

**Follow-on Review of Required Amendments to the Criminal Procedures
Code Workshop**

24 – 25 / 3 / 2012

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Summary

The Administrative Units of the Judicial Council, in cooperation with the USAID funded Rule of Law Project, held a workshop entitled “Follow-on Review of Required Amendments to the Criminal Procedures Code”. The workshop was held during 24 – 25 /3/ 2012 and was attended by H.E. the attorney general of Maan in addition to a number of judges working in the south who are specialized in criminal cases, both felonies and misdemeanours.



In addition, the same workshop was held for judges working in the central and northern parts of the country on both Saturday and Sunday, 21 – 22/ 4/ 2012.

The workshop was attended by the attorney general of Amman, the attorney general of Irbid, the attorney general of the Major Felonies Court in addition to a number of judges who preside over criminal cases in courts located in the centre and the north.

This workshop was held to shed light on a number of legal articles that are suggested to be added to the Criminal Procedures Code related to alternative sentencing to freedom restraining penalty. It also aims at soliciting the views of judges as well as their suggestions and comments on the proposed articles and their intricacies.

Introduction

The fundamental basis of any human society is security and peace in the broad and comprehensive sense. However, when getting into the interpretation of the meaning of security and safety of society, it leads us to think in the interest and security of all segments of society and all its individual members. Each country shoulders the responsibility of providing such safety and security and prevailing it under the umbrella of legislation and laws.

In this context, we cannot overlook the role of the judiciary, as one of the independent authorities of the state, in establishing security and safeguarding the interests of society and its members through bringing perpetrators of crimes before courts, trying them and imposing appropriate and deterrent sanctions and against them. The role of the judiciary in criminal proceedings does not stop at this point, but goes beyond it to the stage of enforcement of final criminal judgments through the public prosecution departments represented by the prosecutors.

Thus, the criminal punishment carried out against the perpetrators of crimes must play an active role in the protection of society through general and specific deterrence as well as the rehabilitation of such individuals. This means that the criminal penalty must form a preventive measure that would deter the perpetrator of crime from carrying out the same crime again while at the same time it must rehabilitate him / her. When reviewing the penalties provided for in the Jordanian Penal Code, they range from fines to execution and are imposed on the perpetrators in accordance with the legal articles and commensurate with the seriousness of the offense and the circumstances surrounding the commission of the crime and the personal circumstances of the offender.

However, what concerns us in this workshop is the freedom restraining penalties and to study the viability of replacing such penalties with other alternative ones that lead to the same rehabilitative and preventive result for the offender. The question that presents itself in this context relates to the justifications for introducing alternative sentences to the freedom restraining ones.

Judges who participated in the workshop presented to us the following justifications for introducing alternative sentencing and which are as follows:

- The original short term punishment did not achieve its intended objective of deterring crime or the objective of rehabilitation.
- Reduce the number of inmates at correctional and rehabilitation centres which will reduce the financial burden on the government as freedom restraining penalties are highly expensive.
- Avoid having offenders charged with short term imprisonment to come in contact with repeat offenders, which negatively affects the former in terms of learning about new criminal means and methods.
- Inability of correctional and rehabilitation centres to apply their rehabilitation program to offenders sentenced to short term imprisonment, not to mention as well the weakness of such programs.
- Encourage convicted offenders to demonstrate good behavior and commit to their rehabilitation programs in order to benefit from one of the alternative sentencing options provided by law.
- The negative social impact on society in terms of depriving the inmate the right to see his / her children and care for them, which may increase the likelihood of them becoming delinquents and deviating from the behaviour of their peers in society.

Legislative provisions governing criminal proceedings and the enforcement of judgments of criminal cases, as well as legislations that criminalize perpetrators of crimes, including the Criminal Procedures Code, the Penal Code, the Juvenile Law and the Correctional and Rehabilitation Centres Law, are free of special and explicit provisions that enable the courts, judges or public prosecutors charged with the enforcement of criminal judgements to replace the original freedom restraining penalties with alternative sentences, except for a small number of legal articles which are as follows

Penal Code

- Article (27 / 2)

If a person is sentenced to imprisonment for a period not exceeding three months, the court which issued the judgment has the power to replace the imprisonment sentence with a fine on the basis of two dinars (JD2) for each day, provided that the court is convinced that the fine is a sufficient penalty for the crime committed.

- Article (54 repeated / 2)

Stay of Sentencing Execution:

1. When passing an imprisonment sentence of not more than one year for a felony or a misdemeanour, the court may order in the judgment a suspension of sentence execution, according to the conditions stipulated in this law, if based on the convicted person's character, past, age and circumstances of offence it perceives any reason to believe that he / she will not violate the law again. The court must indicate in its judgment its reasons for suspending the sentence. The suspension might include any supplemental penalty and all other criminal effects which result from the conviction.
2. The period of a suspended sentence may be three years following the date of final judgment issuance. The suspension can only be cancelled in the following two instances:
 - a. If, during the period of suspension, the convicted person was sentenced to imprisonment for more than one month for an act which he/she committed before or after issuing the suspension order.
 - b. If, during this period, it appears that the convicted person was sentenced, prior to the issuance of the suspension order, with the same sentence stipulated in the previous paragraph, without the knowledge of the court.
3. The order to reinstate the sentence has to be issued by the same court that issued the suspension order based on a request made by the Public Prosecution, and after notifying the convicted person to appear. If the new sentence upon which the reinstatement is based was issued after the suspension order was made, the same court which issued the new sentence has the power to reinstate the halted sentence by itself or according to a request made by the public prosecution.
4. The reinstatement of the halted sentence results in executing the penalty and all other supplemental penalties and other criminal effects which were halted.
5. If the period of the stay of the sentence execution has passed during which no order to annul it was issued, then the sentence is dropped.

Juveniles Law

- Article (21)

Measures for the Protection of a Boy:

1. A boy shall not be under criminal liability. However, some safeguard and protection measures are undertaken by the court as follows:
 - a. Delivering the juvenile to one of his/ her parents or to his/ her guardian or trustee; or

- b. Delivering the juvenile to one of his/ her family members; or
 - c. Delivering the juvenile to other than his / her parents; or
2. Accounting for the provisions of paragraph 1 of this article, the judge may place the boy under the supervision of a behaviour supervision officer for a period not less than one year and not exceeding five years.

- **Article (22)**

Delivering the boy to someone competent to raise him / her:

- a. If the parents of the juvenile of his / her legal guardian lacked ethical guarantees and were unable to properly raise him / her, then the juvenile is delivered to one of his / her family members.
- b. The person to whom the juvenile was put under his / her care shall commit to follow the direction of the behaviour officer.
- c. If the parents of the child (boy) were not competent to raise him / her, then the child (boy) may be delivered to one of the good doers or placed in a recognized institution known for this purpose, for a period not less than one year nor more than five years.
- d. The behavior officer must monitor the raising of the child (boy) and provide him / her and to those in charge of his / her raising with guidance.

- **Article (27)**

Release of the juvenile and his / return to the establishment / home:

1. The court may, upon the request of the minister, release any juvenile sent to any correctional centre that has been approved for this purpose if it found justification for it, according to the following terms:
- a. The period spent by the juvenile in the Home shall not be less than one-third of the sentence period.
 - b. The juvenile should show good conduct during his/her stay in the Home.
 - c. The release of the juvenile should not make him/her subject to bad social influences.
 - d. The juvenile should not be convicted with a crime the original sentence of which in the Penal Law is death or hard labor for fifteen years or more.
 - e. The behaviour officer in the area in which the juvenile lives in handles oversight and supervisory responsibility over him / her throughout the remaining term of his / her sentence.
2. The court may order the return of the juvenile to the establishment / home to complete the term of his / her sentence in the following instances:
- a. Based on the request of the minister; or
 - b. If the juvenile violated any of the terms based on which he / she was released, or if the juvenile became under negative social influence.
3. With approval of the minister, the behaviour officer may bring before the first instance court any juvenile sentenced to any specific establishment by the minister, and is about to finish the term of his / her sentence, if it was found to be in the interest of the juvenile if he / she was released, for the following reasons:
- a. One of his / her parents or his / her guardian is used to criminal behaviour, drinking or immoral behaviour, or
 - b. He/she has not finished the education or vocational training program he / she joined. The juvenile court may, if it is convinced that it is true, issue a decision to extend the

term of the period listed in the judgement until he / she reaches the age of 20 years old.

4. The director of the institute, with approval of the director of social defence, may allow juveniles with excellent conduct to be absent from the institute for a period not exceeding one week, to visit their family during holidays or necessary occasions.

Correctional and Rehabilitation Centres Law

- Article (34)

The Correctional and Rehabilitation Centre shall take the necessary arrangements to encourage inmates to improve their conduct so those sentenced for one month or more, detained or sentenced to hard labor, get to be released upon serving three quarters of their sentence.

- Article (35)

The Minister, upon the recommendation of the Director, may decide to release the inmate who is sentenced for life hard labor if the inmate is of good conduct and has served twenty years of the sentence.

- Article (36)

The Minister, upon the recommendation of the Director, may allow the inmate, under proper guarding, to attend the funeral of one of his lineal ascendants or lineal descendants or spouse or any of his second degree relatives.

Based on the above, and given that the judicial authority is in the process of introducing a number of legislative amendments and additions to laws relevant to the judiciary, including the Criminal Procedure Code, a set of legal articles were suggested to be added to this law that explicitly provide for a range of alternative sanctions to freedom restraining penalties and which are as follows:

- Conditioned release during sentence enforcement
- Halfway release system
- Provisional leave from correctional centres
- Stay of sentencing execution

This meeting sheds light on said alternative sentences being proposed and their implementation mechanisms in order to solicit the views of participating judges as well as benefit from their knowledge and learn their suggestions and recommendations.

Workshop Agenda

I – Judges Working in the South

Saturday, 24/ 3/ 2012 – Sunday, 25/ 3/ 2012

Hilton Hotel - Aqaba

Day I:

09:00 – 09:30 am Arrival and Registration		
09:30 – 10:30 am	Opening Session General Discussion on Alternative Sentencing	<ul style="list-style-type: none">• Discussion paper presented by Maan Attorney General, Judge Talab Al Dalaeen, on Alternative Sentencing.• Discussion paper presented by felonies judge, judge Bassam Al Khawaldeh, on Alternative Sentencing.• Discussion paper presented by first instance judge Ghaleb Al Rawashdeh presiding over criminal cases, on alternative sentencing.
10:30 – 11:45 am	General Discussion Sentence Enforcement Judge	
11:45 – 12:00 noon	Coffee Break	
12:00 – 01:15 pm	General Discussion Conditioned release during sentence enforcement (parole)	
01:15 – 01:30 pm	Coffee Break	
01:30 – 03:00 pm	Half Way Release System	
03:00 pm	Lunch and Departure	

Day II:

09:00 – 09:30 am Coffee Break

09:30 – 10:30 am	Opening Session	<ul style="list-style-type: none"> • Discussion paper presented by Judge Ayman Al Aqayleh presiding over felony cases, on alternative sentencing. • Discussion paper presented by first instance judge Thiab Al Tarawneh presiding over criminal cases, on alternative sentencing. • Discussion paper presented by conciliation judge Azzam Al Maaytah presiding over criminal cases, on alternative sentencing.
10:30 – 11:30 am	General Discussion Provisional Leave	
11:30 – 11:45 am	Coffee Break	
11:45 – 01:15 pm	General Discussion Stay of Sentence Enforcement	
01:15 – 01:30 pm	Coffee Break	
01:30 – 02:00 pm	General Suggestions and Recommendations	
02:00 pm	Lunch and Departure	

II - Judges Working in the Centre and the South

Saturday, 21/ 4/ 2012 and Sunday, 22/ 4/ 2012
Marriott Hotel - Amman

Day I:

09:00 – 09:30 am Arrival and Registration		
09:30 – 10:30 am	Opening Session General Discussion on Alternative Sentencing	<ul style="list-style-type: none"> • Discussion paper presented by Amman Attorney General, Judge Dr. Thaer Al Adwan, on alternative sentencing. • Discussion paper presented by Irbid Attorney General, Judge Hama Al Ghazawi on alternative sentencing. • Discussion paper presented by the Attorney General of the Major Felonies Court, Judge Ziad Al Dmour on alternative sentencing. • Discussion paper presented by Chief Public Prosecutor, Judge Mohammad Al Sorani on alternative sentencing.
10:30 – 11:45 am	General Discussion Sentence Enforcement Judge	
11:45 – 12:00 noon	Coffee Break	

12:00 – 12:30 pm	Presentation on Alternative Sentencing	USAID Rule of Law Project Chief Of Party Mr. Robert Dean
12:30 – 01:30	General Discussion Conditioned release during sentence enforcement	
01:30 – 01:45 pm	Coffee Break	
01:45 – 03:00 pm	Half Way Release System	
03:00 pm	Lunch and Departure	

Day II:

09:00 – 09:30 am Coffee Break		
09:30 – 10:15 am	Opening Session	<ul style="list-style-type: none"> • Discussion paper presented by Judge Emile Al Rawashdeh presiding over felonies cases, on alternative sentencing. • Discussion paper presented by Judge Amer Al Qudah presiding over criminal cases, on alternative sentencing. • Discussion paper presented by Judge Dr. Amjad Al Shraydeh presiding over criminal cases, on alternative sentencing.
10:15 – 11:15 am	General Discussion Provisional Leave from Correctional Centres	
11:15 – 11:30 am	Coffee Break	
11:30 – 12:00 noon	Presentation on Alternative Sentencing	USAID Rule of Law Project Chief Of Party Mr. Robert Dean
12:00 – 12:45 pm		<ul style="list-style-type: none"> • Discussion paper presented by Judge Bassam Al Talaheen presiding over criminal cases, on alternative sentencing. • Discussion paper presented by first instance Judge Naser Al Qadi on alternative sentencing.
12:45 – 01:15 pm	General Discussion Stay of Sentence Enforcement	
01:15 – 01:30 pm	Coffee Break	
01:30 – 02:00 pm	General Suggestions and Recommendations	
02:00 pm	Lunch and Departure	

Attendees & Participants

I: Judges – South Courts

Court	Participant Name	Job Title
Administrative Units	Judge Dr. Nashaat Al Akhras	Director of Training and Specialization Affairs Unit
Maan Attorney General Department	Judge Talab Al Dalaeen	Attorney General
Maan First Instance Court	Judge Ayman Al Aqayleh	Judge / Panel President / Felonies
	Judge Rakan Thiabat	Misdemeanours Judge
	Judge Afted Zayadneh	Criminal Conciliation Judge
Aqaba First Instance Court	Judge Bassam Al Khawaldeh	Judge / Panel President / Felonies
	Judge Suleiman Al Tarawneh	Misdemeanours Judge
	Judge Adel Al Jaferah	Criminal Conciliation Judge
Tafilah First Instance Court	Judge Mohammad Al Tarawneh	Judge / Panel President / Felonies
	Judge Ghaleb Al Rawashedeh	Misdemeanours Judge
	Judge Azzam Al Maaytah	Criminal Conciliation Judge
Karak First Instance Court	Judge Ismat Al Majali	Judge / Panel President / Felonies
	Judge THIab Al Tarawneh	Misdemeanours Judge
	Judge Tarq Al Nawayseh	Criminal Conciliation Judge

II: Judges – Centre and North Courts

Court	Participant Name	Job Title
Administrative Units	Judge Dr. Nashaat Al Akhras	Director of Training and Specialization Affairs Unit
Administrative Units	Judge Dr. Khaled Samamaah	Director of Planning and Development Affairs
Irbid Attorney General Department	Judge Hamad Al Ghzawi	Attorney General
Attorney General Department – Major Felonies Court	Judge Ziad Al Dmour	Attorney General
Amman First Instance Court	Judge Emile Al Rawashdeh	Judge / Panel President / Felonies
	Judge Sameh Al Mubaideen	Misdemeanours Judge
	Judge Yehia Al Zawahre	Criminal Conciliation Judge
North Amman First Instance Court	Judge Mohammad Al Adwan	Judge / Panel President / Felonies
	Judge Ame Al Qudah	Misdemeanours Judge
	Judge Dr. Amjad Al Shraydeh	Criminal Conciliation Judge
West Amman First Instance Court	Judge Bassam Al Talaheen	Judge / Panel President / Felonies
	Judge Iyahd Mihyar	Misdemeanours Judge
	Judge Sukaynah Al Husamiyyah	Criminal Conciliation Judge
East Amman First Instance Court	Judge Nimer Al Saaydeh	Judge / Panel President / Felonies
	Judge Hasan Al Ghwairi	Misdemeanours Judge

	Judge Mohammad Bani Taha	Criminal Conciliation Judge
South Amman First Instance Court	Judge Zuhair Al Atiyyat	Judge / Panel President / Felonies
	Judge Ahmad Al Fawaer	Misdemeanours Judge
	Judge Mohammad Al Khawaldeh	Criminal Conciliation Judge
Salt First Instance Court	Judge Ali Al Jaloodi	Judge / Panel President / Felonies
	Judge Mohammad Al Jazari	Misdemeanours Judge
	Judge Khair Al Hyasat	Criminal Conciliation Judge
Madaba First Instance Court	Judge Suleiman Al Hawasheh	Judge / Panel President / Felonies
	Judge Issam Al Hadeed	Misdemeanours Judge
	Judge Osama Al Raood	Criminal Conciliation Judge
Zarqa First Instance Court	Judge Faisal Al Khasawneh	Judge / Panel President / Felonies
	Judge Mamoon Al Ramini	Chief Public Prosecutor
	Judge Khaled Al Qaryat	Criminal Conciliation Judge
Mafraq First Instance Court	Judge Ahmad Al Sharaa	Judge / Panel President / Felonies
	Judge Hasan Al Sarhan	Misdemeanours Judge
	Judge Adel Hamdan	Criminal Conciliation Judge
Ajloun First Instance Court	Judge Firas Al Jarrah	Judge / Panel President / Felonies
	Judge Ali Al Zayadneh	Misdemeanours Judge
	Judge Abdel Majid Jaradat	Criminal Conciliation Judge
Jerash First Instance Court	Judge Farhan Al Taleb	Judge / Panel President / Felonies
	Judge Hisham Al Rawashdeh	Misdemeanours Judge
	Judge Umayya Al Rabadi	Criminal Conciliation Judge
Irbid First Instance Court	Judge Mohammad Hamadeen	Judge / Panel President / Felonies
	Judge Naser Al Qadi	Misdemeanours Judge
	Judge Rasha Al Khatib	Criminal Conciliation Judge
Major Felonies Court	Judge Rizeq Abu Al Fool	Judge / Panel President / Felonies
	Judge Hayel Al Amr	Judge / Panel President / Felonies
Amman Public Prosecution Department	Judge Mohammad Al Sorani	Chief Public Prosecutor
Zarqa Public Prosecution Department	Judge Ahmad Al Afeef	Chief Public Prosecutor
Irbid Public Prosecution Department	Judge Ramzi Al Athamat	Chief Public Prosecutor

Articles Suggested to be added to the Criminal Procedures Code

Article 368 / new:

Sentence Enforcement Judge

- a. The following words shall have the following meanings, unless the context otherwise requires: -
 1. Judge: sentence enforcement judge
 2. Committee: sentence enforcement committee formed pursuant to the provisions of this law.
 3. Minister: Minister of Justice
 4. Half way release system: provide the offender sentenced with a freedom restraining penalty the approval to work, study or receive treatment outside the correctional facility during the day alone and without continuous monitoring by centre employees, and requiring him / her to return to the centre every evening.
- b. A judge called the sentence enforcement judge or more that one judge would be appointed at each first instance court by a decision of the Judicial Council.
- c. The judge, in addition to the authorities assigned to him / her by the provisions of this law, would handle the following:
 1. Monitor the legality of sentence enforcement and the sound guarantees for measures related to application of penalties.
 2. Issue conditioned release decisions in misdemeanour penalties.
 3. Issue decisions to allow inmates to benefit from the half way release system.
 4. Cancel or amend conditioned release (parole) decisions and commitments placed on the released inmate.
 5. Issue stay of sentence enforcement decisions in misdemeanour penalties.



Article 369 / new:

- a. A committee called the “sentence enforcement committee” shall be formed at each correctional facility that is presided by a judge and includes the membership of each of the following:
 - Director of the centre.
 - Public prosecutor of the centre.
 - Head of the monitoring and inspection department at the centre.
- b. The organization and administrative matters related to the committee, including its meetings mechanism, are governed by regulations that are issued by the minister.
- c. The committees shall handle the following tasks
 1. Issue distribution decisions of inmates on correctional centres and their transfer from one centre to another according to the endorsed classification system.
 2. Issue parole, provisional leave, half way release and stay of sentence execution decisions related to felonies.
 3. Follow-up on the implementation of rehabilitation programs and activate the mechanisms of such programs.

Article 370 / new:

Conditioned Release (Parole)

- a. The inmate may file a conditioned release (parole) request to the judge or the director of the correctional and rehabilitation centre or the committee depending on the jurisdiction of each.
- b. Any offender sentenced with a freedom restraining penalty may be provisionally released after having served three-quarters of the sentence related to felony and repeated misdemeanours crimes, or after having served half the term of the sentence for a misdemeanour crime and has demonstrated good behaviour during the execution of the sentence and has fulfilled the financial obligations of sentence and his / her release does not constitute danger to public safety.
- c. Despite what came in paragraph 1/a of article 20 of the Penal Code, the minister may, based on the recommendation of the committee, decide to issue a conditioned release if the penalty was life imprisonment with hard labour and 20 years of the entire sentence period has lapsed.
- d. The conditioned release (parole) decision is issued in accordance with the jurisdiction prescribed for the judge or committee in accordance with the provisions of this law.
- e. The conditioned release decision imposes conditions on the released in terms of place of residency and living, and guaranteeing his / her good behaviour and conduct. Such conductions could include placing the released under the supervision of the competent authority for a period equal to the remaining term of the sentence.
- f. If the released person violated the terms of his / her release, the entity which issued the conditioned release decision, and upon the request of the competent monitoring authority, may decide the following:
 1. Issue a notice or a warning to the released felon, amend any of the terms attached to the release decision or cancel the release decision all together.
 2. Arrest the released felon and / or imprison him / her two weeks until a decision is made with regard to the violation.
- g. The time spent by the released outside the centre upon the conditioned released decision is considered part of the sentence time, unless he / she intentionally committed a misdemeanour or a felony in which case the conditioned release decision would be considered cancelled automatically and the released felon is returned to the centre to serve the remaining time of his / her sentence as of the date he / she was released.
- h. Denial of the felon of his / her civil rights who is sentenced with a freedom restraining sentence continues to be in effect until the conditioned release term is over and finally concluded.
- i. Completing the conditioned release term without its annulment does not affect the conviction judgement or sentence.



Article 371 / new:

Half Way Release System

- a. The half way release system means to provide the offender sentenced with a freedom restraining penalty the approval to work, study or receive treatment outside the correctional facility during the day alone and without continuous monitoring by centre employees, and requiring him / her to return to the centre every evening
- b. The inmate may file a request to the judge, committee or centre director requesting to benefit from the half way release system.
- c. An inmate wishing to benefit from the half way release system may volunteer to work at any government or charitable institution.
- d. The half way release system must be applied in semi-open departments inside medium security centres as an initial step that precedes the granting of the offender conditioned release, or from the issuance of the judgment by the competent court. Also, it may be applied in sections attached to closed, high-security centres.
- e. A number of general obligations and commitments must be defined for the offender benefiting from the half way release system in accordance with instructions issued by the Minister in addition to obligations specific to each particular case that are decided upon by the judge or the committee that would be stated in the decision to grant the offender the opportunity to benefit from the half way release system.
- f. The following can benefit from the half way release system:
 1. Any offender sentenced with a freedom restraining penalty of 18 months or less or any offender with a remaining sentence term of 18 months or less.
 2. Any offender sentenced with a freedom restraining penalty and has served 1/3 of his / her term and has 12 months or less remaining from his / her time to benefit from provisional leave.
- g. If the sentenced offender violated any of the terms of his / her half way release decision, the judge or committee may, at the request of the Director of the Center based on the recommendation of the competent monitoring authority, cancel or suspend such release for a limited period of time or continue with it or modify the terms of the release.
- h. The earnings made by the sentenced offender benefiting from the half way release system would be his / hers.
- i. If the beneficiary of the half way release system violated the terms and conditions set forth for benefiting from said system, the entity which issued the decision for the sentenced offender to benefit from said system, upon the request of the competent authority charged with the monitoring task, may decide any of the following:
 1. Alert or warn the sentenced offender or amend the conditions levied on him / her, or cancel the benefit decision from the half way release system.
 2. Arrest and or imprison the released offender for two weeks until a decision related to his / her violation is made.

Article 372 / new:

Provisional Leave

- a. The judge or the committee may decide to grant an offender sentenced to a penalty not exceeding three years of imprisonment, and who have demonstrated good behaviour and conduct and has served half the time of the sentence, an unguarded provisional leave for two days for each month of the remaining time of the sentence, and for a period not exceeding six days per leave.

- b. The provisional leave can have conditions that would be specified in the provisional leave decision.
- c. If the inmate violated any of the terms listed in his / her provisional release decision, the director of the centre may temporarily return him / her to the centre and shall notify the judge or the committee to cancel the use of leave or to suspend it for a limited period or to continue or modify the conditions set out in the leave decision.

Article 373 / new:

Stay of Sentence Enforcement

- a. Subject to Article 27/3 of the Penal Code in force, the judge or committee may stay the enforcement of freedom restraining sentences for a period not exceeding six months if the duration of the sentence, or the remaining period of it is one year or less in any of the following cases.
 1. If it was proven that the inmate is the sole provider for the family.
 2. If the female inmate delivered a living child.
 3. The judge or committee may suspend the enforcement of the remaining term of the sentence according to the special provisions of repeated article 54 of the Penal code in force, if the sentenced offender benefiting from the stay of sentence enforcement, according to paragraph (a) of this article, did not commit a crime during the stay duration and it became evident that he she has been rehabilitated and integrated into society, and which leads to believe that he / she will not go back to committing crimes.

Article 374 / new:

Appealing Criminal Punitive Decisions

- a. The public prosecutor or the inmate may appeal decisions issued by the judge or the committee before the first instance court in its appeals capacity within three days from the date of issuance of decisions.
- b. The appeal of decisions issued by the judge or the committee halt the proceeding of said decisions until the decision of the first instance court in its appeals capacity is issued.

Workshop Proceedings

The two workshops were held as per the agenda attached to this report. The workshops were started by a welcoming speech delivered by the director of training and specialization affairs, Judge Dr. Nashaat Al Akhras. The speech included a brief historical review of legal texts governing criminal proceedings in Jordan, up till the stage of judgement execution, and the extent to which the original sentence can be replaced with alternative ones as per the legislations in force. He also presented a brief of past workshops that were held in this regard which focused on the set of legislations proposed to be amended in order to expedite litigation procedures, case disposition and judgement enforcement and which are as follows:

- Civil Procedures Law
- Criminal Procedures Law
- Enforcement Law

Given the importance of the issue of alternative sentencing, as it is among the new and emerging topics, the General Secretariat of the Judicial Council as well as the Council's Administrative Units found it important to hold an independent workshop to discuss the legal articles to be added to the Criminal Procedure Code concerned with alternative sentences to freedom restraining penalties and the pertinent mechanisms for issuance of such decisions and their enforcement.

During the workshop proceedings, the following judges presented work papers on the alternative sentences proposed to be introduced: H.E. judge Taleb Al Dalaeen the attorney general of Maan, judge Hamad al Ghzawi the attorney general of Irbid, and judge Ziad al Dmour the chief public prosecutor before the major felonies court. The presenting judges made a number of important comments and observations in this regard, the most important of which relate to the following:

- Sentence enforcement judge (authority, geographic jurisdiction, judicial experience and rank).
- The role of the public prosecutor in alternative sentencing decisions.
- Provisional release terms and the importance of excluding a number of crimes which such system applies to.
- The importance of cancelling the authority of the minister of justice to replace the original sentence as this is a stark interference by the executive in the functions of the judicial authority.
- Appeal mechanisms in the decision of the sentence enforcement judge in terms of mechanisms of notification and appeal time periods.

In addition, a number of participating judges presented general discussion papers on alternative sentencing throughout the proceedings of the two-day workshops. The judges who presented the papers were the following: judge Bassam al Khawaldeh, judge Ghaleb al Rawashdeh, judge Ayman al Aqayleh, judge Fawwaz al Suhaimat, judge Azzam al Maaytah, judge Emile al Rawashdeh, judge Amer al Qudah, judge Naser al Qadi, and judge Amjad al Shraideh.

Through the discussion papers referred to above that were presented, the judges touched on a comparative review of number of judicial systems in European countries and Arab states that have adopted alternative sentencing such as France, Italy, Algeria, and Bahrain. Another set of alternative sentences were proposed to be added to the Code of Criminal Procedures will be reviewed in the findings and proposals and the end of this workshop report. We will review such results and recommendations which came out from the workshop at the end of this report.



Discussion sessions were dedicated for the review of the proposed legal articles suggested to be added to the law relating to alternative sentencing. Extensive discussion took place during the sessions on the legal provision that were presented and reviewed. The discussion sessions were structured such that they would cover the following topics: the sentence enforcement judge, conditioned release, half way release system, and provisional leave, stay of sentence enforcement, appealing the decisions of the sentence enforcement judge or committee.

By the end of the workshop and during the closing session the outcomes of the workshop were summarized, which included the suggestions and comments of participants in addition to the final recommendations

Final Comments and Recommendations

First: General Recommendations

- It is important to involve the public prosecutor when deciding on the decision to replace the original penalty.
- The sentence enforcement judge must be required to issue replacement request decisions with a specific period that would be specified by law.
- The sentence enforcement judge must take into account the interest of the victim on one hand and that of the society on the other when issuing the decision to replace the original sentence or penalty.
- The sentence enforcement judge must individualize the penalty on a case by case basis, and which is based on the circumstances under which the crime was committed and the special circumstances related to the offender as well as his / her criminal record and motives for committing the crime.
- Grant the authority to substitute the original penalty with an alternative sentence to the original subject matter judge, particularly in misdemeanour cases.
- Start implementing the principle of alternative sentencing in juvenile cases the majority of which are not highly dangerous, thus protecting the juvenile from entering into the experience of correctional and rehabilitation centres.
- Provide the legislative framework that would gradually introduce alternative sentences into legislations. For example, penalties for infraction offenses in general are rehabilitative penalties, and not freedom restraining ones, and after places and appropriate rehabilitation programs are available it can be gradually introduced to be applied to misdemeanors and felonies. This may require the introduction of a set of amendments to criminal legislations such as the Criminal Procedures Code ad Correctional and Rehabilitation Centers Law.
- In the initial stage, apply alternative sentences as supplementary penalties that are imposed on the offender in addition to the original sentence to guarantee the success of the rehabilitation process, for example, transfer the sentenced to psychological and social counseling sessions.
- Offenders charged with the following crimes must be excluded from benefiting from alternative sentences:
 1. Espionage set forth in articles 14/ 15/ 16 of the Law on the Protection of State Secrets and Documents.
 2. Narcotics and psychotropic substances crimes set forth in the articles 8/ 9/ 10/ 11/ 21 of the Drugs and Psychotropic Substances Law.
 3. Crimes against internal and external state security set forth in articles (107 - 153) of the Jordanian Penal Code.

- The opinion of the public, community and civil society organizations must be prepared to accept alternative sentences for people convicted of crimes with the aim of rehabilitating them and reintegrate them into society.
- Determine the documents that must be attached to the request filed for substituting the original sentence (such as the original judgment, criminal history record, report of the correctional rehabilitation center committee . . . etc).
- A number of participants suggested that the judgment paragraph of the original ruling include a paragraph that states the possibility and ability to replace the original sentence with an alternative one.
- The decision of the sentence enforcement judge must include in the special conditions relating to the alternative sentence the prevention of the beneficiary to travel outside the Kingdom during the term of alternative sentence.
- Violation of any of the terms related to the alternative sentence cancels the substitute decision and resumes the enforcement of the original penalty.
- Develop additional controls for benefiting for alternative sentences, such as for example having a guarantor / a sponsor for the person whose penalty is being replaced with an alternative sentence who guarantees the commitment of the inmate of the conditions contained in the replacement decision.
- Take into account the repetition of crimes for offenders filing a request to substitute the original with an alternative one and excluding such requests.
- A special and independent law must issued to regulate the process and mechanism of replacing the original, freedom restraining penalty with an alternative sentence and must be called the Sentence Enforcement Law.
- A number of the participating judges emphasized the importance of listing and adding legal articles related to alternative sentences in the Penal Code and not the Criminal Procedures Code.
- Filing of the request to replace the original sentence must be made before the judge who issued the indictment decision and the criminal sentence and not necessarily to the sentence enforcement judge.
- The authority to replace the original sentence must be given to the subject matter judge given that he / she knows thoroughly the cases and its circumstances.
- A group of the participants touched on a very important subject, which helps the sentence enforcement judge make his / her decision and which relates to social studies pertinent to offenders and sentenced individuals and which give an indication related to the level of his/ her conduct and discipline.
- A number of terms and conditions must be taken into account which must be exclusively mentioned before the judge issues a decision to enforce an alternative sentence instead of the original one and which are as follows:
 - 1- The interest of the victim, some suggested that the approval of victim be required.
 - 2- If the complainant dropped his / her right to file a personal claim in a criminal case.
 - 3- If the person has no criminal record or history.
 - 4- Confession of the offender that he / she has committed the crime.
- Add an article that outlines and clarifies the mechanisms for filings requests to replace the original sentence and impose specific fees for such requests and outline the time periods which enable the applicant to renew his / her request it in the event it was rejected.

Second: Recommendations and Suggestions Related to Article 368:

- Cancel the definitions listed in this article and add them to article 2 of the criminal procedures code.
- Cancel the work “apply” from the definition of a judge and replace it with “enforcement / replacement”.
- Provide a definition for the word “center” mentioned in paragraph a/4 of this article.
- Reconsider paragraph c/1 of the article and clarify the monitoring responsibilities of the sentence enforcement judges whether it is monitoring over the decision or enforcement.
- There is consensus over the appointment of a sentence enforcement judge since it will lead to expediting the process of enforcement. The authority of the sentence enforcement judge must be accurately specified to avoid conflict of power between him / her and the competent public prosecutor for enforcing the criminal penalty.
- An adequate number of sentence enforcement judges must be appointed and provided at each first instance court commensurate with the number of enforced criminal cases.
- A person appointed as a sentence enforcement judge must possess judicial expertise and must be from among the newly appointed judges. Some suggested that the judge hold a rank not less than third or fourth.
- Determine the sentence enforcement judge with geographic jurisdiction to review motions for replacing the original sentence (is it the jurisdiction of the sentence enforcement judge of the court that issued the original decision or that of the sentence enforcement judge at the court under which the correctional and rehabilitation center at which the inmate is staying at falls?).
- Establish a special department for the enforcement of criminal sentences headed by a judge (of a specified rank) and supported by a number of assistants and staff.
- Appoint a sentence enforcement judge at correctional centers.
- Review paragraph c/3 and determine the cases which the judge has the authority to replace the original sentence with a half way release sentence.



Third: Recommendations and Suggestions Related to Article 369:

- Reconsider the formation of the committee stipulated in the law as the majority of its members are from the executive power, particularly in the penalty to be replaced relates to a felony case (**if felony cases were not excluded**).
- Define who the public prosecutor of the centre is as such definition it does not exist in the law.

Fourth: Recommendations and Suggestions Related to Article 370:

- Not to grant the Minister of Justice the power to issue a provisional release decision of offenders sentenced to a penalty of hard labor for life according to the suggested article.
- A felony penalty cannot be replaced with a provisional release sentence without basing it on the report of the competent committee at the correctional center that includes such recommends.
- A number of participants suggested that felony penalties be excluded from the possibility of replacing the penalty with provisional release while another group suggested excluding only sentenced related to major felony cases.
- It is important to activate monitoring of inmates benefiting from provisional release.
- Levy financial fees for filing a request to replace the original sentence.
- Define a time period for deciding on a motion to replace the original sentence with a conditioned release sentence.
- Review paragraph f of this article and determine the competent monitoring authority.
- Review paragraph f of this article and determine the competent monitoring authority.
- Review paragraph g of this article and clarify the means by which the sentence enforcement judge or the committee can find out if the person benefiting from conditioned release intentionally committed a misdemeanour or a felony.
- Review paragraph e and rephrase it to clarify what is meant with (monitoring by the competent authority for a period equal to the remaining period of the sentence).
- Review paragraph b of the article and determine the authority of the judge of committee to replace the original freedom restraining sentence with provisional release, if the original sentence included a fine.

Fifth: Recommendations and Suggestions Related to Article 371:

The half way release system must not be applied as an alternative sentence to all misdemeanour crimes, and a number of crimes, such as forgery, theft and fraud must be excluded.

- The sentence enforcement judge is the competent person to issue decisions to benefit from the half way release system, and there is no need for such request to be submitted to the committee stipulated in suggested amendments.
- A number of issues must be taken into consideration when issuing a half way release system as an alternative sentence, including for example the following:
 1. The age of the inmate
 2. His / her health status
 3. His / her social status
 4. Support of family

Sixth: Recommendations and Suggestions Related to Article 372:

- Provision leave as alternative sentence does not include offenders charged with felony crimes. Such leave would be granted for purely humanitarian reasons such as the death of one of the inmate's relative up to the second degree, and such motion or request would be an expedited one.
- A number of issues must be taken into account when issuing the provisional leave decision as an alternative sentence including for example the following:
 1. The death of the inmate's parents, siblings or children.
 2. The inmate is not a repeat offender.

3. The inmate is chronically ill.
- Appropriate safeguards must be found for the return of the beneficiary of provisional leave from the correctional and rehabilitation centre to it. In case such person violated the conditions set out in the provisional leave decision, then such leave would be cancelled and the released inmate cannot benefit from such leave again and he / she must be prosecuted and an appropriate punishment must be imposed on him / her if he / she committed a particular offense.

Seventh: Recommendations and Suggestions Related to Article 373:

The stay of sentence enforcement would be applied in specific instances such as the following:

1. The sentenced offender is the only supporter of his / her family.
2. The original sentence does not exceed six months or the time remaining of the original sentence is six months.
3. A sentenced offender who is fatally ill.
4. A female inmate which delivers a living child.

Eight: Recommendations and Suggestions Related to Article 374:

- The decision of the sentence enforcement judge to replace the original sentence with any of the alternative sentences is considered final in misdemeanour cases but can be appealed in felony cases.
- Appeals shall be the right of the inmate (the person filing the motion) and the public prosecutor.
- The decisions of the sentence enforcement judge must be notified to the person filing the motion and the public prosecutor, specifically in felony cases for purposes of calculating the time periods for appeal.

The results of votes on some of the issues that were disagreed upon:

- The court with jurisdiction over reviewing the appeal.
After the vote: the first instance court in its appeals capacity.
- Can the penalty of a felony crime be replaced?
After the vote: No
- Apply a standard related to either the duration of the penalty or the classification of the offense (misdemeanor / felony).

After the vote: apply the standard of offense classification (misdemeanor / felony).

Suggestions made by participants related to other alternative sentences not mentioned in suggested amendments:

- Raise the maximum penalty of imprisonment that can be replaced by a fine from 3 months to 6 months, which reduces the burden on prisons and rehabilitation centers on the one hand and provides the state treasury with revenues on the other
- Judicial pardon: it is a ruling issued by the judicial authority under which the Court refrains from levying criminal sanctions against the accused if it is satisfied that he / she would not commit crimes in the future. A judicial pardon is different for the general pardon or amnesty issued by a law. Among the legislations that adopt judicial pardon in the Italian legislation.
- Judicial reprimand: is when the court directs blame and reprimand the accused on the commission of an offense with warning him / her not to repeat such behavior in the future. This is applied in France and Germany in infraction and misdemeanor cases. Iraqi, Moroccan and Egyptian legislations apply reprimand infraction cases only.
- Police surveillance: it is a system that entails restricting the freedom of the perpetrator of a crime or a person who poses danger to society if left without restriction, even if he / she id not commit a crime. This is done by restricting his / her stay in some places or banning him / her from leaving some places.