

The Human Philosophy behind Criminalization in Ancient legislations (Pharaonic, Babylonian, Roman)

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This study deals with the Philosophy of the Human Nature of Criminalization in ancient legal systems and aims to discuss this subject through presenting and analysing the crimes and penalties in the ancient legal systems following the descriptive inductive analytical comparative approach. This study revealed the highness and development of the ancient Egyptian Civilization that tuned the ancient Egyptian taste, disciplined its sense and developed its feelings. This reflected on the ancient Pharaonic legislations and in turn nourished the incrimination and penalization philosophy with a humanitarian characteristic unlike the Roman and Babylonian systems, which did not recognize any humanitarian principles in incrimination and penalization; they rather showed atrocity and cruelty at their ugliest shape especially when executing the penalty.

Key words: *Crime – Philosophy – Ancient legal legislations.*

Introduction

The punishment consists of an emotional reaction whenever the society is less civilized. The primitive peoples are punishable only by punishment. They torture the accused solely for the purpose of torturing him or her, without waiting for any benefit from this torture, and does not consider any humanity or mercy when carrying out the punishment, since it does not examine the justice of the punishment or its feasibility or suitability with the crime. It does not pay attention to the principle of personal punishment or the principle of legality or equality; therefore, it considers the actions of animals or objects punishable offenses, and it does not comply with a particular purpose of punishment that is beneficial to society, but revenge is the spirit of the punishment (Shafaq S, 1958).

If we look at the rule of vengeance that prevailed in ancient societies, the study finds that it satisfies the desire for revenge, which can only be achieved by calming the strong emotion that controls the victim. If the emotion of the aggressor gets restless, it automatically extends to other innocent people with whom they may have some connections. In ancient societies, the accused was not only sentenced to death as a maximum punishment, but the execution of this judgment took forms that varied in severity and sternness. He did not take the form of hanging or the head being overthrown. The accused was burned alive or crucified and left to die slowly.

In the execution of the burning penalty, the executioner began to cause wounds to the body of the sentenced person by means of a piece of hardwood, and then placed on top of the pile from the thorns and burned the fire therein. The penalty for imprisonment was not known, since it was not only the offender who had to atone or amend for his crime, but also his fellow members of the League to satisfy the desire for revenge (Ahmed, 1997).

For all of the above, the question is did the old laws follow the principle of personal, legal or equality when criminalizing or punishing? Is the philosophy of criminalization and punishment based on humanity and compassion or is it the same approach of ancient societies, that punishment is only the most severe forms of torture and abuse of revenge, and therefore there is no room to talk about humanity to criminalize or punishment? The discussion mainly focuses on the important ancient legal laws, which is the law of Pharaonic, Babylonian, and Roman. The study analysed the humanity of criminalization and punishment.

Humanization of Criminalization and Punishment:

The concept of humanity is not limited to the punishment of the offender only, that is, the use of means of mercy when the penalty is applied; it extends to the entire society by informing individuals that this act is a crime before it is committed.

Humanity also achieves when penalty commensurate with the crime and justice and deterrence by its general and private kinds, also reform of the offender and thus a just society dominated by humanity and compassion and this can only come about if we repudiate revenge as a basic purpose the adoption of the basic principles of the proportion of crime with punishment and taking into account intentions when criminalization or punishment, and the adoption of the principle of legitimacy of criminalization and the personality of punishment and equality of the punishment.

Pharaonic Law:

For centuries, ancient Egyptian society was not alienated by the law of revenge or the law of the jungle. The penal system in Pharaonic Egypt had several characteristics that were higher than it was in other ancient laws, the most important of these characteristics is the humanization of criminalization and punishment.

It was not revenge that dominated the Pharaonic legislation along the lines of the other ancient laws, and thus we find no trace of revenge as a punishment. The penalty shall not be inflicted except by the offender, and it shall not extend to other members of his family.

The principle of equality before the law was born, grew, and settled on the banks of the Nile. In an important speech found in the wooden coffins dating back to the feudal period, the following four winds were created, and water and also the man alike, have created each person like his brother and forbidden to do evil. (Afaga,M,1966)

The historian of great civilization, Val Durant, declared that the laws of ancient Egypt were very advanced, and that all people were equal before the law. The Ancient Egyptians applied the principle of equality between individuals in sentences where the social class or status which is occupied by the individual in the society has no impact on the type of punishment taken by the offender, but because of his crime in terms of psychological and material; expressed by Diodor Skalli accurately and deeply in the saying: The punishment for people not differ according to their fortunes in life, their works (Pristed. H, 1956)

The Pharaonic Law also adopts the principle of the legitimacy of punishment, which has helped to prevail the nature of deterrence on the punishment and justice and thus compassion and humanity in the whole society, we mean the principle of legitimacy in the old laws in general the knowledge of individuals in advance criminal acts where the origin is the customary judicial version of the principle of legitimacy ,while the verbal meaning constitute an exception.

The Greek philosopher Plato recalls in his book 'Laws' that everything in Egypt had its own law even drawing, dancing and sculpture, and that anyone who goes out of any of those laws was subjected to criminal punishment. This is confirmed by the inscriptions on the tomb of one of the governors of Taiba, who presides over a court session and in front of him four fourteen scrolls of papyrus containing the laws governing them. Punishment was not a vague expectation, but the judge based his judgment on the principle of legality.

As well as what is included in the Law of the ancient Egyptians was not only the existence of laws applied to the facts, but knowledge of the principle of non-retroactivity of laws and the

immediate impact of the laws, which represents the right of humanity when criminalizing the acts.

This emphasizes the keenness of the old Egyptian legislators, not only on the existence of legislation applied, but on its validity since the day it was published and informing the subjects of the legal basis before its application. They published the laws in the temples and in prominent places. The original version was found in the temple of Karnak, but the first laws known to ancient Egypt and issued by the god (Thoth), God of wisdom and science in the year 4200 BC. Almost ordered King Mina published and circulated (Abu Talib, S, 1972)

It is clear to us that the humanity of criminalization and punishment is adopted by the ancient Egyptians through the principle of personal punishment. For example, we find that the procedures for carrying out the death sentence on a pregnant woman was postponed until after the birth, as the foetus did not commit an offense. The penalty shall not be inflicted except on the offender.

Diodor Skalli explains the view of the ancient Egyptians behind this prohibition by saying: "They saw that it is pure injustice that the innocent child shares his mother's sin with her, or is cut off from two acts , or that the foetus is subjected to the same punishment as his mother (Raouf, O, 1985).

We also find that if the construction built by the building collapsed and the son of the house owner died, the punishment would be on the building itself, not on his son or on both of them. Therefore, the collective responsibility, which was never in harmony with the humanity of the punishment, was far from their philosophical thought and legal organization .The law of Hammurabi and the Roman law, both of which came in a later period of time

According to Diodor Skalli, that, the Egyptian law in the field of punishment did not take into consideration the wealth or social status of the person. Rather, each person was rewarded for his actions, and the lesson was with intentions and intentions without any other consideration (Raouf, O, 1985)

Herddut says that the killing of a sacred animal deliberately, ensured the offender was sentenced to death, but if he killed the animal unintentionally they sentenced him to a fine determined by the priests. Thus, it is possible to say that the Pharaonic law differed between murder and manslaughter. Unlike most old legislation, the penalty for intentional murder is execution regardless of the social class to which the offender and the victim belong . The penalty is one even if the victim is a slave .If the killing is unintentional, then the penalty will not be execution, but reconciliation between the offender and the victim's family by paying the proper blood money for them.

The death penalty was the result of the commission of serious crimes in society, such as adultery, assault on state property and the theft of money of the temples, which were considered aggravated thefts. The Pharaonic law introduced a humane way of carrying out death sentences by giving the offender a number of narcotic herbs so that he would not feel tormented Implementation

He also postponed the execution of the sentence to the pregnant woman until she put her pregnant as mentioned above .Despite the adoption of the death penalty for many crimes and the adoption of many corporal punishments, such as severe beatings, broken ears, blindfolds, and deaf ears, they were not intended to retaliate against the humanity of punishment in relation to the offender. The punishment of the entire society is from the damage occurred as a result of a crime. The crime of theft is developed from simple imprisonment to adultery, forced labour, and imprisonment.

Punishment is the best deterrent to man so as not to commit sin .The greater the sin, the greater the penalty .The deterrence carries the philosophy of forcing people to refrain from attacking others in order to achieve safety, stability, humanity and compassion for society .In fact, the criminalization of punishment in the Pharaonic law has contributed to the targeting of public deterrence as a crime

The Egyptian legislator did not consider punishment as a sword against the necks of criminals or as a kind of punishment.

But it is seen in the scope of refinement and correction, reform and deterrence .Diodor Sakalli tells us that the king (Aktizaniye), one of the kings of the twenty-fifth family, ordered all those sentenced to death, after taking note of their crimes and ordered their noses and then exile them to the eastern deser. As a result, the death penalty was replaced by a denial .When King Sakapus (one of the kings of the twenty-fifth family) also came, Diodor Sakalli, to which he joined in the historic proof of Herodotus, declared that, in order to realize the truth, he had made an explicit order to abolish the death penalty (Kamel. W, 1947)

This is what most modern legislations have been directed at. American legislation and other legislations recognize and declare the abolition of the death penalty, which is a proud feature of modern legislation. It has been preceded by the pharaonic legislation for more than seven thousand years ,In the establishment of many public and important projects in the country, and this is more effective and useful than the application of the death penalty.

The human nature of the philosophy of criminalization and punishment also shows in the religious aspect that any prejudice to the affairs of faith is punishable by law in respect of religion and sanction of it. The penalty is execution, in case of assault on the temples or holy

places of worship or property of the gods or the possession of the (Pharaonic king). Assault on sacred animals ,but at the same time there was a pardon from the gods for the criminals who go to some holy places where they are in the heat of the gods, and there they are cleaned of their sins and blessed by the hands of the holy priests, leaving the signs of divine repentance on their heads.

As a result of this belief, the Egyptians were keen to inscribe on the walls of their graves the phrases that would help them avoid evil and sin and avoid committing sins, and that they lived a virtuous life in which they benefited the kin and extended a helping hand to the needed persons.

The Book of the Dead included a special chapter that the Egyptians usually copied and placed between the dead legs in his coffin .This chapter contains a lengthy statement of the deceased's innocence from a number of sins.

This confession is made as follows: (I have not committed any sin against men, I have not abused any of my men, I have not commissioned them to do work beyond their capacity, I have not avenged the Gods, I have not tortured the poor, I did not lose weight, I did not remove anything from the weight of the balance ,I did not cheat in the balance, I did not remove the milk from the mouth of the young, I did not suspend the flow of water in the flood season (Al-Gazir, A, 2004).

Hence, we have the right to say that the philosophy of criminalization in Pharaonic Egypt was closely linked to the humanitarian aspect, which naturally leads to the absence of revenge as a target of punishment .Pharaonic Egypt, as the historian Herodotus has said, is the most ancient of the world's people, religious and practical. Diodore Skalli also reminds us that "Queen Isis devised laws for their forefathers to replace organized aggression with force, infidelity" (Garraud, 1918).

All this is unlike the primitive societies that were governed by the principle of power establishing and protecting the right, the rule of the law of the jungle and the survival of the stronger, and unlike the Babylonian and Roman legislation that came at a later time as we shall see.

Babylonian Law

The Babylonian civilization came late in its religious, political, social and legal development of the civilization of Egypt .The daily life of the Babylonian man was based on fear and the pessimistic view of the absence of a just punishment. This religious mentality, of course,

reflected on the philosophy of criminalization and punishment and on the purpose of the punishment and its humanity in its implementation (El Sa'ued, Bakr, 1983).

In view of the absence of doctrinal writings, we cannot conclude the philosophy of criminalization and its implication of humanity in this and other ancient laws. As such, we will rely on the subject of the crimes and penalties and some documents found.

The Babylonian legislation has missed the mere idea of humanity when it is criminalized or punished. This is clear from the review of how to implement the punishments that were characterized by severity. The principle of disproportionate crime with punishment and the failure to adopt the principle of equality and the personality of punishment in the various laws. The reverse is the case in Pharaonic law as we have seen.

Prior to the enactment of the laws in Iraq, the family was the first social cell, since the beginning of its historical era. The family, with its authority over its members, imposed the appropriate punishment on every member of his/her family who assaulted one of its members, immediately after the crime took place, in order to settle the dispute between the family members.

The penalty was generally expulsion from the family or execution. Hence, the head of the family intended to impose the punishment for family stability, even if the punishment was inhuman, severe, and unjust in order to achieve this stability.

After the enactment of laws in Iraq, the idea of revenge and brutality prevails over their various legislations, even during the reign of Hammurabi, which represents the peak of legal maturity in Babylonian (AL Saqa, M, 2018).

The punishment of death is not restricted when it is carried out by certain means. It is used in the most extreme ways. The wife who causes the death of her husband because of another man is placed above the stump and burnt (Article 3 of Hammurabi's Laws) and burned in the fire of the stolen house where the fire was ignited (Article 25 of the law of Hammurabi).

In some cases, individuals are allowed to retaliate for themselves without a judicial ruling, as in the case of the rape of a woman. In this case, the law allows the woman's family to kill the offender without obtaining a court order.

In some cases, Hammurabi's law, allows fines that has been replaced by the death penalty in many cases which are incompatible with the perpetrator's act. This has led to the absence of the principle of proportionality of the crime.

In some cases, the death penalty is carried out by hanging, while others are carried out by cutting off the hand, tongue, earlobe or eye. We also find corporal punishment for retaliation. The agricultural worker who violates the requirements of his job is driven by a bull through the fields (code 256 of Hammurabi's law) and the man who steals a sheep from his neighbour's flock flogs and removes his hair (the first paragraph of Assyrian Law 5). In Ormmo's law, a litter of salt was placed in the mouth of a rude slave. If a nation is a man, and I swear to her master that she is equal to herself, then the woman should give you the mouth of the mother. Article 22, (Al-Marsafawi, F, 1995).

It is worthy to say that there is an absence of the principle of personality of the crime, in Iraqi laws, where the person can be considered responsible for acts committed by others. In the Hammurabi's law and like the Assyrian laws, the penalty was extended to members of the offender's family,

According to Hammurabi's law, punishment may be imposed on a person who has not made a mistake and has not intervened in or is related to any criminal act. Article 209 of Hammurabi's legislation states: "If a man beats the daughter of a free man, and the reason for the abortion of her foetus, he pays the amount of 10 pounds in exchange for the foetus's blood." Article 210 adds: "If the daughter dies, her daughter will be killed".

Article 229 states: "If a builder builds a house for a man, but it is not strong, and the owner of the house died, the builder is executed". Article 230 of Hammurabi's law also adds: "If an architect neglects his work and the house he built collapses, and killed, the son of the owner, then he is considered a killer of the owner's son." (Garraud, 1918).

Further, the children are considered responsible for the crimes committed by the parents, an unjust and painful application of the principle of retribution. A fair rule in the field of personality of punishment, in order to achieve its objectives is to only apply the penalty the offender (AL Saqa, M, 2018).

The crime of abortion and its penalty is another example that confirms that principle: "If a man beats a woman and aborts her, he shall be fined if his work does not lead to the death of the woman. It is clear that this type of responsibility is a violation of the principle of personality.

The Babylonian laws did not mention the principle of equality. Penalties were different according to the social status of the offender, that is considered a breach of the principle of equality. For example, in the crime of abortion, the fine is the penalty prescribed for the woman not having died during the abortion, unless the woman is related to a noble person.

Article 23 states that the responsibility for compensating the victim for the value of the stolen object rests with the governor of the city if he does not reach the perpetrators (Al- Zanati, M 1973).

In article 173 of the law, it is decided that punishment for the king's insurrection includes the house of the offender, ie, everything in the house of the offender and all members of his family. Indeed, the tripartite system of law in Hammurabi has resulted in different legal status, inequality and justice when punishment is imposed.

If a noble man causes harm to the eye of another man, let them lose his eye, and if he breaks another great bone, they will break his bone, and if he corrupts the eye of a man from the public and breaks his bone, he will pay us some silver. This is stated in articles 196-198 of Hammurabi's legislation.

It is clear that crimes against the public are less punishable if they are committed by the upper class and vice versa, and the principle of equality is strictly applied to the honest people. (Moret et Davy, 1923). Even crimes committed during the job, were characterized by the principle of inequality in punishment and lack of justice when signing, and therefore the absence of a humanitarian philosophy of the rules of criminalization or punishment. Hammurabi's law imposes sanctions on surgeons if they cause harm while performing their work according to the social class to which the patient belongs.

The punishment for the free man is different from the punishment that the slave deserves. As for the offense of abortion as a result of beatings, the penalty varied according to the victim's status. According to article 209 of Hammurabi's law, "If a man beats the daughter of a free man and makes her lose the fruit of her belly, he will pay 10 shekels of silver for the fruit of her belly".

Article 210 states: "If that woman dies, they will kill his daughter ".If the victim is a member of the public class, the penalty as determined by articles 221 and 212 is as follows: "If the daughter of a lay man loses her child by beating her, he will pay 5 shekels of silver, and if that woman dies, he will pay half a port of silver ".Like other Iraqi legislation, Hammurabi's law distinguishes between the punishment that women deserve and the punishment men deserve for the same crime (Hussin, F, 2016).

According to the rules of law (art. 731), punishment for disobeying the king's order will include the offender's house, ie, everything in his home and his family. The Assyrian law stipulates that the rape of a virgin woman is punishable by handing over the wife of the rapist to the girl's father to rape her.

The rapist's wife is punished even though she has not committed a crime. It is clear to us that the punishment was imposed on another member of the family. This reflects the notion of criminal responsibility of the family, which is defined by Iraqi law or of reform and deterrence as a measure of punishment, insofar as it reflects the objective aims to satisfy the desire for revenge and retribution. The Babylonian legislation, in particular, in the murders and assassinations of which the Hittite law was adopted by the law of vengeance, it was left to the victim to determine and execute the punishment.

As well as the adoption of the Hammurabi Act for the punishment of women with multiple forms, such as cutting off the ear, also, cutting off the tongue, removing the eye, cutting the breast, cutting off the fingers and the waist. For example, in Hammurabi's law "M 79" 'if he hit his father's son, they would cut off his hand'. In Article 78: "The man who puts his hand on a married woman cuts off his fingers".

It is clear to us that the Iraqi legislation (Hammurabi, Assyrian, and Hayati) did not contain basic principles such as the principle of equality, personality and legitimacy, which, is necessary to be adopted. This is contrary to the old Egyptian laws that dealt with these principles.

At the same time when the Egyptian laws were progressing toward establishing responsibility for the will and linking punishment to the idea of equality, King Hammurabi (Al-Zanti 1973), explicitly stated in his laws that all the sentences and the judicial rules are ranked according to the status of the offenders. In this law, the principle of retaliation is in its absolute form (Sadqi, A, 1987).

But in order to realize the truth, it should be pointed out that some of the texts in some of the previous Iraqi laws on Hammurabi's legislation indicate some manifestations of the humanity of criminalization. In the sixth article, and article 16 of the law of Armo, the oldest of the laws of Iraq, differentiates between the wills and the error. The difference is that if a man intentionally smashes a leg or hand of another man, he must pay the amount of silver designed.

In crimes of intentional infraction, the legislature finds that the penalty is a fine, not murder, based on the fact that the offender was referring to the wound rather than death (F Rasheed, 1966).

Roman Law

It is said about the greatness of Roman law, it is the greatest legacy inherited by the New World from the Old World . Ihering says that Roman law has become a component of our modern cities. Blunckhelli wrote that the Romans contributed more than any other people of the ancient world to the genius of the state and the law (Badr, A & Al-Badran, A, 1977).

This is what has been said, and it is a statement of great exaggeration. If we enter the general theory of criminal law, we find that roman law does not adopt the principle of equality or the principle of personal character. It uses the most severe forms of punishment when carrying out the punishment and punishes the insane,

The Roman society has known the development of the philosophy of criminalization and punishment, which differed from one era to another but carries with it the lack of humanity . In the early stages, individual retaliation and reprisals from the aggressor dominated the philosophy of criminalization and punishment, and then after the form of political organization changed to systematic revenge and then atonement and deterrence.

In the beginning, the principle of organized retaliation prevailed. The punishment was unlimited. The perpetrator, and his family, were punished. There is no room for applying the principle of character on which the philosophy of humanization is based. The aggression of the offender will be another source of revenge. Aggression and satisfaction of the desire for vengeance and revenge of the offender and his family are the primary objective of punishment.

This principle is then reversed and replaced by a system of systematic revenge, which is signed through the social group to which the victim belongs. The victim's reaction does not exceed the pain inflicted by the crime and the punishment is assessed by custom or by law . The 12 Panels Law provided for various penalties: financial fines, compensation of the offender, retribution, death, and corporal punishment.

The role of the punishment is therefore reformist, aimed at reconciling the interests of the offender with that of the victim. It causes pain and suffering for the perpetrator, while at the same time calming the victim's revolution by putting the pain on the aggressor and deterring him and others from committing this act again (Humbert, 1983).

However, the philosophy of criminalization or punishment still carries retribution, although at this stage it is organized. The law of the 12 Panels recognizes the responsibility of the animal if it causes damage or harm, or if it cares for a non-owned herb.

The legislation attributed to Noumabublius 714-671 BC provides for the death penalty for the ox and his companion, who, during the ploughing process, move the boundary between the field and the adjacent field. The Romans decided the responsibility of the man for his actions and punishment for revenge,

In the late 2nd century AD, the Roman Emperor Mark O'Reilly decided to prohibit the punishment of madness in a conclusive manner. This was explained by the fact that insanity in itself is a punishment inflicted on a human being. It is not permissible to add another punishment.

As well as the responsibility and punishment of children for the sake of reprisals, the 12 Panels have decided to impose corporal punishment on children in certain offenses, particularly in the case of theft, robbery and theft of crops, as required by the night circumstances (Verdier, 1983).

The curious thing is that the Roman laws continued to include such responsibility and vengeance until the late sixth century AD, despite the role played by Christianity in refuting the idea of responsibility and alleviating the severity of punishment as a human being dominating their philosophic thought

In the late 4th century AD, the Emperor Arcadius issued a law on the crime of national treason and was retained by Emperor Justinian, Emperor of the Eastern Roman Empire from 527-565 AD.

Absolute justice required that the sons of a perpetrator who commit the crime of national treason were given the same punishment as their father, but the emperor because of his absolute power changed the law to maintain their lives. However, the sons were to be deprived of inheritance and ownership, and not allowed to participate in religious rites, and thus live in poverty.

The lack of humanity in Roman thought is evident both in criminalization and punishment through the unequal punishment, the use of brutal means to carry out the punishment, and the failure to carry out the principle of legality. There was a distinction between liberals and slaves, for the crime of theft, if the robber was a slave, he was executed by throwing him from the top of the rock known as Tarbia (Algaziri, A, 2004)

Just as the crime of insulting His Majesty by saying or destroying one of his statues was punishable by death by cutting off the head if the offender was of the middle class, while the penalty was death by burning or throwing the offender before the beasts if the perpetrator was a slave.

Al-Faqih (Olibian) has long rejected this collective responsibility, which punishes the innocent, which is a waste of the principle of personal punishment. He said: "We should not pay an innocent child under the law and we impose the maximum penalties for a crime committed by his father. In such a case, the crime would be left with no penalty, rather than being attached to an innocent person who is far from it.

The mind does not hesitate to harm someone who is strange to the crime and makes him bear the burden of what he has not committed. If the purpose of inflecting the pain is to reform the morality of individuals, it is more logical to inflict pain on the perpetrators of crimes and not on others (Bahnam, R, 1968).

The Roman laws have become materialistic and severely punishable, but they are one of the most powerful laws in history. The capacity of the person to be punished is not dependent on the will of the sinner, but punishment was often a reaction to the human and animal, the rational, the insane, the child and the rational as we mentioned. These Roman legal systems were evidence of the control of the spirit of blind revenge even on the rules of law, as the purpose of these rules of punishment is to face the act in response to the same article, it was offset damage whatever the source of more severe damage, even if the source of the animal irrational, and the attention of the law was all focused on the substance of the act and its material effect without regard to the person or the actor. Indeed, we can say that Europe was influenced by the Roman law, in the Middle Ages, to a great extent. The punishments were not limited to the human beings who committed the crimes.

The history of the European judiciary in the Middle Ages recorded a number of strange trials in which the accused were animals. The Europeans prosecuted the strange cases (a trial in Zurich in 1442), the pigs (a trial in France in 1356), dogs and cats. The lawyers said that it was a kind of insanity that reduced the animal's responsibility. Some courts considered it an aggravating reason for punishment and ordered the execution of the sick dog by cutting him off as a member and then executing him in a legal manner thereafter (Bahnam, R, 1968).

The implementation of the sanctions was extremely brutal, which makes us emphasize the link between criminalization and punishment with the philosophy of revenge and brutality that deterrence included reprisals as a fundamental objective of punishment. The means of implementing the punishment in Roman law are many and varied, brutal and cruel. It was - for example - ruled just to remove a virgins' virginity before they were executed. Many culprits were buried alive in some cases, and some Roman laws required the killing of all slaves in the house where their master was assassinated.

Hanging is also a means of carrying out executions in front of the masses, for some crimes. The method of implementation differed according to the social status of the perpetrator. There was the execution of the steel, the execution by the Holocaust, and the execution by throwing the convict from a rock. The torture was tearing the body members, and death by fire was a normal procedure for execution.

But in truth, the Roman penal code - despite the harshness, severity, cruelty of sanctions and the absence of humanity - has known certain human features throughout the ages. The Senate under the Supreme Empire has recognized that the death sentence, like any Senate ruling, unless it is registered, and is registered only ten days after its liberation in order to ensure that the sentenced person is the perpetrator. Under the Republican era, the law confers upon the pregnant woman the right to demand that the execution be postponed until her pregnancy is put on the same path. Law Pharaoh J.Al-Saqa, A, 1999). The prohibition of cutting off hands and feet and more severe punishments, such as the removal of organs from the body in all cases where laws do not recognize the application of such sanctions.

In the era of the Lower Empire, the death sentence was not enforced on the day of the feast or at night, but it was carried out at the scene of the crime, so that the rest of the members of society would be condemned and deterred. Unlike in the era of the Supreme Empire, the death sentence on Mount Eskelian, where the offender is cut into pieces or steel on a bar and thrown (Humbert. M. 1983).

Conclusion and recommendations:

The study reached the conclusion that the Pharaonic thought was characterized by humanity and sophistication in the field of criminalization and punishment, in contrast to the Babylon and Roman legislation, by reviewing and analysing the crimes and penalties in these ancient laws, and reference to some old documents containing some messages and phrases that led us to reach these results.

The pharaohs saw that punishment is contrary to humanity, and it is more effective to reform these criminals and use them in the service of society, and we can see what has reached the modern legal development towards many of the legislation abolishing the death penalty, as in the United States of America, Canada, New Zealand, Tunisia and others, which is a boon of the boasts of modern legislation.

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