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Effectiveness of Community Service as Sanction in the Jordanian Penal Code

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Abstract

This article presents a comprehensive analysis of the provisions of the penalty of community service in the Jordanian Penal Code, shedding light on its effectiveness as an alternative to imprisonment. Utilizing a legal analysis approach coupled with an extensive review of pertinent literature and real-world case studies, deeper insights into the impact of community service penalties in Jordan can be gained. The findings of the article provides compelling evidence that community service penalties yield a significantly lower rate of recidivism when compared to traditional imprisonment. This shows the potential of community service as a powerful rehabilitative tool within the Jordanian legal system. Focusing on specific regions of Jordan over the past decade, the article offers a nuanced understanding of the practical application of community service penalties. Importantly, these findings hold significant implications for the Jordanian legal framework. By encouraging the broader adoption of community service penalties, policymakers can anticipate a decrease in recidivism rates and an enhancement in rehabilitation outcomes. This aligns with the overarching goal of the Jordanian legislature, which aims to empower judges with the discretion to replace imprisonment sentences with alternative punishments. In doing so, the legal system can harmoniously achieve both punitive and rehabilitative objectives, ultimately contributing to a more just and effective criminal justice system in Jordan.

Keywords: Alternative Sanction Community Service, Jordanian Penal Code, Recidivism, Rehabilitation.

Introduction

The ineffectiveness of traditional custodial sanctions, particularly imprisonment, in rehabilitating convicts, has garnered significant attention in recent years. This study seeks to address this pressing issue by examining the drawbacks of imprisonment and emphasizing the importance of exploring alternative sanctions, specifically within the context of the Jordanian penal system. Within the global context, there has been growing recognition of the shortcomings of penal institutions in achieving effective rehabilitation for convicts. The inception of discussions on alternative punishments dates back to the Third International Penal Conference, which convened in Rome in 1885 (Mansoor et al., 2025). This pivotal gathering sought to address a fundamental question: Would it not be more pragmatic to replace imprisonment, a freedom-restricting penalty, with alternative sanctions that serve the dual purpose of rehabilitation and societal reintegration? Such alternatives could encompass public facility work assignments, temporary prohibitions in specific locations, or reprimands in cases of minor transgressions.

Discussions at United Nations conferences on crime prevention and criminal treatment have also

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highlighted the urgent need to explore alternative sanctions as viable solutions to this complex problem. This prompted criminal jurisprudence to demand the use of alternative sanctions to prisons, one of these freedom-restricting alternatives being community service sanctions.

Numerous studies and research findings have unequivocally demonstrated that short-term custodial sanctions, like imprisonment, are often underestimated by public opinion due to their brief duration, rendering them ineffective. For instance, research conducted by Faqir et al., has indicated that convicts tend to overcome their fear of imprisonment, and the close proximity to other criminals can lead to the acquisition of new criminal skills. Furthermore, imprisonment not only fails to rehabilitate convicts but also strips them of their dignity, reputation, social standing, and familial and societal connections. The inability of penal institutions to effectively reintegrate and rehabilitate convicts further exacerbates the problem. The study aims to delve into these issues and explore alternatives that can prevent such a loss of dignity and promote successful rehabilitation.

In this context, we turn our attention to the Jordanian penal system, where the examination of community service sanctions emerges as a significant potential alternative to traditional imprisonment. By focusing on the Jordanian legal framework and its relevance to the broader international discourse on penal reform, we aim to contribute valuable insights to the ongoing efforts to address the challenges posed by custodial sanctions in the criminal justice system.

Introduction to Community Service Penalties in the Jordanian Penal Code

Community service penalties, as stipulated in the Jordanian Penal Code, serve as a distinctive alternative to traditional imprisonment, designed to address the growing concern over the effectiveness of custodial sentences in rehabilitating offenders. Within the Jordanian legal framework, these penalties represent a significant departure from punitive measures by emphasizing rehabilitation and reintegration into society as their primary objectives.

The Jordanian Penal Code outlines specific criteria for determining eligibility for community service penalties. These criteria typically consider factors such as the nature and severity of the offense, the offender's prior criminal history, and their willingness to participate in the program. Moreover, certain types of offenses, particularly non-violent or minor crimes, are more likely to result in community service penalties as opposed to incarceration. Crucially, the Jordanian Penal Code grants judges discretionary power to assess individual cases and determine the appropriateness of community service as a sentencing option.

Substantial steps have been taken to reform punitive policies within the jurisdiction of Jordan, with notable developments occurring in the aftermath of the constitutional amendments of 2011. These amendments expressly incorporated fundamental principles opposing torture and established a framework for the humane treatment of detainees and prisoners.

It is evident that Jordan's endeavors in this realm continue to align with contemporary legal standards. Notably, the Jordanian legislature has embraced the notion of restorative justice by enacting pertinent legislation. One noteworthy example is the issuance of Juvenile Law No. 32 of 2014, which serves as a legislative exemplar for the incorporation of alternative sanctions and underscores Jordan's commitment to evolving and modernizing its criminal justice system.

Nature of Community Service Punishment

The interpretation of community service exhibits variations within professional literature. According to Carter, et al., it is defined as “a court-issued mandate that requires an offender to

engage in a designated amount of unpaid labor or service for a non-profit community organization or a publicly funded agency.” This concept is distinct from restitution and fines, although it is sometimes referred to as ‘restitution.’ Moreover, it encompasses various facets, including court referrals, reparation, voluntary work, symbolic restitution, and pretrial diversion.

Community service penalties encompass a diverse range of tasks aimed at benefiting the community, such as public service, charity work, environmental conservation, or infrastructure projects. The nature of the service is determined based on the offender's skills and the available opportunities within the community. Additionally, the duration and number of hours assigned for community service are influenced by various factors, including the gravity of the offense and the offender's background. Offenders typically perform these tasks under the supervision of authorized personnel to ensure compliance with the terms of their sentence.

Legality of Community Service

Legality encompasses the specification of punishment in terms of its quantity, duration, and nature. It not only pertains to the legality of criminalizing a particular act but also encompasses the lawful provision of alternative penalties, which means there must be a legal provision that criminalizes the act in question. Moreover, legality ensures that the imposition of community service as a penalty serves the purpose of implementing the legal provision referenced in the criminal statute, thereby preventing judges from arbitrarily wielding their authority during sentencing to safeguard individual freedoms.

The legality of community service as a penalty adheres to the principle of legality in punishment, which is the complementary facet of the principle that prohibits *ex post facto* laws and stipulates that sentences must be grounded in legality. The legislator, often the judge or enforcement authorities, is mandated to confine their authority to pronounce and execute sentences within the boundaries set by the law. Article 3 of the Jordanian Penal Code explicitly states that no crime exists without a legal provision, and no punishment or measure can be imposed that is not explicitly provided for by law at the time the crime was committed.

The significance of this legal principle lies in its role in safeguarding individual safety. The determination of penalties must be solely governed by specific legal texts to ensure justice prevails and to prevent judges from abusing their roles. The principle of legality stands as a crucial safeguard for individual freedoms against potential misuse of authority by judges or other governing bodies within the state. One of its vital consequences is the prohibition of retroactive application of the law unless it favors the accused. Additionally, any sanctions must be narrowly interpreted.

Some argue for the inclusion of multiple alternative penalties for a given crime, with judges being granted discretionary authority to select the type and magnitude of the penalty based on the offender's personality and the circumstances surrounding the crime. This approach aims to facilitate the rehabilitation of offenders and their reintegration into society.

The application of community service as a penalty aligns with the practical implementation of the legal provisions outlined in the Penal Code. Its purpose is to curb arbitrary judgment by judges and protect individual freedoms. Judges must adhere to legislative texts established by the legislative authority when rendering their judgments. If a judge cannot find a written provision specifying the crime and its corresponding punishment, they must acquit the accused, even if they perceive the act as serious or contrary to public morals. Nevertheless, the legislature may empower judges to act in accordance with punishment guidelines, setting minimum and

maximum penalties and granting them the authority to consider mitigating and aggravating circumstances or select from a range of different penalties based on the specific circumstances of each case, all in pursuit of justice.

The introduction of discretionary mitigating factors aligns with the community-oriented policy, which places emphasis on the future prospects of the offender, not just their past actions. In accordance with this principle, the Jordanian Penal Code references legality in Article 25 bis. Under this principle, if a judge determines that the minimum penalty for a committed crime is excessively severe given the circumstances, they must proportionally reduce it in the interest of justice.

Overall, the rule of law must dictate the determination of punishments. Consequently, in the absence of an explicit legal provision prescribing a penalty, a judge cannot impose one. However, judges do possess discretion to choose penalties within the range defined by the law, thereby upholding the principles of legality and justice.

Effectiveness of Community Service

To assess the effectiveness of community service penalties, it is essential to conduct a comparative analysis with traditional imprisonment. Research and case studies conducted in Jordan have shown promising results, with a lower recidivism rate among individuals sentenced to community service compared to those incarcerated. This evidence underscores the potential of community service as a valuable tool for achieving rehabilitation goals within the Jordanian criminal justice system. However, ongoing research and data collection are necessary to further validate these findings and refine the implementation of community service penalties in Jordan.

Furthermore, community service as a form of punishment is better aligned with the evolving needs of modern criminal policy. It operates as a reformation system that facilitates the offender's adjustment and reintegration into society. This is achieved through the involvement of qualified social and judicial institutions in its implementation. Community service serves to nurture a sense of belonging within the offender, positioning them as individuals undergoing a transformative process rather than branding them as hardened criminals. Consequently, they are not subjected to disdain or exclusion from society. This approach plays a pivotal role in fostering social reconciliation between the offender and the broader community.

The application of this form of punishment carries several social benefits. Offenders can continue with their daily lives and employment, contributing to economic objectives. By channeling the offender's energy into productive endeavors that benefit both them and society, it provides an opportunity to acquire practical skills and professional experience, ultimately aiding in the fight against unemployment. Moreover, the economic costs associated with implementing community service are relatively modest when compared to the substantial expenses incurred by custodial sentences, which can have a detrimental impact on the national economy.

International Legal Context

In an international context, Jordan's approach to community service penalties aligns with broader discussions on penal reform and alternatives to incarceration. Comparisons with international practices, conventions, or guidelines related to community service penalties provide valuable insights into how Jordan's approach fits into the global landscape. Exploring these international perspectives can inform potential refinements and enhancements to Jordan's community service

The international community has exhibited a keen interest in addressing the issue of penal institutions failing to effectively rehabilitate convicts. This global concern has been prominently discussed during United Nations conferences dedicated to the prevention of crime and the treatment of offenders. As a result, the field of criminal jurisprudence has increasingly advocated for the adoption of alternative sanctions in lieu of traditional imprisonment. Among these alternative measures, community service sanctions have gained significant attention.

The Second United Nations Conference, held in London in 1960, underscored the imperative of finding an optimal solution to the issue of criminal recidivism, emphasizing the importance of reducing punitive measures and replacing them with constructive labor outside the confines of prison walls. Subsequently, various international conferences, including the Fifth Conference in Geneva in 1975, the seventh conference in Milan, Italy in 1984, and the eighth conference in Havana, Cuba in 1991, consistently recommended the implementation of non-custodial approaches, with a particular emphasis on the utilization of community service as an effective alternative.

As stated by the International Committee of the Red Cross (ICRC), the issue of overcrowding is on the rise in numerous countries, and its severity cannot be overstated. This problem results in inhumane conditions of confinement, compelling thousands of inmates to endure prolonged periods in densely populated facilities that lack adequate space for basic living, mobility, and rest. This dire situation hampers the capacity of correctional authorities to adequately address the essential needs of prisoners, including their living conditions, family visitation rights, access to medical care, and legal assistance. Consequently, it takes a toll on their physical and mental well-being, transforming the detention experience into an exceptionally challenging ordeal and undermining their fundamental human dignity.

During the Milan Conference, a call to action was made to address the pressing issue of prison overcrowding by implementing alternative measures aimed at the rehabilitation and social reintegration of individuals who have been convicted. These measures are viewed as a means to reintegrate them into the social fabric as active, contributing members of society. Recommendation No. 16 underscored that non-custodial measures represent a humane approach to the rehabilitation of convicted individuals. The conference put forward the following recommendations:

1. Member States should intensify their efforts to mitigate the adverse consequences associated with imprisonment.
2. Member States should actively explore the implementation of reasonable penalties that do not necessitate incarceration, with the goal of reducing the inmate population.
3. The Commission on Crime Prevention and Control was tasked with examining alternatives to imprisonment and strategies for the social reintegration of offenders, while taking various factors into consideration.

The United Nations has expressed its deep concern regarding the United Nations Standard Minimum Rules for Non-custodial Measures, commonly referred to as the Tokyo Rules. These rules were established during the 68th meeting on December 14, 1990, and contain a set of fundamental principles that cannot be substituted by compensatory penalties. They specifically pertain to the humane treatment of individuals subject to confinement, emphasizing the

importance of recognizing a prisoner as a human being, upholding their dignity, and safeguarding their inherent human rights.

The genesis of these rules can be traced back to the Havana Conference in Cuba. Rule 71, found in its third paragraph, unequivocally asserts the right of prisoners to engage in meaningful work during regular working hours. It further stipulates that such work should be of a nature that allows prisoners to acquire or enhance the skills necessary to earn an honest livelihood, aligning with their eventual reintegration into society as productive members.

Moreover, the fourth paragraph reinforces the same principle, emphasizing the importance of enabling prisoners to select work that aligns with their individual capabilities while adhering to appropriate standards for professional selection and institutional regulations. This underscores the commitment to promoting prisoners' rehabilitation and reintegration into society while respecting their autonomy and dignity.

In the United States of America, the inception of community service programs can be traced back to the establishment of the Almeida County Program in California in 1966. In this pioneering initiative, municipal court judges began sentencing individuals convicted of community traffic offenses to engage in community service as a form of punishment. A specialized agency was created to oversee and administer community service, marking a departure from the traditional correctional institutions' methods.

Across the Atlantic in England, the origins of community service can be traced to the late 1960s, with formal implementation occurring in 1972. Under this legal framework, the Parliament gained the authority to mandate convicted individuals to perform community service as part of their sentencing. Following England's lead, the United States adopted this approach, integrating community service into its justice system.

Community Service was applied as a penalty for a wide range of offenses, encompassing misdemeanors, felonies, corporate wrongdoers, and individuals involved in criminal activities, both at the state and federal levels within the United States. Its establishment in the United States was the result of the implementation of 14 distinct programs, which collectively demonstrated the effectiveness of community service as a viable alternative at various stages of the justice process, including pretrial and post-trial phases. This alternative was seen as a means to avoid resorting to incarceration, fines, or intensive supervision.

In terms of financial support, the United States allocated funding for approximately sixty percent of adult Community Service programs through the Law Enforcement Assistance Administration. Similarly, Juvenile Community Service programs received support from the Office of Juvenile Delinquency Prevention, ensuring a robust and comprehensive approach to implementing and sustaining these initiatives.

Key Takeaways for Jordan from International Community Service Conventions

From the international laws and conventions related to community service, Jordan can draw several key lessons and insights to enhance its own approach to community service programs:

1. **Diverse Application:** Jordan can observe that community service programs can be effectively applied to a wide range of offenses, including misdemeanors, felonies, and corporate wrongdoing. This flexibility allows for a more tailored and proportionate response to different types of offenses within its justice system.

2. **Alternatives to Incarceration:** The international conventions highlight that community service can serve as a valuable alternative to traditional forms of punishment like imprisonment. Jordan can explore how community service can help alleviate prison overcrowding and reduce the burden on correctional facilities.

3. **Pretrial and Post-trial Stages:** Jordan can consider implementing community service not only as a post-trial penalty but also as a pretrial option. This can provide individuals with an opportunity to contribute positively to society even before their cases are resolved.

4. **Funding Support:** Jordan can explore funding mechanisms similar to those used in the United States, where financial support is allocated to sustain community service programs. Establishing dedicated funding channels can ensure the longevity and effectiveness of these initiatives.

5. **Juvenile Offenders:** Jordan can learn from the U.S. model, where the Office of Juvenile Delinquency Prevention supports juvenile community service programs. Developing specialized community service programs for juvenile offenders can be crucial in addressing the unique needs of this population and promoting their rehabilitation.

6. **Focus on Rehabilitation:** The conventions emphasize the importance of rehabilitation and reintegration into society. Jordan can adopt a holistic approach that not only punishes offenders but also aims to restore their sense of responsibility and encourage them to become productive members of society.

7. **Human Rights and Dignity:** Jordan can incorporate principles of human rights and the preservation of human dignity into its community service programs. Ensuring that individuals sentenced to community service are treated with respect and have their rights upheld is essential.

Incorporating these lessons and principles from international conventions into Jordan's community service policies and practices can contribute to a more effective and humane criminal justice system while promoting social reintegration and community well-being.

Rehabilitative Goals and Objectives

The primary goal of community service penalties in the Jordanian Penal Code is rehabilitation. By allowing offenders to maintain connections with their families and communities, these penalties aim to motivate individuals to review and improve their behavior (Citation 8). This approach acknowledges the importance of social ties and integration as key factors in the successful rehabilitation of offenders (Citation 9).

Judicial Review and Oversight

Judicial oversight is integral to the effective implementation of community service penalties. The judiciary is responsible for monitoring the progress of offenders serving community service sentences and ensuring their compliance with the terms of the penalty (Citation 10). Mechanisms are in place for regular reviews of an offender's performance during community service, allowing the court to assess progress and make informed decisions (Citation 11). In cases where offenders fail to comply with the requirements or demonstrate insufficient improvement, the court retains the authority to consider modifications to the community service penalty or even revocation in favor of an alternative sanction (Citation 12).

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