

Honor Crimes in Jordan



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Honor crimes are nothing new, and neither is the manipulation of religion to justify these crimes. An honor crime is a violent crime perpetrated against a woman who is believed to have committed some sexual indiscretion resulting in the loss of her family's honor. [1]

Sexual indiscretion can range from engaging in an extramarital affair to being the victim of rape. [2] The indiscretion need not actually take place in order for a family to feel its honor is lost—suspicion of indiscretion alone can have as damaging an effect on a woman's reputation, and by extension, her family. When it is decided that a woman's honor is lost and her family's honor in need of restoration, it is usually a male family member who perpetrates the crime. [3]

With a population dominated by Sunni Muslims (92 percent) and Arabs (98 percent), [4] Jordan has been witness to a semantic battlefield associating honor crimes with Islam and tribal

culture, two widely recognized components of Jordanian identity. In Jordan, however, there is a slowly emerging attempt to sever the perceived connection between national culture and the killing of women. This effort has come from above and below, with the Hashemite monarchy and grassroots organizations pushing for the abolishment of Article 340 from the Jordanian Penal Code, which offers excused or reduced punishment to male perpetrators of honor crimes.

The debate around Article 340 is in essence a debate about the role honor crimes play in either hindering or promoting a moral, Islamic Jordanian society. In fact, political legitimacy in Jordan is inseparable from Islam, and the monarchy largely depends on the Islamic aspect of its Hashemite heritage for political legitimacy. While the Hashemite monarchy holds the majority of power in the state, there is room for nongovernmental organizations and political parties to influence legislation, too. Yet, given the monarch's constitutional power to appoint the Prime Minister, Cabinet members, and senators, popular political influence is largely limited to representation in the elected Lower House of Parliament.

In November 1999 and again in January 2000, the Lower House rejected the government proposal to eliminate Article 340 from the penal code. Unsurprisingly, all sides invoked Islam to justify each position. The central role of Islam in the debate revealed a monarchy attempting to separate religion and politics but ultimately beholden to the traditionalism of the majority, and the disconnect between legislation and cultural practice.

PERSPECTIVES ON SHAME

There are two kinds of honor that factor into traditional societies, *sharaf* and *'ird*. *Sharaf* refers to the honor of the

family unit or tribe as it relates to moral conduct, and can either increase or decrease. Though a family may lose honor for displaying inadequate moral conduct, it can regain honor through acts of model behavior. 'Ird, on the other hand, refers to a woman's purity or chastity and can only decrease.[5] Furthermore, 'ird trumps *sharaf*, so a woman's misconduct dishonors her entire family.[6] The family's shame, which society agrees can be regained, is ultimately restored with the death of the woman, whose honor once lost is gone forever.

The United Nations Population Fund estimates that 5,000 honor killings occur annually worldwide.[7] Considering the number of cases that go unreported and that this statistic is 13 years old the figure may very well be much higher now. Special Rapporteur for the United Nations Asma Jahangir reported in the same year that honor killings are more prevalent in, although not limited to, countries with Muslim-majority populations.[8] As a country where 92 percent of the population is Sunni Muslim,[9] an estimated 25 women are killed per year in honor crimes, and one in four homicides is an honor killing,[10] Jordan has received worldwide attention for this issue.

Article 340 of the Jordanian Penal Code is a state-sanctioned facilitator of the practice. Opposition to this article is based on the inherently sexist language that allows an excused or reduced penalty for a man who injures or kills a wife or female relative, and her male companion, upon discovering them engaged in adultery. The term honor is never explicitly mentioned in the article, but in the scenario described, the woman's honor is lost and the man who discovers her performs what is culturally understood as an honor crime. The article reads:

He benefits from an exculpatory excuse who surprises his wife or one of his female unlawfuls [*muharim*, a woman related to him by a close enough degree to preclude marriage between

them] in the act of adultery with another man and kills, wounds, or injures one or both of them. The perpetrator of a killing, wounding, or injury benefits from a mitigating excuse if he surprises his wife or one of his female ascendants or siblings with another in an unlawful bed.[11] The language of the article leaves no ambiguity for gender, specifying that it is a man who can be excused or benefit from reduction in punishment upon discovering a female relative engaged in adultery, and disallowing the same excuse for a woman. Given the traditional understanding that a woman carries the honor of her family and the inherently gendered language of the text, Article 340 has been identified as an institutionalized, tacit approval of honor crimes.

THE INFLUENCE AND LEGACY OF ISLAM IN JORDAN'S LEGAL SYSTEM

The legal system of Jordan is drawn from European and shari'a law. Muslims agree that shari'a law comes from two main sources: the Qur'an and the Sunnah, the words and actions of the Prophet Muhammad.[12] The mixture of European and shari'a law in Jordan's legal system has created three kinds of courts: civil, religious, and special. Any civil or criminal case not explicitly reserved for the religious or special courts falls under the purview of civil court. While religious courts address disputes over personal status (i.e., marriage, divorce, child custody, and inheritance), special courts make no specification for honor crimes.[13] Honor crimes are therefore handled in civil court.

Since shari'a law serves as the basis of religious courts for Muslims,[14] it technically has no bearing on civil cases. Yet Islam and shari'a law were invoked constantly in the Article 340 debate, testifying to the widespread perception that honor crimes are a religious matter, and that final justification for or against honor crimes will be found in Islam. Despite Article 340's legal separation from Islam in Jordan, the

argument against its cancellation was justified using Islamic law. Therefore, it is worthwhile to outline the explicit way the Qur'an addresses adultery and suitable punishment and to compare the Qur'an's prescriptions to those of Article 340.

The Qur'an states, "The adulteress and adulterer should be flogged a hundred lashes each."**[15]** It acknowledges that both men and women are capable of adultery and equally deserving of punishment. Yet, in its original form, Article 340 permits excusable injury or murder committed only by a man who discovers his wife or female relative. The emphasis is on discovering the woman in adultery – her male counterpart is secondary. In this form, Article 340 undermines the moral equivalence in Islam of a man who commits adultery and feeds the cultural perception that only women are capable of jeopardizing the honor of their families in such a fashion. Furthermore, the Qur'an specifies that the punishment for those who commit adultery is 100 lashes. While not explicitly condoning murder as punishment for adultery, Article 340 violates the Qur'an by allowing surprise as a mitigating excuse. But the element of surprise raises a vital question about the verity of an adultery claim: If a man surprises his wife or female relative, what evidence of adultery beyond his word exists after he murders her?

The Qur'an requires four witnesses to adultery in order for the punishment of 100 lashes to be carried out, and even stipulates that one who does not produce four witnesses should receive 80 lashes for defamation.**[16]** If a man surprises his wife or female relative in the act of adultery, like in the scenario described in Article 340, it is unlikely that he will do so in the company of three others. So, according to the Qur'an, a man who kills or harms a woman in this scenario and does not first prove her adultery with four witnesses is himself guilty and deserving of punishment. However, Article 340 assumes the woman's adultery has been established, and instead focuses on relieving the man of punishment.

ARTICLE 340'S POLITICAL BACKDROP

The Article 340 debate entered Jordan's political scene in a time of flux. King Abdullah II assumed the throne on February 7, 1999, following the death of his father, King Hussein. [17] Within his first month as king of Jordan, Abdullah wrote a letter to Prime Minister Rawabdeh and his Cabinet calling on them to improve the role of women in society and amend any discriminatory laws. Though the letter did not specify which laws, the Cabinet identified Article 340 for amendment since activists had been protesting the article for years. For example, the Campaign to Eliminate So-Called Crimes of Honor, led by Jordan Times journalist Rana Hussein, [18] was a grassroots movement that had been holding debates and seminars throughout Jordan to raise awareness of Article 340's injustice.

By the time Abdullah ascended the throne, the Campaign managed to collect over 15,000 signatures on a petition to eliminate Article 340 from the penal code, [19] but its fate ultimately rested with the legislative branch. In Jordan, the King and the Parliament share legislative power through a bicameral legislature called the National Assembly composed of an appointed Senate and an elected Lower House. [20] Consequently, after the promising start initiated by Abdullah's letter, Article 340 ran the legislative gambit before landing in legal limbo.

THE EVOLUTION OF ARTICLE 340'S DISCOURSE

The monarchy initially framed discourse on Article 340's cancellation as a civil issue, but it evolved into a debate on the role of Islam in Jordan. In a letter to Prime Minister Rawabdeh ten days after his ascent to the throne, Abdullah referred to women as a basic pillar of Jordan's development,

citing their contributions to Jordan's "economic, social, political, and administrative life" as the reason for his endorsement of amending harmful legislation.^[21] By initiating the discourse with a political objective, Abdullah hoped to separate honor crimes from any perceived association with Jordanian identity.

Nevertheless, rhetoric conflating honor crimes with Jordanian culture crystallized following the publication of a survey conducted by a local daily paper. Compiling data from nine out of 12 governorates, the survey sought to gauge public opinion regarding the proposal to cancel Article 340. Results indicated that 62 percent of the population opposed the article's cancellation.^[22] Suddenly, the discourse transformed into a national debate on the connection between honor crimes and Jordanian culture. The survey also demonstrated that most people who objected to the proposal believed canceling the article would foster moral corruption and adultery, and would contradict the customs and traditions that rule the tribal nature of Jordanian society. These arguments exposed a sentiment that laws governing modern Jordanian society should be based on tribalism; more importantly, they assumed honor crimes to be an inherent, inseparable aspect of tribalism. Contrarily, those who supported canceling the article believed "society and the way to deal with women should not be ruled by tribes,"^[23] claiming and advocating a separation between modern Jordanian society and tribal custom. No distinctions were made between culture and religion. Because of the ubiquity of Islam in Jordan, culture and religion were considered one and the same. Unfortunately for the proponents of reform, this debate occurred just before the draft proposal reached the Lower House in 1999.

Given the public's conflation of Islam with culture, the Hashemites and their appointed government officials began explicitly addressing the relationship, or lack thereof,

between honor crimes and Islam. A week after the results of the survey were published, Queen Rania appeared on French television saying honor crimes “have no basis in religion.” [24] When continued public rhetoric claiming the opposite proved this aim unachievable, the monarchy switched its strategy: If discussion of Islam was unavoidable, the monarchy would at least use Islam to legitimate governmental penal authority and policy reform.

Abdullah’s Adviser for Islamic Affairs wrote a letter to the press clarifying that Islam does not allow individuals to execute punishment even if adultery is proven; rather, the individual distributing punishment should be a government official. [25] Without specifically referencing the Qur’an or Sunnah, the government argued not that honor crimes are morally reprehensible according to Islam, but that the vigilante aspect of judgment and punishment by an individual was insupportable, thus using Islam to reify state power.

After rejecting the proposal to cancel Article 340 the first time, however, Lower House deputies entered the debate relying on preexisting rhetoric. Calling upon the sentiment, conveyed in the survey, that a cancellation would encourage moral corruption, deputies asserted that the “dangerous” draft law would legalize obscenity and destroy Islamic ethics. [26] The absence of original arguments in the Lower House suggested an inexperienced body of elected deputies looking outward for an excuse to oppose the monarchy and appointed government officials rather than rely on prior Islamic conviction.

In response, activists decided to focus the discourse on Islamic law, too. On the day following the Lower House’s rejection, activist Asma Khader insisted that Article 340 violated shari’a law. [27] In rebuttal, most senators borrowed from the pronouncement by the king’s Islamic Adviser, maintaining that judgment and punishment of adultery lay with the state and emphasizing that not all adulterers are punishable by death in Islam. [28] The Minister of Awqaf and

Islamic Affairs offered, "The draft suggests killing unmarried women, although the Sharia is clear that they should be lashed 80 times." [29] The Qur'an actually states adulterers should be lashed 100 times and it is the false accusers who receive 80 lashes. [30]

In February 2000, Hashemite Princes Ali and Ghazi led 5,000 Jordanians in a march calling for the cancellation of Article 340. They maintained that the article was separate from shari'a law, which itself was separate from Jordanian culture. [31] However, once the debate rhetoric narrowed its focus solely on Islam, the Islamic Action Front (IAF), the political wing of the Muslim Brotherhood in Jordan, entered the arena as well. After being denied permission to hold a counter-demonstration, [32] the IAF issued a fatwa on the same day of the march, declaring that the cancellation of Article 340 contradicts Islamic shari'a:

"Muslims in this country were surprised by a witty and misleading campaign which aimed at scrapping Article 340, to destroy our Islamic, social, and family values, by stripping men of their humanity when they surprise their wives or female relatives committing adultery, a right that was valued by Islamic Sharia." [33]

Without citing specific Qur'anic arguments or examples from the Sunnah to support this claim, the IAF used moderate language against their opposition and equivocated a man's "humanity" with his "right" to commit murder. The IAF, unrepresented in the Lower House due to a boycott of parliamentary elections and denied permission to protest publicly, was still able to enter the debate on religious terms. By issuing a fatwa, the IAF used the only tool at its disposal to challenge the policy of the monarchy.

Ultimately, the Article 340 debate revealed not only Islam's ubiquity in Jordan, but also the ubiquitous use of religion as a tool for political gain. In this case, the important matter

was not what interpretation of Islam prevailed, but how Islam could be used to justify a political stance on the article's legislation.

Notably, in this political power struggle, in its attempt to sever political legitimacy from the legacy of Islam the monarchy broke with history. But, regardless of the Hashemites' efforts, the Article 340 debate ultimately demonstrated that the majority in Jordan was not ready to divorce Islam from society and politics. In the end, the Hashemites addressed Islam's relation to honor crimes, but only to maintain its lack of support for the practice. Still, despite the Hashemites' insistence that honor crimes were not inherent to tribal culture or Islam, they were forced to contend with the widespread assertion amongst the surveyed members of the public, the Lower House deputies, and the Brotherhood that Islam and honor crimes were intrinsically linked. For all intents and purposes, in Jordan, they still are. As for Article 340, permanent changes to the law remain pending. [34]

MOVING FORWARD

Where do we go from here? Watching a humanitarian issue become embroiled in and ultimately discarded by bureaucracy and the instinct for political self-preservation is enough to disillusion even the most optimistic among us. And the bitter irony is, change in legislation does not necessarily lead to change in societal practice or perception.

The most apparent truth to emerge from the Article 340 debate, though, is that shared belief and practice can be stronger than the institution. This is not entirely bad news. With greater awareness of the reality of honor crimes and greater attentiveness to the work, people—like Rana Husseini—are already engaged in, civil society can contribute to the

evolution of a more conscious and less complacent society. This time, conservatism won out. Next time, the tide might turn. But we have to remember that people must make it turn.

[1] Catherine Warrick, "The Vanishing Victim: Criminal Law and Gender in Jordan," *Law & Society Review* 39 (2005): 322.

[2] United Nations Population Fund, *The State of World Population 2000: Lives Together, Worlds Apart: Men and Women in a Time of Change* (New York: Author, 2000), <http://www.unfpa.org/swp/2000/english>.

[3] United Nations, *Civil and Political Rights, Including Questions of: Disappearances and Summary Executions* (Report of the Special Rapporteur, Ms. Asma Jahangir, Submitted Pursuant to Commission on Human Rights Resolution 1999/35, E/CN.4/2000/3), (New York: Author, 2000), accessed May 13, 2013, [http://193.194.138.190/Huridocda/Huridoca.nsf/0/b72f2cfe9aa28e58802568ab003c572e/\\$FILE/G0010389.pdf](http://193.194.138.190/Huridocda/Huridoca.nsf/0/b72f2cfe9aa28e58802568ab003c572e/$FILE/G0010389.pdf).

[4] Central Intelligence Agency, "The World Factbook Page on Jordan," In 2013 World Factbook [online database], last modified May 7, 2013, <https://www.cia.gov/library/publications/the-world-factbook/geos/jo.html>.

[5] Yotam Feldner, "'Honor' Murders: Why the Perps Get off Easy," *Middle East Quarterly* 7 (2000): 41-42.

[6] *Ibid.*, 42.

[7] United Nations Population Fund, *State of World Population 2000*.

[8] United Nations, *Civil and Political Rights*.

[9] Central Intelligence Agency, "The World Factbook Page on Jordan."

[10] United Nations, Civil and Political Rights.

[11] Jordanian Penal Code, 1961: Article 340 (Warrick [2005, p. 326] translation).

[12] Amira El-Azhary Sonbol, *Women of Jordan: Islam, Labor, and the Law* (Syracuse: Syracuse University Press, 2003), 23-31.

[13] The Library of Congress, "A Country Study: Jordan," last modified July 27, 2010, <http://lcweb2.loc.gov/frd/cs/jotoc.html>.

[14] Ibid.

[15] Qur'an 24:2.

[16] Qur'an 24:4.

[17] Rana Hussein, "Activists Optimistic Rawabdeh Administration Will Further Women's Rights," *Jordan Times*, March 6, 1999, 1.

[18] Kulczycki and Windle, "Honor Killings," 1458; Warrick, "Vanishing Victim," 330.

[19] Dina Hamdan and Rana Hussein, "Lower House Rejects Proposal to Cancel Article 340 of Penal Code," *Jordan Times*, November 22, 1999, 4.

[20] Central Intelligence Agency, "The World Factbook Page on Jordan."; Rana Hussein, "Senate Legal Committee Introduces Radical Changes to Article 340 of Penal Code," *Jordan Times*, November 28, 1999, 4; Library of Congress, "A Country Study: Jordan."

[21] Hussein, "Activists Optimistic," 1.

[22] Rana Hussein, "Poll Shows Widespread Opposition to Abolishing Article 340," *Jordan Times*, November 9, 1999, 3.

[23] Ibid.

[24] Hamdan and Hussein, "Lower House Rejects Proposal," 4.

[25] Hussein, "Poll Shows Widespread Opposition," 3.

[26] Ibid.

[27] Rana Hussein, "Women Activists Pledge to Continue Struggle against 'Crimes of Honour' Despite Parliament Decision," Jordan Times, November 23, 1999.

[28] Hamdan and Hussein, "Senate Returns Article to 'Rephrase,'" 1.

[29] Ibid.

[30] Qur'an 24: 2-4.

[31] Rana Hussein, "Princes Ali, Ghazi Lead Protesters Calling for Abolition of Article 340 of Penal Code," Jordan Times, February 15, 2000, 1.

[32] "Royals Lead Honour Killing Protest," BBC News, February 14, 2000, accessed March 7, 2013, http://news.bbc.co.uk/2/hi/middle_east/642591.stm.

[33] Hussein, "Princes Lead Protesters," 4.

[34] Human Rights Watch, Honoring the Killers: Justice Denied for "Honor" Crimes in Jordan. E1601, April 20, 2004, <http://www.refworld.org/docid/412ee9cd4.html>.