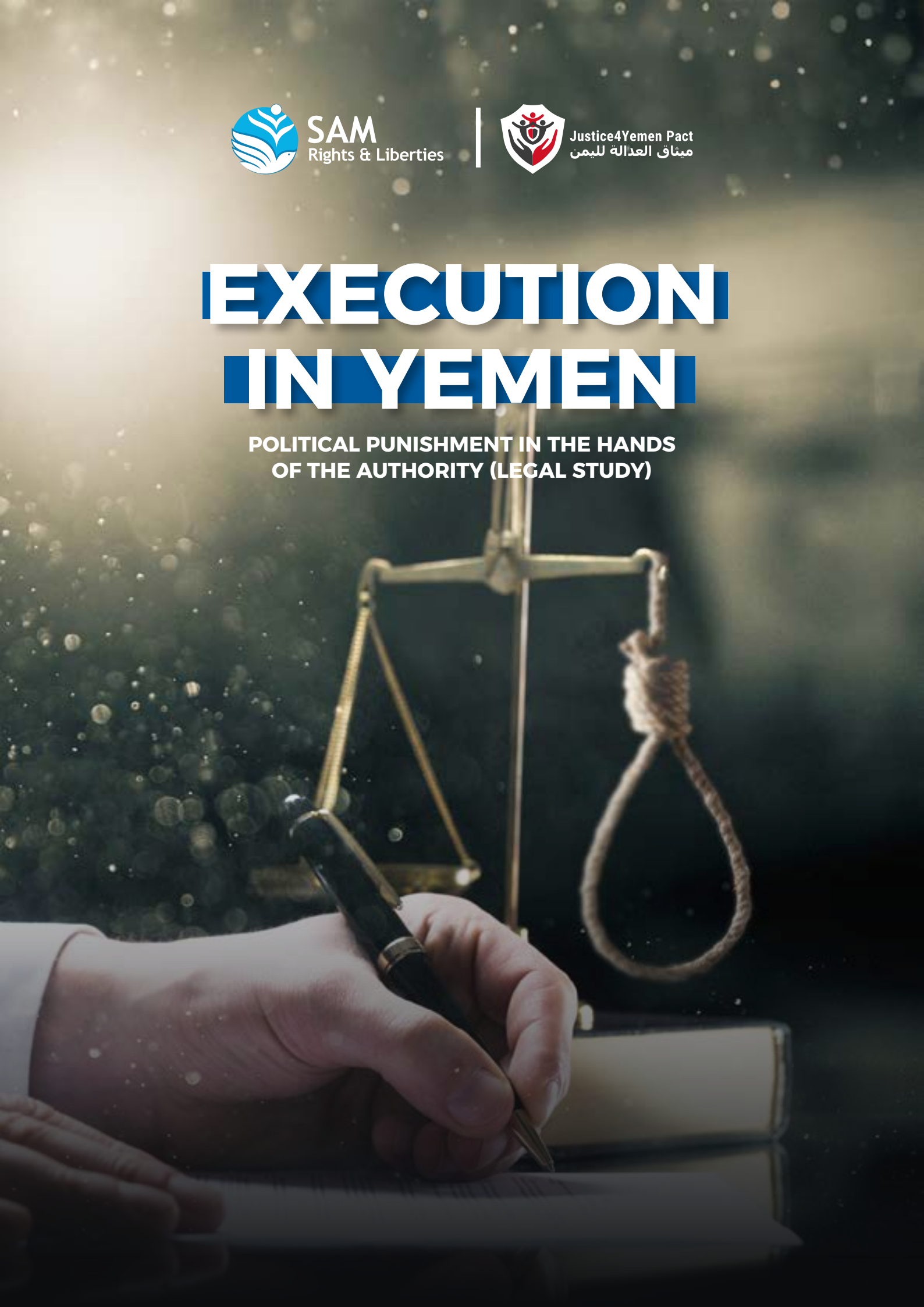
SAM
Rights & Liberties

Justice4Yemen Pact
ميثاق العدالة لليمن

EXECUTION IN YEMEN

POLITICAL PUNISHMENT IN THE HANDS OF THE AUTHORITY (LEGAL STUDY)



SAM Organization for Rights and Liberties

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Who are we

SAM Organization for Rights and Liberties

An independent, non-profit Yemeni human rights organization that began its activities in January 2016 and obtained a work permit in December 2017, seeks to monitor human rights in the Middle East and report violations crimes to decision-making institutions and influential and effective international human rights organizations.(1)

About Justice4Yemen Pact coalition

The Justice4Yemen Pact is a coalition of human rights organizations and civil society actors that are united for the promotion and protection of human rights in Yemen. The Coalition's mission is to advocate for the rights of all Yemeni people, particularly those who are most vulnerable and marginalized. The Coalition is committed to addressing the systematic human rights violations that have been plaguing Yemen through years of conflict and violence. The Justice4Yemen Pact works to empower Yemeni people to claim their rights, raise awareness of violations, and advocate for justice and accountability at local, national, and international levels. The Justice4Yemen Pact is guided by the principles of respect for human dignity, equality, justice, and non-discrimination. The coalition believes that by working together, its members can end impunity, provide meaningful support and redress for victims, and contribute to a more peaceful, just, and prosperous future for Yemen.

(1) https://samrl.org/s?l=a/10/A/c/1/U/U/%D9%85%D9%86-%D9%86%D8%AD%D9%86--

Executive Summary

The fundamental problem with the death penalty in Yemen lies in the legislative framework characterized by an extravagance in texts that include the death penalty – generally speaking. This expansiveness had its own circumstances when the law on crimes and punishments (Penal Code) was issued, whether in the dialectics of the punishment itself or in the predominance of the religious character over the drafting committee, on one hand. Moreover, the texts related to political death penalty – especially – are multiple and loosely worded, contradicting the precision and clarity required by the principle of the legitimacy of crimes and punishments and not consistent with the principle of narrow interpretation of criminal texts. This necessitates accurately defining the reality and circumstances of the death penalty, in order to foresee the future of the penalty and the limits of its possible abolition.

With this extravagance in the death penalty texts, the role of the ruling authority comes in one of two options:

- **The positive role** of the authority in rationalizing the use of punishment, which was embodied by the ruling authority in Yemen before 2015, and largely envisaged by the current legitimate authority.

- **The negative role** of the authority in the negative political utilization of the death penalty is exemplified by the de facto authority in Sana'a, which has excessively abused its power by imposing the death penalty on its political dissenters.

The nature of the authority's role is determined by two factors: first, the independence of the judiciary, and second, the extent to which fair trial guarantees are implemented.

By applying these controls to the Yemeni reality, it is possible to distinguish chronologically between two situations:

The first situation is the pre-2015 authority, which established within the framework of an integrated institutional system a broad legislative and institutional system to accommodate the mechanisms for activating these controls, that structural and organizational presence, although theoretical and insufficient, but the continuation of its work and the development of its mechanisms, especially in the transitional period (2011-2015), was enough to continue to upgrade to reach the rationalization of the sentence by punishment in the beginning, and the abolition of the political death penalty later, through the extent that was gradually expanding, whether in the independence of the judiciary or the actual implementation of trial guarantees. fair, although it follows special determinants and overlapping reasons.

The second situation: the de facto authority (the Houthi group) after its seizure of power in Sana'a in 2015, under the force of arms, and its loss of legitimacy and the lack of a clear vision for the running of the state, deliberately destroyed the material institutions of the state and the moral of the idea of the state of institutions and respect for the law, emptying with it the constitutional principles of their content, including the separation of powers and the principle of judicial independence, effectively stripping it of effectiveness and referring it to a machine to settle political scores with violators through the technique of political execution, which necessarily entails - and the case Such – the squandering of all fair trial guarantees. This is clearly evident from the review of the procedures followed by the death penalty in the trials carried out by it for violators of authority, which are recorded in the judicial rulings issued, which clearly show the extent to which the authority dares to violate international, constitutional and legal principles and the extent of subordination and subordination of the judiciary.

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Introduction

After my death, I leave a mother, a wife and a child. The first one without a son, the second without a husband, and the third without a father. Three orphans, three widows in the name of the law, I am content to be punished justly, but these innocent women what have they embraced?[(2)]

In this context, the study descends, where the concept of execution includes, in addition to being an original punishment - included in the penal law - many related connotations, we find extrajudicial executions practiced by powerful gangs or tyrannical authorities, and we find the metaphorical execution by which the practice of the tyrannical state against the rule of law and the state of institutions is described, the principle of separation of powers, the independence of the judiciary, the values of equality and the rules of coexistence. Etcetera. The approach to dealing with it is not limited to the legal dimension, but rather varies and overlaps with the social, psychological, philosophical, political, religious and historical aspect, which imposes its objective impact on the level of selection and drafting of the text, its interpretation and the determination of the legislator's goals, as well as at the level of the persons addressed by judges, ruling authority and individuals. This requires a clear analysis to clarify the boundaries of relationships and the extent and effects of influence.

Background: Due to the conflict, Yemen is governed by two authorities; the internationally recognized legitimate authority, which uses Aden as its temporary capital. The de facto authority of Ansar Allah (the Houthi group), which turned against legitimacy, seized by force of arms the capital Sana'a and some surrounding cities, and exercises a function similar to that of the government and commits many violations that, according to international reports, amount to war[(3)] crimes, making it responsible under international law and bound by international human rights standards. It also stripped state institutions of their content and referred them to tools in the service of the interests of the group, including the judiciary, which referred it to the mouth of a spokesman of its will and to achieve its interests, as well as the liquidation of violators with the death penalty, which is dominated by the political side, which calls for its members part of this study, for its excessive use of punishment at a time when the legitimate authority tends to narrow the extent of its application, as it issued only one sentence of punishment against the leaders of the Houthi coup.

(2) Victor Hugo
(3) Report of the High Commissioner, D42, 2019, paragraphs 397-402, 410, pp. 135, 141 et seq.

Study Objective

- The depth of the overlap of the data of the death penalty as a reflection of the requirements of society and the extent of its awareness on the one hand, and the legislative policy of the existing system and the extent of its interaction with its humanitarian environment on the other hand.

- A statement of the legislative reality of the penalty, which clarifies the extent of the extravagance in stipulating the harshest punishment in places that require leniency in respect of the right to life and the preservation of human life, and the expansion of the terms of political criminalization that requires the death penalty at a time when it requires restriction.

- Determine the expected prospects for the future of punishment between internal variables and international dimensions.

- The extent to which the de facto authority uses the provisions of the death penalty to liquidate violators, to serve its political interests, by stripping the judiciary of its independence and violating the guarantees established for a fair trial.

Study Methodology

The study followed a specialized legal methodology aimed at addressing the rooting of the death penalty, determining its data, the nature of the political authority's employment of it, and tracking the repercussions of that employment and its consequences. The study is based on the assumption of a relationship between the large number of death penalty texts in general, and the breadth of political criminalization texts punishable by death in particular, and the use of the political authority to liquidate its violators, through the use of the judiciary devoid of independence and violation of the principles of fair trial. The study addresses many issues revolving around the nature of the interrelationship between death sentences and the political authority and the judiciary and the limits of influence and influence between them, which can be reduced to the basic problem, which is: **How does the de facto authority (the Houthi group) use the political death penalty against those who disagree with it?**

The inductive approach and the analytical approach most consistent with the nature of the study were used, by addressing the general provisions related to the death penalty and everything related to it, analyzing the legislative texts it contains, the judicial rulings that impose it, the general context in which it was received, and how the political authority was employed through data related to the independence of the judiciary and the principles of fair trial.

The answer to the problem necessitated dividing the research paper into three axes: The first axis includes the death penalty as a punishment that raises a lot of controversy in subjective nature as well as in political employment. The second theme deals with the death penalty in Yemen by comparing its current reality with its future prospects. The third axis deals with the power of death in Yemen, which has eliminated the independence of the judiciary, which lacks guarantees of trial for death victims. The study reached many conclusions and recommendations.

The First Section: The Death Penalty

The death penalty remains a subject of constant controversy on two very important topics; the first concerns the controversy raised by the implementation of the punishment in general at the expense of human rights Paragraph (1), and the second relates in particular to the political use of the punishment by the authority to liquidate its violators, Paragraph (2).

Paragraph (1): Death is a controversial punishment (between respect for the right to life and the need to enforce the law)

The death penalty is contested by two currents, each with its own arguments and arguments: one traditional in favor of retention (first), and the other demanding abolition (second).

First: Reasons for retaining the penalty for law enforcement

The death penalty remains a deterrent to reducing crimes in society and is the most appropriate punishment for a particularly cruel and extremely serious crime such as murder or rape. The death penalty persists in 55 countries. But the question remains about the positive extent of maintaining it to reduce it, or will its abolition exacerbate the phenomenon and increase the motives for committing it? Is it possible to find an alternative to a punishment that puts an end to the life of one person who put an end to the life of another person? Although it is wrong to assume that all those who commit serious crimes punishable by death do so after thinking about the consequences rationally, but rather the crime is committed in moments of emotion when raging emotions prevail over the right or under the influence of alcohol or drugs or The impact of moments of surprise in flagrante delicto, and the perpetrator may be unbalanced, unable to control his emotions and emotions, or suffering from an intellectual or psychological disorder, and in all these cases, he does not expect to be deterred by fear of punishment from committing the crime.

Second: The requirements for the abolition of punishment in respect of the right to life

According to the modern trend of the international community, the death penalty represents a [4] violation of human rights, in particular the right to life and the right not to be subjected to torture or cruel punishment, which are guaranteed in the Universal Declaration of Human Rights. It is one of the severest, harshest and oldest[5] punishments fornot only deprivation of liberty but also life[6], the requirements of its abolition are based on many arguments, including:

Extremely cruel: described as a final, cruel, degrading and inhuman punishment that is inconsistent with human rights, and does not limit crimes compared to other punishments, including imprisonment. The deliberate killing of human beings by the State by a judicial procedure for punishment is the culmination of the denial of human rights, which is inflicted on cruel, inhuman and degrading punishment in the name of justice. The right to life is violated.

Irreversibility: The extreme danger of the death penalty lies in the fact that it is a maximum penalty that results in the end of the life of the convict after execution, so his life cannot be remedied, repaired or rehabilitated. It is impossible to go back or treat the effects and there is no way to fix or avoid the error if it occurs, whoever is unjustly or wrongly executed is impossible to restore to life, even if it is proven by conclusive evidence that the convicted person is innocent after execution. Especially since those who pass judgment are human beings prone to weakness and error, regardless of their impartiality, objectivity and experience, the possibilities of error remain, albeit in varying proportions. Even if international fair trial standards are respected, the risk of executing an innocent person remains a possibility that cannot be ruled out. in political trials.

Historically, the inability of the death penalty to reduce the criminal phenomenon: The widespread application of the penalty chronologically since the beginning of creation has not curtailed the criminal phenomenon or prevented premeditated murder.

(4) To counter the death penalty, the international community has adopted some instruments, including the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Protocol No. 6 to the European Convention on Human Rights, concerning the abolition of the death penalty, and Protocol No. 13 to the European Convention on Human Rights, concerning the abolition of the death penalty in all circumstances. Protocol to the American Convention on Human Rights to abolish the death penalty.
(5) Final and definitive eradication of the offender.
(6) Mohamed Ahmed Shehata: Execution in the Balance of Sharia, Law and Judicial Rulings, Modern University Office, 2007,

Creating differentiation between individuals: The selectivity of the death penalty is often based on social considerations related to influence, prestige and status, including class, ethnicity, or sectarian affiliation, and economic considerations represented in financial ability, the size of wealth, the nature of interests, and material and social relations, all of which hinder serious equality between the accused. Those sentenced to death are victims of that sorting and affiliations(7).

It is noticeable that the death penalty is in continuous decline, in contrast to the increase in the civil orientation of the international community towards humanizing the punishment and abolishing or reducing the death penalty significantly, this is embodied by tracking the path of abolition at the international level, when Amnesty International held its international conference on the death penalty in 1977, the number of countries that abolished it was only 16, while today it has reached 144 countries.

Paragraph (2): Death penalty for political punishment

As much as the death penalty has sparked controversy over the usefulness of its existence in general, its use by the ruling authority to liquidate its violators remains a matter of great importance, which calls for the presentation of the idea of political criminalization (first), to show the extent of the use of the political death penalty (second).

First: Political criminalization between the flexibility of the concept and the ambiguity of controls

The statement of the concept of politics and politics within the framework of what is legal does not mean a fixed content and does not disclose a stable content. This makes it difficult to separate the political dimension contained in political criminalization, because it is closely related to its composition and effects. Political criminalization overlaps with ordinary crime, making it difficult to indicate the limits of the difference between them, and in this regard it is possible to first identify political crime (A) and in a second stage to indicate the nature of the political offender (B):

(7) Tayeb Baccouche: More effort to consolidate faith in the right to life, symposium on the death penalty in international law and Arab legislation, Arab Institute for Human Rights Publications - 1996, 1st edition, p. 11.

A. Political crime:

To try to reach the concept of political crime, it is necessary to combine social interest with the protection of individual rights and freedoms. Not every aggression against the political system deserves to be considered a political crime, but must be motivated by a political goal, understood from the offender's bias towards a political principle or a certain political idea in which he believes, and therefore the crime on his part is considered a belief in this principle. Namely, relative (mixed) political crimes Being a political right and a non-political right, doubt surrounds its correct adaptation, as well as the overlapping of political and ordinary character, which differs from purely political crimes, which can be said to be criminal acts directed against the state, that is, any political act criminalized by law[8]. They affect the public interest rather than private rights, involving acts of treason, espionage and rebellion directed against the State. The concept of the state here remains under scrutiny: is it the legitimate state that represents the people or the coup authority that represents the interests of a particular group?

The close link between political criminalization and the political orientation of the ruling authority, especially in non-democratic countries, is that criminalization is directed by the authority (detailed according to the size of the authority) and as required by its interests, either through the enactment of new legislation or the adaptation of existing texts through the judiciary, to ensure the suppression and subjugation of any voice that contradicts it or limits its corruption and tyranny, which is radically incompatible with the concept of legitimate authority, the legitimacy of authority, the principles of justice and violates rights and freedoms. Determining the criterion of political crime is inversely related to the extent of freedom of opinion, expression and thought in society, as the greater the freedom, the narrower the political crime and the less its penalties and vice versa.

B. Political criminal:

The nature of the political criminal's assessment varies between sympathy and condemnation, which distinguishes him from the criminal in ordinary crimes, which provided him with a special possibility of protection, with which public opinion plays an important role in determining the reaction and the nature of the effects towards the political criminal, according to an inverse relationship between the dominant political trend (the majority) and the subject direction through; feelings of appreciation, respect and sympathy, or feelings of ostracism and derogation.

(8) - Mahmoud Najib Hosni: **Explanation** of the Penal Code, General Section, Dar Al-Nahda Al-Arabiya, 5th Edition, 1982, p. 324.

• Positive attitude towards the political death row

A political death row enters the category of criminals with passion[9]. This resulted in the emergence of the legal procedural principle at the level of international relations represented by the "principle of non-extradition of criminals for political crimes", which protects the oppressed, who are destined to be criminally prosecuted for committing a political crime, and those who are subjected to abuse from political authority in their territory. Accordingly, the majority of legislations distinguish in dealing between the political criminal and others, both in terms of mitigating crime, especially the death penalty, and the draft Arab Charter on Human Rights included in article 36 stipulating the inadmissibility of the death penalty for political crimes, as well as article 2/2 of the Siraczan draft 1986. Indeed, most international constitutions include the principle of non-extradition of political refugees, including the Yemeni constitution (article 46).

This reflects the reality of the situation in Yemeni society, which views anyone prosecuted by the de facto authority for political motives as a rebel and resistant to the illegitimate de facto authority , which monopolizes power within a racist framework, imposes a sectarian culture, practices many forms of tyranny and commits many gross violations of human rights, according to international reports[10].

• Negative attitude towards the political criminal

The problem of distinguishing between the authentic political criminal (national) and the dangerous political criminal with destructive ideas (harmful to the homeland) has emerged, taking with it a broader multifaceted dimension. With the emergence of political criminality as a global phenomenon, it led to a change in the positive view of the political criminal, as it was a symbol of sacrifice and ideals in search of a decent life for others, and sometimes groups thirsty for power or driven by personal grudges or ideological deposits or those looking for opportunities reap great personal[11] wealth and interests.. Based on this opposing view of the political criminal and political crime, he differed in the definition of concepts. Accordingly, the political criminal receives special punitive treatment, different from the rest of the criminals, whether it is lenient and gentle or in severity and cruelty.

(9) - Lambroso differentiated between the natural criminal and the emotion criminal who commits the crime if he is possessed by a sweeping emotion such as jealousy, enthusiasm or provocation, and he is characterized by extreme sensitivity that fuels his emotion and weakens his control over himself, so he commits his crime under the influence of this influence. Read more: Jalal Tharwat: The Criminal Phenomenon, First Section, University Press, 1996, p. 84 and beyond.

(10) - Report of the UN expert 03 September 2019, at the link https://2u.pw/hTXR1ioM , Human Rights Watch Report 2025.at the link https://2u.pw/W5ULyj

(11) - Abdul Rahim Sidqi: Political Terrorism and Criminal Law, Dar Al-Nahda Al-Arabiya, 1985, p. 95.

In Yemen, the de facto authority in Sana'a constitutes a minority within the framework of a wide and diverse environment, and as different as the orientations of that environment are, it is unanimous in rejecting the idea of racist, dynastic and religious authority adopted by the Houthi group. This makes the majority of the people - unlike those belonging to the group - consider anyone opposed to the ideology of the de facto authority a revolutionary and resistant, and on the other hand, the Houthi group considers him a political criminal as long as he exercises his constitutional right to expression if he objects to any of its ideological policies or actions in any way Form and at what level.

Second: The Political Death Penalty

The political execution sentences carried out by the Houthi group in Yemen are divided into two groups; the first is the total number of judgments(12) issued in absentia against the leaders of national political opponents (the legitimate president, state leaders, members of the House of Representatives and some politicians) or foreigners (starting with President Trump and others) are just show trials aimed at blackmailing or bargaining in negotiations, and the goal lies The main issue is the confiscation of the private property of those political leaders opposed to the Houthi group and the justification for the seizure of their movable and real estate funds in the cities controlled by the group. The second group is the adversarial sentencing of innocent victims of activists who disagree politically and ideologically with the group.

To the extent that the death penalty has sparked controversy regarding its usefulness or employment, it remains questionable for political crimes and a charge that negates the possibility of any statement of reasons for survival. The question arises about the political impact of the death penalty on society and the stability of the state, does it contribute to achieving the necessary reprisals and deterrence to protect society and put an end to the impact of violence and predominance in it? How can the ruling authority enjoy a sense of security and peace when it ends the lives of some of those who disagree with its orientations and those it believes are outside its rulings while it is threatened with extinction in the context of a renewed conflict? And a revolution whose flames have not been extinguished but are becoming more inflamed?

(12) The Yemeni legislature in the C.E.C. calls it "the procedures for the trial of a fugitive accused from justice", regulated by articles 285 to 295 in section III, 297, 298 in section IV and 412.

The immorality of settling political scores denies all justifications for the justice of the law, whether the sentence is implemented or not, so that the political death penalty becomes a mere tool to oppress and oppress the violator or dissent. This is confirmed by almost all the experiences of political executions in the past and present that they did not It was a solution to political differences or suppressing the voice of the violator and ending his activity, but did not achieve the goal of deterrence or reprisal, as all those who were executed - throughout history - for political or intellectual backgrounds were the day of their execution on the day of immortal's birth for their history of struggle, which became a source of inspiration and a beacon of freedom. Rather, the problem has been further complicated by involving society in the cycle of violence and counter-violence, fueling political tension and the spirit of revenge and igniting resistance to injustice, which is the most severe impact on the soul. This is all the more acute when it is exercised by a repressive authority with a political, racial, or sectarian background, which lacks political legitimacy and the legitimacy of the trial. This is embodied in the coup authority represented by the Houthi government in Sana'a as a group representing a racist faction, which discriminates between people according to race and imbues the authority with the character of holiness and divine selection, does not believe in the principles of democracy, equality, the rule of law and the state of institutions, nor is it considered a legitimate elected authority or enjoys popular consensus, but by virtue of predominance, power and willingness to die. None of the fair trial guarantees are respected. Persecution does not serve to eliminate the offender as much as it deepens and perpetuates the conflict.

The Second Section: The Death Penalty in Yemen

The Yemeni legislator has extravagant in determining the death penalty for many infinite crimes within the framework of some legislations to constitute a difficult reality that cannot be overcome Paragraph (1), which makes it a matter of research to address the prospects of addressing this extravagance with the possibility of abolishing the death penalty, Paragraph (2).

Paragraph (1): The reality of the death penalty

In order to clarify the reality of the death penalty in Yemeni legislation, it is necessary to classify the crimes subject to punishment (first), and then to specify the criminal acts punishable (second).

First: Classification of crimes punishable by death

The Yemeni legislature has provided for the death penalty as a punishment for three types of crimes (qisas, hudud and ta'zir); **Qisas crimes**: The legislator stipulates the death penalty as retribution in article 234 of the Penal Code: "Whoever kills an infallible Muslim shall be punished by death." As well as (Article 111 BC) if the death of a person results from fire, explosion, endangering means of transportation and transportation, or causing drowning and contamination with toxic substances.

Ta'zir crimes: The Yemeni legislature provides for the death penalty for two types of crimes; **the first includes crimes committed by private persons**, mentioned in articles (234, 249, 280), including crimes committed by those who have previously been deliberately killed and have been subject to retribution, and those who colluded with others to commit a crime other than murder, and those who concealed a crime of intentional murder, or the murder of a pregnant woman, an employee or A person entrusted with a public service during, because of or on the occasion of his work, The penalty shall also be the death penalty if the kidnapping is accompanied or followed by murder, adultery or sodomy. The same applies to a cuckold if he repeats it more than once, or if he consents to his wife for immorality, or to the female mahram, or to the person under his guardianship or to the person who is responsible for raising her.

The second includes crimes committed in the event of war mentioned in Articles (226, 227, 228), which included the crimes of: refusing to take up arms in front of the enemy, not using weapons, disappearing when confronting the enemy or fleeing in front of him, leaving the combat site without permission and surrendering to captivity, in addition to inciting others to refuse to carry weapons or not to use them, or inciting disappearance or escape. or to abandon the site or to surrender to captivity, whoever resists his superior and the resistance results in the death of his superior or any person in the performance of his office, and every commander in military or naval affairs handed over to the enemy before the available means of defense were fulfilled, or ordered to stop hostilities or lower the flag, or left or handed over to the enemy the ship, aircraft, weapons, ammunition, fortress, position, port, airport, or other things prepared for defense.

Hudud crimes: The legislator stipulates the death penalty for adultery, which includes adultery of the immunized or immunized person, sodomy from the immunized and sodomy from the one who is immune. and the crime of apostasy.

The Yemeni legislator placed the death penalty as an original criminal penalty at the top of the hierarchy, and tried to soften the order by giving the court the power to compensate, transfer, reduce[13] or substitute, as the case may be, or to provide the accused with mitigating circumstances and the application of the prison sentence, unless there is a legal provision that prevents this, if the court finds that the death penalty is harsh and disproportionate to the gravity of the act committed by the accused or to the degree of his criminality. It also approved the replacement of the death penalty with the prison sentence for juveniles[14].

Second: Criminal Acts punishable by death

There are many criminal acts punishable by death in Yemeni legislation through many criminal legislations, where the legislator stipulated the death penalty in 41 penal articles that included approximately 315 cases, these penal texts are distributed among each of the laws: crimes and penalties[15], military crimes and penalties[16], kidnapping and intermittent crimes[17], and combating drugs[18].

The first group included the Penal Code, which included the largest area of penal texts, which can be limited to three criminal categories, including:

Prejudice to the security of the state (sovereign and internal) includes crimes against the sovereign security of the state (article 2); Prejudice to the independence, unity or territorial integrity of the republic (article 125). and the weakening of the armed forces (art. 126). and aiding the enemy (M127). and unlawful contact with a foreign state (art. 128). The penalty is the death penalty with the confiscation of all or part of the property of the convict.

(13) - Article 109 of the Code of Criminal Procedure. If the penalty prescribed for the crime is the death penalty and is accompanied by a mitigating circumstance, the judge shall apply the penalty of imprisonment with a maximum of fifteen years and a minimum of not less than five years."
(14) - Article 31 of the Code of Criminal Justice If the offender has completed fifteen years and has not attained the age of eighteen, he shall be sentenced to not more than half of the maximum penalty prescribed by law, and if this penalty is death, he shall be sentenced to imprisonment for a term of not less than three years and not more than ten years."
(15) - Presidential Decree No. 12 of 1994 on crimes and penalties equated the death penalty with murder and considered them synonymous with article 34/1, and the same article considered it one of the punishments as punishment, retribution or punishment. M24 made it a criterion for differentiating between serious and non-serious crimes, a division that differs from the division of crimes into offences, misdemeanors and crimes in some comparative legislation. The legislator then extrapolated in stipulating them in the chapter of crimes against state security in articles 125, 126, 127, 128, 133/2, 141, 179. 226), and in the crimes of the field M227, then in the rest of the crimes articles (234, 235, 249, 259 apostate, 280 cuckolding, 307 combatant, 321 damage to money). The legislator replaced it in articles (Article 5 of imprisonment of not more than 10 years, Article 31 of the minor with imprisonment of not less than 03 years, and Article 109 of commutation of not more than 15 years).
(16) - Act No. 21 of 1998 on military crimes and penalties equated the death penalty with murder and considered them synonymous with article 6 (a), and did not consider it a ta'zir punishment but a hadd punishment or retribution, and considered it a punishment for a number of crimes in articles 6/a, 14, 15, 24, 27, 39 and 47.
(17) Articles 1, 2, 4, 5 and 7 of Act No. 24 of 1998 on combating kidnapping and banditry provide for the death penalty.
(18) Articles 33, 34, 35, 41 and 42 of Act No. 3 of 1993 on combating illicit trafficking and use of narcotic drugs and psychotropic substances provide for the death penalty.

As well as crimes against the internal security of the state (Chapter 3): Participation in an armed gang Armed insurrection if any of the perpetrators' acts result in the death of a human being (Article 133). Crimes in the field (Chapter 3) include acting cowardly in front of the enemy (Article 227).

Prejudice to the security of society (public and social danger) These include crimes of public danger (Chapter 2), fire, bombing, endangering means of transport, drowning and pollution, if they result in the death of a person (art. 141). The crimes of social danger are apostasy (article 259), cuckolding (article 280) and kidnapping with adultery or sodomy (article 249).

Prejudice to the security of persons, including premeditated murder (art. 234). Crimes resulting in death include perjury (art. 179), resistance to the boss (art. 226), warrior (art. 307 ter, fourth), damage to the property of others (art. 321).

It is noted from a review of the legislative texts that provide for the death penalty that the Yemeni legislator, on the one hand, has extravagant in determining the penalty in an exaggerated abuse of the value of human life, to the extent of violating the principle of proportionality between the gravity of the act and the amount of punishment on which criminal policy is based, as the acts (cases) punishable by death exceed three hundred cases. On the other hand, it has violated the basic requirements of the principle of legality of crimes and penalties (article 47 of the Constitution), which constitutes the backbone of the Penal Code and the safety valve of rights and freedoms in society. There are many crimes, especially those related to the security of the State, to which political execution is linked, in which the legislator has not committed to drafting the criminalization text in broad and absolute terms that accommodate many interpretations and include many images that miss the purpose for which the principle was founded. The principle is that the criminal text should specify the criminal act in a clear and precise manner so that the judge, when applying it, does not find it unambiguous or ambiguous, so that it will not be an outlaw unless the legislator intends to criminalize it.

In many texts, the legislator did not specify the conduct punishable by death precisely, but only described it in very general and broad terms, which makes it impossible to limit these acts. Examples of this are in the Penal Code only the text of (Article 125), which imposes the death penalty on anyone who commits an act with the intention of undermining the independence, unity or territorial integrity of the Republic, the text of Article (126) for anyone who deliberately commits an act with the intention of weakening the armed forces, the text (Article 227) for every member of the armed forces who acts cowardly before the enemy, and the text (Article 259) for anyone who apostatizes from the religion of Islam. It is considered apostasy by speaking out in words or actions that contradict the rules and pillars of Islam deliberately or persistently.

Paragraph (2): Possibility of abolishing the death penalty.

The evolution of the punitive policy regarding the death penalty has a high level of development and repercussions at the international level. As much as it is related to the specificity of the influence of national factors and circumstances to argue with him that the punishment can be abolished, it remains affected by the political, legislative, religious and social environment in Yemen, it can be argued that abolition is absolutely difficult. In the first stage, it is necessary to know the restrictions that limit the idea of abolition, and in a second stage, a distinction must be made between the types and cases of punishment, so that in the light of that report on each type, individually based on the reality provided by these restrictions.

Many legal (constitutional-legislative), religious and social data overlap to put many restrictions on the idea of abolishing the death penalty. The principle of the constitutionality of the state, which limits the powers of the state to the powers granted by the constitution, is one of the constraints that constitute an obstacle to any possibility of abolishing the death penalty. The text of Article (2) of the Constitution makes Islam a religion of the state, which raises many questions about the nature of this overlap between religion and state[19].. The text of Article 3 of the constitution also makes Islamic law the source of all legislation, a topic that has in turn sparked many debates[20].

(19) - For more information, see: Muhammad Abed Al-Jabri: Religion, the State and the Application of Sharia, Center for Arab Unity Studies, Beirut, 4th Edition, 2012. Abdul Razzaq Al-Sanhouri: Religion and the State in Islam, investigated by: Muhammad Emara, Al-Azhar 1423 AH.
(20) - For more information, see: Al-Nasir Al-Makni: Islam and the Constitution, Al-Atrash Complex, Tunisia, 2014. Al-Hadi Bouhamra: The Religious Question in the Constitution, Tripoli Library, 1st Edition, 2022.

The religious dimension is the one that the authority used to invoke before 2015, to respond to the continuous demands that were directed to it to abolish or reduce the penalty(21), and that the legislator did not adopt it except in the narrowest limits, which is the case of premeditated murder as a right of the guardians of blood who alone have the right to waive it, and the case of hiraba for the same purpose with the need to protect society and public order, as well as in the most serious crimes, which is the reason that opened the door wide to extravagance in providing for the death penalty in Hundreds of cases.

The social environment plays a major role in accepting or rejecting an idea, which in Yemen can be classified as a minority supportive of the idea of cancellation and a hostile environment. Looking at the components of the Yemeni environment, we find that it is determined by the main actors distributed between the authority, civil society and the majority of the people. Before 2015, the PA supported the idea of reducing punishment under the influence of international pressure exerted on it in more than one field, and for its constant attempt to appear as the embodiment of basic rights and public freedoms, so it made many formal efforts with the aim of improving its human rights image, and alleviating the pressure that was exerted on it by international and humanitarian organizations and to implement the international obligations it signed, but on the other hand, it was shackled by many religious and social restrictions, which if it had the intention However, this was subject to a complete trend to improve the human rights system that is not limited to the death penalty, which the authority was facing.

As for civil society in Yemen, which includes political parties, institutions and organizations of various kinds and their civil, human rights and cultural orientations, many of them, especially the forces with civil and liberal references, supported the idea of reducing the death penalty, and many activities were carried out to reform the legislative system in order to ensure the promotion of rights and the advancement of the exercise of freedoms. While some radical forces have continued to repeat the same discourse that is hostile to everything they believe to disagree with the legal texts or the purposes of Sharia and which enjoy an audible discourse among the general public, who constitute the majority of the people, they are governed by the conservative religious and social upbringing with the concept that the death penalty is a legitimate punishment explicitly ordered by God in the Qur'an, and therefore there is no room for acceptance otherwise.

(21) - Amin Abdul Khaliq Hajar: The Punishment of Execution in Yemen, Arab Observatory against the Death Penalty, available on www.achrs.org

This requires a lot of effort in creating human rights awareness and raising the human dimension in the matter of a dangerous punishment that entails the loss of life.

The matter was very different after the Houthi group seized power, and Yemen entered the tunnel of violence, because of which thousands of victims fell, whether in confrontations between the warring parties, or because of acts of chaos, the weak role of the authority, the massive spread of weapons, the high crime rate and the spread of impunity. All of this is a new reality that needs more studies and research to reach the status of possible treatments.

It can be said that it is difficult to abolish the death penalty in some cases, especially in the crimes of qisas and hudud because of its close link to the religious text, with the possibility of significantly reducing it outside that circle, and the possibility of abolishing it in cases of ta'zir crimes, which are not based on an explicit text in the Qur'an.

The Third Section: The Death Penalty in Yemen

It means the de facto authority (the Houthi group), which turned the death penalty into a sword hanging over the necks of its opponents in politics and thought. Since seizing power, judges have issued hundreds of death sentences against their opponents who do not agree with the group's ideology, politics or sectarian ideology, or who criticize its racist or authoritarian practices. The Houthi group has exploited a group of judges affiliated with it sectarianly, loyal to it and under its control, whom it reappointed to the specialized criminal and criminal courts to issue death sentences based on legislative texts related to state security issues. The dominance of the de facto authority over the judiciary is reflected in its total undermining of the independence of the judiciary and its transformation into a mere instrument of death sentences Paragraph (1), which is naturally reflected in its failure to observe any of the rules and guarantees of a fair trial for sentenced victims, Paragraph (2).

Paragraph (1): Undermining the independence of the judiciary.

Since independence, Yemen has made theoretical progress in the area of separation of powers, independence of the judiciary, and minimum fair trial guarantees and non-discrimination. Through a package of constitutional and legislative texts, according to which many institutions have been established and many mechanisms have been created within the framework of the judicial system related to rights and freedoms. This will be discussed in relativity (first). However, after seizing power by force in 2015, the Houthi group actually executed the crumbs of the independence reached by the judiciary, which we will address (second).

First: The relative independence of the judiciary before 2015

Before 2015, Yemen made great strides in the field of judicial organization to establish an integrated legislative system that can be built upon in the system of judicial independence. This is confirmed by paragraph 5 of Yemen's fifth periodic report submitted on 14 December 2009 to the Human Rights Committee under article 40 of the International Covenant on Civil and Political Rights[22]. Paragraph 6 of the same report also states that the strategy for judicial reform adopted organizational and legislative objectives and measures, including separating the presidency of the Supreme Judicial Council from the functions of the President of the Republic, assigning its presidency to the President of the Supreme Court, reforming the Judges Accountability Council within the framework of the Supreme Judicial Council, activating the role of judicial inspection in monitoring and inspecting the work of judges and evaluating their performance through periodic and unannounced inspections and receiving citizens' complaints and studying them at the office and in the field.

Here, it is necessary to first make an objective distinction between the actual independence of the judiciary at the de facto level, and the theoretical independence guaranteed by the constitutional and legal texts, although in practice the judiciary continues to suffer from the encroachment of the executive authority due to the traditional nature of the Yemeni[23] and Arab system of government . Second, the independence of the judiciary must be differentiated between two phases: the independence of the judiciary before 2011, and the independence of the judiciary in the transitional period between 2011 and 2015 when the Houthi group took control of Sana'a.

(22) - CCPR/C/YEM/5, Distr: General, 8 January 2010. https://2u.pw/7iSgVd3
(23) - Read more: Nabil Abdel Wasi: Governance of the Judiciary in the Arab Countries, Arab Center for Research and Policy Studies, 2024.

The first stage: the independence of the judiciary before 2011: This stage was represented in the issuance of a legislative system that accommodates the judiciary as one of the three authorities, represented by the Supreme Judicial Council, and consists of the Public Prosecution and courts, which consist of three levels. This paved the way for the establishment of specialized criminal courts.

The second stage: the independence of the judiciary in the transitional period (between 2011-2015): The specificity of the independence of the judiciary during the transitional period that followed the events of 2011, which requires mention, as it constituted a historic turning point in establishing the state of right and law and the independence of the judiciary as an authority similar to the rest of the authorities in all rights and stands at a sufficient safe distance with them, this specificity is represented in three episodes; the first was represented in the National(24) Dialogue Conference The resulting advanced perceptions of building the modern Yemeni state, and the second in the draft federal constitution of Yemen,(25) which allocated to the judiciary sufficient comprehensive texts that guarantee the reality of its independence (articles 206, 213, 214). The third is the ruling of the Constitutional Chamber of the Supreme Court(26) on the unconstitutionality of a set of provisions of the Judicial Authority Law(27) that affect its independence, especially those that were a tool for the intervention of the executive authority in the work of the judiciary through the competencies entrusted to the Minister of Justice. After that, the judiciary becomes an independent institution in theory and subject to the authority of The Supreme Judicial Council alone,

The flexibility that characterized the authority in dealing with the political opposition forces is evident through direct dialogues that took many forms, as well as the authority's attempt to reconcile conflicting interests and amicable settlements agreement to many of the problems that arise between them, and the space for freedoms, which was steadily expanding, embodied in the freedom of publication and the press, the wide spread of newspapers and parties, the activity of associations and organizations, and the high ceiling of freedom of expression and criticism without caveats, even if it is translated by the saying (Say what you want and I will do what I want), the opposition says what he wants, but the authority actually implements what it wants and what achieves its interests.

(24) - https://www.ndye.net/ndcoutputs
(25) - https://www.ndye.net/constitution-draft
(26) - Issued on Sunday, 16 Rajab 1434 AH corresponding to May 26, 2013 AD in the case registered in the schedule of the Constitutional Chamber No. (20/23) of 1434 AH.
(27) - The unconstitutionality of articles 8/b, 11, 16/b, 34, 39, 45, 54, 59, 65/b-c-f, 66, 67, 68, 69, 70, 71, 72, 73, 85/b, 89, 90, 91, 92, 93, 94/3, 95, 97, 98, 99, 101, 104, 106, 109/f, 111/2, 115/2, 118/1 and 143 of the Judicial Authority Act No. 1 of 1991

Looking at the factual data of political trials before 2011, we find that there are limitations of political trials that suggest that they are not used by the authority as a means of settling political scores, as before 2011 there were three events that resulted in political execution trials.

The first event: following the military coup carried out by the Yemeni Unionist Vanguards Organization, on October 15, 1978, less than three months after Ali Abdullah Saleh assumed the presidency of the country. After the failure of the coup, there were numerous arrests, mass[28] executions and enforced disappearances. The participating military personnel were tried in the field, executed, and the civilian leadership was presented to the State Security Court, which issued death sentences against 12 of them, without guaranteeing any right to defense, and were predominantly vindictive trials, and the sentence was carried out. The thirteenth defendant was sentenced to life imprisonment. The remaining 67 defendants were pardoned on November 8, 1978 and released[29]. Then the trial of Abdullah al-Asang, the foreign minister, in 1981, who was sentenced to death for planning a coup against President Saleh, but the death sentence was not carried out.

The second event: After the 1994 war, in which the southern leaders (list of 16) were tried, before the North Amanat Al-Asimah Court, which sentenced five of them to death, which is said to have not guaranteed the rights of defense, although the trials were in absentia predominantly of a political nature. They were pardoned by the presidency on 21 May 2003.

The third event : After the state's wars against the Houthi rebellion in Saada, some trials were held against activists from the Houthi group (Judge Yahya Al-Dailami was sentenced to death on charges of espionage and was pardoned and released - 2006), or from human rights activists and journalists in the opposition, who were guaranteed some defense rights and violated some other rights, within the framework of hit-and-run operations that are predominantly civil and legal in nature, with the difference in capabilities that naturally tended to favor power.

The death penalty at that stage, in addition to the exclusivity of political death sentences, was also predominantly non-executed, and those covered by them were pardoned.

(28) On October 27, 1978, 11 military leaders of the coup were executed, 10 civilian leaders were executed on November 5 , 1978, and a presidential pardon was issued for the rest of the 67 defendants on November 8, 1978.
(29) - https://www.albayan.ae/one-world/2005-11-01-1.112941

Second: The execution of the Houthi group for the independence of the judiciary

The Houthi group executed the independence of the judiciary and referred it to an executive body that follows the authority of the group that orders it and implements its agenda, this is evident through the manifestations of the absence of independence (A), and its consequences (B).

A. Manifestations of lack of independence

The Specialized Criminal Court, which has issued[30] [31] [32]nearly 150 death sentences on 350 convicts, for political motives[33] against its violators[34], is [35]competent to issue judgment in cases with a political background in the Yemeni judicial system, although all stages of criminal litigation are subject to the rules prescribed for crimes in general. From the moment of arrest until the moment of execution, it remains the subject of legal controversy, especially in its jurisdiction in cases of a political nature, in a way that does not guarantee the appearance of the accused before his natural judge[36], and in a way that violates his expectations. The independence of the judiciary specialized in political execution, represented in the availability of the conditions of autonomy (1) and impartiality[37] (2), are not achieved:

(30) - It was first established by Presidential Decree No. 391 of 1999 with a view to combating terrorism and acts of sabotage, followed by Act No. 8 of 2004 on its jurisdiction over crimes against State security, and by Supreme Judicial Council decision No. 131 of 2009, some of its competencies were amended. Which practically stopped its activities since the coup and the Houthi group reactivated it after the killing of Saleh in December 2017.

(31) - The Houthi group runs the Specialized Criminal Court in Sana'a, which sentences thirty academics and political figures facing trumped-up charges, including espionage, following fundamentally flawed legal proceedings. Amnesty International, 09/07/2019: https://2u.pw/mynnfBH

(32) - For more: Study of the Courts of Abuse, Mwatana, September 2021, p. 65 and beyond.

(33) - https://2u.pw/80360f2z

(34) - Issuing the judiciary of the Houthi group against their political opponents, starting with the President of the Republic (Abd Rabbu Mansour Hadi) and the American President (Trump) ... Passing through the president and members of the government and parliament, the military (the list of the Minister of Interior and 75 military leaders), activists, media and... All the way to the street vendor on the main street (Aqbat Abdel Nasser). The case of the 36, 31 of whom were sentenced to death on charges of espionage with a foreign country, the case of the ten journalists (Abdul Khaliq Omran and others), the case of the 22 (Khadim Zuhri and others), the case of the 13 (Ahmed Al-Qatta and others, in which the death penalty of: Fahd Al-Salami, Sadiq Al-Majidi, and Khaled Al-Alfi), the case of the 13 (Mujahid Forum and others), the death sentence of journalist Abdul Raqib Al-Jubaihi, the death sentence of Asma Al-Omeisy, who is the first woman sentenced for political motives. Death sentence for the list of 11 (Muhammad al-Maliki, Dr. Ali al-Shahadi, Hanan al-Shahadi, Altaf al-Matari, Najib al-Baadani, Samir al-Ammari, Essam al-Faqih, Abdullah Muqrish, Nabil al-Ansi, Abdullah al-Khayyat, and Abdullah Sorour), the 12 list (the death of Mujahid al-Qarah, Omar al-Zumar, Azi Saifan, Fadel al-Humaidi, and Himyar Rajeh), Hamid Haidara, a member of the Baha'i community, sentenced to death for treason, Muhammad Hajar sentenced to death for aiding aggression, Abdullah al-Marri was sentenced to death, Abd al-Rahman al-Shaibah was sentenced, Muhammad Hadi Zafer was sentenced, Saleh Suleiman was sentenced, Abdul Majeed Alous - the rule of Gibran the sea ... Etcetera.

(35) Nineteen figures from the Islah party (including Salem Dael and Mohammed Hilal), 11 members of the General People's Congress (Hanan al-Shadhi and Altaf al-Matari) and 30 political and academic figures (including Youssef al-Bawab and Nasr al-Salami) were sentenced to death. and 35 members of the House of Representatives.

(36) - On April 11, 2020, the Specialized Criminal Court in Sana'a sentenced four journalists (Abdulkhaleq Omran, Akram Al-Walidi, Harith Humaid, and Tawfiq Al-Mansouri) to death on charges of (espionage, spreading rumors, fabricating news, publishing hostile statements), who were imprisoned in 2015, and brought to trial in December 2018, and the first session of the trial was held on December 9, 2019, their lawyers were allowed to attend the first session only, and then they were prevented from attending the rest of the sessions.

(37) - Tomas M. Frank, Gregory H. Fox, International law decisions in national courts, International publishers. Inc, New York, 1996.p.17.

1. Lack of autonomy:

Independence means the absence of subordination, preventing the interference of others (authority - person) in the judiciary, and leaving the judge free to issue his judgment without control over him in his judiciary except for his conscience when applying the law. This requires a distinction between the independence of the judiciary as an authority and the independence of the judiciary in the context of the case[38]. The judiciary is seen as an authority equal to other authorities, with its commitment to non-interference in its affairs and the need to provide a decent life for its members.

The principles of independence can be divided into three groups; the first is a competent, independent, impartial and impartial court[39] formed by law that undertakes the judiciary in achieving justice and fairness without restrictions, influence, seduction or pressure, and whose jurisdiction and provisions are respected by all components of the state. Second, the state provides sufficient capabilities to enable the judiciary to manage its functions financially and administratively in a way that prevents it from being subject to others, protects it from need, provides it with safety and tranquility, freedom of expression of its conviction, the formation of their own associations, the defense of their interests, and the protection of Their judicial independence. Third, the application of proper legal procedures before ordinary courts without exception, summary procedures, ensuring the fair conduct of procedures, respecting the rights of litigants, procedures for selecting and appointing judges according to transparent and clear criteria, standards of competence and integrity, and guaranteeing all fundamental rights.

2. Loss of neutrality:

It means stripping of personal emotions and self-interests so that the judge's decisions are objective, so that the judge is not an adversary in the case. Dismissal without prejudice, restriction, influence, inducement, pressure, threat or direct or indirect interference from any party and for any reason[40]. There is no stakeholder in it[41], and the lack of a prior opinion in it or its parties, neutrality that is not created by chance, but is acquired through training and practice.

(38) - Mahmoud Najib Hosni: previous reference, p. 784.
(39) - Article 10 of the Universal Declaration of Human Rights, Article 14/1 of the International Covenant on Civil and Political Rights.
(40) - Second Principle of the Basic Principles on the Independence of the Judiciary, 1985.
(41) - Hatem Bakkar, Protecting the Accused's Right to a Fair Trial, Manshaat Al-Maaref, Alexandria, 1997, p. 116.

In order for a judge to be independent from within, he must be imbued with a culture of human rights, which reinforces his behavior derived from it, in integrity, impartiality, selflessness, and support and guarantee of rights and freedoms. That culture that must pass through the social framework in which the judge lives and the nature of the study received by a student at school, a student in the Faculty of Law and an assistant at the Judicial Institute, which must be in line with a social and political culture based on respect for the sanctity of human rights, as a lived reality that must be respected and not a theoretical luxury that can be studied, and here we find the vast gap and the abyss between what should be and what exists under the control of the Houthi group over the judiciary. And replace the culture of death and the annihilation of the violator in all other courses with the culture of human rights. This is what we see from the saturation of some judges with the culture of death and its prominence in the reasoning of death sentences on political charges.

B. Effects of the absence of independence

It is a recognized principle that the judiciary can only issue fair judgments if it is autonomous and independent of the influence or interference of other authorities. This is theoretically regulated by the text of article 149 of the Constitution. However, the authority of the Houthi group has gone beyond the hidden directive to direct management and has gone beyond exerting pressure to violations, as independent judges who are not loyal to the group are subjected to harassment and assault of all kinds, from verbal abuse and kidnapping(42) to incitement of criminals and unruly to murder(43) and direct killing under torture(44), intimidation and arrests for political and security backgrounds and personal interests of the influential, and many systematic violations, with which judges and prosecutors are forced to exercise self-censorship during the performance of Their judicial functions to avoid prejudice to the interests of power groups.

(42) Judge Abdulwahab Qatran was arrested from his home and detained by the Houthi group and prevented from communicating with his relatives.
(43) - Judge Mohammed Ahmed Hamran, a member of the Supreme Court, was kidnapped and killed in the center of the capital, Sana'a. Judge Khaled al-Athuri, head of the Commercial Court in Amanat al-Asimah, was attempted to be killed, and he was seriously injured.
(44) - One of the judges was killed under torture in Houthi prisons without trial. A judge was forcibly abducted for six months without charge, brought before a court, and tortured to extract his confession.

It also suspended the salaries of judges, for political motives that provide fertile ground for the corruption of powerful power gangs and the targeting of opposition and honorable judges to undermine the independence and integrity of justice(45), but the de facto authority in Sana'a went to violate the principle of separation of powers and the independence of the judiciary by making comprehensive appointments to those affiliated with it in non-standard ways, and subjecting the work of judges to political control by forming a parallel entity to supervise the work of the judiciary under the name of the "justice system" whose presidency was entrusted to the head of the Houthi group, exerting pressure and abuse on judges and imposing Its political dictates to them through it in an explicit and crude targeting of constitutional and legal texts. The Houthi group's authority has also worked to dismantle the judiciary and strip it of traditional guarantees of independence, manifested in many manifestations, including

- Forming the judicial system that effectively supervises the work of the judiciary.
- Reconstitute the Supreme Court, its affiliated departments, the Public Prosecution Service and the Judicial Inspection Authority on a racist basis for elements belonging to and loyal to the group.
- Formation of specialized criminal courts/prosecutions that hear serious criminal cases related to public affairs and trials of a political and intellectual nature, terrorism and economic issues.
- Selection of new entrants to the judiciary and employees of the Public Prosecution Service selected to study at the Higher Institute of the Judiciary on a racial and discriminatory basis, the exclusion of national competencies and criteria of equality and preference, as well as the exclusion of women from joining the judiciary.

Stripping the judiciary of its independence entails the continuation of more systematic violations, especially since impunity in Yemen is a major reason for the continuation of the conflict and the commission of more violations, and at the same time as a result of the conflict situation that escapes legal, moral and ethical restrictions.

(45) - Report of the High Commissioner, 45th Edition, 2020, paragraphs 357, 358, 360, 361, pp. 104, 105.

Neither the international community nor national parties are prepared to hold perpetrators accountable for the crimes, violations and abuses of human rights in general that they have committed, even though international human rights law and international humanitarian law contain obligations to investigate them and hold the violator individually or collectively responsible, whether he is a material actor (direct or contributor, assistant or instigator) or a moral actor (an authority that is issuing the order, knowing about it, presumed to have knowledge or refraining from doing what it must do), and bringing the perpetrators to the Justice and provision of full and effective reparation to victims. When considering violations committed by the judiciary of the authoritarian authority, a distinction can be made between three judges: the judge who rejects the violations, the judge who participates in the violations (who is affiliated with the totalitarian authority), and the negative judge who refrains from condemning the violations, as long as they are brought before him, and who could take a position that embodies and triumphs over those rights.

Paragraph (2): Lack of trial guarantees for death penalty victims

The right to a fair trial is guaranteed by all international conventions, both related to human rights (article 10 of the Universal Declaration) and international humanitarian law, the International Covenant on Civil and Political Rights is the main tributary of the right of the accused to a fair trial(46), which Yemen signed on February 29, 1987, and applies to the conflict in Yemen as a non-international armed conflict, article 03 common to the Geneva Conventions and article 6/2 of Additional Protocol II. This obliges the authority of the protective order to abide by all guarantees, whether they are clear before the trial (first), or the guarantees necessary for the death penalty sentence described (II).

First: Lack of Pre-Trial Oversight

The judiciary is considered the main guarantor in the protection of rights and freedoms, and this protection is not limited to the direct undertaking of the judiciary to hear cases during the trial stage, but includes the stage preceding it, starting from the moment of arresting persons, where the judiciary has the duty to monitor the validity of the measures taken at that stage (1), so that it can arrange the effects of monitoring those violations (2).

(46) - Most regional documents stipulate the right of the accused to a fair trial, article 6 of the European Convention on Human Rights. Article 8 of the American Convention on Human Rights. Article 8 of the Arab Charter.

A. Duty of judicial oversight of pre-trial proceedings

The judiciary is responsible for monitoring all pre-trial acts since the person's arrest and respecting guarantees of retention, in particular protection from torture. The preliminary pre-trial research consists of the procedures carried out at the stage of gathering evidence and investigation carried out by judicial officers from the time of the summons to appear or the moment of suspicion and arrest of the detainee, until the moment of completion of the execution of the sentence against the convicted person. Oversight of all these measures is imposed by constitutional principles because they directly affect the fundamental rights and freedoms of persons. In particular The presumption of innocence , respect for bodily integrity, personal freedom of movement, expression and thought, and confidentiality of communication and correspondence, so that if a person is suspicious, any of these fundamental rights must be investigated, otherwise the trial will be based on a null and void basis, according to the text of Article 50 of the Constitution. Judicial officers are basically not authorized to take any action without the permission of the Public Prosecution, except in flagrante delicto.

The violations amounted to the violation of physical inviolability,(47) so that the accused is subjected to extracting confessions from him under duress, which may gradually lead to torture of the material and moral quality, whose effects may or may not appear. This requires the judge to give it sufficient attention and scrutiny, considering it an infringement on the sanctity of fundamental human freedoms. Considering that it affects fair trial standards in two respects, the first is related to the violation of a fundamental right, namely physical inviolability and the prevention of torture (Article 48/b Constitution) The second relates to the value of evidence (confessions, statements) extracted under penalty of coercion or torture(48), so that these acts cannot be relied upon as a presumption of proof of guilt (article 50 of the Constitution), but rather that the Constitution, the law and fair trial procedures require their invalidation and consideration in the rule of non-existence.

(47) Report of the High Commissioner, D36, 2017, paragraph 68, p. 18.
(48) - In all trials, the defense demanded the realization of this right and the court did not pay attention to it.

B. Effects of Judicial Oversight of Pre-Trial Violations

The intended effects of judicial oversight are to verify the violation of the rights and freedoms of the detainee, and then to determine the guilt of the perpetrator and the invalidity of the evidence associated with it. The fact that torture is the salient feature of the pre-trial phase, which is evident from the majority of rulings issued by the courts of the Houthi group's authority. To condemn and criminalize torture(49), it is essential to ensure a prompt and free investigation regardless of who is notified, and to be protected. which, if proven, has two consequences:

The first consequence is that the torturer is referred to trial. For the responsibility of the judicial officer when he breaches his duties and fils a criminal case against him (Article 85), and the consequent revocation of the capacity of judicial seizure from him, his removal from office, and his sentence according to the crime committed against the victim. Which may not be invoked with any of the excuses or claim to receive orders or justify it in any exceptional circumstances whatsoever, whether circumstances of war, threat of war, internal political instability, or External aggression or any public emergency. The authority may assume its responsibility for such practices, especially in awarding compensation that the accused of torture is unable to pay once sentenced. In principle, the abuse of authority and torture, although ostensibly an individual responsibility for which he bears direct responsibility and who participates in torture, is the functional framework of the authority that facilitates and helps torture.

The second consequence is that the judiciary does not cite evidence extracted from defendants under torture. Not as a right of the victim, but as a duty guaranteed by the State in accordance with Article 15 of the Convention, Article 12 of the United Nations Declaration on the Protection of Persons from Torture issued by the United Nations General Assembly, according to the rule that what is based on falsehood is invalid(50).

(49) - A principle affirmed by article 48/b of the Constitution to prevent torture (physical, psychological), and confirmed by article 13 of the Convention against Torture.
(50) - Article 402 of the Code of Criminal Procedure: "Determination of the invalidity of any action that includes the invalidity of all its direct effects, and such invalidity shall be corrected whenever possible from the last valid action."

Second: Absence of guarantees of the death penalty

The trial stage is considered one of the most accurate and dangerous stages of the criminal case, as it has entered its decisive stage, which must be legal, fair and just regardless of the gravity of the crime committed or the capacity of the perpetrator. However, the de facto authority stripped the government of all guarantees, in flagrant violation of international and national provisions on peace and war(51). In addition to the guarantees granted to the accused in all criminal trials in general relating to trial (A), the legislator singled out cases in which the court imposes the death penalty with special guarantees relating to the implementation of the death penalty (B).

A. Trial Guarantees:

There are many guarantees during the course of the trial and the issuance of the verdict, as they must ensure to the accused all the guarantees related to the basic principles and rules of criminal procedure necessary to ensure the right of the accused to defend himself effectively(52). At the top of these principles is the following:

The principle of legality: a constitutional principle(53), which stipulates that there is no crime or punishment except by a legal text, issued by a democratically elected legislative authority. Here, the relationship between democracy as a political system (as opposed to the power of coercion and tyranny) and the right to a fair trial as a legal principle linked to human rights appears. That meet the requirements of legitimacy are the only rules issued by society and expressing its conscience, which are embodied through the freely and fairly elected parliament in a free democratic society, for there is no legitimacy without democracy(54), and no democracy without free institutions that express the conscience of society(55). Doubt is interpreted in favor of the accused and the presumption of innocence and the various guarantees that it derives from in the field of proof, such as the defendant's failure to prove his innocence and the conviction of conviction.

(51) According to article 4 of the International Covenant, the right to a fair trial is not derogated from even during an emergency emergency, in particular article 6 on the right to life, as confirmed by the Human Rights Committee. General comment No. 29: Article 4 (Derogation from the provisions of the Covenant during states of emergency), Human Rights Committee, seventy-second session - 2001 https://2u.pw/2LmzfKu

(52) - For more information, see: Alaa Mahmoud El-Sawy: The Right of the Accused to a Fair Trial, PhD thesis, Faculty of Law, Cairo University, 2001, p. 5.

(53) - Article 47 of the Constitution stipulates that "criminal responsibility is personal, and there is no crime or punishment except on the basis of a legal or legal text." It is stipulated in article 11 of the Universal Declaration and article 15 of the Special Covenant.

(54) - Mohamed Nour Farhat: The Right to a Fair Trial in the Arab World, Arab Institute for Human Rights, 1st Edition, Tunisia, 2004, p. 11.

(55) - Nabil Abdel Wasi: Protection of Civil and Political Rights by the Judiciary, Arab Organization for Constitutional Law, June 2002.

The principle of publicity and orality These rules are linked to public order and may not be waived even with the consent of the litigants, and have close contact with other procedural rules(56). Knowing that most of the trials of the Houthi judiciary are secret and no one attends, but the matter reached the holding of secret trials that are not even known to the relatives of the victim's blood, but they were surprised by the issuance of a death sentence on defendants who have nothing to do with the incident, including the case of the murder of Dr. Ahmed Sharaf al-Din.

With regard to guarantees of the right to defence, which is an essential element of a fair trial, embodied in the principle of presumption of innocence(57), equal treatment without any discrimination whatsoever, the accused's knowledge of the charges against him, and their evidence, in a language he understands, to draw the boundaries of the case in order to restrain the court and so that he can defend himself and refute what has been brought against him, the right to counsel, to hear and question witnesses, Not to force the accused to testify against himself and is accompanied by the right of the accused to remain silent, and to abide by the limits of the case, both in kind and personally

B. Guarantees of execution:

Safeguards for the implementation of the death penalty can be classified into two types: substantive and procedural (formal) guarantees.

Substantive guarantees of the implementation of the death penalty

The principle of Yemeni law is that penal sentences are executed immediately after their issuance by the Public Prosecutor's Office, unless their execution is suspended by the higher court, with the exception of the death penalty, which the legislator has reserved(58) for special rules(59), in addition to certain guarantees that extend from the time the death sentence is issued until its execution, including:

(56) Article 396 Any measure contrary to the provisions of this Act shall be null and void, as the Act expressly stipulates that it shall be null and void or if the procedure that has been substantially violated or omitted.
(57) - Consecrated by Article 11 of the Universal Declaration of Human Rights
(58) - Article 470 C.E.C.
(59) - Regulated by the legislator in articles 477 to 492 C.E.C.

- Obligation to appeal the death penalty sentence: If the verdict is issued in the presence of crimes punishable by death, the Public Prosecution, without stopping to appeal it by the parties, must submit the case to the Court of Law (Supreme Court) with a memorandum of opinion, and the Court of Law is not satisfied with verifying the validity of the application of the law - as this is the original(60) - but may in this case address the subject matter of the case (61). If the case is brought before the Supreme Court (the law) is not an additional guarantee, as it is not limited to the death penalty only, but is a right established for all parties, as is the case in other cases not sentenced to death. However, the change of the function of the Supreme Court from a court of law to a court of first instance is one of the objective guarantees of the convict.

- Suspension of execution in crimes punishable by death during appeal by guardians or the prosecution, contrary to the original, where the appeal before the Supreme Court does not result in the suspension of the execution of the sentence unless the judgment is issued in qisas or hadd(62) punishment. The submission of a petition for reconsideration to the Public Prosecutor shall not result in the suspension of the execution of the sentence unless it is issued by death, hadd punishment or retribution(63). the freedom of proof sufficient to form the judge's belief, and the unanimity of the judges' opinions on the verdict(64),

- Prohibition of execution on juveniles and pregnant and lactating women: The Yemeni legislator does not consider a young person who has not reached the age of eighteen to be fully criminally responsible when he commits the crime, but rather considers this a mitigating circumstance. For more guarantees In the event that the age of the accused is not verified, especially in the absence of administrative documents that can be certified, the judge shall assess it with the assistance of an expert(65). The death penalty is also postponed in the cases of pregnant women until they give birth, and breastfeeding women until their newborn is breastfed in two years(66).

(60) - Article 431 of the Code of Criminal Procedure: "The Supreme Court shall supervise the courts in their application of the law and shall not extend to the truth of the facts that the court issuing the judgment was satisfied with or to the value of the evidence on which it relied to prove."
(61) - Article 434 of the Code
(62) - Article 450 C.E.C.
(63) - Article 460 M.E.C.
(64) - Some legislation requires the unanimity of the members of the jury to pass the death penalty. As for Yemeni legislation, this is not required, because most governing bodies are individual.
(65) - Article 321 of the Code
(66) - Article 484 C.E.C.

Formal guarantees of the implementation of the death penalty

Formal guarantees are represented in some forms, including: **Ratification of the Head of State**: Article 123 of the Yemeni Constitution stipulates that the President of the Republic ratifies the execution of the death sentence, which is confirmed by the Code of Criminal Procedure in article 479, and the refusal of the President of the Republic to ratify the death sentence, which has become one of the guarantees of non-execution. It is a constitutional right to the possibility of pardon or commutation of sentence. A general (comprehensive) or special pardon may be issued by the President of the Republic (art. 539 BCE). As happened in the case of a coup d'état 1978, and the list of 16 after the 1994 war, against whom a presidential pardon was issued, is required to limit the presidential pardon issued by Saleh in addition to the political death sentences issued during Saleh's days.

Non-execution on holidays: The Yemeni legislature prohibits the execution of the death penalty on official or private holidays for the convicted person (art. 484 M.E.G.).

Executors: The heirs of the victim or the plaintiff shall be notified to attend the execution of the death sentence, and the relatives of the person sentenced to death may meet the person sentenced to death on the day appointed for the execution of the sentence, provided that this is far from the place of execution (Article 482 of the CEG). The execution shall be carried out in the presence of a member of the Public Prosecution, the investigating clerk, the prison warden and the prison doctor or other doctor delegated by the Public Prosecution. The heirs of the victim or the plaintiff may be present in person, as well as the representative of the defence of the convicted person. The operative part of the judgment issued for the penalty and the charge shall be read at the place of execution in earshot by those present and a record shall be drawn up with the statements of the convicted person. The execution shall be carried out by firing squad to death without torture.

The possibility of pardon: As for the opportunities for pardoning the convict when executing the death penalty by paying blood money or pardon without compensation, they remain available until the morning of the day of execution if it takes place in the penal institution, but if the execution takes place in a public square, the possibility of pardon remains available until the moment of execution, where the presence of philanthropists and donors (the necks) to convince the guardians of blood to pardon and waive the execution[67].

(67) - My memory preserves an almost unforgettable scene for a moment of pardon in which the guardians of blood waived upon execution and after the convict was taken out for execution, in a majestic scene that was replaced by a square dedicated to the execution of the death penalty in the city of Taiz (Sina Dam - Al-Mudhaffar District - 1999).

The End

The research started from the main problem that revolves around how the de facto authority (the Houthi movement) uses the political death penalty against those who disagree with it? Based on the hypothesis of the study, through which it was confirmed that there is a direct relationship between the legislative extravagance in the provisions of the death penalty in general and the broad criminalization texts punishable by political death in particular, and the political authority's use of that legislative defect in liquidating violators, through the use of the judiciary, which the authority stripped of all manifestations of actual independence and referred it to a mouth that pronounces death and a sword hanging over violators, and the resulting total and systematic violation of the principles of fair trial. The study reached several findings and recommendations.

Results:

The results relate to the death penalty, political execution, and fair trial:

With regard to the death penalty:

The incoherence of the reasons for maintaining the requirements of the abolition, as a result of the fact that it is a very harsh punishment whose scope of action is difficult to control and avoid its effects, confirms the global trend to reduce it within the framework of the humanization of punishment and the sanctity of the right to life. No matter how fair the death penalty calms the instinctive feelings of the guardians of blood, it does not serve the cause of justice and dignity, and the dignity of the victim may be better protected if revenge is excluded. Providing psychological support to victims and financial compensation also contributes to giving them a sense that justice can I realized that personal revenge is not necessary and will not add anything new.

The subject of the great punishment must be discussed in the light of the values, realities and specificities of each society. Also, this position, embodied by the Yemeni legislator, does not negate the existence of a strong will that pushes for calm and sober reflection and reflection on the issue of the death penalty, which is difficult to abolish legally, it can be effectively frozen, which was done before 2015, and perhaps the reflection of this is reflected in the strong indications of many indicators, including; The non-application of the death penalty in Yemen since 1979 until The Houthi group controls the repeated presidential pardon initiative against those sentenced to death until it became customary.

Political death sentences are limited to a total of approximately four (coup d'état of 1979 and 1980, war of secession in 1998, and case of al-Dailami in 2006). Recording a kind of judicial deliberation in pronouncing this punishment. The active presence of the subject at the center of the concerns of actors in criminal policy at the official level and civil society organizations.

It can be said that by a comprehensive reading of the Qur'anic verses related to the right to life as an asset and the death penalty as an exception in the light of the legitimate purposes between the greatness of the human soul and the protection of society, and in view of the harsh nature of the death penalty, as an irreversible eradication of life, it dictates that its scope is limited to the most serious crimes, and it remains a very limited punishment, which is sentenced only in extreme cases, and the crimes that require it may be crimes of assault on life only, while crimes against the security of the state of order, law and institutions There is no illegitimate authoritarian state, with less serious punishments, because of the great difference between them. If the judge is merely suspicious of any of the evidence, the judge must invoke extenuating circumstances to avoid pronouncing the death penalty. The head of state must also make his pardon power a means of avoiding executions in cases other than those in which the interest of society is certain. The death penalty must also be accompanied by effective safeguards to ensure the reassurance of its imposition, including a moratorium on the execution of the death penalty for a sufficient period of time after the sentence has become final, so that the lapse of this period ensures that no new evidence emerges that may indicate the innocence of the death row.

With regard to the political death penalty:

The ambiguity of the concept of political crime, and its subordination to the discretion of the law of force in the absence of the authority of the force of law. To remain the means of abusing the authority against its violators, through the broad criminalization provisions that define the acts that constitute them. This created great popular sympathy for those sentenced as rebels resisting the tyranny of an illegitimate authority with a racist dimension. The pre-2015 judiciary pursued a policy of reducing the death penalty or its execution to a large degree that can be reduced to four cases. Which means that there was an implicit tendency to reduce them.

The presidential pardon of power also played an important role in rebalancing political life. In a way that can be concluded that the development was moving towards the de facto abolition of this punishment in the political framework, gradually reducing it. The renewal of the sentence issued after the question of the legislative abolition of this punishment intensified, in light of the current international situation, against the backdrop of the increase in terrorist crimes and the rise in organized crime.

The gradual reduction of the death penalty was necessary in reaching the idea of abolishing, excluding children and women, compensating victims, criminalizing political executions, abolishing exceptional courts, introducing preventive mechanisms, and raising community awareness, all of which helped to a large extent in consolidating the idea of respect for human rights and the human right to life. However, the setback suffered by these rights in Yemen by the Houthi coup authority was dire, as it returned society to the primitive zero point, and thwarted all previous efforts, and instead of abolishing the political death penalty, it legalized it, and certain courts specialized in it, carried out executions in minors and women, and confiscated the property of its victims.

Regarding fair trial:

International and national texts require the rejection of arguments and evidence obtained through torture or other inhuman and degrading treatment. It is noteworthy that the Houthi authority has done the exact opposite of these legal requirements through three axes;

First: it did not investigate the incidents of torture and abusive, degrading and degrading treatment of victims in Houthi prisons, despite the fact that the marks of torture remain on the bodies of the victims during the trial period and until the execution of the sentences. The judiciary ignored the repeated requests of victims during the trial period to investigate incidents of torture and other violations established in the verdicts issued by the death penalty authorities.

Second: The responsibility of those responsible for violations and torture has not been determined, which means colluding with the perpetrators to facilitate their impunity and encourage them to carry out more violations in the future and to spread the idea of the judiciary accepting the idea of violations in the security circles and not harming the perpetrators, as one of the requirements for investigation, in flagrant violation of the rights of victims.

Third: The political death penalty judiciary based all the sentences issued by it, on those evidence that was extracted from the victims under duress and under torture in the pre-trial stage, as it is noticeable that almost all the sentences were based on the confessions of the victims in the stages of collecting evidence, mainly or on evidence fabricated or presented by those in charge of those stages of judicial officers (telephone examination and communications analysis) or the executive organs of the authority, which affects the essence of the sentences and makes them invalid. In order to reach justice, there must be a legitimate, legal and just path, as there is an organic relationship between means and ends.

The right of victims to redress and reparation remains essential. The judiciary's fulfilment of its responsibilities and its emphasis on the responsibility of perpetrators and the suffering of victims play a key role in establishing the concepts of justice (judicial truth), judicial security and political stability, and compensates for the need for revenge.

The guarantees provided by the Yemeni legislator at the time of execution are only some of the formalities that add to the death row only the manner in which he is executed according to official procedures.

Recommendations

Recommendations can be arranged according to the relevant authority:

Recommendations to the international community:

The international community and international bodies, through their relevant organs, shall undertake the following:

- Demand and pressure the de facto authority to end the use of arbitrary death sentences, arbitrary detention, and enforced disappearances, which constitute flagrant violations of international law.
- The duty to activate its role in monitoring and controlling violations committed in trials before the judiciary of the de facto authority that does not respect international obligations and does not take human freedom, rights and dignity into account.
- Establish a criminal investigation mechanism as recommended by the Group of Eminent Experts with a mandate to create case files for use by the competent prosecution authorities.
- Employing specialized monitoring and control mechanisms, so that they have the right to receive any complaints they receive about violations affecting the rights of the accused before or during the trial stage, provided that they have immunity that enables them to visit detention centers and provide the necessary services to assist victims by providing legal assistance, such as the assistance of a lawyer, informing the victim's family, stopping the violation or detention in humane conditions and in places subject to judicial supervision, and then submitting periodic reports on the reality of those national districts, so that they can take action Required to protect these rights.
- Ensure that those responsible for humanitarian violations are referred to trial, especially since some of them amount to war crimes, to ensure that perpetrators do not go unpunished.

Recommendations to the legitimate authority:

- If the current situation may not be compatible with the legislative abolition of the death penalty under the authoritarian de facto authority, this abolition can be achieved in the future with the change of circumstances and the return of constitutional legitimacy. Especially with the gradual and growing development of human rights and humanitarian awareness of public opinion after it tasted the scourge of war and was satisfied with its tragedy.
- Yemeni criminal legislation retained the death penalty and overstated it. As a recommendation to act in accordance with the international trend to abolish the penalty, the possibility of abolition varies according to its cases, so it is difficult to do so in some crimes of retribution and hudud related to the religious text, except for the text of Article (259) that differs about its legal ruling, with the possibility of reducing the death penalty to a large extent outside that circle, with the possibility of reaching abolition in ta'zir crimes.Or the choice of punishment between the death penalty or the appropriate penalty as stated in the text of Article (15), or less than the death penalty as stated in Article (27) of the Code of Military Crimes and Penalties, or death and imprisonment as stated in the text of Article (34, 35) of the Law on Combating the Crimes of Abduction and Banditry. Emphasizing the need to abolish the death penalty permanently, especially with regard to issues of opinion and political issues, including Articles (125, 126/1/2/3, 127/3, 129) of the Penal Code.
- Adhere to the accuracy and clarity of the penal text regarding political criminalization punishable by death at least, although the abolition of the penalty for political crimes is the first and most appropriate to follow.
- Call on competent local and international bodies to investigate death penalty cases in the broader context of arbitrary detention and the use of torture to extract confessions.

Recommendations for the judiciary:

- Calling on members of the judiciary to abide by international guarantees of criminal trial, to have a thorough review of international studies and texts guaranteeing the rights of the accused, to comply with the rules of judicial conduct ratified by the United Nations General Assembly, to sense the greatness of the message they carry, and that their main goal is to achieve actual fairness

and hoped-for justice that satisfies their consciences and not the ambitions of the authority, and to be keen on the basic principles, so that the accused remains innocent until proven otherwise.

- In order to embody the principles of independence and impartiality, the judge shall step down when he senses embarrassment, succumbs to material or moral pressure, or knows (or merely doubts) the facts of the charge with a political background, which he will not be able to have impartiality when considered.

Recommendations to the de facto authority (Houthi)

- Removing the judiciary from the desires and whims of the executive authority or trying to use it to settle political scores. And not to prejudice his independence as an authority not a job, or control over his work, there is no authority over the judge except from his conscience or from the law, and not to interfere in his affairs by guidance, influence or pressure, and appointment by loyalty, kinship and lineage not by competence and entitlement, or transfer, freezing or restriction or declaring war on judges in their entitlements and wages (with the speed of payment of their full wages, the judge does not spend while hungry), and not colluding with corruption networks affected by judicial rulings, to undermine judges in person And a system of intimidation and physical or moral assault.
- Ensuring respect for the political authority, whatever the source of its legitimacy, the sanctity of the judiciary as it constitutes the basic guarantee of rights and freedoms and the fair separation of disputes, to ensure the neutrality of the judiciary and thus the confidence of all parties in its justice, and to ensure that it avoids the pitfalls and whims of politicians, so that it can perform its mission in protecting all parties, including the political victor and the defeated, especially since the cycles of political conflicts do not guarantee the permanent survival of any party, the victor today is the defeated tomorrow, and the defeated today are the victor of tomorrow (the days are countries).
- The need to quash the death sentences issued against Yemenis who have been arbitrarily detained and sentenced to death without a fair trial. and immediately cease sentencing. and compensation for victims of unjust death sentences.

References

First: General References

- Ibrahim Mahmoud Al-Labidy: Human Rights Guarantees before Criminal Courts, Dar Al-Kutub Al-Qanoon, Shatat Publishing, Egypt.
- Amin Abdul Khaliq Hajar: The Death Penalty in Yemen, Arab Observatory Against the Death Penalty: www.achrs.org
- Galal Tharwat- "The General Section of the Egyptian Penal Code" Al-Maaref Foundation, 1989 edition.
- Jundy Abdel Malik - Criminal Encyclopedia, 1st Edition.
- Hatem Bakkar, Protecting the Defendant's Right to a Fair Trial, Al-Maaref Foundation, Alexandria, 1997.
- Tayeb Baccouche: More effort to consolidate faith in the right to life, symposium on the death penalty in international law and in Arab legislation, publications of the Arab Institute for Human Rights - 1996, 1st edition.
- Abd al-Rahim Sidqi: Political Terrorism and Criminal Law, Dar al-Nahda al-Arabiya, 1985.
- Abdul Razzaq Al-Sanhouri: Religion and the State in Islam, investigated by: Muhammad Emara, Al-Azhar 1423 AH.
- Alaa Mahmoud El-Sawy: The Right of the Accused to a Fair Trial, PhD thesis, Faculty of Law, Cairo University, 2001.
- Mohamed Ahmed Shehata: Execution in the Balance of Sharia, Law and Judicial Rulings, Modern University Office, 2007.
- Muhammad Abed Al-Jabri: Religion, the State and the Application of Sharia, Center for Arab Unity Studies, Beirut, 4th Edition, 2012.
- Muhammad Mesbah Al-Qadi, The Human Right to a Fair Trial, 2nd Edition, Dar Al-Nahda Al-Arabiya, Cairo, 2008.
- Mohamed Nour Farhat: The Right to a Fair Trial in the Arab World, Arab Institute for Human Rights, 1st Edition, Tunisia, 2004.

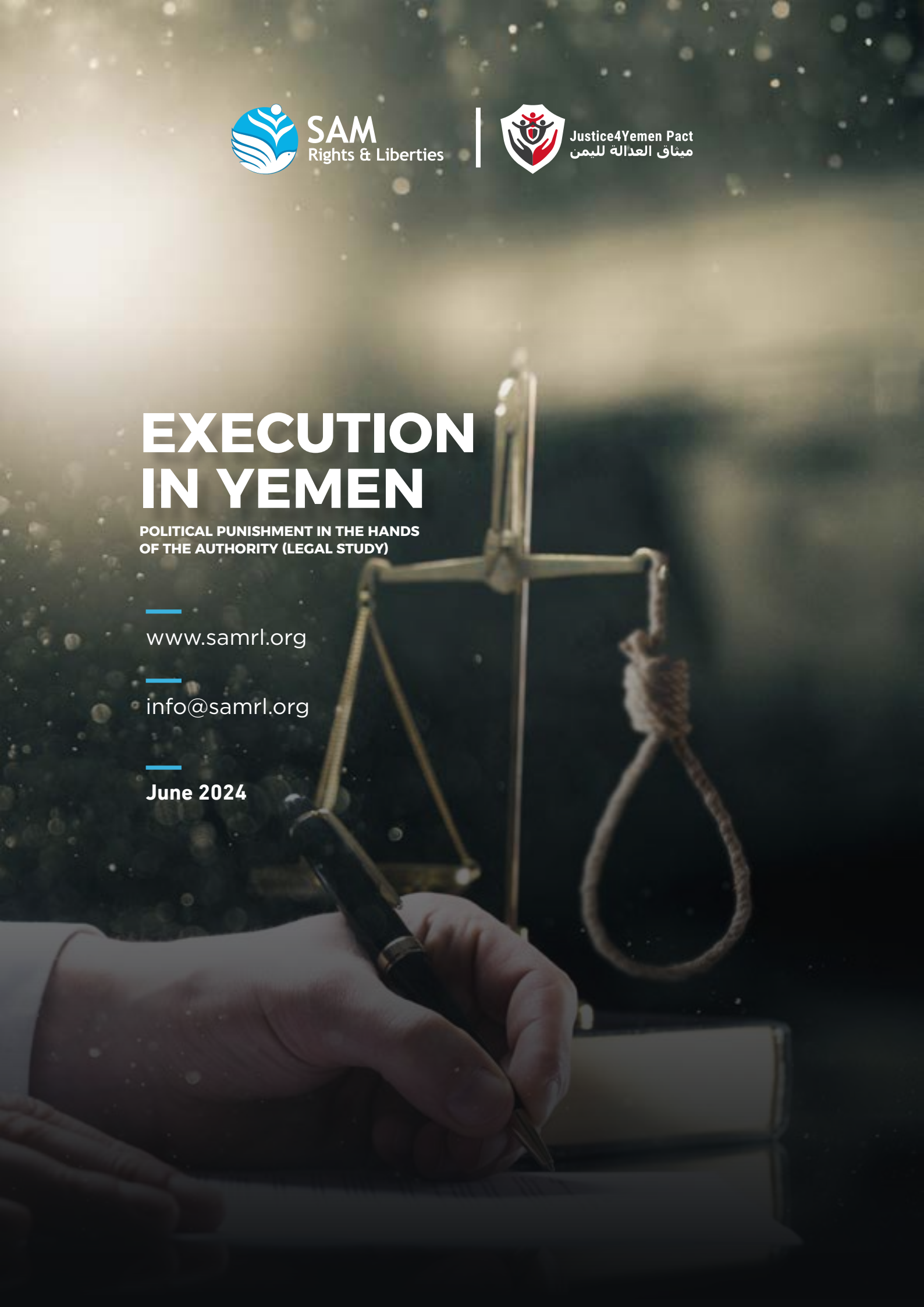
- Mahmoud Najib Hosni: Explanation of the Penal Code, General Section, Dar Al-Nahda Al-Arabiya, 5th Edition, 1982.
- Arab Organization for Penal Reform, The Death Penalty in the Arab World, collective author, under the supervision of Muhammad Zaree, Amman, 2007.
- Nabil Abdel Wasi: The Judiciary's Protection of Civil and Political Rights, Arab Organization for Constitutional Law, June 2002.
- Nabil Abdel Wasi: Judicial Governance in the Arab Countries, Arab Center for Research and Policy Studies, 2024.
- Al-Hadi Bouhamra: The Religious Question in the Constitution, Tripoli Library, 1st Edition, 2022.

Second: International Documents:

- General comment No. 29: Article 4 (Derogations from the provisions of the Covenant during states of emergency), Human Rights Committee, seventy-second session - 2001 https://2u.pw/2LmzfKu .
- Reports of the High Commissioner on the situation of human rights in Yemen: D36-2017, D39-2018, D42-2019, D45-2020.
- Recommendation of the Twelfth International Conference of the International Society of Penal Law, Hamburg, 1976 www.un.org/arabic/docume
- Amnesty International, 09/07/2019: https://2u.pw/mynnfBH

Third: Foreign References:

- https://www.ndye.net/constitution-draft
- https://www.ndye.net/ndcoutputs
- Tomas M. Frank, Gregory H. Fox, International law decisions in national courts, International publishers. Inc, New York, 1996.
- https://www.albayan.ae/one-world/2005-11-01-1.112941
- CCPR/C/YEM/5, Distr: General, 8 January 2010. https://2u.pw/7iSgVd3



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