



The Death Penalty in Egyptian Law

The death penalty is one of the oldest punishments known to humanity. In the past it was widely applied throughout the world, often involving torture and abuse of the convict before execution. Due to progress in punitive studies and the evolution of punishment's purpose, modern laws have tended to limit its application and purge it of all torture that is not part of the execution itself. Much controversy emerged – and continues – concerning death as a criminal penalty. There are two views on the issue: some believe the death penalty should be abolished, while others say it must be maintained. Some countries have abolished it, while others continue to use it.

Opponents of the death penalty – ourselves included – have several objections. The state does not grant life to human beings and thus does not have the right to deprive them of it; indeed the state is actually committed to providing individuals with protection. The death penalty does not achieve punishment's main objective, which is the convict's reform and reintegration into society. Most crucially, it is impossible to reverse the punishment if it is later proven that the convict was in fact innocent of the crime.

Supporters of the death penalty argue that it is a measure of private and public deterrence – an idea that has been proven false: crime rates do not decline in societies that implement the death penalty. In Islamic societies, supporters draw on provisions of Islamic jurisprudence, although in Islamic jurisprudence the death penalty requires the fulfillment of conditions that are extremely hard to fulfil prior to the application of the penalty. Judicial systems in these societies do not abide by the conditions set forth by Islamic law as preconditions for the death penalty.

Despite the fundamental disagreement between supporters and opponents of the death penalty, both sides generally agree that in no case should it be used for political crimes. Yet many regimes settle political disputes by fabricating accusations that are punishable by death against political opponents. Such executions are carried out without meeting the minimum standards for fair trials.

Egyptian law stipulates the death penalty for various crimes. These include crimes committed abroad that are harmful to state security, as well as some state security crimes committed inside the country: premeditated murder, deliberate homicide using poison, homicide associated with a felony or misdemeanor, and arson if it results in death; abduction of a female by fraud or coercion associated with rape, killing a person who has been injured in a war; endangering means of transport if this results in human death, perjury that has led to the execution of a person and bullying associated with premeditated murder.¹

Egyptian law also applies the death penalty for several offenses stipulated in the Military Judiciary Act, which relate to the enemy and to failing to report crimes listed in Part One of the act: entry of an enemy

¹Articles 77, 89, 230, 233, 234/2, 257, 290, 33, 251, 167, 294, 35A (bis) of the penal code

into a military location, center or institution, mistreating prisoners of war or those injured in war, sedition or disobedience, violation of service or guard duties, looting, loss and vandalism, abuse of power, disobeying orders, and escape or absenteeism.²

The anti-narcotics law stipulates the death penalty for acquiring and exporting narcotics; producing and extracting narcotics; cultivating certain narcotic plants; forming, managing or participating in a gang with an illegal purpose; possessing, obtaining or dealing in narcotic substances for purposes of trade; using a drug for conditions other than those permitted; managing or preparing a place that permits narcotic consumption for a fee; paying to use cocaine, heroin or other listed substances; fatally assaulting employed enforcers of the anti-narcotic act; and premeditated murder of an official enforcing the act's provisions.³

The anti-terrorism law cites the death penalty as punishment for establishing, forming, organizing or managing a terrorist group, or holding a leadership position in such a group; coercing another to join a terrorist group, or preventing someone from leaving a group if this coercion or prevention has fatal results; financing a terrorist group or act; seeking to or actually spying for a foreign state or any association, body, organization, group, gang or other entity based inside or outside Egypt, or with any person acting in the interest of a foreign state or any of the said entities with the aim of committing or planning a terrorist crime inside Egypt or against any of its citizens, interests, property, or the premises or offices of its missions or institutions abroad, or against anyone employed in such a mission or institution, or against any person enjoying international protection – if the offense is committed or attempted.⁴

The death penalty is also stipulated for seizing, attacking or entering by force, violence, threat or intimidation premises belonging to the president, Parliament, the Council of Ministers, ministries, governorates, armed forces, courts, prosecutors, security directorates, police stations, prisons, security bodies, oversight bodies, archaeological sites, public facilities, places of worship, education, hospitals or any public buildings or facilities for the purpose of committing a terrorist offense, and for placing devices or materials in any of these premises when such devices or materials are capable of destroying or causing harm to them or any persons present in or using them, or threatening to commit such acts, if any of the above results in a person's death; as well for committing a terrorist act if it results in a fatality.⁵

Arresting, abducting, detaining, imprisoning or depriving a person of liberty in any form, if the purpose is to compel a state authority or body to undertake or refrain from an action, or to achieve an aim or facilitate a gain of any kind, if this results in the death of a person; or making or designing a weapon, possessing such a weapon or giving one away or facilitating the acquisition of one to be used or prepared for use in a terrorist crime, is punishable by the death penalty if its use results in the death of a person.⁶

²Articles 130, 132, 133, 134, 4135, 136, 138, 139, 140, 141, 48, 151, 154 of military law.

³Articles 33 A (bis), 33 b, 33 c (bis), 33 d (bis), 34 b, 34 c, 34 (bis), 40, 41 of the anti-narcotics act

⁴Articles 12, 13 and 14 of the anti terrorism law.

⁵Articles 16, 17 and 19 of the anti terrorism law

⁶Articles 22 and 23 of the anti terrorism law

The penalty is also applied for deliberately damaging, vandalizing, destroying, disrupting, cutting or breaking a network, tower, line, building or installation of electricity, petroleum, natural gas or water, or forcibly assuming possession of any such installations if any of these crimes result in a person's death; and for attacking enforcers of the implementation of the provisions of the Anti-Terrorism Law, or using force, violence or intimidation to resist during or because of the law's enforcement, resulting in the death of a person.⁷

The manner of implementing the death penalty is set out in the criminal law, the law of criminal procedures and prison regulations law. The Penal Code stipulates that every civilian sentenced to death is executed by hanging.⁸ Military execution is carried out by a firing squad. Military orders decide how death sentence is implemented; a report of the execution is then prepared and kept in the case file.⁹

The prison regulations law and the law of criminal procedure regulate the implementation of the death penalty in 16 articles, stating that once the death sentence is final, the case file must immediately be submitted to the president of the republic by the minister of justice. The sentence is executed unless the convict receives amnesty or the penalty is commuted within 14 days. The person sentenced to death is held in prison on the basis of an order issued by the Public Prosecution on the format decided by the minister of justice until the sentence is carried out. The death penalty is executed inside a prison or another place inaccessible to the public upon a written request by the Public Prosecutor to the director general of prisons, listing the measures required by law. The prison administration must notify the Ministry of Interior and the Public Prosecution of the date and time of the execution.

The death penalty should always be carried out in the presence of a representative of the prisons directorate, a public prosecutor, a representative of the Ministry of Interior, the prison director general or his deputy, the prison doctor and another doctor commissioned by the Public Prosecution. No one other than those mentioned can attend, except upon a special permit by the Public Prosecution. The defense lawyer may attend if s/he requests to do so. The prison director general or their deputy must read the ruling of the death sentence and the charge for which the convict has been tried at the place of execution and be heard by everyone attending.

If the convicted person wishes to make statements, the prosecutor has to record them in writing. For a pregnant woman, execution is postponed until two years after giving birth. The death penalty cannot be executed on an official holiday or a religious holiday of the convict's faith. Families of convicts sentenced to death can visit them on the day prior to execution, and the prison administration must inform them of the date of execution. If the convict's religion dictates a confession or any other ritual before death, special measures must be taken to enable a member of the clergy to meet the convict. The government covers the expenses for the burial, unless the convict's relatives wish to do that themselves. The burial must take place without any ceremony. If no one comes forward to receive the body within 24 hours, it is deposited at the nearest place to the prison prepared for the preservation of bodies. If no one claims the body for seven more days, it is handed over to a university.¹⁰

⁷Articles 25, 26 and 27 of the anti terrorism law.

⁸Article 13 of the penal code.

⁹Article 106 of military law.

¹⁰Articles 65-72 of prison regulation law, articles 470-477 of penal code

As for the detention conditions, neither the prison regulations law nor its executive regulations have provisions for special treatment of prisoners sentenced to death concerning visits, clothing or food. Decrees relating to the treatment of prisoners on death row in prisons may exist, but if so they are not published or accessible. The fact is that persons sentenced to death do receive different treatment: they are held in special wards, separated from other prisoners; their families can only visit them once a month; and the prison administrations usually, in violation of the law, fail to inform families of execution dates, meaning they cannot visit the day before.