



Research Article

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Guarantees Execution of the Capital Punishment for Pregnant Women: A Comparative Study between Emirati and Jordanian Legislation

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Abstract

This study aimed at a legal and scientific analysis of the Guarantees of the death penalty for pregnant women as a comparative study between Emirati and Jordanian legislation. At a time when there is a lot of controversy over the retention or abolition of this penalty. Researcher sought to analyze the Guarantees of execution of the penalty for the pregnant woman before and after the trial and during the execution between Emirati and Jordanian legislation, also analyzed the Definition of the death penalty and the controversy over maintaining or abolishing this penalty Supporting and opposing sides of Capital Punishment. The study obtained several results, the most important of which is we find that the text of Article 17 – Penal Code talks about the replacement of the death penalty in life imprisonment, only before the issuance of the final judgment, but in the case of text 358- Code of Criminal Procedure, it is after the issuance of a final judgment in the case, then the execution is carried out after three months. In this we find that the Jordanian legislator was not successful in the text and that there is a conflict in the interest of the youngster and we recommend the legislator to amend the text to replace the death penalty with life imprisonment after the final judgment, in order to protect the fetus and take into account his interests.

Keywords: capital punishment, Guarantees, Legislation, Pregnant Women, Penalty

1. Introduction

It was not until recent times that scholars and philosophers were able debate Capital punishment, where they was an apparent division among them as opposing views to Capital punishment were able to tip the scale slightly, which lead many nations to abolish Capital Punishment, partially or completely with the exception of war crimes and crimes against humanity, that lead “Amnesty International” to conduct a study with regard to Death penalty statistics, on an international level, and for all nations of the world, therefore, it is compelling to address all point views from both sides of the debate, which will lead to applying some of the reasoning behind certain views for the best of society and humanity, this will also put UAE at the center of anticipatory questioning, since the UAE has been applying Capital Punishment in accordance to Islamic Legislation, which has been the source of the country’s Constitution and to draw a comparison between that and man- made laws, where the H.K.of Jordan, with its internal penal codes and legislation, may serve as a prime example of a state that dealt with Capital Punishment at a level equal to other modern countries, therefore, it

may be compelling enough, in this study, to examine the Jordanian penal code, as a model that dealt with capital punishment, its procedures and the practices, legislated in the Jordanian laws and regulations, with an attempt to draw a convincing comparison between it and that in UAE, and raising many questions of whether laws and regulations in dealing with capital punishment are practiced in UAE, do laws and regulations guarantee the legal rights of the convicted individual when facing him with the Death penalty? Are the laws and regulations guaranteed and preserved by a legislative body, where they are not to be left to be estimated by the on duty judicial member? therefore it is vitally important to identify the previously mentioned guarantees. What concerns us in this study is the special guarantees for pregnant women during sentencing or execution of punishment, and that is to protect the fetus.

2. Supporting and Opposing Sides of Capital Punishment

It has been a steady debate for so long between the supporting and the opposing doctrines of Capital punishment, where supporters are demanding keeping it and the opposition would like to see it abolished completely, and the debate between the two is still going (Finkelstein, 2006).

2.1 The supporting side of Capital Punishment

A group of ancient scholars, who were supporters Capital Punishment, like Rossi, Lakani, Kant, Romaniozi and Von, along with a number of ancient Greek philosophers like Aristotle, who considered criminals enemies of the society, and must be treated with cruelty, like wild, stray animals, therefore, he advocated capital punishment and all types of similar punishments, and was quoted that "Crime has created an imbalance in a society, thus, death penalty and harsh treatment of criminals will maintain that much needed balance within the civil society" (Philip, 2006).. Another advocate of capital punishment during the middle Ages was Thomas Aquin, who adopted the idea that a criminal is a dysfunctional organ in the body of the society; therefore, it must be severed or removed" by applying the death penalty" for the sake of protecting the healthy organs in a society. (Al marasafawi, 1973).

Jan Jack Russo, the philosopher, had defended the legitimacy and legality of the Death Penalty through the theory of (Social Contracting "binding") where an individual will have an advanced acceptance for the death penalty, though, will not become a victim of homicide, and for one's self if he / she commits one. (Ibeid, 1975).

Another advocate of the Death Penalty was Beccaria, who was quoted in his infamous book (Crimes & Punishment) "Life is never a right that an individual concedes by accepting to live within a society then envisaged the punitive authority, (Hosni, 2021) Lombrose, who, was quoted that a criminal must be eradicated from society by execution since a criminal is always born one, however, there were some legislations that had contributed to the down fall of capital punishment, where the German, Italian and the French legislators, were ahead of everyone else in implementing such a legislation. The following are some of the main arguments; that proponents of capital punishment had based their support on:

Capital punishment (Death Penalty) is the most appropriate punishment for hard core offenders, who represent grave danger to the life of others, and no lesser punishment will be feasible to eradicate them, also, it will be an effective public deterrent tool, or as a collateral intimidation, while the possibility of uprooting an offender by execution, will always be looming, to achieve the moral purpose that employed such a punishment, where it is considered an evil act, that is equal to the evil act of the crime, which makes the next punishment in severity, life term imprisonment, not adequate enough, as an alternative punishment. And that capital punishment is cost effective, where funds are not to be spent on housing and feeding criminals for the duration of their life term, it also satisfies the public's emotions, sense of justice, prevents vigilante acts and vengeance((Bilal, 2008))

Capital punishment (Death penalty) is considered a deterrent tool for battling capital crime, where it is, beyond any reasonable doubt, a just, and a humane punishment, that fits the crime committed, therefore, one must not think of the termination the life of an offender, rather of the life of the victim and the grieving family members of the victim whose lives will never be the same again(Tawfeek, 2021).

- 1) The death Penalty (Capital punishment) does meet a number of vital social needs, that may not be bridged or satisfied with alternative punishment, and whether it was a public execution or behind a prison walls, it is of a great importance to the wellbeing of a society, at least on a short-term basis.
- 2) Capital punishment is identified as of the unique crime deterrent means, for its efficiency and accordance in fighting capital crimes and punishing the perpetrators , therefore, it was called upon by the practical school of thoughts, to reinstate the death penalty as an adequate mean to achieve social defense, which is the purpose of the penalty, through the importance of rescuing the healthy part of the social fabric that necessitates amputating the infected part and eradicating it since the death penalty is a tool used for public safety(Al Shaltawi , 1990).
- 3) Some scholars went as far as likening this style of retribution to stripping proprietorship from a real-estate owner, by the state, for the public's interest, where Society has always used punishment to discourage would-be criminals from unlawful action. Since society has the highest interest in preventing murder, it should use the strongest punishment available to deter murder, and that is the death penalty. If murderers are sentenced to death and executed, potential murderers will think twice before killing for fear of losing their own life, hence, will achieve the state's objectives of social order(Kashkoush,2020) .
- 4) Also, Eradicating notorious criminals due to the threat they represent to the rest of the society, which may be be satisfactory to the demands of justice, therefore, the death penalty is a retribution for an evil act where the offender is executed and society expresses its condemnation to the evil act committed, and this argument derives its convincing strength from the deeply rooted and extreme aversion and disgust that is provoked among law abiding citizens to satisfy public's sentiment, since public sentiment demands the death penalty and safeguards its implementation (Gaie, 2004).

2.2 Opposing side of The Death Penalty

- 5) Many prominent opponents of the death penalty are like “Becerra”, who adopted the idea of abolishing the death penalty completely (Flammarion,1979) , then “Carrara”, followed by “Bassina”, “Veerie”, “Long” , “De Marsico” and others. Here are some of the main arguments opponents of Capital Punishment base them on (Ali,1983)
- 6) Since life is not endowed to an individual by the society, therefore, it does not have the lawful right to deprive an individual of the right to live, also, that capital punishment nature is characterized as cruel, gruesome and inhumane(Alsaheed,2009) thus, should be abolished, as for the recent advancement, while taking into account the feeling of the majority in a society, and the death penalty represents a form of vengeance that a society must avert, moreover, capital punishment sentencing is likely, not fitted with the seriousness of the crime committed, which does not call for terminating the life of the accused, while taking into account that if there is an iota of error in the sentencing, it can never be rectified like other lesser sentences. And finally, it is doubtful that capital punishment will achieve the desired goals of public's deterrence, since most nations that nullified the death penalty did not, statistically, notice an increase in the number of crimes punishable by the death penalty. Opponents of the death penalty may also argue that, this form of punishment will make it impossible to rehabilitate and reform offenders, since most penal codes must make it an objective, even as a secondary one, and the fact that any punishment that does not

- leave any window of hope is not a form of justice(William A. 2002).
- 7) Capital punishment can never be rewarding or beneficial from both, the individual or the persuasive point of views, as it prevents the offender, while under the supervision of the proper authorities, from correcting some of the damages inflicted on the victims, also, death penalty deprives the state of a productive work force(Alsaed, 2009), since most inmates work formal hourly jobs while serving their sentences, which in turn, increases the state's productivity of a number of goods William J. 1994) .
 - 8) Death penalty, as a punishment, may never avoid the occurrence of errors during the investigation(Alrashed,1974) , court proceedings and sentencing, where innocence of an offender may appear after execution, since errors in the judicial process are not rare, humanitarian justice is proportional, therefore, it is not possible to return to the status prior to execution (Afifeh,2012).
 - 9) Capital punishment is not legitimate, as it is not capable of being categorized in accordance to the principle of offender's responsibility, amount of danger the offender represents, and the harm inflicted by the crime committed. (Kashkoush,2020) .
 - 10) An offender must be treated as a patient, suffering from certain illnesses, who cannot burden any guilt, thus, modern legislations must emphasize the importance of rehabilitating offenders, similar to social agencies who safe guard against infected people, therefore, offenders must be offered treatment for congenital Psychological illnesses, when possible (Nejim,2008).

3. Pregnant Woman Execution Guarantees in Jourdan

3.1 Interrogations Guarantees before Jordanian Courts

3.1.1 Court of first instance and Major Offenses Court

It is stated in Art. 147 of the Origins of the Penal courts that a suspect is innocent until proving otherwise, thus, must be treated as such in both stages of interrogation and prosecution. The District Attorney at the civil courts will proceed with the preliminary investigation in the charges punishable with the death penalty, where the penal courts of first instance are specialized to prosecute such cases, under the jurisdiction of the District Attorney, while the DA of the high Offenses Court will investigate cases within Court's specialty, punishable with the death penalty, enforcing his authority, in the hierarchy of the DA personnel at the High Offenses Court, , where both will apply the legal procedure followed in Penal courts, with slightly different approaches to the duration of the investigation, indictment decisions and the forwarding of the case to court(tawfiq,2011). Also stated in Art.1/48, that it is illegal to interrogate a suspect by any law enforcement personnel, that is never enforced, since it is not permissible for defense attorneys to monitor police while questioning the suspect. Also, it is stated in Art.1/63 that a suspect has the right to remain silent; not answering any questions by law enforcement members about the crime until the presence of an attorney, it is by law, to inform the suspect of his/her rights by the DA prior to proceeding with the questioning. The presence of an attorney is not mandatory for the suspect, however, since it is optional, it permits the DA to interrogate a suspect if an attorney is not present within 24 hours(Hadithi,2011), or, as a discretionary measure, to speed up the interrogation, as stated in Art 2/63, of the same code & Art 3/64, where the DA's action may not be disputed, it is considered a down side to certain guarantees stated in the penal code. Attorney may not speak without prior permission from the DA, since it is only permissible for an attorney to attend and present a memorandum about the proceedings. Detention of a murder suspect is mandatory as stated in Art 1/34, while all DA's decisions and actions are closely monitored by the Attorney General's office, since the case will be investigated by both the District Attorney and the Attorney General.

Second: Interrogation guarantees before the State Security Court

It is presumed that, interrogation of cases before this court, are in accordance to Courts Penal Code, however, interrogation is conducted by Das, and a military Attorney General as stated in Art 1/7 of the court's internal laws, since it is regulated by a special system of regulations.

Third: Interrogation Guarantees of Crimes Punishable with death before Military Courts: as summed up in the text of Art 11 of the Military Courts Formation law, that interrogation of a suspect at military courts is conducted by Military District Attorney, and military prosecutors, where they exercise their authority under a special law known as Origins of Military Penal Courts.

3.1.2 Guarantees during Prosecution

1st . Special guarantees during prosecution for crimes punishable with death penalty:

1. As stated in consistent legal principles, before the Civil Judicial system, all provisions in the penal laws are based on certainty and assertiveness rather than on doubts and assumptions, since doubts will always be interpreted to benefit the accused, who is always presumed innocent until proven otherwise, since the law that benefit him the most will have priority to be used.
2. Art 150 in the Origins of Penal Trials does not give any merit to the report submitted by the arresting officer, if the crime was a felony, since the legislator has limited this to Misdemeanors and violations.
3. Spouse and off springs of a suspect may abstain from testifying against him/ her.
4. The law does not grant any validity to any admissions given to the attesting officer since there is no way to verify if it was given under coercion.
5. Legally, only testimonies given by witnesses before the court are admissible, while it is permissible for the court to isolate witnesses from the suspect. Where each can testify individually, and the suspect must be briefed of the contents of the testimonies.
6. A suspect will not stand trial on a felony charges, unless a formal indictment from the DA is presented, and ample time prior to the court date is given with a list of all charges.
7. Any verdict involving the death penalty can be appealed forcefully before the Appeal court.
8. Death penalty Judgments can also be appealed before the Court of Cassation, where the monitoring procedure will be safeguarded by the pronounced judgments from the courts, which also monitor implementation, interpretation of the law and legality of the procedure followed.
9. Statute of limitations in Jordan is 10 years; therefore, all charges will be dropped after 10 years.
10. Death penalty for a pregnant woman will be commuted to a life term sentence with hard labor.^{2nd}

3.1.3 Guarantees during the execution of the penalty

Guarantees before Court of Major Offense:

1. Legal proceeding for a trial before this court is the same as the courts of first instance, also in accordance to the Origins of penal trials, where its specialization shows the fast pace procedure, on one hand, its specialty on second and its rank on third, since it is comparable to Appeal Court.
2. All judgments by this court are appealed forcefully before Court of Cassation, if they were decided by indictment, that makes the Court of Cassation a subjective court, and the monitoring procedure is exceeds that of monitoring the implementation and the interpretation of the law, while waiting for all evidences and proceedings of the case to be reviewed, which is a positive characteristic of other courts ahead of this court, because all cases within specialty of this court, will go through a two steps procedure, other lower courts, like Courts of first Instance, will go through a three steps procedure, two of which

are subjective and the third is judicial.

3rd Guarantees related to death penalty before State security Court:

1. It is semi military style court, with regard to its bench formation, its district attorney office, similar to that of civilian courts, therefore, the only apparent guarantee, is the presence of defense attorneys and the implementation of the Origins of penal trials with all its guarantees.
2. Cassation, where it is permitted to have a conviction or an acquittal.

4th. Guarantees related to death penalty before Military Courts:

1. As previously mentioned, presence of an attorney for death sentence cases is mandatory.
2. All judgments of this court can be appealed before a Military appeal Court.
3. As stated in Art 20 of Military penal trials, with regard to the implementation of penal trials code on all provisions not mentioned in the military one, therefore all judgments of this court can be appealed.

In contrast to the UAE legislator, the Jordanian legislator came in the event that it is proven that the woman sentenced to this penalty is pregnant, he replaces the death sentence with life imprisonment. Consequently, the Jordanian legislator resolved this issue and made life imprisonment the death penalty for the pregnant woman (Penal Code, 1960).

A woman sentenced to death is isolated from all other inmates and is subject to constant surveillance day and night. Only the center's officers, the doctor, one of the inspectors, one of the clergy of the sect to which he belongs, or any member of his family or his lawyer may contact him except after obtaining a written permission from the director. Center (Correction and Rehabilitation Law , 2004).

Article 358 (Code of Criminal Procedure ,1961) If His Majesty the King agrees to carry out the death sentence, the convict shall be hanged inside the prison building or in a place Another if such a place is specified in the royal will, and this death penalty may not be carried out on the convict It is on a day of the feasts of his religion or on national and official holidays, and it is not permissible to implement a ruling Execution of a pregnant woman until three months after she gives birth.

In the text of this article, the question arises if there is a conflict between this text and Article 17 of the Jordanian Penal Code?

In this, we find that the text of Article 17 talks about the replacement of the death penalty in life imprisonment, only before the issuance of the final judgment, but in the case of text 358, it is after the issuance of a final judgment in the case, then the execution is carried out after three months.

In this we find that the Jordanian legislator was not successful in the text and that there is a conflict in the interest of the youngster and we recommend the legislator to amend the text to replace the death penalty with life imprisonment after the final judgment, in order to protect the young and take into account his interests (Code of Criminal Procedure ,1961) .

4. Capital Punishment in the UAE

How to Execution of a pregnant woman in UAE ?

The person sentenced to death shall be placed in a penal facility based on an order issued by the Public Prosecution until the sentence is executed.

If the death sentence issued by a federal court becomes final, the case documents must be submitted immediately to the head of state through the mediation of the Minister of Justice for approval.

Relatives of the person sentenced to death may meet him on the day appointed for the execution of the sentence, provided that it is far from the place of execution.

If the convict requests to meet the preacher of the penal facility, or one of his clerics before execution, the necessary facilities must be made to enable him to do so.

The death penalty shall be carried out inside the penal facility or in any other place upon a

written request from the Public Prosecutor.

Execution shall be in the presence of a member of the Public Prosecution, a representative from the Ministry of Interior and the person in charge of the administration of the penal facility and its physician, or another doctor delegated by the Public Prosecution.

Guardians of blood in retribution for murder have the right to attend the execution procedures, and the Public Prosecution must inform them of that thirty days before the date set for execution.

It is not permissible for anyone other than those mentioned to attend the execution except with a special permission from the Public Prosecution, and the defender of the convicted person must always be permitted to attend.

The person in charge of managing the penal facility reads the text of the death sentence and the accusation for which he is sentenced to the convicted person, at the place of execution, with the hearing of those present.

Upon completion of the execution, the member of the Public Prosecution shall issue a report to that effect, in which the doctor's certificate of death and the time of its occurrence shall be recorded.

The death penalty shall not be carried out on official holidays or holidays specific to the religion of the convict.

The execution of the death penalty on a pregnant woman shall be postponed until she gives birth and is breastfed within two Hijri years, and she shall be imprisoned until the time for execution comes. (Code of Criminal Procedure ,1961).

As stipulated by the legislator, judgments issued in retribution crimes may not be executed expeditiously (UAE Criminal Procedures Law ,1992) .

5. Trial Guarantees for Women Sentenced to Death

The UAE Legislator has set forward a number of guarantees that would safeguard the legal rights of a suspect sentenced to a Death penalty, all regulations, and procedures of prosecution before UAE Courts by listing them on Ministry of justice web page, which also lists the rank of courts, and all issues related to crimes in general, like apprehension, search, seizure and Detention, through a penal system, that designated a special system to assist in investigation and prosecution that no one can bypass, since it may be refuted before the superior court. Cases that involve death penalty in UAE are reviewed by thirteen judges, at different level courts, where there are courts of first Degree, followed by a higher court, then the court of Appeals, that can review all verdicts from lower courts. The superior (High) Court reviews all important verdicts issued by the Court of Appeals, with regard to important cases that involve death sentences, which give the judicial system more validity in seeking accuracy on a broader range.

5.1 First Degree penal Court

This type of courts specializes in the prosecution of Capital Punishment cases, located in all provinces and counties throughout the Kingdom, consists of the following circuits: Capital Punishment circuits, Tazir circuit, and circuits for Juvenile cases. Each circuit consists of a bench of three Justices, with the exception of cases determined by The Supreme Judicial Counsel, where cases are reviewed by a single Judge, and they specialize in prosecuting the following:

1. All penal cases.
2. All matters dependent on the verdict in the case before it, unless specified with the contrary.
3. If the verdict in the criminal case is dependent upon a resolution in another case, hence, requires cease of action in the first one.

5.2 Courts of Appeal

Every province will have one court of Appeal or more, according to the Judicial system in the

Kingdom, where the Penal department consists of five justices presiding, to prosecute cases related to, Capital Punishment or any lesser sentences. This court will proceed in prosecuting cases through specialized departments with three justices presiding, with the exception of the Penal department that prosecutes cases related to Capital Punishment, which will have five Justices presiding. Justices in the Court of Appeal are equivalent in ranks; each department will have a chief justice; the court will review verdicts from First Degree Courts that might be appealed. It will reach a verdict after listening to testimonies from both sides, in accordance with regulations of the judicial Pleading & the Penal system Procedure, where all peremptory verdicts associated with the case, and issued by the Court of First Degree, are subject to an appeal, by the District attorney, the Plaintiff and the defendant, when a reason for the appeal is presented.

5.3 Superior (High) Court

The new judicial system has introduced a general assembly that will convene, headed by the Chief Justice, in the presence of all member justices, to determine some general principles related to judicial issues, and review matters stated in the Judicial system to be reviewed by the assembly. The assembly will not be official unless two third of members are in attendance including the Chief Justice or a deputy. All decisions issued by the assembly are voted on by the majority in attendance, however, if the vote is even, the chief justice will vote to break the even vote, while all decisions by the assembly are final.

The high court in UAE , is not, by all means, according to its origination or the bases for its formation, a court to resolve disputes, rather, an entity to file complaints against courts that pronounced the appealed verdict (Judgement), therefore, it is prosecuting the verdict, as related to the legal application of all judicial bases and their interpretations, also, the procedure followed to reach the verdict, in the lower courts, the high Court will not intervene in the deliberations or evidentiary evaluation. As a diversion from this path, the High Court will deliberate cases related to , Capital Punishment, where it will review such cases, in regard to procedure, application of judicial and civil system used in the UAE, before three steps, where, the appeal will also be before three steps, rather than two, which is commonly used in the majority of judicial systems in other countries.

The High Court will begin its reviews of cases through specialized "Circuits" or "Departments", the assembly (Committee) that will review cases, upon the needs that may arise, with three justices presiding per circuit, with the exception of the Penal Circuits that review cases relate to , Capital Punishment, which will consist of five justices with a Chief Justice per circuit.

High Court specialty is limited to the following:

First. Review of cases related to Capital Punishment, where it begin reviewing cases, as a subjective court, rather than one that enforces the application of the Judicial System, therefore, it must follow the same procedure followed in a subjective court, depending on the type of cases being reviewed, by the same procedure, within the same bounds and be able to encounter suspects other than defendants in the case, or deliberations other than the submitted. The high court review of Hudud cases is mandatory, rather than voluntary, where review must be of the disputed judgment accepted for review only, among the opponents themselves, for the same charges, since the Judicial System is demanding a third court proceeding, with prior knowledge of the High Court in cases related to death penalty. The High Court will also review, with the exception of the previous crimes, standard procedure of the appeal, in regard to testimonies of opponents, the disputed judgment, reasons for the objection, demands of the objecting party, verification of the objecting party signature, date the objection was submitted and if objecting party is the right one to file the objection, where the court will decide to accept or reject the objection. If the High Court is not persuaded by the reasoning behind the objection, it will affirm the judgment by the lower court, contrary to this, the High Court will overturn the ruling, partially or completely dependent on the situation by stating the reasons leading to the decision, and returning the case to the court of origination, to have it deliberated anew in another circuit, other than the circuit that deliberated the

case initially. When a judgment is overturned, it is mandatory to cease all actions and judgments related to the overturned judgment, if it was the bases for the actions. In some instances the High Court is compelled to resolve, disputes related to high cases like Capital Punishment, that were reviewed in Appeal Courts, where the judgments in the appeal courts are not final until confirmed by the High Court, and its agreement with death penalty judgments is not an indication of support unless it is unanimous, if the judgment was rejected a second time, as the subject of the case will have merit, then the High Court is compelled to decide on the matter.

6. Cases

1. In 1995, Sarah Balabagan, a Filipino worker, caught the attention of many people living in the UAE. She was reported to have murdered her employer in his Al Ain house, although she has always maintained that she only killed him in self-defence after he tried to rape her. After the UAE president himself got involved, Balabagan was set free and had to pay compensation instead. However, she was deported back to her country and her right to remain in the country was cancelled (Judicial caning, Arab Emirates, 1995)
2. On 10/02/2011, Rashid Al Rashidi was executed by firing squad, the convicted was charged of raping and murdering a four-year-old child Moosa Mukhtiar in the toilets of a mosque on 27/11/2009. (gulfnews.com, 2019) In 06/2015, the Federal Supreme Court sentenced an Emirati terrorist woman, Alaa Bader al-Hashemi, to death for the murder of Ibolya Ryan and planting a "handmade bomb" in an Egyptian-American doctor's home in Abu Dhabi. The woman committed the crime in 12/2014 and was executed at dawn on 13/07/2015. [19] "UAE woman sentenced to death for killing US teacher". Express Tribune. 29 June 2015. Retrieved 30 June 2015.

This is the only time that a prisoner has been executed within such a short time frame and this is the one of the few cases of a woman being executed.

3. On 23/11/2017, Nidal Eisa Abdullah, who raped and killed eight-year-old boy Obaida in May 2016, was executed. "Man, who raped, killed eight-year-old boy Obaida executed".

A foreign national in the Emirate of Fujairah has been sentenced to death by stoning by a Shari'a (Islamic) court (Cherif, 2000). Shahin 'Abdul Rahman, whose nationality is not known to Amnesty International, received the sentence on 10 June 2006 for committing adultery after he was allegedly found naked in bed with Asma Bikham Bijam, a domestic worker. Asma Bikham Bijam's employer had reportedly called the police when he realised that she was in bed with Shahin 'Abdul Rahman in his house in April 2005. Shahin 'Abdul Rahman who is a married man, reportedly admitted to having a sexual relationship outside wedlock with Asma Bikham Bijam. She was sentenced to receive 100 lashes in addition to a one-year prison term. (Death by stoning, 2006) UAE woman sentenced to death for killing US teacher

A United Arab Emirates court sentenced an Emirati woman to death on Monday after convicting her of the militant-inspired murder of an American teacher, Abu Dhabi newspaper The National reported.

Alaa Bader al-Hashemi, 30, was found guilty of stabbing to death teacher Ibolya Ryan, 47, in a shopping mall toilet, as well as "creating a handmade bomb" she placed in front of an Egyptian-American doctor's home, the paper said.

7. Pregnant Woman Execution Guarantees

A pregnant prisoner shall be treated, starting from the time of conception, as prisoners of category (A) ((Category (A) prisoners shall have the following:

1. The right to wear their own clothes unless the administration decides to wear the facility's clothes in consideration of health, hygiene or in the interest of security. However, they have the right to wear their own clothes when they go out to court or for any other reason.

2. The right to bring food items from outside the establishment at their own expense in accordance with what is specified in the executive regulations.
3. Meeting their visitors and correspondence with whomever they wish, unless the deposit order prohibits this, and the visit shall take place under the supervision of the facility officer or his representative.))

If she is not of this category, and she shall be exempted from working in the facility and given special medical care in terms of food and sleep, and the implementation of any disciplinary sanctions against her shall be postponed until after delivery or until the expiry of the period of time. The presence of her newborn with her, according to the circumstances .Which is consistent with criminal justice (SETHURAJU.R, SOLE.J, 2016) .

She must be transferred to the hospital when the delivery is approaching, and she remains there until she gives birth and until the doctor decides to leave the hospital, and she and her newborn should be given the necessary health care with food, appropriate clothing and rest.

The imprisoned woman may keep her child until he reaches the age of two Hijri years. If she does not want him to remain with her, or if he reaches this age, he shall be handed over to whomever she chooses who have the right of custody. Otherwise, he shall be handed over to his father. It has periodic times as indicated by the executive regulations.

In all cases, the child's birth certificate must not mention anything that refers to his birth in the facility or in a private hospital, or to the fact that his mother was imprisoned (UAE Federal Law,1992).

It also guarantees the implementation of the death penalty for pregnant women, A death sentence issued by a federal court may only be executed after the approval of the President of the State (Crimes and Penalties Law,2021) .

Pregnant women are included in Article 4 of the Code of Criminal Procedure, every person accused of a felony punishable by death or life imprisonment must have a lawyer to defend him at the trial stage. If the accused does not appoint a lawyer for him, the court shall appoint a lawyer for him, and the state shall bear a remuneration for his efforts in the manner specified in the law (Code of Criminal Procedure,1992).

On the other hand Death sentences must be issued unanimously, and when it is not met, the death penalty shall be replaced by a penalty of life imprisonment (Code of Criminal Procedure,1992) .

The death penalty shall not be carried out on official holidays or holidays specific to the religion of the convict.

The execution of the death penalty on a pregnant woman shall be postponed until she gives birth and is breastfed within two Hijri years, and she shall be imprisoned until the time for execution comes (Code of Criminal Procedure,1992).

Finally, In Jordan, the death penalty is carried out by hanging in the rope but in UAE

The death penalty is carried out by entering five masked persons, and one person and one of them carries a live bullet to fire it at the person sentenced to death.

8. Conclusion

1. There have been 23 texts related to the Death penalty in the Jordanian legislation, where some of them punish with the death penalty for certain crimes, which are decided from the legislator's point of view, rather than by Sharia laws with regard to punishment.
2. In UAE the death penalty is carried out by entering five masked persons, and one person and one of them carries a live bullet to fire it at the person sentenced to death. But in Jordan, the death penalty is carried out by hanging in the rope
3. in UAE a Cases that involve the death Penalty are judged in three stages. The court of first instance consists of three judges; the court of appeal consists of five judges; and the High Court consists of five judges. In each case the decision should be unanimous. , Not by majority.

4. When the opinions of all those opposing the death penalty, one will find that they did not present good enough reasons to abolish it, it would rather, result in deficiencies within the penal system of the state.
5. Statistics indicated that, there were no death penalty execution for the so-called political crimes in both Jordan and UAE, and execution of the death penalty has always been carried out humanely, method, away from there some all other inhumane methods like electric chair, lethal injection, or the gas chamber, which are common in a number of modern countries.
6. There are some death penalty verdicts, for individuals who committed unintentional killing, which is apparent in the execution of an individual who committed arson that caused death, the same is repeated in other areas, since the sentence for some felonies became harsher.
7. The existence of the state security and military Courts in Jordan is a source of embarrassment for the state, because many International Humanitarian organizations consider this as a waste of International standards to achieve a justice.
8. Sometimes the Jordanian penal code has been inconsistent with regard to the death sentence. For example, life imprisonment is stipulated for a criminal who tortures his victim in a sadistic fashion, prior to murdering him, although in both cases it is intentional killing that is to say – murder.
9. we find that the Jordanian legislator was not successful in the text and that there is a conflict Between Article 17 of the Jordanian Penal Code and Article 385 Criminal Procedure Law , in the interest of the Cuddled baby and we recommend the legislator to amend the text to replace the death penalty with life imprisonment after the final judgment, in order to protect the Cuddled baby and take into account his interests.
10. The death penalty deters individuals from committing crimes; therefore, the crime rates decrease. 2. As a respond to society's demands for justice, the death penalty as a form of retribution is justified because the criminal deserves the punishment fitted to the severity of the crime he or she committed.

9. Recommendations

1. The death penalty must be abolished from laws pertaining to the security of state and classified documents, as these in my view fall within the concept political crime.
2. Justice requires that anyone committing murder to face the same, as deterrence to others.
3. When thinking of the fate of the culprit, one must not forget the victim and the family members who will suffer long lasting psychological and emotional effects.
4. Termination of all State Security and military courts, for everyone to have a fair trial before a regular civilian court.
5. Separation between the judicial and prosecution systems in Jordan and follow the system in UAE for example.
6. Preventive measures to deal the rise in juvenile delinquency which is a fertile ground to produce criminals.
7. Establishment of governmental and non-governmental agencies to provide assistance to death row inmates families, since this type of punishment extends to the families of the condemned.
8. claims of torture and humiliation must be properly investigated.
9. we find that the text of Article 17 – Penal Code - talks about the replacement of the death penalty in life imprisonment, only before the issuance of the final judgment, but in the case of text 358-(Code of Criminal Procedure ,1961)

It is after the issuance of a final judgment in the case, then the execution is carried out after three months. In this we find that the Jordanian legislator was not successful in the text and that

there is a conflict in the interest of the youngster and we recommend the legislator to amend the text to replace the death penalty with life imprisonment after the final judgment, in order to protect the fetus and take into account his interests.

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