المجلة الأردنية في القانون والعلوم السياسية

اسم المقال: دور عقوبة الخدمة المجتمعية في إصلاح المحكوم عليه جزائياً – دراسة مقارنة
اسم الكاتب: د. عمر رامي أبو ركبة، أ.د مالك حمد أبو نصير
رابط ثابت: https://political-encyclopedia.org/index.php/library/8146
تاريخ الاسترداد: 2026/11/02 08:49 +03

الموسوعة السياسيّة هي مبادرة أكاديمية غير هادفة للربح، تساعد الباحثين والطلاب على الوصول واستخدام وبناء مجموعات أوسع من المحتوى العلمي العربي في مجال علم السياسة واستخدامها في الأرشيف الرقمي الموثوق به لإغناء المحتوى العربي على الإنترنت.
لمزيد من المعلومات حول الموسوعة السياسيّة – Encyclopedia Political، يرجى التواصل على info@political-encyclopedia.org

استخدامكم لأرشيف مكتبة الموسوعة السياسيّة – Encyclopedia Political يعني موافقتك على شروط وأحكام الاستخدام المتاحة على الموقع https://political-encyclopedia.org/terms-of-use

تم الحصول على هذا المقال من موقع المجلة الأردنية في القانون والعلوم السياسية جامعة مؤتة ورفده في مكتبة الموسوعة السياسيّة مستوفياً شروط حقوق الملكية الفكريّة ومتطلبات رخصة المشاع الإبداعي التي ينضوي المقال تحتها.

The Role of Community Service Sentence in Rehabilitating the Criminally Convict: A comparative Study

Dr. Rami Omar Abu Rukba *

Dr. MalekHamad AbuNaseir

Received: 5/7/2020. **Accepted: 2/11/2020.**

Abstract

There are many debates on the custodial punishments among the specialists in the contemporary sanction policies. Custodial punishments aim at deterring the public from committing crimes. They aim at deterring the convict himself/ herself from committing crimes. The effectiveness of custodial punishments has been questioned recently. It has been proved that the disadvantages of custodial punishments are greater than the advantages of such punishments. Therefore, several legislators started enforcing community sentences as alternatives for custodial punishments. That is because community sentences have proved their effectiveness in reducing the number of convicts in prisons. It is because community sentences have proved their effectiveness in sparing convicts the negative impacts of serving time in prison. It is because community sentences can be customized in accordance with the personality and conditions of the convict. Through enforcing community sentences, public interests can be met. Through enforcing community sentences, costs shall be reduced and free services shall be provided to the members of the society by the convicts. Community sentences are enforced in order for convicts to compensate the members of the society for the social damages they have caused.

Keywords: Community sentence, new punishments, alternative punishments, non-custodial punishments

* كلية الحقوق، جامعة عمان الأهلية، الأردن.

** كلية الحقوق، جامعة الإسراء، الأردن.

حقوق النشر محفوظة لجامعة مؤتة، الكرك، الأردن.

دور عقوبة الخدمة المجتمعية في إصلاح المحكوم عليه جزائياً– دراسة مقارنة

د. رامي عمر أبو ركبة

أ.د مالك حمد أبو نصير

ملخص

تُعد العقوبات السالبة للحرية من أكثر العقوبات إثارة للجدل في السياسة العقابية المعاصرة، فبعد أن كانت محط الأنظار كوسيلة لتحقيق أغراض العقوبة في الردع العام والخاص، أصبح ينظر إليها نظرة الشك والريبة بعد ثبوت أن الآثار السلبية المترتبة عليها تفوق بكثير الإيجابيات من ورائها، فقد أقرت بعض التشريعات الخدمة المجتمعية لتكون بديلاً عن عقوبة الحبس، فأثبت تطبيق الخدمة المجتمعية كعقوبة بديلة نجاحاً في تقليص أعداد المسجونين وتجنيب المحكوم عليهم مضار الايداع بالسجون، وتفريد العقوبة وفقاً لظروف وشخصية المحكوم عليه، فحقق بذلك المصلحة العامة من خلال التقليل من تكاليف سلب الحرية، فضلاً عن تقديم خدمات مجانية من قبل المحكوم عليه كتعويض عما اقترفه من جريمة وعما حققه من ضرر اجتماعي بسبب جريمته.

الكلمات الدالة: خدمة مجتمعية، عقوبات مستحدثة، بدائل العقوبات، عقوبات غير احتجازية.

1. Introduction:

Punishments under the penal law are still considered an important element of this law. They are still considered an effective mean for fighting against crimes in society and enforcing social control over society. For many years, jurists have been examining custodial punishments in terms of their benefits to society. They have been examining ways for addressing the negative impacts ofcustodial punishments on society and individuals. In fact, there are many disadvantages for enforcing custodial punishments on criminals. For instance, the increase of the number of prisoners made prisons crowded. It led to hindering the staff at prisons from implementing in-prison rehabilitation programs. In addition, many governments are not concerned in improving the living conditions in prisons. Therefore, many prisons today aren't suitable considered places for rehabilitating convicts. In fact, they have become corrupted environments that promote crimes in societies. Many prisons today include infringements for prisoners' rights. In the light of the aforementioned information, jurists today become interested in enforcing alternative punishmentsto imprisonment, such as: the non-custodial punishments which are enforced outside the penal institutions. Non-custodial punishments include: community sentence.

1.1 Significance of the study:

The present study is significant due to the benefits of community sentence to the convicts and the society. Such benefits include: the protection of the convicts' human rights and sparing convicts from imprisonment and its negative impacts on them. Several studies proved that imprisonment has negative impacts on convicts. There are several benefits for community sentence. Such benefits include rehabilitating the ones convicted in pursuant to the penal law and re-integrating them in society. In addition, community sentence serves a source for generating national income. It enables the convicts to retain their jobs while they are serving their sentence. Retaining their jobs shall provide them with a legitimate income. Contrary to the community sentence, serving time in prison shall stigmatize the convicts and hinder them from getting a job.

1.2 The Study's Objectives:

The present study aimed to shed a light on community sentence which is adopted by several legislations as an alterative punishment for imprisonment. It aimed to identify the meaning, characteristics, forms, significance and applications of community sentence. It aimed to explore these things under the French, Emirati, and Jordanian legislations. It aimed to explore the shortcomings in these legislations in this regard.

1.3 Statement of the problem:

Among the issues related to the contemporary policies of punishment, the most controversial issue is custodial punishment. During earlier times, custodial punishment used to serve as a punishment that detersthe publicand the convict himself/herself from committing crimes. It used to serve as a punishment that spares people from harsh physical punishments. However, today, there are many debates and doubts associated with community sentence. That is because it has been proved that the negative impacts of custodial punishment are much greater than the positive impacts of this punishment. Such negative impacts include: economic, social and security impacts. For instance, the probabilities of re-committing crimes after leaving prison are high. That indicates that there are serious shortcomings in custodial punishment.

In other words, there are many negative impacts for custodialpunishments. These impacts do not affect the convicts only. In fact, they affect other people who didn't commit the crime. Therefore, many legislators recognized community sentence as an alternative punishment for imprisonment. In this regard, the present study aimed to explore the effectiveness of community sentence-as an alternative punishment for short-term imprisonment- in deterring the public and the convict himself/herself from committing crimes.

1.4 The Study's Questions:

The present study aimed to answer the following questions:

- What are the meaning, characteristcs and forms of community sentenceas an alternative punishment for short-term imprisonment?
- What is the significacne of of community sentence as a punishemnt? Did ommunity sentencemeet the goals intended from it?
- What are the provisions and applications of community sentence under the French, Emirati, and Jordanian legislations?
- Can community sentences meet the goals intended from punishing the convicts?

1.5 The Study's Approach:

The present study adopted a comparative analytical approach. Through adopting this approach, the researchersanalyzed and examined several penal legislations and jurists' views which are related to community sentence. They examined all the aspects of such legislations. They examined the meaning, characteristics, forms, significance and applications of community sentence. They aimed to explore these issues under the French, Emirati, and Jordanian

legislations. They aimed to explore these issues in order to identify the strengths and weakness of these legislations.

1.6 The Study's Structure

-The meaning of community sentence

- Applications of community sentence under comparative legislations

2. The meaning of community sentence

Community sentence is considered a new punishment that is listed in penal laws. It aims at rehabilitating the ones convicted. It spares convicts the socialization with dangerous criminals in prisons. It ensures that prisons shall not be crowded with prisoners. Through the sub-sections below, the researchers identifies the meaning, characteristics, forms, significance and examples of community sentence:

1.7 Definition of community sentence

Several contemporary legislations provided a definition for the term (community sentence). They include the Jordanian and Emirati legislations. Article 25 of the Jordanian penal law No. 27 of 2017 defines community sentence as follows: (Community sentence is a punishment through which the convict shall be obliged to do a community service. It is determined by the court. It mustn't be less than 40 hours and mustn't exceed 200 hours. However, it must be carried out by the convict within a period that doesn't exceed one year). Article 120 of the UAE penal law No. 7 of 2016 defines community sentence as follows: (Community sentence is a punishment through which the convict shall beobliged to do a community service that is determined by the Council of Ministers. It is carried out by the convict in any of the institutionswhich may be chosen by the Minister of Justice in collaboration with the Minister of Interior Affairs and the Ministry of Human Resources and Emiratisation. Suchinstitutions which may be chosen bythe head of a local judicial body).

Most of the comparative legislators–especially the French legislations-didn't identify the meaning of community sentence explicitly. However, they define community sentence implicitly through penal legislations. For instance, article 131/8 of the French penal law defines community sentence as follows: (Community sentence is a punishment through which the convict shall be doing an act for the benefit of the public without receiving anything in return. The convict shall do this act for a public or private legal person assigned to do public services or for an association authorized to do community services).

Community sentence may be defined as a[1] (punishment through which the convicted person or the person serving a custodial punishment is obliged to do a community service without receiving something in return for a period determined by the court or the public attorney office. This punishment is determined in accordance with the relevant legislations. It is carried out for the favor of a public association, institution or body for free). Other jurists[2] define community sentence as a (punishment through which the criminal shall be obliged to work in a public institution for specific hours. The criminal may work in daily basis or during specific days of each month. That is identified through the judgment. The issued judgment identifies the institution that the criminal shall work at and the type of work he/she shall do at the selected institution. It identifies the number of hours he/she must serve. It identifies the period of time through which these hours must be completed). It can be noticed that these definitions are derived from the definition listed in article 131/8 of the French penal law.

In the light of the aforementioned definitions, the researchers set a definition for the term (community sentence). He defines it as (an alternative punishment for imprisonment. It is determined through a discretionary judgment issued by the judge in accordance with the legislations. It is represented in doing works that are for the benefit of the society. It is carried out for a specific period of time).

1.8 The characteristics, and forms of community sentence

This part presents the characteristics of community sentence. It presents the four forms of community sentence from the perspective of the jurists specialized in the penal law.

1.8.1 The characteristics of community sentence

Based on the aforementioned definitions, it can be noticed that there are special characteristics for community sentence. It may take the form of a punishment or a measure. It involves carrying out a work for free (i.e. without

(1) Pierre Couvart, Les trios visages du travail d'intérêtsgénéral, Revue de science criminelle et de droitpénalcomparé, 1989, No.1. P.159. François Staechele, La pratique de l'application des peines, Paris, 1995, No.667., P.321.
Sharif, SayedKamel, Alternative punishment to short-term imprisonment under the modern penal legislations. Al-Feker Al-Shurti journal; A journal for the General Command of Abu Dhabi Police. UAE. Issue No. 9, Vol. 3. 2000, p.268. Safa' Utani. Community sentence under the contemporary policy of punishment: A comparative study. The Jounral of Damascus University for legal and economic sciences. Vol No. 25. Issue No. 2, 2009, p.430.

(2) Philippe Conte, Et Patrick Maistre Du Chambon, DroitPénalgénéral, Coll. U, Armand Colin, 5eme éd, Paris, 2000, P.783.

receiving something in return) under a court judgment. It is carried out for a legal person authorized to do works for the benefit of the public. To be specific, the characteristics of community sentence are presented below.

a) Community sentence is carried out without receiving something in return:

Community sentence involves carrying out a work for free (i.e. without receiving something in return). Thus, dong it is painful psychologically for the criminal. Therefore, the criminal is obliged to do such a work to make amends for his/her crime.

b) Community sentence is carried out at a public body or institution:

Community sentence is carried out for the benefit of the public. To be specific, it is carried out for the benefit of the government or a public body. For instance, in France, it is carried out for the favor of a public or private legal person assigned to do public service or for an association authorized to do community services. The outcome of the community sentence shall be for the benefit of the public rather than for the benefit of personal interest

1.8.2 The forms of community sentence and aspects for distinguishing between them:

First: Theforms of community sentence:

There are four forms for community sentence. These forms are listed below:

a) Community sentence as an independent punishment (it may be direct or collateral consequence of the criminal conviction)

Many legislators recognize community sentence –through legislations- as an independent punishment. For instance, the French penal law suggests that community sentence may be issued by a punishmentby the misdemeanor court, the police court, orthe juvenile court. The community sentence may be issued by the juvenile court in case the age of theaccused is within the range of (16-18) years. It may be a direct or collateral consequence of the criminal conviction. It is recognized through articles 131/3 of the French penal law as a punishmentfor committing misdemeanors. It is recognized through articles 131/8 of the French penal law). The latter article suggests that the court may enforce community sentence as a direct consequence of the criminal conviction when committing crimes that require imprisonment. Under the latter article, the community sentence is represented in doing a community service for (20-210) hours without receiving something in return for the favor of a public or private legal person assigned to do public service or an association authorized to do community services. Under the latter article, the community sentence may be enforced as a collateral consequence

of a criminal conviction when committing certain violations for the traffic law, such as driving under the influence of alcohol.

b) Community sentence in conjunction with a suspended punishment

The French and Jordanian legislators(1) recognize community sentence in conjunction with a suspended punishment(2). They recognize it as an alternative punishment for custodial punishments. To be specific, the French legislator allowed the judge to suspense the punishment and enforce community sentence when committing felonies or misdemeanors that require imprisonment for a period that doesn't exceed five years (article 132/54 of the French penal law).

There are similarities between the first and second forms of community sentence. However, the second form has a dual nature. That is because the second form includes a suspended punishment and a community sentence. In this case, the convict shall be put under probation. When enforcing community sentence in this form, the judge shall identify the number of working hours, nature of the work, the institution to serve at, and the duration required for finishing the work. When enforcing community sentence in this form, the judge shall identify other obligations to be carried out by the convict himself/herself. Such obligations include: providing the victim with a compensation or special care (articles 132/54 and 132/56 of the French penal law).(3)

This community sentence in this form may be enforced through issuing a court judgment that condemns the convict. It may be enforced through issuing a subsequent decision following the judgment. In the latter case, the judge shall replace the remaining imprisonment period of time which doesn't exceed 6 months with community sentence. Based on articles 132/54, 132/40 and 132/41 of the French penal law, the provisions that regulate the community sentence in conjunction with a suspended punishment are the same ones that regulate the suspended punishment in conjunction with a probation period. Community sentence is considered as an obligation that must be carried out by the convict, especially when putting the community sentence is enforced in conjunction

(1) Further information is presented through the following sections of this study.

(2)Suspension: It refers to a system through which the enforcement of the sentence shall be delayed for a specific period based on the court judgement. During this duration, if the convict didn't commit any crime and show a good behavior, the punishment shall be dropped and considered non-existent. However, if the convict committed a crime during this period, the suspension of the punishment shall be cancelled and the punishment shall be enforced.

Ma'mounSalama. The penal law- the general section. Al-Nahda Al-Arabia publication and distribution house. Cairo. 2003, p.637.

Omar, Salem. New features for the suspension systems under the penal law. Al-Nahda Al-Arabia publication and distribution house. Cairo. 2006, p.9.

(3)Omar, Salem. Ibid, p.10.

with a suspended punishment and probation (article 132/56 of the French penal law and 747/1 of the French procedures law).

There is a difference between community sentence in conjunction with a suspended punishment and a suspended punishment in conjunction with a probation period. If the judge wants to issue a judgment that includes community sentence in conjunction with a suspended punishment, the suspended punishment must be fully suspended (Articles 132/56 and 132/42 of the French penal law). The duration of the suspended punishment in conjunction with a probation period mustn't exceed 18 months. The community sentence in conjunction with a suspended punishment can be enforced in case the age of the convict is within the range of (16-18) years (Article 20/5 of thejuvenile delinquency decree No. 45-174 which was issued on 2/2/1945)(1)

c) Community sentence as a settlement for a penal case

Article 41/2 of the French law of penal procedures suggests that the community sentence is a measure taken as a settlement for a penal case. This measure shall spare judicial bodies from proceeding in penal procedures in specific cases(2).

The latter article suggests that settlement may be represented in one measure or several measures. Such measures include: doing a community service that doesn't exceed 60 hours within a period that doesn't exceed 6 months for free. The latter measure is carried out in case of committing a misdemeanor. Under the latter article, in case of committing a violation, the community sentence mustn't exceed 30 hours and must be carried out within a period that doesn't exceed 3 month. Under the French legislations, doing the community sentence as a settlement for a penal case shall lead to closing the penal case (article 41/2/6 of the French law of penal procedures).

The community sentence in this form differs from the first and second forms. However, there are similarities between them. For instance, in each form, the community sentence is enforced on the convict himself/herself. In each form, the community sentence serves as the response of the judicial body towards committing a crime. In each form, serving the community sentence requires the approval of the criminal to serve it. In each form, the community sentence involves doing a work for the benefit of the society without getting something in return. In each form, the community sentence involves doing works of the same nature and for the same type of institutions. In each form, serving the community sentence is supervised by the prisons department.

(1) Ministère de la justice et des libertés, Guide du Travail d'IntérêtGénéral, Guide Méthodologique,Mai 2011, P.10.

(2) Ministère de la justice et des libertés,Ibid, p.34

d) Community sentence as a specific penal measure

Severalcomparative legislations –e.g. the Emirati legislations- enforce that community sentence as a specific penal measure that serves as an alternative punishment for imprisonment. They enforce community sentence to protect the society from the threat caused by criminals to it (Article 120 of the UAE penal law). However, it's believed that community sentence doesn't protect the society from the threat caused by criminals.(1)

Second: Aspects for distinguishing between the forms of community sentence:

The researchers presented below the aspects used fordistinguishing between the forms of community sentence under the French law(2)

a) The nature of the procedure

One can distinguish between the forms of community sentence under the French law based on the nature of the measure. For instance, under the French law, the community sentence as direct or collateral consequence of the criminal conviction may be enforced on the ones committing misdemeanor. As for the community sentence in conjunction with a suspended punishment, it is enforced - under the French law0 on the ones who commitfelonies and misdemeanors that requires imprisonment for a period that doesn't exceed five years. The French legislator acknowledges community sentence as a settlement for a penal case (an alternative to criminal prosecution)

b) Conditions for enforcement:

Under the French law, all the forms of community sentence requires the attendance of the convict and obtaining his/her approval. That applies whether the community sentence is an independent punishment or enforced in conjunction with a suspended punishment. In case the community sentence is a settlement for a penal case, the convict must be attending the session and agree to the procedures of the settlement.

c) The convict mustn't be havinga criminal record

Under the French law, in case the community sentence is an independent punishment or a settlement for a penal case, the convict mustn't be having a criminal record. In other words, (the convict mustn't have committed a crime

(1) Further information shall be presented in the following sections.

(2) Community sentence is recognized as an independent punishment through article 131/8 of the French penal law. It is recognized as a punishment in conjunction with a suspended punishment through article 132/54 of the French penal law. It recognized as a settlement for a penal case through article 41/2-6of the French penal law. Ministère de la justice et des libertés, Ibid, p.38.

before). In case the community sentence is enforced in conjunction with a suspended punishment, the convict's criminal record doesn't matter.

d) The temporal limits

The temporal limits of thecommunity sentence differ from one form to another. For instance, if the community sentence is enforced as an independent punishment, the temporal limits shall be determined based on the type of the committed crime. In this case, in case the convict committed a misdemeanor, the convict must serve 20-210 hours. In case the convict committed a violation, he must serve 20-120 hours.

In case the convict has a job, he/she can serve many hours consecutively. That applies provided that the convict doesn't serve more than 12 hours consecutive hours.

The community sentence may be enforced in conjunction with a suspended punishment. That only applies to the convicts who committed a misdemeanor. In this case, the working hoursshall be within the range of 20-210. In case the community sentence is enforcedas a settlement for a penal case and the convict committed a misdemeanor, the working hours shall not exceed 60 hours. In case the community sentence is enforced as a settlement for a penal case and the convict committed a violation, the working hours shall not exceed 30 hours. In case the community sentence isenforced in conjunction with a suspended punishment, the duration of committing the workmustn't exceed 18 months. In case the community sentence is enforced as asettlement for a penal case, the duration of committing the work mustn't exceed 12 months.

e) Time of initiating the enforcement of the community sentence

In case the community sentence is an independent punishment, the procedures of enforcement shall initiate on the date of considering the judgement as a final judgement. In case the community sentence is enforced as a settlement for a penal case, the procedures of enforcement shall initiate on the date of notifying the convict with the recognition of the agreement concluded for settling the penal case.

f) The judicial body and the authorities responsible for enforcement:

In case the community sentence is enforced as an independent punishment or in conjunction with a suspended punishment, the judge is the one who has jurisdiction over supervising the completion of the work. In case the community sentence is enforced as a settlement for a penal case, the public attorney office or the delegate or the representative of the public attorney shall have jurisdiction over supervising the completion of the work.

As for the administrative bodies that must follow up the completion of the work, they vary. In case the community sentence is enforced as an independent punishment or in conjunction with a suspended punishment, the administrative bodies shall vary based on the convict age (i.e. the convict may be an adult or juvenile). If the convict is an adult in any of the latter cases, the prisons department shall be responsible for following up the completion of the work. If the convict is a juvenile in any of the latter cases,the department of the judicialprotection of juveniles shall be responsible for following up the completion of the work. In case the community sentence is a settlement for a penal case and the convict is an adult, the prisons department must follow up the completion of the work. In case the community sentence is a settlement for a penal case and the convict is a juvenile, the delegate of the public attorney must follow up the completion of the work.

2 The significance of community sentence as a punishment

There is a debate among the jurists specialized in penal law about the effectiveness of community sentence. For instance, it's believed that community sentence makes reforms to the punishment system of the state. Other jurists believe that community sentenceweakens the punishment system of the state. Through the sub-sections below, the researchersshed a light on these views:

2.1 The ones who support the community sentence

In many countries (including France), community sentence has been receiving much attention by jurists(1).Those jurists support the enforcement of community sentence due to its benefits to the punishment system. For example, the enforcement of community sentence eliminates the demerits of short-term custodial punishments. It ensures that prisons shall not be crowded with prisoners. It rehabilitates the convicts. It ensures that the convict shall not recommit a crime. It has many economic benefits. The merits of community sentence are illustrated below

First: Community sentence eliminates the demerits of short-term custodial punishments:

Some of the jurists(2) who support the enforcement of community sentence suggest that community sentence eliminates the demerits of short-term custodial punishments. They suggest that community sentence is needed for the

(1) Dominique Gaillardot, Les sanctions pénales alternatives, R.I.D.C, 1994, P.19.

(2) Jean Pradel, Droitpénalgénéral, Edition Cujas, Paris, 2000, P.654. Charlotte Vanneste, Le travail d'intérêtgénéral, pour le meilleurou pour le pire, R.D.P.C 1993, P.844 et 847. Hélén Durand-Cogos, Dominque Puechmaille, Réflexionssur dix ansd'application du travail d'intérêt général,1994 Gaz. Pal.4,5, Février , P.12.
Sharif, SayedKamel, op cit., p.368.

convicts who do not have a criminal record and the convicts who do not cause a serious threat to society. It should be noted that community sentence is enforced today because many jurists claimed for having alternative punishments to imprisonment that spare convicts from imprisonment.

The latter jurists(1) suggest that community sentence is effective as an alternative punishment for short-term imprisonment. They believe that community sentence is effective for rehabilitating the convicts who don't have any criminal record. That is because the latter convicts don't not cause a serious threat to society. The latter jurists believe that it would be enough to issue judgments that condemn such convicts and oblige them to serve community service. They believe that it would be enough to enforce control over such convicts. They believe that carrying out these measures would be enough instead of depriving them from their freedomthrough custodial punishments

Second: Community sentence ensures that prisons shall not be crowded with prisoners and convicts shall not recommit crimes

Community sentence ensures that prisons shall not be crowded with prisoners. That is because community sentence is served by convicts outside prisons. It is because community sentence reduces the number of the prisoners serving their sentence insidepenal institutions. Thus, community sentenceshall positively affect the living conditions of prisoners inside the penal institutions. In other words, it improves the conditions in prisons.

The major reasons leading to the rise of crime rate and recommitting crimes include: the socialization of prisoners with one another inside the penal institutions. Based on statistics, the percentage of the prisoners whore-commit crimes after leaving penal institutions is high(2). Therefore, many jurists claimed for enforcing alternative punishments to custodial punishments that can meet the goals of custodial punishments. Such goals include deterring the public and the convict himself/herself from committing crimes and letting the convicts avoid socializing with prisoners in a corrupted environment. Such alternative punishments include: community sentence.

Third: Rehabilitating the convicts and re-integrating them in society:

Community sentence plays a very significant role in rehabilitating the convicts. It turns those convicts into good citizens and re-integrate them in society. It promotes positive feelings among convicts. It makes convicts

(1) Raymond Screvens, Le travail d'intérét general, R.D.P.C, 1992, P.10. Charlotte Vanneste, Le travail d'intérêtgénéral, op. cit, P.843.

(2) A report issued by the United Nations Secretary-General on 1/6/1991. It is submitted for the eighthUnited Nations Congress on Crime Prevention and Criminal Justice in Havana, Cuba during 8-7/9/1991.

confident about their potentials and capabilities to do good works that are for the benefit of the society which laws have been violated by them. If the convicts were willing to do the community sentence, it means that they do not cause a serious threat to society. It means that those convicts shall return to society as beneficial and productive members. That is the goal sought from rehabilitating the convicts. In fact, the rehabilitationof convicts aims at providing convicts with opportunities to integrate socially with the members of the society. Thus, the community service shall strengthen the convicts' relationship with society. It improves the convicts' self-confidence and activate the convicts' role in society. It plays a significant role in the rehabilitation of convicts.

When the convicts return to their jobs after finishing their community sentence, they shall realize the value of freedom. They shall also realize the consequences of restricting their freedom. They shall realize the consequences of committing crimes. That shall lead to rehabilitating the convicts. Enforcing community sentence on convicts shall spare them from the personal and social problems that might be experienced after serving custodial punishments. To illustrate more, when the convictsleave prison, it shall become difficult for them to return to their normal lives and jobs. That is because prison stigmatizes everyone who got out from it(1).

There are various merits for community sentence. However, some jurists(2) criticize the community sentence listed in some comparative legislations. That is because some comparative legislations enforce community sentence on convicts without enrolling them in a rehabilitation program. Through such a program, the convict's behavior and ethical problems shall be addressed. According to the latter jurists, in order for the community sentence to be effective, it must be enforced along with a rehabilitation program. Through this program, the convict must be supervised and the completion of the work must be followed up. Through this program, there must be several restrictions enforced on the convict. Through this program, the convict must be obliged to do several obligations.

The researchers of the present study believes that community sentence is effective for the convicts who do not cause a serious threat to society. He believes it would be enough to issue judgments that condemn such convicts and oblige them to serve community service. He believes that the judge should analyze the convict's personality and examine the convict's academic qualification and his/her professional and technical expertise. Such analysis and

(1) Safa' Utani. Op, cit., p.441.

(2) Ayman Ramadan Al-Zeiny, Short term custodial punishments and their alternatives: A comparative study. PhD dissertation in police science. Faculty of graduate studies. Police Academy. Cairo. 2003, p.323.

examination are needed for determining whether to enforce a community sentence, custodial punishment or any other alternative punishment, such as: probation or suspended punishment.

Fourth: Community sentence engages the society in achieving justice:

Some jurists(1) believe that community sentence is considered one of the most important alternative punishments to short-term imprisonment. They believe that community sentence engages the society in achieving justice. In other words, community sentence engages the society in enforcing punishment over the convict. That is because community sentence is served in society and public institutions. It's because serving community sentence requires the engagement and cooperation of the society's members.

Through serving the community sentence, the convict shall make up for the damages that his/her crime caused to the society's security and order. That is because community sentence is carried out for free.When serving the community sentence, the representatives of public bodies shall be engaged in determining the nature of the work. Those representatives shall be engaged in the rehabilitation process. When serving the community sentence, the probation officers or social supervisors shall be engaged too(2).

When serving the community sentence, it is necessary to enforce effective supervision over the convict. Such supervision shall ensure that the convict has been re-integrated in society. It shall reduce the probabilities of re-committing a crime by the convict. It shall promote a sense of responsibility among convicts towards society. It shall enable convicts to handle the challenges they might face when integrating them in society.

Fifth: The economic benefits of the community sentence:

Community sentence meets important economic goals. For instance, it maximizes the national production. It enables the government to save the costs associated with custodial punishments. That is because community sentence reduces the number of prisoners inside prisons. To illustrate more, prisonsrequire money. However, such money is spent by the government without achieving any benefit(3).

Community sentence maximizes the national production. That is because community sentence enables the government to recruit the workforce in the production process. However, through the custodial punishment, the convict

(1) Ahmad Issam Al-DeenMaleegy. Assessment for the wok at penal institutions: The modern development of punishment-related policies: A comparative study. The national center for social and penal research. Cairo. 2000, p.114.
(2) Safa' Utani. Op, cit., p 434.
(3) Safa' Utani. Op, cit., p444.

shall lose his/her job. Through the community sentence, the convicts can be recruited in national enterprises that are affiliated with public bodies. That shall increase the gross domestic income. For sure, that shall increase the job opportunities available to the convicts when finishing their community sentence at such national enterprises. Recruiting convicts in national enterprises shall provide the society with products which prices are relativelylow. That is because the convict shall work for free. Thus, the production costs of the enterprise shall decrease.

2.2 The ones who are against the community sentence

Much criticism has been madeby jurists against community sentence. For instance, some jurists suggest that community sentence doesn't serve as a deterrent punishment. Some jurists suggest that community sentence isn't effective without implementing rehabilitation programs. Some jurists suggest that community sentence isn't an effective deterrent punishmentfor the convict who cause a serious threat to society. In addition, some jurists suggest that it's difficult to enforce community sentencein collaboration with several bodies. The criticism against community sentence is illustrated below:

First: Community sentence doesn't serve as a deterrent punishment

Some jurists(1)suggest that community sentence doesn't serve as a deterrent punishment for the public. They believe that this sentence weakens the punishment system adopted by the government. Other jurists(2) suggest that this shortcoming can be addressed through limiting the enforcement of the community sentence to specific cases only. That should be done in a manner that is consistent with the requirements of achieving justice. It should be done in a manner that deters the public from committing crimes. Such limitation can be enforced through setting specific conditions by the legislator for enforcing community sentence. Such conditions may be related to the convict himself/herself or the type of the committed crime itself. The latter jurists believe that such conditions must be flexible in a manner that allows the judge to enforce the community sentence on the cases he/she deems appropriate. That should be determined by the judge through a discretionary judgment issued based on the circumstances of the convict. The latter jurists believe thatthe judge should do that with ensuring that the public are deterred and justice is achieved.

(1) Raymond Screvens, op.cit, P.11.
(2) Sharif, SayedKamel, op cit., p 368.

In response to the latter criticism, the researchers and some jurists [1] suggest that community sentence can effectively deter the public from committing crime. They suggest that community sentence serves as a social response towards committing a crime. They suggest that community sentence can rehabilitate the convict and deter him/her from committing crimes again. They suggest that community sentence can achieve justice. In response to the latter criticism, the researchers and some jurists believe that it would be enough to threaten specific convicts with punishment without actually enforcing it on them. They believe thatcommunity sentence meet the public interest due to two reasons, which are: 1)- community sentence shall reduce the costs incurred by the government when enforcing custodial punishment 2)-The numerous negative impacts ofenforcing custodial punishment shall be eliminated.

In response to the latter criticism, the researchers and some jurists believe that community sentence is appropriate for a specific type of convicts. They believe that community sentence should be enforced to specific cases only in a limited manner. They believe that community sentence mustn't replace custodial punishment in all cases.

Second: **Community sentence isn't always associated with rehabilitation programs:**

Some French jurists[2] criticized community sentenceand claimed that this sentence is considered the punishment adopted by bureaucratic systems. They claimed so because there are challenges faced in reality when enforcing community sentence. Such challenges include the following: 1)-There aren't many fields that the convicts can work at. 2)- Judges can't keep followingup the completion of the works carried out by convicts. 3)-The one supervising the convict serving his/her community sentence are concerned only in having the work completed without being concerned in rehabilitating the convict and meeting specific social and educational goals from such sentence.

In response to the latter criticism, the researchersbelieve that some convicts who do not cause a serious threat to society do not need rehabilitation programs. In fact, he believes that it would be enough to issue penal judgmentscondemning them without enforcing custodial punishments on them. He believes that such judgments shall make them shocked and feel bad[3].

(1) Omar Salem, op cit., p.6.

(2) Jacques Faget, Médiationpénale et travail d'intérêtgénéral en France, dans Travail d'intérêtgénéral et médiationpénale, socialization du penal ou penalization du social?, dir Philippe MARY, Bruylant, Bruxelles, 1997, P.132.

(3) Mahmoud NajeebHusny. The science of crime. Al-Nahda Al-Arabia publication and distribution house. Cairo. 1992, 535.
AteyaMuhana. Alternative punishments to short term custodial punishments. The national penal journal. Vol. 35, Issue no. 2-3, November, 1992, p.9

Therefore, the researchers believe that those convicts mustn't serve custodial punishments. In fact, non-custodial punishments must be enforced on them instead.

Third: Community sentence isn't effective for fighting against the serious crimes

Some jurists(1) criticized community sentence. They suggest that community sentence isn't effective for fighting against the serious crimes. They suggest that community sentence doesn't deter the public from committing serious crimes. They claimed for enforcing acommunity sentence in conjunction with paying a compensation for the victim, or in conjunction with amandatory course in case the crime is a serious crime.In case thecommunity sentence is enforced as an independent punishment, they claimed for enforcing supervision measures that arestricterthan the supervision measurestaken in case the community sentence is enforced in conjunction with a suspended punishment.In case the community sentence is enforced as an independent punishment, they recommend making the community sentence five years.In case the community sentence is enforced as an independent punishment, they claimed for making the legal mechanism simpler than the legal mechanism adopted for the community sentence enforced in conjunction with a suspended punishment

In response to the ones who suggest this demerit, the researcherssuggest that community sentenceis effective for fighting against the crimes committed by the ones who don't have a criminal record. He suggests that community sentence shall spare convicts from the negative impacts of serving custodial punishments. He suggests that community sentencecomplements the custodial punishment.

Fourth: It is difficult to have an effective partnership to implement community sentence:

Some jurists(2) suggest that there are difficulties associated with the enforcement of the community sentence. Such difficulties include: the difficulty to have an effective partnership between the judicial bodies and the bodies that the convicts must serve the community sentence at. There are difficulties in finding suitable job opportunities for the convicts in many areas in France. That is because such areas suffer from many social and economic problems, including unemployment. In addition, the local authorities in some areas hesitate to assign officers for supervising the convicts while serving their

(1) Martine Herzog – Evans, Droit de l'application des peines, Dalloz, 2005 , P.200.
(2) Sarah Dindo, Les alternatives à la détention, Commission nationale consultative des droit de l'homme, 2006 P.123.

community sentence. That is because someauthoritiesbelieve that the officer may get into a conflict with the convicts when hosting them.

In response to this demerit, social workers in France can establish new partnerships with the local authorities, and private associations that are concerned in community service. Through such partnership, attention can be provide to hosting those convicts. Addressing this demerit requires much patience and time. In terms of the difficulty in finding job opportunities for the convicts, the local authorities and public bodies can assign several job opportunities for the convicts. Suchjob opportunities shall be in various public sectors, such as: the health, cultural, and security sectors. Training must be provided to the ones who volunteered to supervise the convicts serving their community sentence.

4. Applications of community sentence under comparative legislations

Most of the comparative legislations provide much attention to the community service system. Such attention is represented in adopting community sentence as an alternative punishment to imprisonment or as apenal measure. The applications of community sentence are identified below under the French, Emirati, and Jordanian legislations

2.3 Community sentence under the French legislations

Many legislators adopting the Latin system- including the French legislator- seek developing the punishment-related legislations and addressing the problems associated with custodial punishment. They seek doing that through enforcing alternative punishments to short-term imprisonment, such as: community sentence. Under the French law No. 83-466 (issued on 10/6/1983), the French legislator recognized community sentence as a punishment. Article 131/8 – 131/32 of the French penal law addresses the provisions related to community sentence. Some French jurists(1) suggest that the recognition of community sentence as a punishment in France isn't something good. A member in the Parliament named Michaud recommended recognizing community sentence as a punishment in France. However, no one paid attention to his recommendation.

The French legislator enforces community sentence as an alternative punishment to prison. He also enforces community sentence as acollateral consequence of the criminal convictionin some misdemeanors and in the violations falling under the fifth category. In the traffic crimes,such

(1) Jean Pradel, Le travail d'intérêtgénéral, l'expériencefrancaise in le service au profit de la communauté en tantquemesure de substitution a la peined'emprisonnement, Rapport aux Journées de Coimbra (Portugal), 27-30 Septembre 1986, Coll. Des Travaux de la Fondationinternationalepénale et pénitentiaire, Coimbra, PP.27-45.

misdemeanors and violations include: driving under the influence of alcohol or drugs and the refusal to be tested for the influence of alcohol). Such violations include the ones related to destruction and damage that are listed in articles (625/1 and 4) and (131/17) of the French penal law. The French legislator defines (thecommunity sentence enforced in conjunction with a suspended punishment) through article 747/1 of the French penal law and the following articles. He defines this term through articles 132/54, 55, and 56 of the French penal law(1).

Based on the official statistics issued by the French Ministry of Justice, about (6-7)% of the judgments issued by the French courts during the period (2006-2012) enforce community sentenceas an alternative punishment to imprisonment or as a collateral consequence of the criminal conviction(2).

Based on the official statistics issued by the French Ministry of Justice, about 9-8% of the judgments issued by the French courts during the period (2006-2012) includes enforcement of community sentence in conjunction with a suspended punishment.

Based on the official statistics issued by the French Ministry of Justice, about 19-14% of the judgments issued by the French courts during the period (2006-2012) for the settlement for penal cases includecommunity sentence as settlement for penal cases(3).

Based on those statistics, it is necessary to expand the scope of enforcing community sentence as a punishment in France

2.4 Community sentence under the Emirati legislations

The Emirati legislator defines the community sentence through article 120 of the UAE penal law No. 7 of 2016.This article defines it as follows: (Community sentence is a punishment through which the convict shall be obliged to do a community service that is determined by the Council of Ministers. It is carried out by the convict in any of the institutions which may be chosen by the Minister of Justice in collaboration with the Minister of Interior Affairs and the Ministry of Human Resources and Emiratisation. Suchinstitutions which may be chosen by the head of a local judicial body. Community sentence serves as an alterative punishment for imprisonmentin

(1) Jean Pradel, Droitpénalgénéral, op.cit, P.607. Philippe Salvage, Sursisassorti de l'obligationd'accomplir un travail d'intérêtgénéral, Recueilpériodique des Juris-classeurs, Lexis Nexis SA, Paris, 2006, P.1.

(2) Annuairestatistique de la Justice, édition 2011-2012, Ministére de la justice et des libertés, P.159.

(3) Annuairestatistique de la Justice, édition 2011-2012, Ministére de la justice et des libertés, P.225.

case of committing a misdemeanor that requires imprisonment for 6 months or paying a fine. That applies, provided that the duration of the community sentence doesn't exceed 3 months).

Article 110 of the UAE penal law suggests that community sentence may be enforced for restricting the convict's freedom. The latter article suggests the following: (The measures restricting the convict's freedom include: 1)- preventing the convict from going to some public place 2)- preventing the convict from residing in a specific place 3)- probation 4)- community service 5)-expulsion).

The Emirati legislator recognized community sentence through the (penal measurescode). He recognized it as a panel measure that aims to protect the society from the serious crimes and prevent the convicts from committing crimes again. Articles 109-132 of the Emirati penal law sheds a light on penal measures(1).

First: The duration of the community sentence: Article 120 of the UAE penal law suggests that the community sentence mustn't exceed 3 months. To be specific, it states the following: (The community sentence mustn't exceed 3 months)

Second: Conditions for enforcing the community sentence: The conditions are listed below:

1) Conditions related to the nature of the committed crime: The community sentence is enforced on the ones who committed a misdemeanorthat requires serving three months in prison or paying a fine. It can't be enforced on the ones who committed a misdemeanor or a felonythat requires serving more than 3 months in prison. The UAE penal law allows the judge to enforce community sentence as an alternative punishment for imprisonment in case of taking drugs or possessing it in the aim of taking it.(2)
2) Conditions related to the convict: Under the UAE penal law, community sentence shall not be enforced on juveniles. That is because there are other penal measures enforced on juveniles under the latter law. Without doubt, community sentence is important as an alternative punishment for short-term imprisonment. It shall spare convicts from the negative impacts of serving custodial punishments. It improves the convicts' behaviors and enables them to make up for the damage they caused to society.

(1) Sharif, SayedKamel, op cit., p270.
(2) Article 42 of the UAE Federal Narcotic and Psychotropic Substances law.

Third: The areas in which the convicts shall serve their community sentence:

In activation to the aforementioned article, the Deputy Prime Minister, Ministry of Presidential Affairs, and the head of the Abu Dhabi Judicial Department issued a decision together. Through this decision, they identified the nature of the works to be carried out as a community sentence. They identified the bodies that the community sentence shall be served at. Under the latter decision, such works may include the following ones: 1)-Memorizing verses from the Holy Quran or working with people for letting them memorize suchverses. 2)-teaching the illiterate people how to read and write. 3)- providing care to juveniles 4)- Providing care to the ones with special need. 5)-Providing transportation services to the sick people 6)- Cleaning roads, streets, public squares, beaches,nature reserve and mosques 7) providing maintenance services to mosques 8)- Cleaning sport facilities and selling tickets 9)- cleaning, and organizing public libraries and providing them with maintenance services 10)-planting public gardens and providing them with maintenance services 11)-Loading and unloading containers in the ports, 12)- providing assistance to the staff at the Directorate General Of Civil Defense in doing their works 13)-carrying out written tasks at post office 14)- Carrying out administrative at health centers 15)-carrying out written works 16)- driving the vehicles of the Food Control Authority 17)-working at afilling station 18)-Other works that are for the benefit of the public.(1)

Based on the aforementioned information, the types of community sentence vary. They include: services, and environmental, educational and humanitarian works. Community sentence aimsat making major changes to the psychological and intellectual status of the convict. It aims at providing benefits and services to the public and meeting public interests. It aims at adjusting the behaviors of convicts and instill positive feelings within them. In order for the convicts to serve their communitysentence, the society and the public bodies must cooperate with the convicts. They must rehabilitate, direct and assist the convicts. They must promote trust between the convicts and the society. They must assist the convicts in order for them to finish their sentence and return to society as active and productive members.

Fourth: The bodies responsible for the community sentence:

Article 120/1 of the UAE penal law suggests the following: (The community sentence is served at the body/bodies determined by the public

(1) This decision is published on the official website of the Council of Ministers - United Arab Emirates, at the following link:https://uaecabinet.ae/ar/details/news/mansour-bin-zayed-sets-up-public-prosecution-department-for-community-service

attorney or his/her delegate in pursuant to the decision mentioned in article 120 of this law. It shall be served in collaboration with that body/those bodies and under the supervision of the public attorney). That led to establishingUAEpublic attorney offices that are responsible for community sentence. Those offices are called (the public attorney offices for community sentence measures). Those offices are responsible for enforcing supervision over the convicts to make sure that they are serving their community sentence. They must coordinate the enforcement of the community sentence with the bodies that the convicts shall serve their sentence at. The goals of such bodies must be consistent with the goals of the community sentence listed by the legislator. The types of community sentence vary. They include: services, and environmental, educational and humanitarian works. Community sentence aims at making intellectual and psychological positive changes to the convicts. It aims at adjusting the convicts' behaviors and changing their motives.

Fifth: The punishment of the convicts who breach their obligation to serve community sentence:

Article 120/3 of the UAE penal law suggest that convicts shall be punished in case they breached their obligation to serve the community sentence. To be specific, it states the following: (If the convict beached his/her obligation to serve community sentence, the court is entitled to prison the convict –upon the request of the public attorney- for a duration similar to the duration ofthe community sentence or what's left of it).

Sixth: The judicial applications of community sentence in the United Arab Emirates:

Examplesof community sentence in the United Arab Emiratesinclude a decision issued by the public attorney office in Abu Dhabi. This decision obliges a young man to clean roads and public squares for three months. This decision was issued in pursuant to a judgement issued by a court in Abu Dhabi. The latter judgment suggests that this young man must serve a community sentence and pay 17, 000 Dirham as a fine. It also suggests that the driving license of this man must be withdrawn for three months. It condemns this man with doing dangerous moves and driving a car that doesn't have a registration plate. It condemns this man withdriving a car despite the raining weather and putting his life and the lives of others at risk. It condemns this man with refraining from stopping the car when causing an accident

A second example is represented in a judgment that obliges the convict to serve community sentence for3 months. This judgment condemns the convict for driving avehicle that doesn't have a registration plate. It obliges the convict to pay a fine of 10,000 Dirham for refraining from stopping the car when causing an accident. It also suggests that the driving license of this man must be

withdrawn for 3 months. It also obliges the convict to pay another fine (i.e. 7000 Dirham) for other associated charges. It obliges the convict to pay the charges of the penal case. A third example is represented in a decision issued by the deputy head of the state, the prime minister and the ruler of Dubai. This decision obliges several convicts who tortured a car to serve a community sentence. This sentence is represented in cleaning the zoo for 4 hours/day for a duration of three months.

Based on statistics, among the judgments issued in Abu Dhabi during the period (March, 2017- August, 2017) against the ones convicted with traffic crimes, there are 69 judgments including community sentence. During the first six months of 2017, Abu Dhabi public attorney office for traffic affairs recorded 20 dangerous traffic crimes which require serving 6 months in prison. However, during the first six months of 2016, the latter office reported 35crimes of this kind. It was found that the enforcement of community sentence played a significant role in reducing the traffic crimes rate by 90%. August, 2017 is ranked first in terms of the extent of enforcing community sentence. To be specific, during August, 2017, community sentence was enforced in 16 cases. July, 2017 is ranked second in this regard. To be specific, during July, 2017, community sentence was enforced in15 cases. June, 2017 is ranked third in this regard. To be specific, during June, 2017, community sentence was enforced in 13 cases. March, April and May, 2017 show similar rates in terms of the extent of enforcing community sentence. For instance, during each month of those, community sentence was enforced in 8 cases(1).

Comments:

The Emirati legislator recognized the community sentence as a penal measure. It is a good step. However, the Emirati legislator should have recognized the community sentence as an alternative punishment for short-term imprisonmentrather than as a penal measure. That isbecause penal measures are measures taken by the judge against the one found guilty of committing a serious crime. Such measures are taken to preserve security in society.(2)

It is because penal measures aim at fighting against the serious threat that criminals cause to society. They do not aim at causing pain to the convict. In fact, penal measures aim at restricting the freedom of the convicts and ensuring that the convicts who cause serious threat to society not shall re-commit crimes

(1) Ashraf, Jamal. A report titled (The judicial department: The enforcement of 69 punishment (community sentence in Abu Dhabi within 6 months). This report was published on 27/9/2017 on EmaratAlyoum website. It is available on the following link:http://www.emaratalyoum.com/local-section/accidents/2017-09-27-1.1030528

(2) article 129 of the UAE penal law.

in the future. The Emirati legislator should have recognized the community sentence as an alternative punishment for short-term imprisonment. That is because community sentence is enforced on aspecific category of convicts only (i.e. the ones who don't havea criminal record and the ones who donot cause a serious threat to society). In addition, community sentence under the Emirati legislation isn't recognized as a collateral consequence of the criminal convictions.

Under the Emirati legislation, community sentence in a business institution is defined as a measure taken for restricting the freedom of the convicts. It aims at fosteringdiligence among convicts and promoting commitment among them towards the laws. It aims at making those convicts used to living in a systematic manner that doesn't violate the law. In this context, business institutions refer to institutions established by the state for convicts only. They aim at re-integrating the convicts in social life and training them on practicing a profession under the supervision of professionals and the judicial authorities

2.5 Community Sentence under the Jordanian legislations:

The Jordanian legislator provided a definition for community sentence. He acknowledged community sentence through the Jordanian penal law No. 27 of 2017. The researchers addressed community sentence below under the Jordanian legislations:

First: **Conditions for enforcing the community sentence: The conditions are listed below:**

Article 54 of the Jordanian penal law No. 27 of 2017 sheds a light on community sentence. To be specific, it states the following: (1)-When the court suspend the original punishment in pursuant to article 54 of this law, it can issue an alternative correctional punishment forrehabilitating the convict or several ones.That applies provided that the convict approves serving the sentence and didn't commit the crime previously. That is determined by the judge based on the social assessment report). Thus, the Jordanian legislator allowed the judge to enforce a community sentence with a suspended punishment. The conditions of enforcing community sentence under the Jordanian laws are illustrated below:

1) There must be a suspended punishment associated with the community sentence:

Under article 54 of the Jordanian penal law No. 27 of 2017, the conditions of enforcing community sentence are the same conditions of suspending the punishment which are listed in article 54 of the latter law. Under the Jordanian legislations, the judge is allowed to suspend the punishment in case specific conditions are met. These conditions are: 1)-The committed act must be a felony or a misdemeanor. 2)- The punishment of the

committed act mustn't exceed one year.3)-The court must decide that after assessing the ethics, age and record of the convict and the circumstances at the time of committing the crime.Such assessment must indicate that the convict shall not violate the law in the future.

The court may decide to suspend the punishment through issuing a discretionary judgement, provided that the conditions listed in the law are met.

2) The approval of the convict

Under the Jordanian penal law, the convict must approve the community sentence. That is required in all the comparative legislations. That is because meeting the goals intended from enforcing community sentence requires the approval of the convict to serve his/her sentence. Such goals include: the rehabilitation of the convict.

3) Carrying out a social assessment for the convict:

It is necessary to carry out a social assessment for the convict. That is necessary to identify whether this punishment is suitable for the convict or not. It is necessary to identify whether the convict shall be committed to serving his/her sentence or not. It is necessary to identify whether the punishment is effective for rehabilitating the convict or not.

4) The convict mustn't have committed the crime previously:

Under the Jordanian legislations, in order for the judge to enforce a community sentence on the convict, the convict mustn't have committed the crime previously. That is required in pursuant to article 54 of the Jordanian penal law. This article includes the following statement (didn't commit the crime previously).

Second: The scope of enforcing the community sentence:

Article 25 of the Jordanian penal law suggests that the community sentence mustn't be less than 40 hours and mustn't exceed 200 hours.It suggests that the community sentence must be carried within one year maximum. The Jordanian Ministry of Justice signed 8 agreements with other ministries. Such agreements include a framework that regulates the process of enforcing the community sentence. They include the areas of cooperation and coordination between the Ministry of Justice and other public bodies. Through suchcooperation and coordination, the latter ministry and other public bodies shall provide suitable places for enforcing the community sentence and identify the suitable areas for it. Such agreements include frameworks for enforcing control and supervision over the way of completion the community sentence. They suggest that the

Ministry of Justice must be provided with reports about the commitment of convicts in serving their community sentence when the duration ends(1).

Third: Cancelling the enforcement of the community sentence

Article 54 of the Jordanian penal law suggests the following: (2)-Based on the social assessment report, the court is entitled to cancel the enforcement of the community sentencein order to enforce the original punishment instead in any of the following cases:

a) The judge cancelledthe suspension of the original punishment in pursuant to article 54 of the Jordanian penal law
b) The convict was notified about his/her obligation to serve the community sentence and refrained from serving it or showed negligence in this regard without providing an excuse appropriate by the court).

It was found that the cases in which the enforcement of the community sentence iscancelled are the same cases in which the suspension of the original punishment is cancelled. Based on the latter article, the courtis entitled to cancel the enforcement of the community sentence in case thejudge cancelled the suspension of the original punishment in pursuant to article 54 of the Jordanian penal law. Based on the latter article, the court is entitled to cancel the enforcement of the community sentence in case the convict was notified about his/her obligation to serve community sentence and refrained from serving it or showed negligence in this regard without providing an appropriate excuse to the court. In any of those cases, the court may issue this judgment based on the social assessment report.

Article 54/2 of the Jordanian penal law suggests that the cases of cancelling the suspension of the original punishment are: 1)-Issuing a judgment that requires imprisoning the convict for a period that exceeds 1 month for committing an act he/she committed before or after suspending the punishment. 2)-In case a judgment of imprisonment was issued against the convict before suspending the punishment and the court knew nothing about this judgment. However, this judgment must include imprisonment for a period that exceeds 1 month.

(1) A report titled (During the beginning of March, the community sentence shall be applicable as an alternative punishment to custodial punishment). It is issued on 25/2/2018on the official website of Alrai Newspaper. It is available on the following link:http//alrai.com/article/10426512

Fourth: Examples of judgments involving community sentence in Jordan:

Examples of judgments involving community sentence in Jordan:

1) A judgment was issued by theMagistrate Court in Petra in case No 109/2019. It was issued in pursuant to article 186of the Jordanian penal law due to hindering an employee from performing his job. It was issued in pursuant to article 354 of the Jordanian penal law due to threatening people. It was issued by a judge named Bilal Makawi on 10/4/2019. It suggests that the convict must serve a community sentence represented in serving the Ministry of Awqaf and Islamic Affairs through working at Baida Al-Amareen Mosque. It became a final judgment on 10/6/2019. It suggests that the convict must serve 50 hours of community sentence.
2) A judgment was issued by theMagistrate Court in Madaba in case No (914/2019). It was issued in pursuant to article 75/a of the telecommunication law due to making an insult through a mean of communication. It was issued in pursuant to article 278/2 of the Jordanian penal law due to making a verbal insult to God. It suggests that the convict must serve a community sentence at theMelkite Greek Catholic Church in Madaba. It is issued by a judge named Hana' Jameel Abu Hamdeye. It was issued on 18/2/2019. It became a final judgment on 18/4/2019. It suggests that the convict must serve 40 hours of community sentence.
3) A judgment was issued by theMagistrate Court in Madaba in case No 242/2019. It was issued in pursuant toarticle 406/1/B of the Jordanian penal law due to committing a theft crime. It suggests that the convict must serve a community sentence at the Directorate of Agriculture in Aqaba. It was issued a judge named Aqad Abu Qattam on 17/3/2019. It became a final judgment on 16/5/2019. It suggests that the convict must serve 40 hours of community sentence.
4) A judgment was issued by theMagistrate Court in Karak in case No. 421/2019. It was issued in pursuant to article 33/a of the agriculture law due to cutting a tree. It was issued in pursuant to article 33/c/1 of the latter law. It suggests that the convict must serve a community sentenceat the Directorate of Agriculture in Karak. It was issued a judge namedKhalaf Al-Shaimat. It was issued 3/3/2019. It became a final judgment on 2/5/2019. It suggests that the convict must serve 40 hours of community sentence.
5) A judgment was issued by theMagistrate Court in Al-Mazar Al-Janoubi in case No. 1169/2018. It is listed in judgment No. 351/2018 and judgment No. 804/2018 which were issued by the court of first instance in Karak.It was issued in pursuant to article 185 of the Jordanian penal law. It suggests that the convict must serve a community sentence in a vocational training center in Karak. This center is affiliated with the vocational training corporation. It was issued by a judge named Mahmoud Yousif Al-Zayadeh

on 4/2/2019. It became a final judgment on 2/4/2019. It suggests that the convict must serve 50 hours of community sentence.

6) A judgment was issued by theMagistrate Court inRusseifah in case No. 148/2018. It is listed in judgment No 4382/2018. It is executed in pursuant to judgment No. 1/2018. It was issued in pursuant to article 27 of the traffic law due to leading to the death of something. It was issued in pursuant to articles33 and 38 of the latter law due to violating the traffic law and refraining from taking the precautionary measures while driving. It suggests that the convict must serve a community sentence in a vocational training institute in Russeifah. This institute is affiliated with the vocational training corporation. It was issued by a judge namedGadeer Sameer Abu Saif on31/10/2018. It became a final judgment on31/12/2018. It suggests that the convict must serve 40 hours of community sentence.
7) A judgment was issued by theMagistrate Court in Amman in case No. 3471/2018. It is listed in judgment No7729/2018. It is executed in pursuant to judgment No. 1/2018. It was issued in pursuant to article 296 of the Jordanian penal law. It suggests that the convict shall serve his community sentence in the workshops department that is affiliated with Greater Amman Municipality. It was issued by a judge named Mahmoud Mohammad Al-Zyood on 26/9/2018. It became a final judgment on 26/11/2018. It suggests that the convict must serve 40 hours of community sentence.

3 The Study's Results

After examining the role of community sentence in rehabilitating the ones convicted in pursuant to the penal law. The following results were concluded:

1) Many comparative legislations enforce community sentence over convicts as a correctional measure that aims at rehabilitating convicts. Community sentence is considered one of the best alternative punishments to custodial punishment. It ensures that prisons shall not be crowded with prisoners. It utilizes the productive capabilities of the convicts. That occurs through obliging the convicts to do a work that is for the benefit of the public without receiving any money in return. Community sentence reduces the costs incurred by penal institutions. There are specific regulations and conditions that regulate the enforcement of community sentence. The French, Emirati, and Jordanian legislatorsenforced strict regulations that regulate the enforcement of the community sentence as a punishment. This is a good step. For instance, the latter legislators do not enforce community sentence on the ones who commit serious crimes. That shall deter people from committing serious crimes.

2) It has been proved that community sentences serve as effective alternatives for custodial punishment. That is because community sentences can effectively reduce the number of convicts in prisons. It is because community sentences have proved their effectiveness in sparing convicts the negative impacts of serving time in prison. It is because community sentences can be customized in accordance with the personality and conditions of the convict. Through enforcing community sentences, public interests can be met. Through enforcing community sentences, costs shall be reduced and free services shall be provided to the members of the society by the convicts. Community sentences are enforced in order for convicts to compensate the members of the society for the social damages they have caused.
3) The French legislator recognized community sentence in several forms. Such forms include: a)-community sentence as an independent punishment. b)- community sentence in conjunction with a suspended punishment c)- community sentence as a settlement for a penal case. However, the Emirati and Jordanian legislators adopted a different approach. To illustrate more, the Emirati legislator recognized community sentence only as an independent penal measure. As for the Jordanian legislator, he recognized community sentence only in conjunction with a suspended punishment
4) Community sentence involves probation. During this period, the convict show a good behavior and high commitment to serving the sentence. During this period, the report issued by the body that the convict is serving his sentence at must suggest that his/her behavior and performance are good. If that occurred, the sentence shall be served and the court shall not be entitled to prison the convict. However, in case the convict wasn't committed to serving his sentence, it indicates that the convict cause a serious risk to society. In such a case, the court shall prison the convict for a duration similar to the duration of the community sentence or what's left of it.
5) Article 25 of the Jordanian penal law suggests that the correctional punishments include community sentence. It doesn't shed a light on the mechanism of enforcing the community sentence. Under the Jordanian laws, this mechanism shall be determined by the public attorney office. The office has jurisdiction over the enforcement of judgement in penal cases.
6) The Emirati legislator limited the enforcement of community sentence to adults only. Thus, he excluded juveniles in this regard. He set other penal measures for juveniles. However, the Jordanian legislator allowed enforcing community sentence over juveniles

4 Recommendations:

1) There must be a comprehensive definition provided for community sentence. For instance, it can be defined as follows: (It is an alternative punishment to imprisonment which is determined through a discretionary judgment issued by the judge. It is issued after suspending the original punishment, with getting the approval of convict on serving it. It is enforced in pursuant to the law. It involves doing certain works that are for the benefit of the public. It is served within a specific period of time).
2) The Jordanian and Emirati legislators should expand the scope of enforcing the community sentence as an alternative punishment to imprisonment. They should adopt the approach adopted by the French legislator in this regard.
3) The Emirati legislator should enforce community sentence as an alternative punishment to short term imprisonment rather than as a penal measure. That is because penal measures are measures taken by the judge against the one found guilty of committing a serious crime. Such measures are taken to preserve security in society
4) The Jordanian legislator should enact laws that identify the mechanism of enforcing the community sentence. Similar to the approach adopted by the Emirati legislator, a decision should be issued by Jordanian ministries identifying the bodies that that the community sentence may be served at. This decision must identify the nature of the works falling under community sentence.