



Alternative Penal Code:

Between important theory and practice
in Bahrain



BAHRAIN CENTER FOR HUMAN RIGHTS
Defending and promoting human rights in Bahrain

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About Us

The Bahrain Center for Human Rights (BCHR) is a non-profit, non-governmental organization, registered with the Bahraini Ministry of Labor and Social Services since July 2002. Despite an order by the authorities in November 2004 to close down, BCHR is still functioning after gaining a wide local and international support for its struggle to promote human rights in Bahrain.

The vast majority of our operations are carried out in Bahrain, while a small office in exile, founded in 2011, is maintained in Copenhagen, Denmark, to coordinate our international advocacy program. For more than 18 years, BCHR has carried out numerous projects, including advocacy, online security trainings, workshops, seminars, media campaigns and reporting to UN mechanisms and international NGOs. BCHR has also participated in many regional and international conferences and workshops in addition to testifying in national parliaments across Europe, the EU parliament, and the United States Congress. BCHR receives its fund from the Norwegian Human Rights Fund (NHRF), National Endowment for Democracy (NED), Sigrid Rausing Trust (SRT), CIVICUS, the International Federation for Human Rights (FIDH), IFEX and Digital Defenders Partnership (DDP).

BCHR has received several awards for its efforts to promote democracy and human rights in Bahrain.

- [The Rafto Prize, 2013](#)

Presented to the BCHR with the motivation for their “long and courageous fight for fundamental human rights such as freedom of speech and freedom of association in Bahrain.” The award was also given with the aim to raise awareness on the broadening violations against human rights that occurs in the gulf region and many western governments ignores. Read more: www.rafto.no

- [The Stieg Larsson Prize, 2012](#)

Awarded to the then Acting-President of Bahrain Center for Human Rights, Maryam Al-Khawaja, for her "brave struggle to defend democracy and human rights. With the web and social media as tools and persistent activism and the free world as methods, Maryam Al-Khawaja has illuminated the injustices and inequalities of her home country in Bahrain". Read more: www.stieglarssonfoundation.se/the-annual-stieg-larsson-prize

- [Baldwin Medal of Liberty, 2012](#)

The President and CEO of Human Rights First, Elisa Massimino awarded the BCHR with the prestigious Baldwin Medal of Liberty stating that: "There are so many human rights defenders doing amazing work in many parts of the world, but I am delighted that the Medal of Liberty will be presented to the Bahrain Center for Human Rights, which continues to promote human rights under constant threat to the security of its members". The Baldwin Medal of Liberty was established in 1989 and aims to award international human rights advocates. Read more: www.humanrightsfirst.org/2012/04/26/human-rights-first-awards-prestigious-medal-of-liberty-to-bahrain-center-for-human-rights/

- [The Martin Ennals Award, Final Nominee, 2012](#)

The Bahrain Center for Human Rights was awarded with a prize from the Martin Ennals Foundation after being named as a 'final nominee' for its work reporting on human rights violations in Bahrain. The Martin Ennals Foundation stated that "despite harassment by the government, who warn of legal action against the Center's members if they continue their activities, the BCHR provides information to international NGOs and the diplomatic community in Bahrain and advocates locally and internationally in support of demands for democratic change in the Gulf Kingdom". The decision was made by the Martin Ennals Award Jury which consisted of the following organizations: Amnesty International, Human Rights Watch, Human Rights First, the International Federation for Human Rights, the World Organization Against Torture, Frontline, the International Commission of Jurists, German Diakonie, the International

Service for Human Rights and HURIDOCS. Read more: http://www.martinennalsaward.org/index.php?option=com_content&view=article&id=183&Itemid=153&lang=en

- Advocacy Award, 2012

The Index on Censorship Advocacy Award (sponsored by Bindmans) was awarded to the BCHR with the aim to acknowledge campaigners or activists who have worked for change. Read more: www.bahrainrights.org/en/node/5132

- The Silbury Prize, 2011

The British charity sponsors, the Silbury Fund, awarded Nabeel Rajab, former President of the BCHR, the Silbury Prize in 2011. This decision was made with the aim to promote Mr. Rajab's work within the human rights field.

Read more: <http://www.bahrainrights.org/en/node/4661>

- Ion Ratiu Democracy Award, 2011

The former President of the Bahrain Centre for Human Rights, Nabeel Rajab, was awarded in 2011 the Ion Ratiu Democracy Award by the Washington based Woodrow Wilson International Center for Scholars. The director, president and CEO of the center, Jane Harman stated that: "In such a tumultuous year, Nabeel Rajab's efforts to peacefully advance democratic freedoms for Bahraini citizens, even in the face of considerable personal peril, are truly exemplary. He is an exceptional choice to receive the Ion Ratiu Award and I extend my sincerest congratulations".

Read more: <http://www.wilsoncenter.org/article/bahraini-human-rights-activist-nabeel-rajab-to-receive-2011-ion-ratiu-democracy-award> and

<http://www.bahrainrights.org/en/node/4436>

It is noteworthy that, since March 2011, Al-Khawaja has been serving a life sentence for his activities in the field of human rights. The former president, the activist Nabeel Rajab, was also arrested on charges related to freedom of opinion and expression, and the use of social media.

Nedal Al-Salman, Bahraini human rights defender is the current President of the Bahrain Center for Human Rights (BCHR) and a Conveyor at IFEX and Vice President at the International Federation for Human Rights (FIDH). She faced reprisal for the work she undertakes in advocacy for BCHR on the international stage, and for publicly calling for reform in Bahrain.

Most of the BCHR staff inside Bahrain remain anonymous, including a Vice- President and members of the Documentation Team.

Our Mission in Bahrain Center for Human Rights is to encourage and support individuals and groups to be proactive in the protection of their own and others' rights; to struggle to promote democracy and human rights in accordance with international norms; to document and report on human rights violations in Bahrain; and to carry on advocacy to influence international policies according to the Universal Declaration of Human Rights.

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Introduction

This era was called the era of speed. Rapid developments occurred in all aspects of life, and the share of the development of laws in various specialties was great, especially in the fields of criminology and punishment. Theories have arisen in these two areas and numerous researches were published after that prisons have become a breeding ground for the emergence and spread of crime instead of reform and rehabilitation. Interest in criminology and punishment has become the priority of developed countries as well as the United Nations.

This interest has increased over time and has shifted from only research to holding conferences. After the aim of the punishment was to punish the perpetrator and take revenge from him, the goal became reforming the perpetrator and reducing the severity of the punishment, and then reducing the physical penalties and replacing them with penalties that deprive freedom. Lately, the penalties that deprive freedom were replaced with alternative penalties that preserve the freedom and dignity of the person and not retaliate against the perpetrator and return him to society instead of imprisoning him.

The drift of modern trends is due to the unification and reduction of penalties depriving freedom in the early nineteenth century, i.e. to the conferences that were organized by the International Criminal and Punitive Committee. The topic was raised for the first time in the London conference in 1872 and also after the emergence of the Enlightenment movement in Europe, which was featured in the writings of philosophers and writers especially Jean-Jacques Rousseau and some clerics, where the trend towards treating criminals humanely in a way that preserves their rights and at the same time helps to achieve the goal of the punishment: rehabilitate and refute the convicted person. Thus, the punishment in its modern concept became the reintegration of the convicted person into society and the correction of the guilty.

And since the consensus was that prison is not a place for reforming the convicts, especially those punished with short-term penalties, attention turned to replacing them with alternative penalties, which are the subject of our research.

Many Arab countries have moved towards adopting this system. As for the Kingdom of Bahrain, the law has moved towards adopting Law No. (18) of 2017 regarding penalties and alternative measures, as well as the Bahrain Criminal Procedures Law of 2002 in Article 371 of the convict to request at any time from the judge to implement the punishment before issuing the order for physical coercion to replace it with manual or industrial work.

This study aims to demonstrate the punishment depriving freedom, as well as identify its disadvantages, whether against the convict, society or penal institutions, and to highlight alternatives that can replace this type of punishment and the extent to which the Bahraini legislator takes these principles.

Hence, it was necessary to know the importance and effectiveness of applying this type of punishment and ask the following question: How far does the alternative punishment contribute to overcoming the negative effects of the normal punishment? To answer this problem, we relied on the descriptive approach to clarify the concept of penalties depriving freedom, and the reasons for its spread, the alternatives that can replace it, and the inductive approach, in order to analyse legal texts.



Chapter one: literary study

1. Penalties depriving freedom

Penalties depriving freedom are the ideal model for punishment in contemporary criminal legislation, as it is considered a major human progress in relation to the physical punishments that prevailed before the nineteenth century, as it guaranteed the most important purposes of the punishment of reforming and rehabilitating the convict. However, as of the mid-twentieth century, it became a place of doubt and controversy over its value and usefulness in a similar way to the controversy surrounding the death penalty that occupied a large area of criminal research. Experience revealed the inability of the Penalties depriving freedom to achieve the most important purposes of punishment which is reforming and rehabilitating the convict, ensuring that he does not return to the abyss of crime. As it is evident from the application of this punishment that there are many disadvantages for the convict and members of his family and society, especially if it was carried for a short period of time, it leads to contact with criminals and dangerous precedents inside the prison and their saturation with criminal culture and psychology, and it prevents the realization of reform and social evaluation programs for those convicted of them.

And the deprivation of freedom is defined as: “Detaining the convicted person in a specific place while depriving him of organizing his life as he pleases and isolating him from his natural social environment”. It is clear from this definition that this punishment imposes on the convicted person the deprivation of the freedom of movement that the ordinary person enjoys, and therefore, the deprivation of freedom is distinguished from the restrictive freedom in that the latter makes the convict found outside the penal institution, but imposes certain restrictions on his freedom of movement.

2. Alternative punishment

An alternative sentence can be defined as imposing a punishment that does not deprive the liberty of the convicts. Some have defined it as a set of alternatives that the judge takes to replace the prison sentence with a service that the prisoner performs for one of the social groups, or for a charitable location, or join an educational facility that the prisoner benefits from in order to repair and protect him from harm and provide a service to his community.

Consequently, it is a set of measures that replace the prison sentence and work to implement the policy of preventing freedom. The judge takes it instead of the prison sentence, and it is a service that the prisoner provides to a group of society, a charity, or a charitable site, or join an educational facility, from which the prisoner benefits in order to repair and protect him from harm, and provide a service to his community. It may also be known as sanctions of public benefit, because the prisoner benefits from it through reforming

it in society, and society benefits from it through its integration. The majority of the judicial and legal systems in many countries of the world today tend to activate modern punitive policies; they work to implement alternative penalties (alternatives to imprisonment) for humanitarian, social, national, and economic reasons, especially for crimes and violations that occur for the first time, or from small age groups that experience problems as a result of weak upbringing, social maladjustment and lack of awareness. Alternative punishments open a window for these persons towards the future out of the circle of loss, and that is by expanding the introduction of alternative punishments instead of imprisonment, to reduce prison severity, and to urge the guilty and encourage them to serve society, as the regulations allow.

3. Studies on alternative penalties

In 1990, the United Nations' first adoption was the United Nations Standard Rules for Non-custodial Measures known as the Tokyo Rules. The Tokyo rules clarify alternative penalties, but have not detailed ways to implement those penalties. However, the rule clarified the method of choosing the appropriate alternative punishment so that it should be appropriate to the nature of the crime on the one hand and the personality and background of the perpetrator of the crime on the other hand. These rules also aim to enhance the sense of societal responsibility by the perpetrators as well as their participation in achieving criminal justice, in addition to reducing the use of prisons and rationalization of criminal justice policies. The text of the article came from the Tokyo rules and included various alternative penalties, including: verbal punishments such as reproach, reprimand and warning, conditional release, economic and monetary penalties such as daily fines, the order to return the right to the victim or compensate him, or being placed under test and judicial supervision, etc...

In a study conducted by the US Department of Justice, it was found that 44% of the perpetrators who were released in 1994 were arrested again, as more than two-thirds of the perpetrators were arrested within three years of their release from prison. The rates of return to crime have decreased in the states that implemented alternative penalties programs, but more studies are needed to assess whether rates of return continue to decrease in states that implement alternative penalties.

It is noted that, according to a report issued by the United States Public Accountability Office, alternative sanctions have three objectives:

- Reducing the number of prisoners.
- Reducing costs by replacing expensive prison sentences with cheaper alternatives.
- Trying to reduce the number of violators.

The United States of America is also considered one of the countries that implemented the mediation project, which is between the accused and the victim by holding a conciliatory meeting between them.

4. Reasons and justifications for resorting to alternative penalties

The justifications for resorting to alternative penalties are in fact the same as the justifications for excluding the deprivation of freedom penalties, that is, their disadvantages:

- **Disable Output:**

The goal of alternative penalties is not to separate those convicted of simple imprisonment penalties from their work and benefit from the skills and experience of a prisoner who enjoys skills like medicine or engineering and other instead of restricting his freedom and placing him in prison, i.e. avoiding the negative effects of imprisonment known by specialists specially after it appeared to everyone that prisons are no longer a place to fix the guilty.

- **Society's inferior view of the prison:**

One of the negative effects of the prison is the society's view of the prisoner who is described as a "prison graduate," which leaves negative, social and even economic effects, as it is often difficult for the prisoner to get a job after that. For this reason, the released prisoner often returns to prison.

- **The social negatives of prisons:**

Among the positives of the alternative punishment and its merits is that the convict is not removed from the family and society, because imprisonment has a negative impact starting from the wife who may resort to "khula'a", a form of divorce, and the educational situation of children may worsen, as well as the exploitation of bad companions for family members in the absence of their breadwinner or lack of a material source that helps its members to bear the conditions of life. It also leads to the sexual deprivation of the prisoner as well as problems that would appear after the imprisonment is finished, such as the lack of good example and the carnage the sense of responsibility.

- Low health and moral standards among prisoners:

The prisoner is exposed to health damage as a result of the large number of prisoners, or the risk of being exposed to a disease, which may be transmitted in form of infection to others. This infection affects the prisoner, who is sentenced to a simple prison term in addition to mental disorders in the prison.

- Exhaustion of the state budget:

The provision of financial costs spent on prisoners with simple sentences and the absence of benefit from the short prison period, and thus the prison ruling has overburdened the treasury and the desired benefit has not been achieved, so resorting to alternative penalties will contribute to reducing the financial burden.

- Corruption of prisoners, repeated rates of return to prison, and prisoner influenced by the prison culture as an alternative to the original culture:

The prisoner during the period of his imprisonment is subjected to interaction with high-ranking criminals who have a large involvement in criminology and abundant experiences in criminal methods. Prisoners are not harbored and separated from each other according to the gravity of the crimes committed or the penalties and the gravity of each guilty, thus a prisoner acquires an inferior culture from different criminals, and instead of his reform and rehabilitation, he ends his sentence period without having been reformed and rehabilitated.

Results of specialized scientific research proved that in Britain, for example, 50% return to the prisons after the end of their sentences. One study indicates that the so-called serendipitous crimes turn into professional crimes, was observed that 29% of the convicts of moral misdemeanors turned to theft crimes and some of them to drug crimes too, and 40% switching from murder to theft. That is due to the prison community, and what it may entail in some way, an inferior culture that teaches criminality and produces more criminals as mentioned above, and because it is difficult to reform a comet within 6 months. It is almost impossible as if how can a prisoner be repaired if he is a professor, doctor or a social figure by people who are less experienced than him in an environment infested with crime.

- Mistreatment of prisoners:

The mistreatment of the prisoner is reflected in the reform programs presented to them. It is known that the reform requires a lot of time and efforts, because the short period of penalties is not sufficient to fix the guilty, that is, achieving the desired goal of imprisonment, which is represented by public and private deterrence, in other words it is deficient in achieving goals of the punishment. Studies have proven that the system of work for the public interest and alternative penalties came to complement the well-known objectives of the purposes of punishment, which are general deterrence, private deterrence and the achievement of justice, which are the purposes of the punitive policy to combat crime according to the type of crime and the gravity of the perpetrator socially and the interest that was abused.

- Overcrowding:

Prisons are currently witnessing a situation of overcrowding where resorting to alternative penalties will inevitably reduce the number of prisoners and thus will provide a means of reform for those punished with alternative punishment and others in prison to benefit from the reform programs.

5. Alternatives to deprivation of freedom and their types:

To find out what the alternatives and types of sanctions are in a clear way, some worldwide known examples can be inferred that can fit and be applied in Bahrain and in neighboring countries:

- Electronic Control:

It is a monitoring that is done remotely by electronic devices in order to determine the movements of the convict within the permitted area and to monitor the extent of his commitment to the conditions and controls of the penalty imposed on him. This is often done by placing an electronic bracelet in the wrist of the convict or by phone where he knows where he is and also can learn the tone and location of his voice through technology.

- Working for the public benefit:

Like working in a social or governmental institution, as well as working in a charitable organization, a scientific institution, a church, a place of worship, or a mosque, or working at a university if the convict was a university professor or researcher, or a body specialized in social problems, in order to include the convict in behavioral courses in order to repair or rehabilitate it.

- Paying a compensation amount to the affected people to waive the personal rights and then pay an amount to buy their prison period.
- An attendance guarantees or a pledge to attend whenever required to do so or a deposit (an amount of money) with the treasury as a guarantee of his continued implementation of the alternative punishment and showing his good behavior.
- Displacement, deportation, or house arrest, away from his place of residence.
- Education, such as asking him to complete another stage of study or develop his scientific or professional capabilities, such as obtaining certain courses, such as carpentry or sewing.
- Reprimand, slander and blame, as if he being reprimanded before his peers or relatives or hung a piece in front of his home indicating that he had committed an offense provided that it is with the consent of the convict and based on his request.
- The semi-open prison, such as depositing in a large hall that can accommodate a large number of convicts, to receive educational lectures, reform programs, and training in specific programs.
- The system of intermittent imprisonment or installment of punishment by monitoring the convict about the extent of his reform and his awareness of the seriousness of his work and the extent of his compatibility with the reform program and the period spent.
- Removing criminal status from some minor crimes and violations and making them administrative violations and punishing the perpetrators with administrative and financial penalties. Article 11 of the International Covenant on Civil and Political Rights, confirmed this when it states: "No person may be imprisoned merely because

of his inability to fulfill a contractual obligation”, for example in case of driving without a license the driver can be punished by delaying applying for it or forbidding him to obtain a driver's license for a period of 6 months.

- Imprisonment during official holidays and the end of the week, so that the convict can communicate with his family and not leave his work, as well as be monitored during the period of his sentence whether he has benefited from the reform programs that were provided to him or trained in and whether he has benefited from this experience.

It is sufficient to be satisfied with this number of examples of alternative penalties, which are not specific and differ according to the criminal policies of each country and the social conditions of each society. It may be a valid and good punishment for a society but it may not be suitable for another society where it may not fulfill its purpose which is reform and rehabilitation. These models of penalties are not necessarily ready-made molds applied in all times and places, but they could change according to the reality of the situation and the place in which it is applied, and civil society can participate in its formulation.

It appears through this study that alternative penalties do not mean disrupting the original penalties, but rather are penalties imposed on the convict instead of deprivation of freedom after the alternative penalties became an alternative for imprisonment, where imprisonment is the most important punitive method in the modern era, especially in developed countries where it has abandoned Corporal punishment, execution, cruelty, violence, the prevention of torture and hard labor, and even reduced life imprisonment. It was necessary to modern means of reform instead of imprisonment and short-term sanctions, and to replace them with other penalties such as work for the public benefit or the judicial test, and other penalties that we mentioned at the beginning of this research.

Alternative penalties have opened a new chapter to fix perpetrators and treat sick conditions outside of prison without the convicted person being exposed to prison diseases, and for the purposes of his rehabilitation, repair and employment as human competence, because the goal of modern criminal policy is prevention, then control and then treatment.



Chapter two: Alternative penalties in Bahraini law

1. Types of penalties and their division in Bahraini law

First: the original penalties

The original penalties consist of:

- Execution
- Life imprisonment
- Temporary imprisonment
- Severe confinement
- Simple confinement
- The fine
- Reserving a school for delinquent boys
- Detention in a correctional school.

Second: Subsequent penalties:

Subsequent punishments are the one that inflicts the convicted by the rule of law without the need to stipulate it in the ruling, such as deprivation of some rights and benefits such as:

- Jobs and services, he was assuming
- To be a voter or elected in the representative councils
- To be a member of the administrative or municipal councils or a company or was a director thereof
- To be a trustee or agent
- To be the owner, publisher or chief editor of a newspaper.
- Monitor the police.

Third: Supplementary penalties

Such as deprivation of some rights and benefits, such as:

- Assuming some public jobs and services, provided that what is prohibited from them is determined by the ruling, and that the decision is a sufficient cause.
- Carrying national or foreign honorary.
- The rights and benefits mentioned in Paragraph (Second) of this Resolution, in whole or in part.

Precautionary measures:

First: precautionary measures that are depriving freedom, such as:

- Reservation in a medical shelter
- Ban from entering bars
- Prevention of residence
- Monitor the condition

Second: Precautionary measures depriving rights, such as:

- Dismissing guardianship and trusteeship
- Ban the practice of work
- Withdrawal of the driver's license

Third: Physical precautionary measures, such as:

- Confiscation
- A pledge of good behavior
- Close the shop

2. Bahraini Law: Law No. (18) of 2017 with respect to alternative sanctions and measures

The Alternative Sanctions are:

- a. Community service.

- b. House arrest, confinement within a particular place.
- c. Refraining from entering a particular place or places.
- d. Undertaking to refrain from menacing or communicating with particular persons or entities.
- e. Submitting to electronic surveillance.
- f. Attending rehabilitation and training programs.
- g. Remedying the damage that resulted from the crime.



Chapter three: results

1. The adoption of the Alternative Penal Code in Bahrain: the theoretical aspect

At its session on 2 July, 2017, the Shura Council in Bahrain approved a draft law on penalties and alternative measures, which allows the judge to serve or order an alternative punishment for the original punishment, including work in community service, house arrest in a specific place, prohibiting going to a specific place or places, undertaking not to be exposed to or contact with certain persons or entities, to be subjected to electronic surveillance, to attend rehabilitation and training programs, and to repair damage caused by the crime.

The Minister of Justice, Islamic Affairs and Endowments Khalid bin Ali Al Khalifa emphasized that this law is a qualitative shift in the punitive policy in Bahrain, noting that the preparation of this project took two and a half years of study by a committee headed by the Attorney General, and that this project was presented to the United Nations Crime Office , and adopted the amendments demanded.

He stressed that this law is not a commutation of the sentence, because the convict who applies the alternative punishment is not absolutely free, noting that not everyone is eligible to be subject to this type of punishment, and that this matter is done in order between the penalty execution judge and the penal institution. The Minister noted that this law is not new, but it has been applied in the Criminal Procedure Law since 2002 to imprisonment penalties of 3 months or less, and the Minister expected that alternative penalties would achieve the deterrence necessary for the accused more than imprisonment.

A number of members of the Council had expressed some concerns that the application of alternative penalties may not achieve the necessary deterrence from punishment.

On 17 July, 2017, King Hamad bin Isa Al Khalifa ratified the Alternative Penal Code, which allows the judge in certain circumstances to replace the prison sentence of the accused with another punishment, and he also authorized the judge to implement the punishment, or the prison administration, to apply alternative penalties against prisoners for the remainder of their prison term.

Alternative penalties include "work in community service, house arrest in a specific location, the prohibition to go to a specific place or places, pledge not to be exposed to or contact with specific persons or entities, undergo electronic surveillance, attend rehabilitation and training programs, and repair damage caused by crime."

Bahrain has embarked on an alternative penal code for prisoners who face prison issues and sentences, after a Royal Decree was issued in 2017 on this law. On 20 May, 2018, Bahraini Attorney General Ali Al-Buainain said that the Public Prosecution has started to apply the provisions of the Penal Code and alternative measures, and that after completing the mechanisms of implementing the law by issuing organizational decisions, it has implemented the guidelines related to the implementation of the law that were issued by the Public Prosecution in accordance with the Attorney General's Decision No. 1 For the year 2018.

Al-Buainain indicated that the law places additional options under the eyes of the judge in determining the punishment other than the punishment that deprives of liberty, and makes it possible to him and the Public Prosecution to impose alternative measures to remand in custody, and this would alleviate prison overcrowding with convicts that could easily be observed or prevented from certain places to prevent any problems that lead to crime. There is no doubt that the new law will benefit the accused and his family, especially if the implementation of the deprivation of freedom affects the stability of the family and their livelihood.

Bahrain said during a ceremony held at its embassy in London that since the introduction of the Alternative Penal Code, it has replaced the punishment of 856 people who have been sentenced to prison terms in various cases, adding that among those sentenced, 71% were sentenced to community service, and 16% were included in rehabilitation and training programs and 8% for treatment of criminal damage, with the remaining 5% divided into other measures.

2. The reality of the application of the alternative penal code in Bahrain

In spite of the good step taken by the Bahrain government in this direction and the number that replaced their penalties, the share of political prisoners and detainees with issues related to freedom of expression is very small and almost negligible. Despite the release of a number of women detainees in cases related to freedom of expression and the political situation in Bahrain, it rejected dozens of requests made by the families of prisoners or their representatives to replace a sentence convicted with political issues.

Indeed, the judges began to apply the Alternative Penal Code, but it covered very few cases in misdemeanor cases and did not mainly cover crimes at that time.

But King Hamad bin Isa Al Khalifa surprised everyone on 18 April, 2019 when he called for the expansion of the application of the alternative penal code, and two days later the Minister of Interior Rashid bin Abdullah Al Khalifa stated on 20 April, 2019 from Washington that the ministry is working to expand the application of alternative penalties, especially electronic monitoring. On the 28th of April 2019, the Minister of Interior said during his meeting with a number of deputies that the Ministry intends to implement the Alternative Penal Code to include 451 prisoners as a first stage, stating that those who will be benefit from the law are prisoners sentenced to prison terms ranging from two to 10 years.

However, the General Director of the General Administration of Reform and Rehabilitation (General Director of Prisons) said in a press statement on 5 May, 2019 that work is still underway to allow the effective application of the provisions of the Alternative Penal Code and the provision of rehabilitation programs that suit the personal circumstances of the convicts.

However, the Alternative Penal Code was faced with many doubts by activists. In the same context, the judge implementing the punishment rejected on 20 July, 2019 the application of the alternative penal code against the leader of the Amal political movement, Khalil Al-Halwachi, who was sentenced to 10 years of imprisonment which he served half of it already. However, the prominent human rights defender, Nabeel Rajab, was released with alternative sanctions on 9 June, 2020.

The Public Prosecution said on 22 July, 2019 that 586 people benefited from the law that has been implemented since May 2019, and on 16 September, 2019, Attorney General Ali Al-Buainain said 756 convicts have benefited from alternative penalties, without the law being applied to political detainees who number around 4 thousand prisoners, according to human rights organizations.

On 8 November, 2019, the Public Prosecution announced the release of 75 prisoners under the Alternative Penal Code, which for the first time included political prisoners.

Activist Ebtisam Al-Sayegh published on 22 November, 2019 a picture of her with the released prisoner Mujtaba al-Abbar and said that he is one of the first political detainees to be released under the Alternative Penal Code.

With Bahrain winning the first time in its history in the Gulf Cup in Doha, Attorney General Ali Al-Buainain announced on 9 December, 2019 the release of 80 detainees within the Alternative Penal Code, and on 15 December, 2019, Al-Buainain said that the prosecution received from the Department of Judgment

Execution of the Ministry of Interior the number of 530 inmates who spent half the time in order to work to expand the scope of application of the provisions of the alternative penal code, indicating that the prosecution examined the conditions of inmates and decided to release them.

Alternative penalties were applied this time to dozens of detainees, including the imprisoned women, all of whom were released (with the exception of the prisoner Hajar Mansour, the mother-in-law of the human rights activist Ahmed Al-Wadaei, who was released afterwards after fully serving her sentence), while the move was welcomed by the Bahrain Center for Human Rights and some opposition political societies.

It is not yet clear if the authorities really wanted to release a large number of political detainees, but what happened in late 2019 was a good start and welcomed by the opposition forces.

Reconciliation measures only can pave its way by releasing political prisoners, as British writer Bill Low says, and adds that the arduous task of building trust and finding a common basis can begin with their release.

The Minister of Interior Rashid bin Abdullah Al Khalifa had informed the House of Representatives on Sunday 28 April, 2019 that about 451 prisoners had benefited from the application of alternative penalties, including 52 women, 388 men, and 11 young people since the law was passed. As of the beginning of the year 2020 until the time of writing this report, 645 convicts have benefited from these alternative penalties, as they were released.



Chapter Four: Analysis

Through the previous study, we conclude that the deprivation of freedom involves many disadvantages, as it has become a crisis in contemporary criminal policy due to the many drawbacks for both the convict and society and penal institutions alike. It became clear to us that they have many harms that are not equal to any advantage that may attributed to it, and this is what pushed the conversation to abandon it and replace it with punitive alternatives that are more beneficial, in order to ensure that the perpetrator is evaluated and socially rehabilitated and he does not fall back into the crime swamp again.

It is what the legislator has turned to, albeit slowly, against contemporary penal legislation. However, if the race is to find alternatives that replace the short-term prison sentence, including judicial testing, stopping the implementation associated with the situation under test, working for public benefit, daily fine in addition to other alternatives that we did not study, such as postponing the pronouncement of the sentence, and electronic monitoring.

By analyzing and studying the various aspects related to this topic, we reached a set of results and suggestions, which can be summarized as follows:

1. We concluded that the deprivation of freedom acquires a large portion of criminal legislation, especially Bahraini legislation, and one of the most prominent reasons for its spread was the legislator's excessive use of punitive weapons to organize various sectors of life, and this made Bahraini criminal legislation more repressive and more deterrent than being preventive.
2. The short-term deprivation of freedom is the first reason for the overcrowding of penal institutions and which the penal system suffers from, which impedes the process of re-education and reform of prisoners in our institutions.

3. After the long experience that the short-term imprisonment went through, it revealed to us serious complications and many negative effects in various aspects, as it is one of the factors that contribute to the criminals' return to crime, which called for the necessity of dispensing them and replacing them with other alternatives.



Chapter Five: Recommendations

1. The release of all prisoners whom is possible for them to be released under alternative sentencing.
2. The legislator must raise the criminal character of some minor crimes that are considered to be a cause for the prolongation of short-term penalties and be satisfied with judging them with compensatory penalties, instead of restricting the freedom of the convict.
3. Judges should try as much as possible not to pronounce short-term punishments except on an exceptional basis and in cases where the imposition of this punishment is necessary to achieve private deterrence and preserve the community's interest. The judge must make sure that the convicted person be deposited in private penal institutions or in an independent section within normal penal institutions to reduce the phenomenon of overcrowding and mixing.
4. The legislator should activate the implementation of suspension system, in addition to extending aid and assistance to the convict during the test period in order to qualify and reform it to overcome obstacles in his path and not only warns and threatens him to carry out the punishment if he violates the obligations imposed on him if he returns to the crime.
5. The legislator must leave the discretionary power of the judge in approving the moratorium system without limiting it to an unprecedented category, whenever their personal, social and economic conditions allow this.
6. We recommend the legislator to adopt various punitive systems that replace short-term deprivation of freedom, which will be placed at the disposal of the judge, especially the daily fine and the system of judicial testing, at least for juvenile convicts, as the Egyptian legislator has done after achieving very satisfactory results.

Conclusion

It appears through this study that alternative penalties do not mean disrupting the original penalties, but rather are penalties imposed on the convict instead of deprivation of freedom after the alternative penalties became compensation for imprisonment.

Imprisonment came to be the most important punitive method in the modern era, especially in developed countries, where it abandoned corporal punishment, execution, cruelty, violence, prevention of torture and hard labor, and even abolished life imprisonment. It was necessary to modern means of reform to replace now the of imprisonment and short-term sanctions and with other penalties such as work for the public benefit or the judicial test, and other penalties that we mentioned at the beginning of this research.

Alternative penalties have opened a new chapter to fix perpetrators and treat conditions outside of prison without the convict being subjected to capturing prison diseases, and to benefit from rehabilitating, repairing and employing them as human competencies. Because the goal of modern criminal policy is prevention, then control and then treatment.

Recent studies indicate that alternative penalties limit the return to imprisonment by 55% and have reached 75% in some countries. Therefore, we ask the Judicial Council, the Shura Council, the Ministry of Justice and Prosecution, Parliament, and all legal institutions and civil society organizations to work together to use alternative penalties or amend the laws in force to adopting this system (alternative penalties), but after conducting extensive studies and holding a wide conference at a national level with a view to arriving at a system that applies alternative penalties to the fullest extent, and a modern criminal policy that limits the deprivation of liberties and makes prisons the last options for reform, rehabilitation and treatment of the convicts.

