehicles in the field of food control).

We note that the Qatari legislator has set alternative sanctions for convicts so that the convicted person can choose the appropriate alternative to suit his qualifications and ability to exercise the appropriate sanction. The purpose of this sanction is to rehabilitate the convicted persons and to prevent them from re-

committing the crime, to teach them a profession that prevents them from re-committing the crime, and to make them good individuals in society.

### **SECTION (III)**

#### **SANCTION OF SOCIAL SERVICE IN JORDANIAN LAW**

The Jordanian legislator introduced in Section (I) - Chapter (I) of the amended Jordanian Penal Code (No. 27) of 2017 - the estimated penalties - Article (25). The provisions of Article (22) of this Law shall apply to the estimated fine. Article (5 bis):

1. Social service: The obligation of the convicted person to perform unpaid work for the social service for a period determined by the court not less than (40) hours and not more than (200) hours, provided that the work is carried out within a period not exceeding one year.
2. Community monitoring: is the obligation of the convicted person to be subject to social control for a period determined by the court not less than six months and not exceeding three years.
3. Community monitoring through subjecting the convicted person for one or more rehabilitation programs: subjecting the convicted person to a rehabilitation program determined by the court aimed at evaluating the behavior of the convicted person and improving it.

According to the amended law, alternative sanctions would apply to cases in which the judge may suspend execution and, in cases of sentences not exceeding one year, if the court determines that the convict's morals, history, age or the circumstances in which the crime was committed, confirm he would not breach the law again.

The competent court shall issue suspend execution of the sentence, and the convicted person shall be referred to the relevant community penal department in order to determine the type of social service to be implemented in accordance with his scientific and cultural background.

The Jordanian Ministry of Justice has instructed the functions of the Directorate of Community Sanction in the Ministry of Justice as follows (Ministry of Justice website):

1. In accordance with the provisions of the Penal Code, the Directorate shall carry out the functions of community penalties provided for in (Article 25 bis) of the Penal Code, concerning community reform alternatives.
2. The community supervision obliges the convicted person to undergo a rehabilitation program determined by the court and aims to improve the behavior of the convict and improve it.

3. The Directorate works according to the system to implement the community reform alternatives provided for in the law, namely: social service, community monitoring and community supervision, conditional one or more rehabilitation programs.
4. Rehabilitation of the convicted person preparing him for integration into society and achieving community reform.
5. Follow-up the implementation of alternatives sanctions community, and submit periodic reports on implementation to the judge of the sanction of implementation, which is noted and submitted to the court.
6. Establishment of a Community Sanction Section in each Court of First Instance in the Kingdom and, if necessary, in Magistrate's Courts. The Section shall consist of at least one social worker and supervisor.
7. Establishing a register of community reform alternatives that includes all information related to the convicted person, his health status and social status, and other data that indicate his commitment to implementing the order.

The aim of the Jordanian legislator is to adopt alternative sanctions to alleviate the overcrowding of inmates in the reform and rehabilitation centers, reduce their expenses in order to optimize the utilization of their budgets, give the sentenced person an opportunity to rehabilitate himself, mitigate the recurrence of crimes, and avoid the negative effects of prison sentences.

### **CONCLUSION:**

This paper dealt with alternative penalties in the Qatari and Jordanian legislations, and thus reached a set of conclusions. He recommended several things as follows:

### **I. RESULTS:**

1. This research shows that alternative sanctions do not mean that the original sanctions are to be suspended, but rather that they are imposed on the sentenced person instead of the prison sentence.
2. Alternative Sanctions opened a new opportunity the reform and rehabilitation of the convicted persons.
3. The Qatari legislature provides for the sanction of social service as one of the penalties stipulated in the Qatari Penal Code, as well as the Jordanian Penal Code.
4. The Qatari legislator has defined the social service agenda (memorizing the Holy Quran , clerical work and driving vehicles in the field of food control).
5. In contrast, if the Jordanian legislator decides to impose sanction of social service instead of imprisonment, the Directorate of Alternative Sanctions in the Ministry of Justice will decide the type of community sanction that will be

imposed on the sentenced person, where he will be sentenced and how he will be monitored until such sanction is implemented.

6. The sentenced person shall be liable to the sanction of social service by performing the acts specified in his sentence, for six hours per day.

**SECOND: RECOMMENDATIONS:**

Based on the results, the following recommendations were provided:

1. Drawing a road map and a clear strategy to apply the sanction of social service as an alternative sanction instead of offenses and misdemeanors, to be applied in crimes of misdemeanors in penalties where there is no personal right.
2. To promote the dissemination of the concepts and ideas of contemporary penal culture, in order to create the environment of society to accept this new system.
3. Establishing scientific foundations for achieving employment as a social service by selecting the appropriate works for the Qatari environment and the Jordanian environment, and their habits and traditions.
4. Conducting qualitative scientific studies on the success of the application of the social service sanction in the State of Qatar and Jordan to interview the persons who have been sentenced.

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**SECOND: LAWS:**

- 1 -TheQatari Criminal Procedure Law No. 23 of 2004.
- 2 - The Qatari Penal Code No. (11) for the year 2004.
- 3 - Jordanian Penal Code No. 16 of 1960 and its amendments.
- 4 - United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), recommended for adoption by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 1991, and adopted by the General Assembly.

