

## CAPTAINS CORNER

## Dreaming with your eyes open



CAPT. MAHMOOD AL MAHMOOD

An important consumer debate is currently ongoing in the Shura Council where a bill is being discussed to limit the mark-up of cost on products purchased on instalment. With over 40% interest built into instalment plans, your purchase of furniture or mobile phone may well be flouting the CBB guidelines.

Now, members of the financial and economic affairs committee of the Shura Council are putting together a bill that will protect the consumer from the inflated prices charged by traders and in the process, making repayment easier for the consumer so that non-payment doesn't become an issue, leading to legal fees and court cases.

Let's face it – instalment purchase plans are just a fancy name for giving consumer loans. Unlike business loans and even car loans, where the car and office equipment is hypothecated to the lender to secure the loan, consumer loans are junk loans – after all, what is the resale value of your BD 2,000 living room furniture or your used mobile phone once a new model hits the market?

In my father's generation, loans were taken only for tiding over business and personal emergencies. Bahrain's famed pearling industry was powered by the loans which the No'khada (Dhow Captain) or ship agents took to fit out and provision their pearling dhows at the start of the season. If there was a health crisis or perhaps a wedding in the family, the first resort was to "crowdfund" the occasion with loans from family and friends. If all else failed, only then would people reach out to money-lenders. Borrowing money for luxuries was frowned upon as careless and unprincipled.

In our present times, values have changed and you can now get a bank loan for everything from air tickets for a holiday to auto loans to credit cards that let you spend money that you don't actually have. It is a pity that entrepreneurs wanting to start a business have to jump through many more hoops to secure financing than a youngster on her/his first job who takes out a car loan.

Overloaded with debts, many people find their best-laid instalment plans crashing in these COVID times. Traders, already fighting a low tide in business, will find it difficult to make ends meet when instalments are not paid. I would urge consumers too to practice restraint and think sensibly about the lifestyle they can afford. It is alright to dream – but do so with your eyes wide open so that reality is not an unpleasant shocker.

(Captain Mahmood Al Mahmood is the Editor-in-Chief of The Daily Tribune and the President of the Arab-African Unity Organisation for Relief, Human Rights and Counterterrorism)

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# It's all about giving them a **second chance**

TDT | Manama

Alternative sentencing brings a qualitative shift in reducing recidivism and helps offenders become a contributing member of society, observed a top judicial official.

Bahrain, according to Judge Ibrahim Salman Al Jafn, President of the second High Criminal Court of Appeal, is the first amongst its neighbours to bring into force such a law that provides families and civil society a role in reforming offenders, where traditional penalties are avoidable.

The law no 18 of 2017, Al Jafn said, brings a qualitative shift in Bahrain's traditional sentencing system as it also allows the public prosecution or a judge to replace pretrial detention with commuted punishments.

Alternative penalties include community service, house arrest, the prohibition of access to a particular place or places, commitment to non-exposure or contact with certain persons or entities, electronic surveillance, attending rehabilitation and training programmes and repairing the damage caused by the crime.

Judges began implementing the law, ratified by His Majesty King Hamad bin Isa Al Khalifa, soon after its enforcement, with its provisions expanding to include more areas overtime, Al Ayam quoted, A Jafn as saying in a report published yesterday.

Al-Jafn said the Supreme Council of Judges, represented by Counselor Abdullah bin Hassan Al-Buainain, President of the Court of Cassation and Vice-President of the Supreme Council of Judges, soon after the issuance of the law organised courses for judges to accommodate this new law in situations that deemed suitable.

On the factors which make alternative sentencing desirable, Al Jafn said the law is having a huge positive impact on the



Judge Ibrahim Salman Al Jafn (Courtesy of AlAyam)

**If traditional sentencing and incarceration are not working the way they were intended to, and thus need to be changed, the question is how? What is known as alternative sentencing, or alternative sanctions presents the criminal justice system with a way to get the desired outcome at a fraction of the cost**

convicts and their families.

"Keeping wrongdoers with his family members, ensures that they continue to fulfil their family duties, avoids personal and social damages of family members and raise their children to become good citizens.

While traditional system strangles the freedom of a convicted person resulting in him losing his financial ability to support family members, the alternative method not only prevents all of this but also avoids inflicting lasting psychological harm to the convicts, thereby helping him contribute to the social developments.

The process also speeds up delivering justice to victims in cases where they seek damages for the loss they suffered from theft, fraud, embezzlement and

other crimes.

"Alternative sentencing while not depriving the wrongdoers of his civil liberties also ensures that the victim is compensated properly for his losses by obliging the offender to pay as determined by the court."

Judge Ibrahim Al-Jafn explained that the method provides the court with a third option, especially when the crime involved doesn't warrant confinement.

"In such cases, alternative measures can be an appropriate option, which will give judge to explore more options in estimating an appropriate punishment for the crime committed.

"For example, in violations related to coronavirus (COVID-19) preventive measures, the alternative system is employed

frequently to ensure that the spread of the disease is minimised, where violators are subjected to house arrest and electronic monitoring."

Alternative sentencing, Al-Jafn said, allows a judge to replace pre-trial detention with communal punishments, while the investigation continues and public prosecution refers it to a competent court for trial.

Judge Ibrahim Al-Jafn indicated that a concerned judge might implement one of the seven alternative methods defined by law in cases where it deemed fit after hearing the statements of the Public Prosecution.

Alternative punishments are also effective in cases where the person involved are unable to pay the fine.

The accused and his representative may also directly request the judge to enact one of the alternative penalties in situations where the rule is applicable. The judge also by his own accord can replace the decree that is depriving of liberty with an alternative penalty.

In the case of an accused or his agent requesting alternative penalties after the issuance of the ruling, this shall be the prerogative of the judge and the extent to which the legal conditions are met after hearing Public Prosecution.

With that being said, it is easy to see the advantages that have been associated with alternative sentencing for it to be used more frequently.

Though there are not enough statistics all around the world to make a strong, casual argument that alternative sentencing definitively reduces recidivism, there has been enough to suggest they are more humane, less costly, and though they do not decrease recidivism, they do not increase it either.

Experts have also pointed out that alternative sentencing would substantially reduce corrections costs.



### Alternative penalties

**Community service, house arrest, prohibition of access to a particular place or places, commitment to non-exposure or contact with certain persons or entities, electronic surveillance, attending rehabilitation and training programs and repairing the damage caused by the crime.**

**The law allows a judge to change the sentences that do not exceed one to five years in prison in case the personal or health conditions of the suspect are not suitable.**

According to Alternative Penalties and Procedures Law, enacted in 2017, inmates who have served at least half of their sentences, have maintained good conduct, are not a public security risk, and have paid their financial liabilities could be allowed to serve their remaining terms in house arrest and by performing community service.



The law also authorises the detainee or the prison administration to petition the judge to replace the punishment or the remainder of the sentence with an alternative penalty, and the law requires that the sentenced person must have served half of the sentence or sentences imposed on him. The sentenced should have fulfilled the financial obligations imposed on him by the Criminal court, unless it is impossible for him to do so.

The law provides for the punishment of a person sentenced to imprisonment for a term not exceeding two years or a fine not exceeding 200 dinars in case he didn't execute any of the alternative punishments, and the same penalty is imposed on anyone who helps someone to avoid carrying out an alternative punishment.

