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## Death to death row? An unlikely verdict

File - Activists from the National Campaign to Abolish the Death Penalty protest against the death penalty in Beirut, Friday, Oct. 11, 2013. (The Daily Star/Mohammad Azakir)



Venetia Rainey | The Daily Star

BEIRUT: It's 4 a.m. on a mid-April day in 1998, and despite the nighttime blackness, crowds are already eagerly gathering around a stage in the town square of the seaside village of Tabarja to watch the hanging of two murderers.

"It was like a scene from the theater," recalled Father Hady Aya. "You could see these men taking their last breaths, jerking around, while in the background there were people clapping."

Protesting some 100 meters away were a group of people – including Aya – that would go on to form the Justice and Mercy Association (AJEM), a local organization that works with death row prisoners.

"We told anyone who asked what we were doing, 'We grieve two crimes today, the first crime that these men committed and the second of the death penalty,'" said Aya, AJEM's founder. "It was the first time in Lebanon's history that someone said, 'No, this is not acceptable.' This became the first step, a milestone in the process to abolish it."

Three more hangings and a decadelong de facto moratorium later, Lebanon no longer kills criminals to punish them. Yet despite endless campaigning work by activists and four draft bills, death sentences are still handed down and abolition remains a pipe dream.

As a result, Lebanon is among 58 countries that retain the death penalty, according to Amnesty International, compared to 140 countries that are abolitionist either in law or practice. Lebanese

governments have consistently refused to sign a protocol within the International Covenant on Civil and Political Rights that scraps the practice, even though it flies in the face of the U.N.'s Universal Declaration of Human Rights, which recognizes every person's right to life.

Enshrined in Articles 37 and 43 of the penal code, the death penalty is largely applied to either homicides or crimes related to national security, such as terrorism or spying.

Between 1947 and 2004, some 51 people were executed either by hanging (civil offenses) or firing squad (military offenses). Since 2004, another 54 people have been given the death sentence and can no longer appeal against it, according to AJEM.

This has put Lebanon in the crosshairs of the International Commission against the Death Penalty, which paid a visit to promote the abolition movement earlier this month.

"We call on the government to take steps gradually to formalize the de facto moratorium as a first step to abolish the death penalty in Lebanon," urged ICDP President Federico Mayor while here.

But although it sounds like a simple enough step, and one that technically has ample support in Lebanon, not a single person The Daily Star spoke to about the issue was optimistic that it would be taken anytime soon, with former ministers, judicial experts and activists pointing to various religious and political obstacles.

Appointed to his post in July 2008, the very first thing former Justice Minister Ibrahim Najjar was asked to do was sign 19 decrees for death sentences. Although far from an activist on the issue beforehand, Najjar refused and instead began work on an abolition bill.

"I went to meet Prime Minister [Fouad] Siniora and told him I had submitted a draft law to abolish the death penalty. He told me: 'Well my dear Ibrahim, it's a matter of beliefs, of religious principles ... and according to Islamic beliefs the abolishment of the death penalty is not accepted by the different schools of Islam.'

"So I went to the president of the republic [former Army chief Michel Sleiman] and told him the same thing. He said, 'No, I cannot imagine that. Look what's happened in Nahr al-Bared,'" a reference to fighting in summer 2007 between the Army and militant Islamists in the northern Palestinian refugee camp of Nahr al-Bared which killed around 160 soldiers.

"They have murdered ... Lebanese soldiers,' Sleiman said. 'They have cut their necks. Do you want me to accept to abolish the death penalty? Never.'"

Just like all the others, Najjar's draft bill never even reached the General Assembly to be debated.

His story exemplifies perfectly the problems facing anyone who tries to abolish the law: Differing Christian and Muslim views on the death penalty, and a political stigma attached to pardoning men who have betrayed or attacked national institutions.

Those who spoke to The Daily Star were wary of discussing the religious aspect to Lebanon's anti-abolition movement, but the Quran's teachings on the subject are well known: "Take not life, which God has made sacred, except by way of justice and law." (6:151)

Although the Bible also provides justification for capital punishment – "Whoever sheds the blood of man, by man shall his blood be shed" (Genesis 9:6) – in Lebanon it is the Christian parties and politicians who have fought hardest to end it. Out of 14 signatories to the last decade's four abolitionist draft bills, 10 were Christian.

Chief among this movement is Lebanese Forces MP Elie Kairouz, who was behind the most recent bill in 2012.

"It stemmed from a personal conviction, but I was also speaking for the whole party," Kairouz said from his office just off the frenetic Jounieh highway. "All members of the LF wholeheartedly support the abolition of the death penalty."

He said heavy divisions prevented the bills from ever being put to a vote, but added that both the Kataeb Party and Michel Aoun's Free Patriotic Movement – both Christian parties – would back the LF if it came to it.

For Najjar, this groundswell of support would be bolstered by others if a draft law did by some miracle make it to the General Assembly.

“The Aounists, some of Future, all of LF and of course many others among March 14 would vote for it [abolition],” he said, pausing before adding, “I don't think the Shiites of March 8 would vote for it.”

But as with everything in Lebanon, there is more at play than simply religion.

Part of the problem lies in the type of crime being punished, namely that many of those on death row have been charged with spying, terrorism and other crimes against the state or its institutions.

“Politicians cannot say that they want to protect terrorists, spies and so on by agreeing to abolish the death penalty,” explained George Ghali, a member of youth-led human rights NGO ALEF. “Many support the abolitionist movement, but they will never adopt any reforms because it is political.”

According to ALEF, the death penalty was requested for 196 people in 2012, some 148 of which were for those involved in the Nahr al-Bared clashes. In 2013, the death penalty was requested in much fewer cases, just 56 – 21 of which were for espionage and at least nine for terrorism. Of the 68 requests so far this year, 53 are over last summer's Abra fighting between Islamists and the Army.

“Everything is related to national security,” Ghali said. “When national security comes into it, even the biggest abolitionist can't take a case on.”

“Strategically, there are no votes to gain for anyone if they abolish the death penalty, only trouble,” AJEM's Aya agreed.

In the face of this stalemate, activists have instead settled for alternative solutions such as urging judges on individual cases not to issue death sentences. But even this is often met with a response that is indicative of the general public's perception of the death penalty's role in the penal system.

Longtime Judge and former State Prosecutor Hatem Madi is unashamedly supportive of capital punishment – so long as it is applied carefully – as a way of balancing out the damage done by the crime.

For example, he pointed to the public hangings back in 1998, which he said were “a form of moral compensation for the society of Tabarja, who were very angered by the situation [the murders]. They wanted to see these people hanged.”

For Ghali, this is one of the underlying reasons behind the lack of wider interest in abolishing the death penalty: “We live in a violent society and we consider that the law should be able to provide us with revenge.”

In order for abolition to ever become a reality, Madi concluded: “It would require a new generation of people that believe in forgiveness in a country ridden with violence ... abolition usually comes in peaceful countries.”