

The Legality Of The Suffering Resulting From Waiting For The Death Penalty In Jordanian Legislations

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Abstract

This research deals with one of the most serious and controversial topics, which is the legitimacy of the suffering resulting from waiting for the execution of a death penalty In Jordanian Legislations . Despite the seriousness of this penalty and the large number of demands for its abolition, it also includes another punishment, which is the punishment of Imprisonment Penalty , which may extend to decades, in which the convict is experiencing the most severe cases of anxiety and suffering resulting from waiting for the execution of a death penalty,. The researchers have tackled this research through scientific approaches that achieve the objectives of this research, which is the descriptive methodology, analytical method, comparative approach. Researchers have reached a number of results, the most important of which is the Jordanian Code of Criminal Procedure did not include provisions that require informing the convict of the date of implementation or informing relatives.

Keywords: death penalty, accused, appeal methods, legality of suffering.

Introduction

States have tackled death penalty with many safeguards, but they are insufficient. In some legislation, the death penalty includes an additional deprivation of liberty for long periods. There is no specific period in Jordanian law to ratify the death penalty. The Jordanian Code of Criminal Procedure did not include provisions indicating the fate of the convict in the event that the death penalty was not approved, which made the convict in a state of constant anxiety and suffering pending the execution of the sentence, which are more severe than the same penalty.

The death penalty is considered as being one of the most controversial punishments throughout the ages among criminal law jurists and philosophers; as supporters and opponents of this punishment. This is due to the gravity of this punishment and its severe impact on the human psyche in particular and societies in general. It is an eradication punishment that leads to the

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eradication of the criminal from society permanently. This great disagreement over this punishment has led to a different position of the penal legislation on this punishment. The majority of countries have abolished the death penalty from their penal legislation. In the nineties of the last century, the Council of Europe went further, where it considered the abolition of the death penalty to be one of the conditions for it, while some have kept Legislation on this punishment has been affected by the legislation that abolished this punishment from the opinion of philosophers and scholars of criminal law, and as for the legislation that kept the death penalty, it tried to decide procedures that may reduce criticism of this penalty, as it made the death penalty automatically subject to cassation in addition to the strict proof of this type of crime different from crimes with other penalties, such as not only not only the confession of the accused to prove these crimes, but also requesting the hearing of witnesses, in addition to requesting the approval of the head of the state to implement this penalty after the ratification of the sentence by the Court of Cassation, but this raises another legal problem. We will discuss in this research The suffering resulting from waiting for the execution of a death penalty to become another punishment in addition to the death penalty and raises legal problems for which the project did not develop legal solutions, and therefore we will address in this research the debate about the death penalty and then the legal problems raised by the death penalty.

Problem of the Study

The problem of the study is that the death penalty affects the human right to life. It is a serious and eradicated punishment. However, the legal texts that regulate the procedures for implementing the penalty contain a lack and ambiguity, which may lead to another punishment for the same crime, as this penalty is not implemented unless the sentence is ratified by the head of state. In some countries, the ratification of the head of state is a necessary condition for the execution of the penalty. In many cases, ratification may be delayed for several years, which includes another penalty in addition to the death penalty, which is the penalty of special works and the suffering resulting from waiting for the execution of the death penalty suffered by the convict, and the state of waiting for years of anxiety and terror that it is ruthless, which requires the intervention of the legislator to develop legal solutions to this case, not to mention the possibility of error in the sentencing of this penalty, which cannot be remedied, as well as some legislations do not inform the convict of the date of execution and do not inform relatives, which deprives them of farewell forever.

1. The Controversy about Death Penalty

The debate over the death penalty between retention or abolition is as old as this punishment, as the death penalty has sparked controversy since its imposition and this penalty was imposed in the legislation of Mesopotamia, as it was mentioned in the Ashnoneh or Blalama Law around 1930. It was imposed in some moral crimes as a crime of rape of a girl engaged with coercion, as well as in other crimes such as some crimes of theft and others. (Rashid, 1973) The death penalty was also mentioned in the Hammurabi Law 1700 BC and was often imposed on state security and military crimes. (Rashid, 1983) The death penalty was defined in the ancient Pharaonic laws for many crimes such as witchcraft, killing holy animals, failure to report the conspiracy against the pharaoh and some other crimes. (Obaid, 1979).

In the Middle Ages, the death penalty in Europe was widely carried out and in many crimes, and this is what prompted philosophers, especially Cesar Beccaria, to call for the reduction of the death penalty, limiting it to specific cases, limiting it to cases of maintaining security and order and eradicating elements of sedition, and it has no place in normal cases. (Rabah, 2009)

Recently, most European countries have abolished the death penalty, as Britain completely abolished it in 1969 and France abolished it permanently from all French laws in 1981.(Al-Jorani,2009).

In terms of religions, the Jewish religion has approved the death penalty for the crime of murder, as it is mentioned in the book of Exodus (you keep the Sabbath because it is sacred to you and whoever defiles it kills it)(Al-Thahabi,1976). As for the Christian religion, there is a dispute between the various churches, the Catholic Church opposes the death penalty. The Orthodox Church approves the death penalty, but restricts it to the most serious crimes. Pope Inosant III issued a decision supporting the sentence of the death penalty, provided that the sentence does not constitute a sin,(Ghanimat,2015). as well as Islam approved the penalty for murder for crimes of murder, roadblocking and others.

Globally, the number of countries in the world is 195, of which 103 of them have abolished the death penalty permanently from all laws. The day of October 10 of each year was considered a day against the death penalty,(Ghanimat,2015). and the rest of the countries that keep it as a law and practice, and some of which keep it as a law, but the implementation of this penalty has been suspended, such as Jordan, where the execution of the penalty has been suspended in general since 2006, except for two times. The punishment has been implemented in a number of those sentenced in 2014 and 2017. There is in Jordan 2019, one of whom is sentenced to death since 1976.(Al-Ghad Jordanian Newspaper, 2023).

Therefore, the death penalty still raises controversy and disagreement between supporters and opponents of this penalty, whether by human rights organizations or by jurists and human rights advocates, and we will review the views of opponents and supporters.

1.1. Opinions of Death Penalty Opponents

1. Philosophical considerations on the head of those demanding the abolition of the death penalty. The Italian philosopher Cesar Piccaria stands, where he is considered one of the first scholars who demanded the abolition of the death penalty or its reduction in the narrowest scope. In his famous thesis Crimes and Penalties he issued in 1764. He is the one who believes that it is an illegal punishment because it affects a right that is over the authority of society, and therefore its application is considered illegal.(Hosni,2017). The futility and brutality of the death penalty is not for the punishment of the offender, but to deter society. Therefore, there is no room for its application in normal circumstances, but in exceptional circumstances to maintain security and public order.(Rabah,2008). Many European laws have been affected by his ideas and cases of imposition have been reduced. The death penalty, such as the French Penal Code issued after the French Revolution in 1791, reduced the number of death penalty cases from 115 to only 32, and the introductions to abolish this penalty began since that date.(Abdul-Al, 1989).

2. Religious considerations are that life is the gift of God, man does not have the right to be touched,(Al-Aoji,1987) and that society is not the one who gave man life and therefore he has no right to take it away.

3. Social considerations that this punishment is evidence of the inability of criminal policy to fulfill its mission in preventing crime and correcting criminals. Therefore, society, instead of reforming the offender, chose the easiest way, which is to eradicate the criminal. It is also an expression of losing hope for treatment.(Mohammad and Abu amer 1989)'

4. It is a punishment in which it is impossible to correct the judicial error if the convict's innocence is proven, and therefore the judicial error is impossible and cannot be remedied .
(Mohammad and Abu amer 1989).

5. It is not suitable for criminal policy in two reasons: First, it does not meet the conditions of punishment, as it is unfair. It eliminates the offender, while the crime does not eliminate society, nor does it accept division and the error cannot be fixed. Second, it does not achieve the purposes of the punishment. If the purpose is to remove the person of the criminal from society, this purpose can be achieved through the punishment of life, and it did not succeed in eradicating crimes. The crime continues.(Hosni 2017). Therefore, the death penalty is not an effective remedy to reduce crime, in the sense that it did not achieve deterrence, and therefore the crimes did not decrease in the countries that apply this penalty and the countries in which it was abolished did not increase the crimes in them. This opinion is seen by Dr. Hans Isenk, a professor of psychology at the University of London, who denies the effect of general deterrence of the death penalty(Al-Haj, 1988). Some add that the death penalty is not arbitrary and deterrent to criminals, as the number of crimes punishable by death has not decreased in the countries that are punishable by death and has not increased in the countries that abolished the death penalty(Rabah,2008), (barnes 1959) .

and some southern states in the United States of America have kept the death penalty and the proportion of crimes has not decreased.

6. The death penalty is harmful to society because it amputates a member of society and deprives individual from the general productive capacity of the state, while the penalty of imprisonment or labor keeps the individual within the productive capacity of the state .
(Mohammad and Abu amer 1989).

7. It is a brutal, barbaric, primitive punishment and does not agree with the civilized society, which is freed from the primitive reaction. (Al-Aoji,1987).

8. Humanitarian considerations are the illegality of the anxiety and suffering suffered by the death convict while individual is waiting for the execution of the sentence, which may last for decades, which is an additional consequential penalty that has not been sentenced by the court.

1.2. Opinions of Death Penalty Supporters

1.Religious considerations starting from the heavenly religions that allowed the ruling the death penalty, whether the Jewish religion in the Book of Exodus, the Christian religion, or in the Islamic religion, as stated in Surat Al-Ma'idah (It is only the reward of those who fight God and His Messenger and seek corruption in the earth to kill, crucifix, cut off their hands and feet from disagreement, or be exiled from the earth. That is for them disgrace in this world, and they will have a great punishment in the hereafter).(The Holy Quran, Al-Ma'idah 33)

2.Philosophical considerations led by the philosopher Jean-Jacques Rousseau, based on the social benefit, which is based on the bond between the individual and the state, which is based on the theory of the social contract that the individual has accepted to give up revenge to leave this task to the state. The individual accepts in advance to be killed in case of killing a person. If individual kills a person, this will lead to revoking the covenant with the state and deserves to be killed. Also, the jurist Montesquieu is also considered a supporter of the death penalty in his book *The Spirit of Laws*. He justified that the killer is killed to fix the ill truth,(Ghanimat 2015), as the famous German philosopher (Kant), where he calls for the retention of the death penalty for considerations of justice, where he says (Take the life of the one who took

3. Protecting society from dangerous criminals who commit serious crimes by getting rid of these criminals and completely eradicating them from society because they constitute a permanent danger and terrorism of potential like them.(Al-Aoji,1987).
4. The courts do not rule on the death penalty until after long and careful procedures, and the case goes through several stages of litigation. Above all, the approval of the state may must be approved by the state to carry out the penalty, which excludes judicial error.(Rabah,2008).
5. The death penalty is the most effective punishment against serious crimes and achieves the objectives of penal policy with the fear it causes to the perpetrators because it affects the right to life, which is the most precious right enjoyed by a person and is keen to preserve and defend it.(Mohammad and Abu amer 1989).
6. This punishment, especially in heinous murders, is the only punishment that heals the relatives of the victim.

1.3. The Position of International Legislation on the Death Penalty

One of the results of the Second World War and the lives and the accompanying flagrant violations of human rights was that attention to human rights increased and created a strong reaction to the death penalty as a violation of the right to life, (Ghanimat,2015).

represented by provisions that restrict the application of the death penalty, whether in the Universal Declaration of Human Rights or the International Covenant on Civil and Political Rights and the Optional Protocol. It is noted that international human rights law does not explicitly provide for the prohibition of the death penalty, but directs States to reduce crimes punishable by death(Abu Zaid, 2015).

1.3.1 : Universal Declaration of Human Rights

First of all, we note that the Universal Declaration of Human Rights is a charter that is not legally binding on States except morally, as States have become striving to be in an advanced position in respecting human rights, as respect for human rights has become a feature of civilized States. With regard to the death penalty, the Universal Declaration of Human Rights did not explicitly address the death penalty, but rather included provisions that promote and emphasize the right to life, in addition to the focus on freedom and personal integrity of the human being, as Article 3 states Everyone has the right to life, freedom and integrity of the person(Universal Declaration of Human Rights , 1948).

1.3.2 : International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights has adopted provisions alluding to the abolition of the death penalty or the narrowing of its application in the narrowest scope, where Article VI of it states:

1. The right to life is an inherent right of every human being. The law must protect this right. No one shall be arbitrarily deprived of his life.
2. In countries that have not abolished the death penalty, this penalty may only be imposed for the most serious crimes in accordance with the legislation in force at the time of the commission of the crime and is not in violation of the provisions of the present Covenant and the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty may only be applied pursuant to a final judgment issued by a competent court.

3. Where deprivation of life is a crime of genocide, it is a priori understood that no provision in this article allows any State Party to this Covenant to exempt itself of any obligation under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Any person sentenced to death has the right to seek a special pardon or replacement of sentence. A general pardon, special pardon or replacing the death penalty may be granted in all cases.

5. The death penalty may not be imposed for crimes committed by persons under the age of eighteen, nor may this penalty be carried out in pregnant women.

6. Nothing in this article is a provision that may be invoked to delay or prevent the abolition of the death penalty by any State Party to the present Covenant(The International Covenant on Civil and Political Rights , 1966).

1.3.3 : Second Protocol to the International Covenant on Civil and Political Rights

This protocol was adopted and submitted for final approval, ratification in 1989 and entered into force on 11/7/1991. This protocol is the only charter that prohibited the death penalty and obliged the signatory countries to stop the death penalty and created the necessary legal framework to ensure the abolition of the death penalty. The number of signatory countries has so far reached 81 countries (Al-Qadi, 2023), but despite the importance of this protocol, no Arab country has ratified it, and this may be due to religious considerations by virtue of the fact that the majority of Arab peoples condemn Islam, which constitutes a large part of the culture, traditions and values of Arab societies.(Abu Zaid,2015).

2: The Difficulty of the Death Penalty and the Procedures for its Implementation

where Article VI of it states

This problem deals with two areas, which are jurisdiction for the crimes punishable by death, as well as the procedures for the execution of the death penalty.

2.1:The Difficulty in terms of Competent Courts and Methods of Appeal

Referring to Jordanian legislation, especially the Jordanian Penal Code No. 16 of 1960 and the Prevention of Terrorism Law No. 55 of 2006, we find that most of the death sentences are issued based on these two laws, where the Penal Code provided for many crimes punishable by death, including the crime of murder mentioned in Article 328 and the crimes of treason, articles 110-113 and articles 135-137, as well as the Law on the Prevention of Terrorism stipulated several crimes contained in Article 7/b of the Law, as well as the Law on the Protection of Secrets and Documents of the State No. 50 of 1971 in Articles 14-16.

The jurisdiction to consider these crimes was given to the High Criminal Court and the State Security Court, in addition to the ordinary criminal courts, such as the crime of piracy contained in Article 378 bis (The Jordanian Penal Code,16 , 1960) and the crime of fire leading to the death of a person, Article 372 (The Jordanian Penal Code,16 , 1960). Since the jurisdiction of the ordinary courts is not problematic, we will limit our research to the exceptional courts, which are the Grand Criminal Court and the State Security Court.

2.1. I: The Grand Criminal Court

It is a special regular court formed by a special law, which is the Law of the High Criminal Court No. 19 of 1986, The court has jurisdiction to consider the following crimes wherever they occur in the Kingdom:

1. Murder crimes stipulated in Articles (326), (327), (328), (330) and (338) of the applicable Penal Code.
 2. The crimes of rape, indecent assault, and criminal kidnapping stipulated in Articles (292) to (302) of the applicable Penal Code.
 3. Attempting the crimes described in clauses (1) and (2) of this paragraph.
- (Law of the High Criminal Court , 19 , 1986).And their Verdicts are subject to The Court of Cassation only and do not accept appeal. This is one of the problems on this court, as the sentenced by this court is deprived of the stages of litigation and a degree of its degrees, which is the stage of appeal, and this is considered a deprivation of an important guarantee for the sentenced. The law also gave the cases of the High Criminal Court the status of urgency, According to article 10 of its Law The court shall begin examining any case referred to it within a period not exceeding ten days from the date of its submission, and its sessions shall be held for this purpose on consecutive days. The trial may not be postponed for more than forty-eight hours except when necessary and for reasons mentioned in the postponement decision. (Law of the High Criminal Court , 19 , 1986).

which is a double-edged weapon. Speed may be considered a guarantee for the accused of excessive length For the procedures, but also it may lead to the urgency of the court in adjudicating the case and does not give the accused enough time to defend himself, as well as may not allow him to call a sufficient number of witnesses to prove his innocence, which violates fair trial standards and reduces the field of defense before him. This criticism does not underestimate this criticism that the legislator has made death sentences automatically distinctive. This does not change the matter at all and does not harm this criticism, as a phase of the stages of litigation remained incomplete, but it is recorded for the Jordanian legislator that he has made an important amendment to the Code of Criminal Procedure with regard to the proof of the case for crimes punishable by death in the Law amending the Code of Criminal Proceedings No. 32 of 2017 by amending paragraph 4 of Article 216 by obliging the court to hear witnesses and not only confess to confess to these crimes (if the accused denies the charge, refuses the answer, or does not convince the court of his recognition or The crime was punishable by death and the court proceeded - the court - to hear prosecution witnesses). (Code of Criminal Procedure, 9, 1961).It is a very important amendment and contributes to achieving justice, increasing accuracy in judgments and verifying the facts.

2.1.2: State Security Court

The State Security Court was established by its own law, And it is competent to consider the following crimes:

A. Notwithstanding what is stated in any other law, the State Security Court shall be competent to consider the crimes described below that occur contrary to the provisions of the following laws or the amendment thereto relating to these crimes or their replacement laws:

1. Crimes of treason stipulated in Articles (110) to (117) of the Penal Code No. (16) of 1960 and its amendments.
2. Crimes of espionage committed contrary to the provisions of Articles (14), (15) and (16) of the Law on the Protection of State Secrets and Documents No. (50) of 1971.
3. The crimes of terrorism stipulated in Articles (147) to (149) of the Penal Code No. (16) of 1960 and its amendments, and the crimes of terrorism contrary to the provisions of the

Prevention of Terrorism Law No. (55) of 2006 and the Law on Combating Money Laundering and Financing of Terrorism No. (46) of 2007 and its amendments.

4. Drug crimes contrary to the provisions of the Law on Narcotics and Psychotropic Substances No. (11) of 1988 and its amendments.

5. Currency counterfeiting crimes, including banknote forgery, crimes related to coins stipulated in Articles (239) to (252) of the Penal Code No. (16) of 1960 and its amendments.(Law of the State Security Court. 17 , 1959).

The rulings of the State Security Court are subject to cassation , but they are not subject to appeal, as is the case in the rulings of the High Criminal Court, which is also a major criticism of this court, as the sentenced by this court is deprived of a stage of litigation and a degree of its degrees, which is the stage of appeal, and this is considered a denial of an important guarantee for the convict and detracts from fair trial standards.

First: In terms of the Formation of the Court

The State Security Court is considered a military court, although its law provides that it consists of one or more bodies of civilian, military or civilian and military judges, military judges are appointed by a decision of the Prime Minister on the basis of the appointment of the Chairman of the Joint Chiefs of Staff. The Judicial Council shall designate civilian judges and the decision is published in the Official Gazette.

But the actual composition of this court is composed of three two military judges and one civilian judge, so we note that the military character prevails over this court, which is contrary to an important and fundamental principle in the criminal justice. One of the most important principles of a fair trial, which is the principle of the natural judge, which requires that it requires that a person must be tried by his peers. This is a constitutional principle, as it was first mentioned in the French light issued after the French Revolution 1791 in Article 17 of it, as stipulated in the Egyptian Constitution issued in 1971 in Article 68, which stipulated (Every citizen has the right to resort to his natural judge).(Sorour, 2002), It stipulated the content of this principle is the Jordanian Constitution with constitutional amendments in 2011, where Article 101 of the Jordanian Constitution, paragraph II, stipulated (No civilian person may be tried in a criminal case, all of which are not civilians, with the exception of crimes of treason, espionage, terrorism, drug crimes and currency counterfeiting). Some jurisprudence believe that the trial of civilians before a military court does not undermine the guarantees of a fair trial, especially related to the natural judge. This was attributed to the danger of these crimes to the security of the state and the danger of these criminals themselves, and that these crimes need judicial experience that may not exist except in military judges,(Al-Halsa, 2023), But with Full respect for this opinion, we do not agree with him, these reasons It does not justify derogation from the guarantees that must be available to the accused.

This principle first appeared in the Magna Carta era and then crystallized in the second half of the thirteenth century, which led to the multiplicity of courts with multiple classes and classes of the people, including clerics, feudal, nobles and the general people.(Al-Mahrouqi and Mahrous ,2012).

There is no doubt that the military nature makes the accused and witnesses feel awed and may fail as a result to defend himself, and there is no doubt that the appearance of justice is no less important than its essence, in addition to the severity and cruelty of the military courts in sentences based on the court's authority to rule on the maximum penalty.

2.2: The problem in Terms of Appeal Methods

Criminal legislation in various countries has passed ways of appealing judgments and has approved the methods of appealing because of the legislator's keenness that the case expires as close as possible to the factual truth, assuming the judicial error, because the judges are human beings and make mistakes, mistakes and forgetfulness. Humans also vary in recognizing the texts, including judges, the ability to analyze, devise and absolute take note of all elements of the case, so they are expected to err in the judgment. Judges may also fall into mislead because of the opponents as if they presented false witnesses in the case.

The task of the legislator in regulating appeal methods is a difficult and accurate task that requires a balance between two things: considerations of health and justice in judgments and between legal stability and prolongation of litigation as a result of appeal methods. (Hosni 2013).

The methods of appeal are divided into two parts: normal methods, which are objection, appeal and unusual methods, which are: Cassation and Cassation by written order and retrial.

According to the Jordanian legislation criminal judgments in general are subject to appeal by appeal and Cassation,(The Code of Criminal Procedure, 9, 1961) but the special laws under which the special courts were established, such as the Grand Criminal Court and the State Security Court, deprived the accused of basic methods of appeal, which is appeal, and its rulings are subject to cassation only and do not accept appeal. This is one of the disadvantages on these courts, as the person sentenced by these courts is deprived of a stage of litigation and a degree of its degrees, which is the stage of appeal, and this is considered a denial of an important guarantee for the convict, as it is not reasonable for those who are tried with a crime of punishment less than the death with greater guarantees than those who are tried with a criminal offence. The death penalty, so we call on the legislator to amend the law so that death sentences become subject to appeal and Cassation like other felonies.

2.3: The Difficulty in Terms of Execution Procedures

Due to the seriousness of the death penalty, the legislator has drawn up legal procedures to implement the death penalty, but some of these procedures are ambiguous and insufficiency, and we will set out these aspects as follows:

First: In terms of His Majesty's Approval of the Death Sentence

This restriction is stated in the Jordanian Constitution in Article 39 of the Constitution (the death sentence is not carried out until after the King's ratification and every such provision is presented to him by the Council of Ministers with a statement of opinion in it) (Jordanian Constitution 1952) as stated in Articles 357 and 358 of the Code of Criminal Procedure(Code of Criminal Procedure ,9,1961) . This restriction is originally a guarantee for the death penalty for the possibility of His Majesty the King and for more time, which may lead to the pages of the victim's relatives, which may be considered a discretionary mitigating reason that allows the Court of Cassation to terminate the sentence and commute the sentence.

But the Provisions governing this restriction are not accurate and provisions so that this guarantee is achieved, as neither the law nor the Constitution specified the period necessary for His Majesty's approval of the death sentence, as the legislator outlined the procedures in Article 357. When the death sentence is issued, the Attorney General prosecutor must submit to the Minister of Justice the case papers attached to a report that includes a summary of the facts of the case and the evidence based on it in the issuance of the ruling and the reasons for the

enforcement of the death penalty or to replace it with others. The Minister of Justice submits the case papers with the report to the Prime Minister for referral to the Council. The Council of Ministers considers the said papers and the report of the Attorney General prosecutor and expresses his opinion that the death penalty must be enforced or replace it with others. He submits the decision he takes in this regard, accompanied by a statement of opinion to His Majesty. If His Majesty the King agrees to enforce the death sentence, the sentence hangs the convict inside the prison building or in another place if such a place is appointed in the royal will. This death penalty may not be carried out in the sentenced person on a day of the holidays of his religion or on civil and official holidays. The death sentence may not be carried out by the woman. Pregnant only after three months of placement. (Code of Criminal Procedure ,9,1961).

It is noted on this procedure, which is the ratification of the ruling from His Majesty the King, that Articles 357 and 358 did not specify the period necessary for the ratification, during which this period may be prolonged so that it becomes another additional penalty, in addition to the death penalty. Article 358 also did not indicate what is the ruling if His Majesty refuses to ratify the ruling, will he remain in the center of reform and rehabilitation for what period? In one case, this period reached forty years, while the penalty of work and life imprisonment was set by the legislator in Article 20 of the Penal Code as 30 years,(Jordanian Penal Code,16,1960) and it is certain that some convicts may spend several years as long as the sentence is not ratified.

There is no doubt that this legislative deficiency causes great harm to the sentenced person. In the absence of a legislative solution, the researchers believe that this period should be determined so that if the ratification is not issued by His Majesty during a certain period, the researchers believe that the punishment should be replaced by the penalty of life imprisonment, compassionately, so that he is not punished twice for the suffering and anxiety experienced by the death convict before the execution of the execution. The majority of those sentenced cannot sleep until after sunrise to ensure that the sentence will not be carried out after sunrise, because it is customary in Jordan that the death sentence is not carried out until dawn. (Abu Zaid, 2015)We supported this by analogy with the ratification of laws . Since every draft law approved by the Senate and the House of Representatives is submitted to the King for ratification, if the King does not see the law, he may, within six months from the date of its submission to him, return it to the Council with a statement of the reasons for non-ratification. If a draft law (except for the Constitution) is returned during the period specified in the previous paragraph and approved by the Senate and the Houses a second time with the approval of the two-thirds of the members of which each of the two Houses, it must then be issued. If the law is not returned, it is ratified in the period specified in the third paragraph of this article, it shall be considered effective and by virtue of ratification. (Jordanian Constitution 1952).

The researchers believe that a similar period can be given for the ratification of the laws contained in Article 93 of the Constitution, so that the death sentence is raised to His Majesty the King for ratification within six months. If His Majesty does not ratify it, it is replaced by the penalty for life imprisonment. There is a similar provision in the Jordanian Penal Code for pregnant women. If it is proven that the woman sentenced to this penalty is pregnant, the death sentence is replaced by life imprisonment .(Jordanian Penal Code ,16,1960).

Referring to comparative laws, especially the Egyptian Code of Criminal Procedure, we find that it was more accurate than the Code of Criminal Procedure and the Jordanian Constitution, as the Egyptian Code of Criminal Procedure gave the President of the Republic the power to ratify the death sentences and within a short period of fourteen days, but if the decision of the President of Republic was not issued within fourteen days to Amnesty or replace the penalty, the death sentence will be carried out. This interrupts that the consent of the President of the Republic is not a necessary condition for the execution of the death penalty. (The Egyptian Code of Criminal Procedure ,150 ,1950).

The Egyptian Code of Criminal Procedure also required that the opinion of the Mufti be taken and within ten days of sending the papers to him, the court issues its ruling in the case. This indicates that the Mufti's opinion is not binding on the court, but there is nothing to prevent the court to take the opinion of the Mufti, which happened in a case involving the father's murder of four of his young sons. When the Mufti did not agree based on the legal rule that he does not kill the father with his own child, the court agree with the Mufti.(Al-Kilani,1996).

But the implementation of this provision in Jordanian law is not possible, because the lack of approval of a president does not prevent the implementation of the ruling under the law, while Jordanian law does not allow the implementation of the ruling unless His Majesty the King agrees, (Code of Criminal Procedure ,9,1961). and this leads us to the opinion we have concluded, which is not to implement the ruling and replace it with life Imprisonment .

But it is recorded to the Egyptian legislator that in Article 381 of the Egyptian Code of Criminal Procedure, an important guarantee was given when sentencing to death, which is that the sentence must be issued unanimously and not by majority,. (The Egyptian Code of Criminal Procedure ,150 ,1950). which is an important guarantee for the sentenced and there is no similar provision in Jordanian law.

2.3: The problem related to the rights of the convict before the execution of the judgment

One of the basic rights of the death convict is that he must be informed of the date of execution, as well as his relatives so that they can bid farewell to the last farewell, and this includes allowing them to visit him and a farewell, but it is noted that the Jordanian Code of Criminal Procedure did not provide for this guarantee, and they were devoid of any provision that the convict or his family should be informed of the date of execution or his visit and farewell, while the comparative laws have allowed the relatives of the convict to meet him on the day of the appointed execution of the ruling, provided that that place is far from the place of implementation. This indicates that the convict is informed of the date of execution and informs him of that. (Al-Kilani,1996).

The researchers believe that this is an important guarantee for the death penalty, so nothing less than that he and his family will be allowed to meet him with the last meeting and his last farewell instead of sorrow and sorrow remain in their hearts forever.

Conclusion

1. The global trend towards the abolition of the death penalty has been abolished by many countries of the world.

2. The Jordanian Code of Criminal Procedure did not include provisions that require the convict to be informed of the date of execution or his relatives.
3. States offer death penalty many safeguards, but they are insufficient.
4. In some legislation, the death penalty includes an additional deprivation of liberty for long periods.
5. There is no specific period in Jordanian law to ratify the death penalty.
6. The Jordanian Code of Criminal Procedure did not include provisions indicating the fate of the convict in the event that the death penalty was not approved.
7. The person sentenced to the death penalty suffers from a severe state of suffering and anxiety throughout the period of waiting for the execution of the death penalty, which is an additional penalty.

Recommendations

1. Reducing the number of crimes punishable by death and limiting the death penalty to the most serious crimes and be in crimes of assault on life only.
2. Excluding the death penalty from state security crimes and be replaced by the penalty for life imprisonment
3. The period of ratification of the death penalty should be limited to six months.
4. In the event that the death sentence is not ratified and the six-month period has passed, the researchers recommend that the penalty be replaced by life sentences.
5. Amending the Code of Criminal Procedure by allowing the resumption of death sentences before Cassation in order to achieve the principle of two-degree litigation as one of the most important legal guarantees prescribed for those sentenced to the death penalty.

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